

**Senator Gregory S. Bell** proposes the following substitute bill:

**PUBLIC TRANSIT DISTRICT ANNEXATION**

**AND FUNDING AMENDMENTS**

2005 GENERAL SESSION

STATE OF UTAH

**Sponsor: Gregory S. Bell**

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ provides that a general obligation bond issued by a public transit district shall be secured as required for municipal general obligation bonds;
- ▶ provides that a local political subdivision may call a local special election to vote on an opinion question election to impose certain sales and use taxes;
- ▶ sets the initial sales and use tax that a county, city, or town within a public transit district may impose at .25% rather than of up to .25% under the public transit tax;
- ▶ authorizes a county to impose a sales and use tax of .25% or .50% for public transportation costs and improvements if a single public transit district has 60% or more of the population of the county residing within the public transit district boundaries;
- ▶ authorizes a county that has 60% or more of the population residing within a single



26 public transit district's boundaries to submit a proposal to the county's registered voters at a  
27 general election or at a special election on a municipal general election date to impose a sales  
28 and use tax of .25% or .50% for public transportation costs and improvements;

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

- 31             • the county shall be annexed into the public transit district;
- 32             • a countywide sales tax of .25% or .50% shall be imposed for public

33 transportation; and

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35 are superseded;

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

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

41       ▶ makes technical changes.

42 **Monies Appropriated in this Bill:**

43       None

44 **Other Special Clauses:**

45       This bill takes effect on July 1, 2005.

46 **Utah Code Sections Affected:**

47 AMENDS:

48       **17A-2-1058**, as last amended by Chapter 9, Laws of Utah 2001

49       **17B-2-512**, as last amended by Chapters 89 and 170, Laws of Utah 2003

50       **20A-1-203**, as last amended by Chapter 4, Laws of Utah 2002, Fifth Special Session

51       **59-12-102**, as last amended by Chapters 1, 156, 255, 298 and 300, Laws of Utah 2004

52       **59-12-207.1**, as last amended by Chapter 255, Laws of Utah 2004

53       **59-12-501**, as last amended by Chapters 255 and 336, Laws of Utah 2004

54       **59-12-503**, as enacted by Chapter 131, Laws of Utah 1997

55       **59-12-504**, as last amended by Chapter 255, Laws of Utah 2004

56       **59-12-1001**, as last amended by Chapter 255, Laws of Utah 2004

57           **59-12-1502**, as enacted by Chapter 282, Laws of Utah 2003

58 ENACTS:

59           **59-12-501.5**, Utah Code Annotated 1953

60           **59-12-502.5**, Utah Code Annotated 1953



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

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

64           **17A-2-1058. District may issue bonds.**

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

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

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

74           **17B-2-512. Protests -- Election.**

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

- 78           (i) as provided in Section 17B-2-513;
- 79           (ii) for an annexation under Section 17B-2-515; and
- 80           (iii) for an annexation proposed by a local district that receives sales and use tax funds
- 81 from the counties, cities, and towns within the local district that impose a sales and use tax
- 82 under Section 59-12-501, 59-12-501.5, or 59-12-502.5.

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

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

87           (3) (a) Except as provided in Subsection (4), the local district shall hold an election on

88 the proposed annexation if:

89 (i) timely protests are filed by:

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

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

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

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

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

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

103 (b) (i) At each election held under Subsection (3)(a)(ii), the ballot question shall be  
104 phrased to indicate that a voter's casting a vote for or against the annexation includes also a  
105 vote for or against the imposition of the sales and use tax as provided in Section 59-12-501,  
106 59-12-501.5, or 59-12-502.5.

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

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

111 (i) in favor of annexation, the board of trustees shall, subject to Subsections  
112 17B-2-514(1)(b), (2), and (3), complete the annexation by adopting a resolution approving  
113 annexation of the area; or

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

117 (4) If sufficient protests are filed under this section to require an election for a  
118 proposed annexation to which the protest provisions of this section are applicable, a board of

119 trustees may, notwithstanding Subsection (3), adopt a resolution rejecting the annexation and  
120 terminating the annexation process without holding an election.

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

122 **20A-1-203. Calling and purpose of special elections.**

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

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

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

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

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

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

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

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

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

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

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

140 (ii) a vote on a voted leeway program authorized by Section 53A-17a-133 or  
141 53A-17a-134;

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

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

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

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

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

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

- 150 (ii) the purpose for the local special election.
- 151 Section 4. Section **59-12-102** is amended to read:
- 152 **59-12-102. Definitions.**
- 153 As used in this chapter:
- 154 (1) (a) "Admission or user fees" includes season passes.
- 155 (b) "Admission or user fees" does not include annual membership dues to private
- 156 organizations.
- 157 (2) "Agreement" means the Streamlined Sales and Use Tax Agreement described in
- 158 Section 59-12-102.1.
- 159 (3) "Agreement combined tax rate" means the sum of the tax rates:
- 160 (a) listed under Subsection (4); and
- 161 (b) that are imposed within a local taxing jurisdiction.
- 162 (4) "Agreement sales and use tax" means a tax imposed under:
- 163 (a) Subsection 59-12-103(2)(a)(i);
- 164 (b) Section 59-12-204;
- 165 (c) Section 59-12-401;
- 166 (d) Section 59-12-402;
- 167 (e) Section 59-12-501;
- 168 (f) Section 59-12-501.5;
- 169 ~~(f)~~ (g) Section 59-12-502;
- 170 (h) Section 59-12-502.5;
- 171 ~~(g)~~ (i) Section 59-12-703;
- 172 ~~(h)~~ (j) Section 59-12-802;
- 173 ~~(i)~~ (k) Section 59-12-804;
- 174 ~~(j)~~ (l) Section 59-12-1001;
- 175 ~~(k)~~ (m) Section 59-12-1102;
- 176 ~~(l)~~ (n) Section 59-12-1302;
- 177 ~~(m)~~ (o) Section 59-12-1402; or
- 178 ~~(n)~~ (p) Section 59-12-1503.
- 179 (5) "Aircraft" is as defined in Section 72-10-102.
- 180 (6) "Alcoholic beverage" means a beverage that:

- 181 (a) is suitable for human consumption; and
- 182 (b) contains .5% or more alcohol by volume.
- 183 (7) "Area agency on aging" is as defined in Section 62A-3-101.
- 184 (8) "Authorized carrier" means:
  - 185 (a) in the case of vehicles operated over public highways, the holder of credentials
  - 186 indicating that the vehicle is or will be operated pursuant to both the International Registration
  - 187 Plan and the International Fuel Tax Agreement;
  - 188 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
  - 189 certificate or air carrier's operating certificate; or
  - 190 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
  - 191 stock, the holder of a certificate issued by the United States Surface Transportation Board.
- 192 (9) (a) Except as provided in Subsection (9)(b), "biomass energy" means any of the
- 193 following that is used as the primary source of energy to produce fuel or electricity:
  - 194 (i) material from a plant or tree; or
  - 195 (ii) other organic matter that is available on a renewable basis, including:
    - 196 (A) slash and brush from forests and woodlands;
    - 197 (B) animal waste;
    - 198 (C) methane produced:
      - 199 (I) at landfills; or
      - 200 (II) as a byproduct of the treatment of wastewater residuals;
    - 201 (D) aquatic plants; and
    - 202 (E) agricultural products.
  - 203 (b) "Biomass energy" does not include:
    - 204 (i) black liquor;
    - 205 (ii) treated woods; or
    - 206 (iii) biomass from municipal solid waste other than methane produced:
      - 207 (A) at landfills; or
      - 208 (B) as a byproduct of the treatment of wastewater residuals.
  - 209 (10) "Certified automated system" means software certified by the governing board of
  - 210 the agreement in accordance with Section 59-12-102.1 that:
    - 211 (a) calculates the agreement sales and use tax imposed within a local taxing

212 jurisdiction:

213 (i) on a transaction; and

214 (ii) in the states that are members of the agreement;

215 (b) determines the amount of agreement sales and use tax to remit to a state that is a

216 member of the agreement; and

217 (c) maintains a record of the transaction described in Subsection (10)(a)(i).

218 (11) "Certified service provider" means an agent certified:

219 (a) by the governing board of the agreement in accordance with Section 59-12-102.1;

220 and

221 (b) to perform all of a seller's sales and use tax functions for an agreement sales and  
222 use tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's  
223 own purchases.

224 (12) (a) Subject to Subsection (12)(b), "clothing" means all human wearing apparel  
225 suitable for general use.

226 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
227 commission shall make rules:

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

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

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

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

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

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

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

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

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

242 (14) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other



243 fuels that does not constitute industrial use under Subsection (34) or residential use under  
244 Subsection (63).

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

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

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

253 (16) "Component part" includes:

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

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

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

259 (d) feed, seeds, and seedlings.

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

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

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

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

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

265 (a) a computer to perform a task; or

266 (b) automatic data processing equipment to perform a task.

267 (19) "Construction materials" means any tangible personal property that will be  
268 converted into real property.

269 (20) "Delivered electronically" means delivered to a purchaser by means other than  
270 tangible storage media.

271 (21) (a) "Delivery charge" means a charge:

272 (i) by a seller of:

273 (A) tangible personal property; or

- 274 (B) services; and
- 275 (ii) for preparation and delivery of the tangible personal property or services described
- 276 in Subsection (21)(a)(i) to a location designated by the purchaser.
- 277 (b) "Delivery charge" includes a charge for the following:
- 278 (i) transportation;
- 279 (ii) shipping;
- 280 (iii) postage;
- 281 (iv) handling;
- 282 (v) crating; or
- 283 (vi) packing.
- 284 (22) "Dietary supplement" means a product, other than tobacco, that:
- 285 (a) is intended to supplement the diet;
- 286 (b) contains one or more of the following dietary ingredients:
- 287 (i) a vitamin;
- 288 (ii) a mineral;
- 289 (iii) an herb or other botanical;
- 290 (iv) an amino acid;
- 291 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 292 dietary intake; or
- 293 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 294 described in Subsections (22)(b)(i) through (v);
- 295 (c) (i) except as provided in Subsection (22)(c)(ii), is intended for ingestion in:
- 296 (A) tablet form;
- 297 (B) capsule form;
- 298 (C) powder form;
- 299 (D) softgel form;
- 300 (E) gelcap form; or
- 301 (F) liquid form; or
- 302 (ii) notwithstanding Subsection (22)(c)(i), if the product is not intended for ingestion in
- 303 a form described in Subsections (22)(c)(i)(A) through (F), is not represented:
- 304 (A) as conventional food; and

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

336 (B) any function of the body.

337 (b) "Drug" does not include:

338 (i) food and food ingredients;

339 (ii) a dietary supplement;

340 (iii) an alcoholic beverage; or

341 (iv) a prosthetic device.

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

344 (i) can withstand repeated use;

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

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

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

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

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

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

352 (vi) is used for home use only.

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

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

357 (26) "Electronic" means:

358 (a) relating to technology; and

359 (b) having:

360 (i) electrical capabilities;

361 (ii) digital capabilities;

362 (iii) magnetic capabilities;

363 (iv) wireless capabilities;

364 (v) optical capabilities;

365 (vi) electromagnetic capabilities; or

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

- 367 (27) (a) "Food and food ingredients" means substances:  
368 (i) regardless of whether the substances are in:  
369 (A) liquid form;  
370 (B) concentrated form;  
371 (C) solid form;  
372 (D) frozen form;  
373 (E) dried form; or  
374 (F) dehydrated form; and  
375 (ii) that are:  
376 (A) sold for:  
377 (I) ingestion by humans; or  
378 (II) chewing by humans; and  
379 (B) consumed for the substance's:  
380 (I) taste; or  
381 (II) nutritional value.  
382 (b) "Food and food ingredients" does not include:  
383 (i) an alcoholic beverage;  
384 (ii) tobacco; or  
385 (iii) prepared food.  
386 (28) (a) "Fundraising sales" means sales:  
387 (i) (A) made by a school; or  
388 (B) made by a school student;  
389 (ii) that are for the purpose of raising funds for the school to purchase equipment,  
390 materials, or provide transportation; and  
391 (iii) that are part of an officially sanctioned school activity.  
392 (b) For purposes of Subsection (28)(a)(iii), "officially sanctioned school activity"  
393 means a school activity:  
394 (i) that is conducted in accordance with a formal policy adopted by the school or school  
395 district governing the authorization and supervision of fundraising activities;  
396 (ii) that does not directly or indirectly compensate an individual teacher or other  
397 educational personnel by direct payment, commissions, or payment in kind; and

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

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

402 (30) "Governing board of the agreement" means the governing board of the agreement  
403 that is:

404 (a) authorized to administer the agreement; and

405 (b) established in accordance with the agreement.

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

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

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

409 (II) correct impaired human hearing; and

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

411 (II) affixed behind the human ear;

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

413 (iii) a telephone amplifying device.

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

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

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

419 (A) a personal amplifying system;

420 (B) a personal FM system;

421 (C) a television listening system; or

422 (D) a device or system similar to a device or system described in Subsections

423 (31)(b)(ii)(A) through (C); or

424 (iii) an assistive listening device or system designed to be used by more than one  
425 individual, including:

426 (A) a device or system installed in:

427 (I) an auditorium;

428 (II) a church;

- 429 (III) a conference room;
- 430 (IV) a synagogue; or
- 431 (V) a theater; or
- 432 (B) a device or system similar to a device or system described in Subsections
- 433 (31)(b)(iii)(A)(I) through (V).
- 434 (32) (a) "Hearing aid accessory" means a hearing aid:
- 435 (i) component;
- 436 (ii) attachment; or
- 437 (iii) accessory.
- 438 (b) "Hearing aid accessory" includes:
- 439 (i) a hearing aid neck loop;
- 440 (ii) a hearing aid cord;
- 441 (iii) a hearing aid ear mold;
- 442 (iv) hearing aid tubing;
- 443 (v) a hearing aid ear hook; or
- 444 (vi) a hearing aid remote control.
- 445 (c) "Hearing aid accessory" does not include:
- 446 (i) a component, attachment, or accessory designed to be used only with an:
- 447 (A) instrument or device described in Subsection (31)(b)(i); or
- 448 (B) assistive listening device or system described in Subsection (31)(b)(ii) or (iii); or
- 449 (ii) a hearing aid battery.
- 450 (33) "Hydroelectric energy" means water used as the sole source of energy to produce
- 451 electricity.
- 452 (34) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 453 other fuels:
- 454 (a) in mining or extraction of minerals;
- 455 (b) in agricultural operations to produce an agricultural product up to the time of
- 456 harvest or placing the agricultural product into a storage facility, including:
- 457 (i) commercial greenhouses;
- 458 (ii) irrigation pumps;
- 459 (iii) farm machinery;

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

462 (v) other farming activities;

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

466 (d) by a scrap recycler if:

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

470 (A) iron;

471 (B) steel;

472 (C) nonferrous metal;

473 (D) paper;

474 (E) glass;

475 (F) plastic;

476 (G) textile; or

477 (H) rubber; and

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

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

482 (i) (A) a fixed term; or

483 (B) an indeterminate term; and

484 (ii) consideration.

485 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the  
486 amount of consideration may be increased or decreased by reference to the amount realized  
487 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue  
488 Code.

489 (c) "Lease" or "rental" does not include:

490 (i) a transfer of possession or control of property under a security agreement or



491 deferred payment plan that requires the transfer of title upon completion of the required  
492 payments;

493 (ii) a transfer of possession or control of property under an agreement:

494 (A) that requires the transfer of title upon completion of required payments; and

495 (B) in which the payment of an option price does not exceed the greater of:

496 (I) \$100; or

497 (II) 1% of the total required payments; or

498 (iii) providing tangible personal property along with an operator for a fixed period of  
499 time or an indeterminate period of time if the operator is necessary for equipment to perform as  
500 designed.

501 (d) For purposes of Subsection (35)(c)(iii), an operator is necessary for equipment to  
502 perform as designed if the operator's duties exceed the:

503 (i) set-up of tangible personal property;

504 (ii) maintenance of tangible personal property; or

505 (iii) inspection of tangible personal property.

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

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

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

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

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

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

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

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

515 Industrial Classification Manual of the federal Executive Office of the President, Office of  
516 Management and Budget; or

517 (b) a scrap recycler if:

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

521 (A) iron;

- 522 (B) steel;
- 523 (C) nonferrous metal;
- 524 (D) paper;
- 525 (E) glass;
- 526 (F) plastic;
- 527 (G) textile; or
- 528 (H) rubber; and
- 529 (ii) the new products under Subsection (39)(b)(i) would otherwise be made with
- 530 nonrecycled materials.
- 531 (40) "Mobile home" is as defined in Section 58-56-3.
- 532 (41) "Mobile telecommunications service" is as defined in the Mobile
- 533 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 534 (42) (a) Except as provided in Subsection (42)(c), "mobility enhancing equipment"
- 535 means equipment that is:
- 536 (i) primarily and customarily used to provide or increase the ability to move from one
- 537 place to another;
- 538 (ii) appropriate for use in a:
- 539 (A) home; or
- 540 (B) motor vehicle;
- 541 (iii) not generally used by persons with normal mobility; and
- 542 (iv) listed as eligible for payment under:
- 543 (A) Title XVIII of the federal Social Security Act; or
- 544 (B) the state plan for medical assistance under Title XIX of the federal Social Security
- 545 Act.
- 546 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
- 547 the equipment described in Subsection (42)(a).
- 548 (c) Notwithstanding Subsection (42)(a), "mobility enhancing equipment" does not
- 549 include:
- 550 (i) a motor vehicle;
- 551 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
- 552 vehicle manufacturer;

553 (iii) durable medical equipment; or

554 (iv) a prosthetic device.

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

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

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

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

564 (i) collected by the seller; and

565 (ii) to the appropriate local taxing jurisdiction.

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

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

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

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

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

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

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

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

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

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

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

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

581 (49) "Person" includes any individual, firm, partnership, joint venture, association,  
582 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,  
583 municipality, district, or other local governmental entity of the state, or any group or

584 combination acting as a unit.

585 (50) "Place of primary use":

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

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

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

591 (b) for mobile telecommunications service, is as defined in the Mobile

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

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

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

596 (i) food:

597 (A) sold in a heated state; or

598 (B) heated by a seller;

599 (ii) two or more food ingredients mixed or combined by the seller for sale as a single

600 item; or

601 (iii) except as provided in Subsection (52)(c), food sold with an eating utensil provided

602 by the seller, including a:

603 (A) plate;

604 (B) knife;

605 (C) fork;

606 (D) spoon;

607 (E) glass;

608 (F) cup;

609 (G) napkin; or

610 (H) straw.

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

612 (i) food that a seller only:

613 (A) cuts;

614 (B) repackages; or

- 615 (C) pasteurizes; or
- 616 (ii) (A) the following:
- 617 (I) raw egg;
- 618 (II) raw fish;
- 619 (III) raw meat;
- 620 (IV) raw poultry; or
- 621 (V) a food containing an item described in Subsections (52)(b)(ii)(A)(I) through (IV);

622 and

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

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

- 628 (i) a container; or
- 629 (ii) packaging.

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

- 631 (a) (i) orally;
- 632 (ii) in writing;
- 633 (iii) electronically; or
- 634 (iv) by any other manner of transmission; and
- 635 (b) by a licensed practitioner authorized by the laws of a state.

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

- 638 (i) by the author or other creator of the computer software; and
- 639 (ii) to the specifications of a specific purchaser.

640 (b) "Prewritten computer software" includes:

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

- 643 (A) by the author or other creator of the computer software; and
- 644 (B) to the specifications of a specific purchaser;

645 (ii) notwithstanding Subsection (54)(a), computer software designed and developed by

646 the author or other creator of the computer software to the specifications of a specific purchaser  
647 if the computer software is sold to a person other than the purchaser; or

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

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

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

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

656 (i) reasonable; and

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

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

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

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

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

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

664 (ii) listed as eligible for payment under:

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

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

668 (b) "Prosthetic device" includes:

669 (i) parts used in the repairs or renovation of a prosthetic device; or

670 (ii) replacement parts for a prosthetic device.

671 (c) "Prosthetic device" does not include:

672 (i) corrective eyeglasses;

673 (ii) contact lenses;

674 (iii) hearing aids; or

675 (iv) dental prostheses.

676 (56) (a) "Protective equipment" means an item:

- 677 (i) for human wear; and
- 678 (ii) that is:
- 679 (A) designed as protection:
- 680 (I) to the wearer against injury or disease; or
- 681 (II) against damage or injury of other persons or property; and
- 682 (B) not suitable for general use.
- 683 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 684 commission shall make rules:
- 685 (i) listing the items that constitute "protective equipment"; and
- 686 (ii) that are consistent with the list of items that constitute "protective equipment"
- 687 under the agreement.
- 688 (57) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 689 (i) valued in money; and
- 690 (ii) for which tangible personal property or services are:
- 691 (A) sold;
- 692 (B) leased; or
- 693 (C) rented.
- 694 (b) "Purchase price" and "sales price" include:
- 695 (i) the seller's cost of the tangible personal property or services sold;
- 696 (ii) expenses of the seller, including:
- 697 (A) the cost of materials used;
- 698 (B) a labor cost;
- 699 (C) a service cost;
- 700 (D) interest;
- 701 (E) a loss;
- 702 (F) the cost of transportation to the seller; or
- 703 (G) a tax imposed on the seller;
- 704 (iii) a charge by the seller for any service necessary to complete the sale;
- 705 (iv) a delivery charge; or
- 706 (v) an installation charge.
- 707 (c) "Purchase price" and "sales price" do not include:

- 708 (i) a discount:
- 709 (A) in a form including:
- 710 (I) cash;
- 711 (II) term; or
- 712 (III) coupon;
- 713 (B) that is allowed by a seller;
- 714 (C) taken by a purchaser on a sale; and
- 715 (D) that is not reimbursed by a third party; or
- 716 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 717 provided to the purchaser:
- 718 (A) the amount of a trade-in;
- 719 (B) the following from credit extended on the sale of tangible personal property or
- 720 services:
- 721 (I) interest charges;
- 722 (II) financing charges; or
- 723 (III) carrying charges; or
- 724 (C) a tax or fee legally imposed directly on the consumer.
- 725 (58) "Purchaser" means a person to whom:
- 726 (a) a sale of tangible personal property is made; or
- 727 (b) a service is furnished.
- 728 (59) "Regularly rented" means:
- 729 (a) rented to a guest for value three or more times during a calendar year; or
- 730 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 731 value.
- 732 (60) "Renewable energy" means:
- 733 (a) biomass energy;
- 734 (b) hydroelectric energy;
- 735 (c) geothermal energy;
- 736 (d) solar energy; or
- 737 (e) wind energy.
- 738 (61) (a) "Renewable energy production facility" means a facility that:



- 739 (i) uses renewable energy to produce electricity; and
- 740 (ii) has a production capacity of 20 kilowatts or greater.
- 741 (b) A facility is a renewable energy production facility regardless of whether the
- 742 facility is:
  - 743 (i) connected to an electric grid; or
  - 744 (ii) located on the premises of an electricity consumer.
- 745 (62) "Rental" is as defined in Subsection (35).
- 746 (63) "Residential use" means the use in or around a home, apartment building, sleeping
- 747 quarters, and similar facilities or accommodations.
- 748 (64) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
- 749 than:
  - 750 (a) resale;
  - 751 (b) sublease; or
  - 752 (c) subrent.
- 753 (65) (a) "Retailer" means any person engaged in a regularly organized business in
- 754 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
- 755 who is selling to the user or consumer and not for resale.
- 756 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
- 757 engaged in the business of selling to users or consumers within the state.
- 758 (66) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
- 759 otherwise, in any manner, of tangible personal property or any other taxable transaction under
- 760 Subsection 59-12-103(1), for consideration.
- 761 (b) "Sale" includes:
  - 762 (i) installment and credit sales;
  - 763 (ii) any closed transaction constituting a sale;
  - 764 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
  - 765 chapter;
  - 766 (iv) any transaction if the possession of property is transferred but the seller retains the
  - 767 title as security for the payment of the price; and
  - 768 (v) any transaction under which right to possession, operation, or use of any article of
  - 769 tangible personal property is granted under a lease or contract and the transfer of possession

770 would be taxable if an outright sale were made.  
771 (67) "Sale at retail" is as defined in Subsection (64).  
772 (68) "Sale-leaseback transaction" means a transaction by which title to tangible  
773 personal property that is subject to a tax under this chapter is transferred:  
774 (a) by a purchaser-lessee;  
775 (b) to a lessor;  
776 (c) for consideration; and  
777 (d) if:  
778 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase  
779 of the tangible personal property;  
780 (ii) the sale of the tangible personal property to the lessor is intended as a form of  
781 financing:  
782 (A) for the property; and  
783 (B) to the purchaser-lessee; and  
784 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee  
785 is required to:  
786 (A) capitalize the property for financial reporting purposes; and  
787 (B) account for the lease payments as payments made under a financing arrangement.  
788 (69) "Sales price" is as defined in Subsection (57).  
789 (70) (a) "Sales relating to schools" means the following sales by, amounts paid to, or  
790 amounts charged by a school:  
791 (i) sales that are directly related to the school's educational functions or activities  
792 including:  
793 (A) the sale of:  
794 (I) textbooks;  
795 (II) textbook fees;  
796 (III) laboratory fees;  
797 (IV) laboratory supplies; or  
798 (V) safety equipment;  
799 (B) the sale of a uniform, protective equipment, or sports or recreational equipment  
800 that:

- 801 (I) a student is specifically required to wear as a condition of participation in a  
802 school-related event or school-related activity; and
- 803 (II) is not readily adaptable to general or continued usage to the extent that it takes the  
804 place of ordinary clothing;
- 805 (C) sales of the following if the net or gross revenues generated by the sales are  
806 deposited into a school district fund or school fund dedicated to school meals:
- 807 (I) food and food ingredients; or
- 808 (II) prepared food; or
- 809 (D) transportation charges for official school activities; or
- 810 (ii) amounts paid to or amounts charged by a school for admission to a school-related  
811 event or school-related activity.
- 812 (b) "Sales relating to schools" does not include:
- 813 (i) bookstore sales of items that are not educational materials or supplies;
- 814 (ii) except as provided in Subsection (70)(a)(i)(B):
- 815 (A) clothing;
- 816 (B) clothing accessories or equipment;
- 817 (C) protective equipment; or
- 818 (D) sports or recreational equipment; or
- 819 (iii) amounts paid to or amounts charged by a school for admission to a school-related  
820 event or school-related activity if the amounts paid or charged are passed through to a person:
- 821 (A) other than a:
- 822 (I) school;
- 823 (II) nonprofit organization authorized by a school board or a governing body of a  
824 private school to organize and direct a competitive secondary school activity; or
- 825 (III) nonprofit association authorized by a school board or a governing body of a  
826 private school to organize and direct a competitive secondary school activity; and
- 827 (B) that is required to collect sales and use taxes under this chapter.
- 828 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
829 commission may make rules defining the term "passed through."
- 830 (71) For purposes of this section and Section 59-12-104, "school" means:
- 831 (a) an elementary school or a secondary school that:

- 832 (i) is a:
- 833 (A) public school; or
- 834 (B) private school; and
- 835 (ii) provides instruction for one or more grades kindergarten through 12; or
- 836 (b) a public school district.
- 837 (72) "Seller" means a person that makes a sale, lease, or rental of:
- 838 (a) tangible personal property; or
- 839 (b) a service.
- 840 (73) (a) "Semiconductor fabricating or processing materials" means tangible personal
- 841 property:
- 842 (i) used primarily in the process of:
- 843 (A) (I) manufacturing a semiconductor; or
- 844 (II) fabricating a semiconductor; or
- 845 (B) maintaining an environment suitable for a semiconductor; or
- 846 (ii) consumed primarily in the process of:
- 847 (A) (I) manufacturing a semiconductor; or
- 848 (II) fabricating a semiconductor; or
- 849 (B) maintaining an environment suitable for a semiconductor.
- 850 (b) "Semiconductor fabricating or processing materials" includes:
- 851 (i) parts used in the repairs or renovations of tangible personal property described in
- 852 Subsection (73)(a); or
- 853 (ii) a chemical, catalyst, or other material used to:
- 854 (A) produce or induce in a semiconductor a:
- 855 (I) chemical change; or
- 856 (II) physical change;
- 857 (B) remove impurities from a semiconductor; or
- 858 (C) improve the marketable condition of a semiconductor.
- 859 (74) "Senior citizen center" means a facility having the primary purpose of providing
- 860 services to the aged as defined in Section 62A-3-101.
- 861 (75) "Simplified electronic return" means the electronic return:
- 862 (a) described in Section 318(C) of the agreement; and

863 (b) approved by the governing board of the agreement.

864 (76) "Solar energy" means the sun used as the sole source of energy for producing  
865 electricity.

866 (77) (a) "Sports or recreational equipment" means an item:

867 (i) designed for human use; and

868 (ii) that is:

869 (A) worn in conjunction with:

870 (I) an athletic activity; or

871 (II) a recreational activity; and

872 (B) not suitable for general use.

873 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
874 commission shall make rules:

875 (i) listing the items that constitute "sports or recreational equipment"; and

876 (ii) that are consistent with the list of items that constitute "sports or recreational  
877 equipment" under the agreement.

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

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

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

883 (i) may be:

884 (A) seen;

885 (B) weighed;

886 (C) measured;

887 (D) felt; or

888 (E) touched; or

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

890 (b) "Tangible personal property" includes:

891 (i) electricity;

892 (ii) water;

893 (iii) gas;

- 894 (iv) steam; or
- 895 (v) prewritten computer software.
- 896 (81) (a) "Telephone service" means a two-way transmission:
- 897 (i) by:
- 898 (A) wire;
- 899 (B) radio;
- 900 (C) lightwave; or
- 901 (D) other electromagnetic means; and
- 902 (ii) of one or more of the following:
- 903 (A) a sign;
- 904 (B) a signal;
- 905 (C) writing;
- 906 (D) an image;
- 907 (E) sound;
- 908 (F) a message;
- 909 (G) data; or
- 910 (H) other information of any nature.
- 911 (b) "Telephone service" includes:
- 912 (i) mobile telecommunications service;
- 913 (ii) private communications service; or
- 914 (iii) automated digital telephone answering service.
- 915 (c) "Telephone service" does not include a service or a transaction that a state or a
- 916 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
- 917 Tax Freedom Act, Pub. L. No. 105-277.
- 918 (82) Notwithstanding where a call is billed or paid, "telephone service address" means:
- 919 (a) if the location described in this Subsection (82)(a) is known, the location of the
- 920 telephone service equipment:
- 921 (i) to which a call is charged; and
- 922 (ii) from which the call originates or terminates;
- 923 (b) if the location described in Subsection (82)(a) is not known but the location
- 924 described in this Subsection (82)(b) is known, the location of the origination point of the signal

925 of the telephone service first identified by:

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

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

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

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

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

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

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

937 (i) that person; or

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

939 (84) "Tobacco" means:

940 (a) a cigarette;

941 (b) a cigar;

942 (c) chewing tobacco;

943 (d) pipe tobacco; or

944 (e) any other item that contains tobacco.

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

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

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

952 (i) an aircraft as defined in Section 72-10-102;

953 (ii) a vehicle as defined in Section 41-1a-102;

954 (iii) an off-highway vehicle as defined in Section 41-22-2; or

955 (iv) a vessel as defined in Section 41-1a-102.

956 (b) For purposes of Subsection 59-12-104(35) only, "vehicle" includes:  
957 (i) a vehicle described in Subsection (86)(a); or  
958 (ii) (A) a locomotive;  
959 (B) a freight car;  
960 (C) railroad work equipment; or  
961 (D) other railroad rolling stock.  
962 (87) "Vehicle dealer" means a person engaged in the business of buying, selling, or  
963 exchanging a vehicle as defined in Subsection (86).

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

966 (i) using as the primary source of energy waste materials that would be placed in a  
967 landfill or refuse pit if it were not used to generate electricity, including:

- 968 (A) tires;
- 969 (B) waste coal; or
- 970 (C) oil shale; and

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

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

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

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

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

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

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

982 **59-12-207.1. Definitions -- Location of certain transactions -- Reports to**  
983 **commission -- Direct payment provision for a seller making certain purchases --**  
984 **Exceptions -- Rulemaking authority.**

985 (1) As used in this section:

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



- 987 (A) taking possession of tangible personal property;
- 988 (B) making first use of services; or
- 989 (C) for a digital good, the earlier of:
- 990 (I) taking possession of tangible personal property; or
- 991 (II) making first use of services.
- 992 (ii) "Receive" and "receipt" do not include possession by a shipping company on behalf
- 993 of a purchaser.
- 994 (b) "Transportation equipment" means:
- 995 (i) a locomotive or railcar that is utilized for the carriage of persons or property in
- 996 interstate commerce;
- 997 (ii) a truck or truck-tractor with a gross vehicle weight rating of 10,001 pounds or more
- 998 that is:
- 999 (A) registered under Section 41-1a-301; and
- 1000 (B) operated under the authority of a carrier authorized and certificated:
- 1001 (I) by the United States Department of Transportation or another federal authority; and
- 1002 (II) to engage in the carriage of persons or property in interstate commerce;
- 1003 (iii) a trailer, semitrailer, or passenger bus that is:
- 1004 (A) registered under Section 41-1a-301; and
- 1005 (B) operated under the authority of a carrier authorized and certificated:
- 1006 (I) by the United States Department of Transportation or another federal authority; and
- 1007 (II) to engage in the carriage of persons or property in interstate commerce;
- 1008 (iv) an aircraft that is operated by an air carrier authorized and certificated:
- 1009 (A) by the United States Department of Transportation or another federal or foreign
- 1010 authority; and
- 1011 (B) to engage in the carriage of persons or property in interstate commerce; or
- 1012 (v) a container designed for use on, or a component part attached or secured on an item
- 1013 listed in Subsections (1)(b)(i) through (iv).
- 1014 (2) Except as provided in Subsections (8) and (14), if tangible personal property or a
- 1015 service that is subject to taxation under this chapter is received by a purchaser at a business
- 1016 location of a seller, the location of the transaction is the business location of the seller.
- 1017 (3) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),

1018 and (14), if tangible personal property or a service that is subject to taxation under this chapter  
1019 is not received by a purchaser at a business location of a seller, the location of the transaction is  
1020 the location where the purchaser takes receipt of the tangible personal property or services.

1021 (4) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),  
1022 and (14), if Subsection (2) or (3) does not apply, the location of the transaction is the location  
1023 indicated by an address for or other information on the purchaser if:

1024 (a) the address or other information is available from the seller's business records; and

1025 (b) use of the address or other information from the seller's records does not constitute  
1026 bad faith.

1027 (5) (a) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9),  
1028 (11), and (14), if Subsection (2), (3), or (4) does not apply, the location of the transaction is the  
1029 location indicated by an address for the purchaser if:

1030 (i) the address was obtained during the consummation of the transaction; and

1031 (ii) use of the address described in Subsection (5)(a)(i) does not constitute bad faith.

1032 (b) An address used under Subsection (5)(a) may include the address of a purchaser's  
1033 payment instrument if no other address is available.

1034 (6) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),  
1035 and (14), if Subsection (2), (3), (4), or (5) does not apply or if a seller does not have sufficient  
1036 information to apply Subsection (2), (3), (4), or (5), the location of the transaction is the  
1037 location indicated by the address from which:

1038 (a) except as provided in Subsection (6)(b), for tangible personal property that is  
1039 subject to taxation under this chapter, the tangible personal property was shipped;

1040 (b) notwithstanding Subsection (6)(a), for computer software delivered electronically  
1041 or a digital good that is subject to taxation under this chapter, the computer software delivered  
1042 electronically or digital good was first available for transmission by the seller; or

1043 (c) for a service that is subject to taxation under this chapter, the service was provided.

1044 (7) (a) As used in this Subsection (7), "shared ZIP Code" means:

1045 (i) a nine-digit ZIP Code that is located within two or more local taxing jurisdictions;

1046 or

1047 (ii) a five-digit ZIP Code that is located within two or more local taxing jurisdictions if:

1048 (A) a nine-digit ZIP Code is not available for a location; or

1049 (B) after exercising due diligence, a seller is unable to determine a nine-digit ZIP Code  
1050 for a location.

1051 (b) Notwithstanding Subsections (3) through (6) and except as provided in Subsection  
1052 (7)(d)(ii), if the location of a transaction determined under Subsections (3) through (6) is in a  
1053 shared ZIP Code, the location of the transaction is:

1054 (i) if there is only one local taxing jurisdiction that imposes the lowest agreement  
1055 combined tax rate for the shared ZIP Code, the local taxing jurisdiction that imposes the lowest  
1056 agreement combined tax rate; or

1057 (ii) if two or more local taxing jurisdictions impose the lowest agreement combined tax  
1058 rate for the shared ZIP Code, the local taxing jurisdiction that:

1059 (A) imposes the lowest agreement combined tax rate for the shared ZIP Code; and

1060 (B) has located within the local taxing jurisdiction the largest number of street  
1061 addresses within the shared ZIP Code.

1062 (c) A seller shall collect a tax imposed under this chapter at the lowest agreement  
1063 combined tax rate imposed within the local taxing jurisdiction in which the transaction is  
1064 located under Subsection (7)(b) notwithstanding the following:

1065 (i) Section 59-12-204;

1066 (ii) Section 59-12-401;

1067 (iii) Section 59-12-402;

1068 (iv) Section 59-12-501;

1069 (v) Section 59-12-501.5;

1070 [~~(v)~~] (vi) Section 59-12-502;

1071 (vii) Section 59-12-502.5;

1072 [~~(vi)~~] (viii) Section 59-12-703;

1073 [~~(vii)~~] (ix) Section 59-12-802;

1074 [~~(viii)~~] (x) Section 59-12-804;

1075 [~~(ix)~~] (xi) Section 59-12-1001;

1076 [~~(x)~~] (xii) Section 59-12-1102;

1077 [~~(xi)~~] (xiii) Section 59-12-1302;

1078 [~~(xii)~~] (xiv) Section 59-12-1402; and

1079 [~~(xiii)~~] (xv) Section 59-12-1503.

1080 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1081 commission may make rules:

1082 (i) providing for the circumstances under which a seller has exercised due diligence in  
1083 determining the nine-digit ZIP Code for an address; or

1084 (ii) notwithstanding Subsection (7)(b), for determining the local taxing jurisdiction  
1085 within which a transaction is located if a seller is unable to determine the local taxing  
1086 jurisdiction within which the transaction is located under Subsection (7)(b).

1087 (8) Notwithstanding Subsections (2) through (6), the location of a transaction made  
1088 with a direct payment permit described in Section 59-12-107.1 is:

1089 (a) for a tax imposed under Section 59-12-204, the location determined under Section  
1090 59-12-205; or

1091 (b) for a tax imposed under this chapter other than under Section 59-12-204, the  
1092 location at which the tangible personal property or service purchased using the direct payment  
1093 permit is used.

1094 (9) Notwithstanding Subsections (3) through (5), the location of a purchase of direct  
1095 mail is the location described in Subsection (6), if the purchaser of the direct mail:

1096 (a) has not been issued a direct payment permit under Section 59-12-107.1; and

1097 (b) does not provide the seller the form or information described in Subsection  
1098 59-12-107.3(1).

1099 (10) (a) Except as provided in Subsection (10)(b), the location of a transaction  
1100 determined under Subsections (3) through (6), (8), and (9), is the local taxing jurisdiction  
1101 within which:

1102 (i) the nine-digit ZIP Code assigned to the location determined under Subsections (3)  
1103 through (6), (8), and (9) is located; or

1104 (ii) the five-digit ZIP Code assigned to the location determined under Subsections (3)  
1105 through (6), (8), and (9) is located if:

1106 (A) a nine-digit ZIP Code is not available for the location determined under  
1107 Subsections (3) through (6), (8), and (9); or

1108 (B) after exercising due diligence, a seller is unable to determine a nine-digit ZIP Code  
1109 for the location determined under Subsections (3) through (6), (8), and (9).

1110 (b) Notwithstanding Subsection (10)(a), in accordance with Title 63, Chapter 46a, Utah

1111 Administrative Rulemaking Act, the commission may make rules for determining the local  
1112 taxing jurisdiction within which a transaction is located if a seller is unable to determine the  
1113 local taxing jurisdiction within which the transaction is located under Subsection (10)(a).

1114 (11) (a) As used in this Subsection (11), "florist delivery transaction" means a  
1115 transaction commenced by a florist that transmits an order:

1116 (i) by:

1117 (A) telegraph;

1118 (B) telephone; or

1119 (C) a means of communication similar to Subsection (11)(a)(i)(A) or (B); and

1120 (ii) for delivery to another place:

1121 (A) in this state; or

1122 (B) outside this state.

1123 (b) Notwithstanding Subsections (3) through (6), beginning on July 1, 2004, through  
1124 December 31, 2005, the location of a florist delivery transaction is the business location of the  
1125 florist that commences the florist delivery transaction.

1126 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1127 commission may by rule:

1128 (i) define the terms:

1129 (A) "business location"; and

1130 (B) "florist";

1131 (ii) define what constitutes a means of communication similar to Subsection  
1132 (11)(a)(i)(A) or (B); and

1133 (iii) provide procedures for determining when a transaction is commenced.

1134 (12) If a purchaser knows at the time that the purchaser purchases a service, prewritten  
1135 computer software delivered electronically, or a digital good that the service, prewritten  
1136 computer software delivered electronically, or digital good will be concurrently available for  
1137 use in more than one location, the purchaser shall:

1138 (a) determine the location of the transaction under this section for each location in  
1139 which the service, prewritten computer software delivered electronically, or digital good will  
1140 be concurrently available for use; and

1141 (b) apportion the purchase price of the service, prewritten computer software delivered

1142 electronically, or digital good:

1143 (i) among each location determined under Subsection (12)(a); and

1144 (ii) in accordance with Section 59-12-107.2.

1145 (13) (a) A tax collected under this chapter shall be reported to the commission on a  
1146 form that identifies the location of each transaction that occurred during the return filing  
1147 period.

1148 (b) The form described in Subsection (13)(a) shall be filed with the commission as  
1149 required under this chapter.

1150 (14) This section does not apply to:

1151 (a) amounts charged by a seller for:

1152 (i) telephone service;

1153 (ii) the retail sale or transfer of:

1154 (A) a motor vehicle other than a motor vehicle that is transportation equipment;

1155 (B) an aircraft other than an aircraft that is transportation equipment;

1156 (C) a watercraft;

1157 (D) a modular home;

1158 (E) a manufactured home; or

1159 (F) a mobile home; or

1160 (iii) except as provided in Section 59-12-207.3, the lease or rental of tangible personal  
1161 property other than tangible personal property that is transportation equipment; or

1162 (b) a tax paid under this chapter:

1163 (i) by a seller; and

1164 (ii) for the seller's purchases.

1165 Section 6. Section **59-12-501** is amended to read:

1166 **59-12-501. Public transit tax -- Base -- Rate -- Voter approval.**

1167 (1) (a) (i) Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), in  
1168 addition to other sales and use taxes, any county, city, or town within a transit district  
1169 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act, may impose a  
1170 sales and use tax of ~~up to~~ .25% on the transactions described in Subsection 59-12-103(1)  
1171 located within the county, city, or town, to fund a public transportation system.

1172 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax

1173 under this section on the sales and uses described in Section 59-12-104 to the extent the sales  
1174 and uses are exempt from taxation under Section 59-12-104.

1175 (b) For purposes of this Subsection (1), the location of a transaction shall be  
1176 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

1177 (c) (i) A county, city, or town may impose a tax under this section only if the governing  
1178 body of the county, city, or town, by resolution, submits the proposal to all the qualified voters  
1179 within the county, city, or town for approval at a general or special election conducted in the  
1180 manner provided by statute.

1181 (ii) An election under Subsection 17B-2-512(3)(a)(ii) approving the annexation of an  
1182 area to a public transit district or local district and approving for that annexed area the sales and  
1183 use tax authorized by this section satisfies the election requirement of Subsection (1)(c)(i) for  
1184 the area to be annexed to the public transit district or local district.

1185 (2) (a) If only a portion of a county is included within a public transit district, the  
1186 proposal may be submitted only to the qualified voters residing within the boundaries of the  
1187 proposed or existing public transit district.

1188 (b) Notice of any such election shall be given by the county, city, or town governing  
1189 body 15 days in advance in the manner prescribed by statute.

1190 (c) If a majority of the voters voting in such election approve the proposal, it shall  
1191 become effective on the date provided by the county, city, or town governing body.

1192 (3) This section may not be construed to require an election in jurisdictions where  
1193 voters have previously approved a public transit sales or use tax.

1194 Section 7. Section **59-12-501.5** is enacted to read:

1195 **59-12-501.5. Countywide public transit tax -- Base -- Rate -- Voter Approval.**

1196 (1) As used in this section, "public transit district" means a public transit district  
1197 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act, that has more  
1198 than 200,000 people residing within the district boundaries.

1199 (2) (a) Subject to the other provisions of this part, if a single public transit district has  
1200 60% or more of the population of a county residing within the public transit district boundaries,  
1201 beginning on or after July 1, 2005, the county legislative body may impose a sales and use tax  
1202 of .25%:

1203 (i) except as provided in Subsections (2)(b) and 59-12-207.1(7)(c), on the transactions:

1204 (A) described in Subsection 59-12-103(1);  
1205 (B) within the county, including the cities and towns within the county;  
1206 (ii) for the purpose of funding public transportation system operations, costs, and  
1207 improvements.  
1208 (b) Notwithstanding Subsection (2)(a)(i), a county legislative body may not impose a  
1209 tax under this section on the sales and uses described in Section 59-12-104 to the extent the  
1210 sales and uses are exempt from taxation under Section 59-12-104.  
1211 (c) For purposes of this Subsection (2), the location of a transaction shall be  
1212 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.  
1213 (d) (i) Population figures for purposes of this section shall be based on the most recent  
1214 official census or census estimate of the United States Census Bureau.  
1215 (ii) If a needed population estimate is not available from the United States Census  
1216 Bureau, population figures shall be derived from the estimate from the Utah Population  
1217 Estimates Committee created by executive order of the governor.  
1218 (3) (a) Before imposing a tax under this section, a county legislative body shall:  
1219 (i) adopt a resolution to impose a tax under this section; and  
1220 (ii) submit an opinion question to the county's registered voters voting on the  
1221 imposition of the tax so that each registered voter has the opportunity to express the registered  
1222 voter's opinion on whether a tax should be imposed under this section.  
1223 (b) The election required by this Subsection (3) shall be held:  
1224 (i) (A) at a regular general election; and  
1225 (B) in accordance with the procedures and requirements of Title 20A, Election Code,  
1226 governing regular general elections; or  
1227 (ii) (A) at a special election called by the county legislative body;  
1228 (B) only on the date of a municipal general election provided in Subsection  
1229 20A-1-202(1); and  
1230 (C) in accordance with the procedures and requirements of Title 20A, Election Code,  
1231 for holding municipal general elections.  
1232 (c) The ballot question for the opinion question submitted under Subsection (3)(a) shall  
1233 read:  
1234 "Shall the county be a part of a public transit district?"



1235 If a majority of the county's registered voters voting in the election approve becoming a  
1236 part of a public transit district, the county shall be annexed into the public transit district and a  
1237 sales and use tax of .25% shall be imposed countywide to fund public transportation  
1238 operations, costs, and improvements of the transit district. The .25% sales and use tax shall  
1239 supersede the existing sales and use taxes imposed by the county or a city or town within the  
1240 county that are used to fund public transportation."

1241 (4) If the majority of the county's registered voters voting in the election on the  
1242 proposal under Subsection (3), vote in favor of the proposal described in Subsection (3):

1243 (a) the county shall be annexed into the public transit district;

1244 (b) the county legislative body shall provide notice to the commission of the imposition  
1245 of a tax under this section within 30 days after the canvass of the election described in  
1246 Subsection (3);

1247 (c) the tax under this section shall take effect on the first day of the calendar quarter  
1248 after the 90-day period described in Subsection 59-12-504(2);

1249 (d) subject to Subsections (4)(e) and (f), if a city or town located within the county  
1250 imposes a tax under Section 59-12-501 or the county imposes a tax under Section 59-12-501  
1251 the tax shall be repealed:

1252 (i) on the day on which a tax under this section takes effect in accordance with  
1253 Subsection (4)(c); and

1254 (ii) in accordance with Section 59-12-504;

1255 (e) (i) if, on the day on which a tax under this section takes effect as provided in  
1256 Subsection (4)(c), any revenues generated by a tax imposed by a city or town under Section  
1257 59-12-501 are used as a source of repayment for debt service on any bonded indebtedness or  
1258 other obligations:

1259 (A) the county legislative body shall distribute to the city or town an amount of  
1260 revenues generated by a tax under this section equal to the amount necessary to pay the debt  
1261 service on the bonded indebtedness or other obligations; and

1262 (B) the city or town shall expend the amount described in Subsection (4)(e)(i)(A) to  
1263 repay the bonded indebtedness;

1264 (ii) the city or town may through an interlocal agreement, authorize the distribution  
1265 directly to the public transit district or other entity to pay the debt or other obligation;

1266 (f) if, on the day on which a tax under this section takes effect as provided in  
1267 Subsection (4)(c), any revenues generated by a tax imposed by a county under Section  
1268 59-12-501 are used as a source of repayment for debt service on any bonded indebtedness or  
1269 other obligations, the county legislative body shall use the revenues generated by a tax under  
1270 this section to repay the bonded indebtedness; and

1271 (g) if a county has adopted a resolution under Subsection (3)(a), a transit district may  
1272 not incur any new debt or obligation using revenue under Section 59-12-501 for a county that  
1273 has expressed its intent to hold an election under this section until after the election results  
1274 have been certified.

1275 (5) If a county legislative body imposes a tax under this section and a majority of the  
1276 county's registered voters voting in an election under Subsection (3) vote in favor of the  
1277 imposition of a tax under this section, beginning on the date the tax under this section is  
1278 imposed:

1279 (a) the county legislative body may not impose a sales and use tax under Section  
1280 59-12-501; and

1281 (b) a city or town within the county may not impose a sales and use tax under Section  
1282 59-12-501 or 59-12-502.

1283 Section 8. Section **59-12-502.5** is enacted to read:

1284 **59-12-502.5. Countywide public transit tax for public transportation costs and**  
1285 **improvements - Base -- Equalized rate -- Voter approval.**

1286 (1) As used in this section, "public transit district" means a public transit district  
1287 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act, that has more  
1288 than 200,000 people residing within the district boundaries.

1289 (2) (a) Subject to the other provisions of this part, if a single public transit district has  
1290 60% or more of the population of a county residing within the public transit district boundaries,  
1291 beginning on or after July 1, 2005, the county legislative body may impose a sales and use tax  
1292 of .50%:

1293 (i) except as provided in Subsections (2)(b) and 59-12-207.1(7)(c), on the transactions:

1294 (A) described in Subsection 59-12-103(1); and

1295 (B) within the county, including the cities and towns within the county; and

1296 (ii) for the purpose of funding public transportation system operations, costs, and

1297 improvements.

1298 (b) Notwithstanding Subsection (2)(a)(i), a county legislative body may not impose a  
1299 tax under this section on the sales and uses described in Section 59-12-104 to the extent the  
1300 sales and uses are exempt from taxation under Section 59-12-104.

1301 (c) For purposes of this Subsection (2), the location of a transaction shall be  
1302 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

1303 (d) (i) Population figures for purposes of this section shall be based on the most recent  
1304 official census or census estimate of the United States Census Bureau.

1305 (ii) If a needed population estimate is not available from the United States Census  
1306 Bureau, population figures shall be derived from the estimate from the Utah Population  
1307 Estimates Committee created by executive order of the governor.

1308 (3) (a) Before imposing a tax under this section, a county legislative body shall:

1309 (i) adopt a resolution to impose a tax under this section; and

1310 (ii) submit an opinion question to the county's registered voters voting on the  
1311 imposition of the tax so that each registered voter has the opportunity to express the registered  
1312 voter's opinion on whether a tax should be imposed under this section.

1313 (b) The election required by this Subsection (3) shall be held:

1314 (i) (A) at a regular general election; and

1315 (B) in accordance with the procedures and requirements of Title 20A, Election Code,  
1316 governing regular general elections; or

1317 (ii) (A) at a special election called by the county legislative body;

1318 (B) only on the date of a municipal general election provided in Subsection  
1319 20A-1-202(1); and

1320 (C) in accordance with the procedures and requirements of Title 20A, Election Code,  
1321 for holding municipal general elections.

1322 (c) The ballot question for the proposal submitted under Subsection (3)(a) shall read:

1323 "Shall the county be a part of a public transit district?"

1324 If a majority of the county's registered voters voting in the election approve becoming a  
1325 part of a public transit district, the county shall be annexed into the public transit district and a  
1326 sales and use tax of .50% shall be imposed countywide to fund public transportation  
1327 operations, costs, and improvements of the transit district. The .50% sales and use tax shall

1328 supersede the existing sales and use taxes imposed by the county or a city or town within the  
1329 county that are used to fund public transportation."

1330 (4) If a majority of the county's registered voters voting in the election on the proposal  
1331 under Subsection (3), vote in favor of the proposal described in Subsection (3):

1332 (a) the county shall be annexed into the public transit district;

1333 (b) the county legislative body shall provide notice to the commission of the imposition  
1334 of a tax under this section within 30 days after the canvass of the election described in  
1335 Subsection (3);

1336 (c) the tax under this section shall take effect on the first day of the first calendar  
1337 quarter after the 90-day period described in Subsection 59-12-504(2);

1338 (d) subject to Subsections (4)(e) and (f), if a city or town located within the county  
1339 imposes a tax under Section 59-12-501 or 59-12-502 or the county imposes a tax under Section  
1340 59-12-501, 59-12-501.5, or 59-12-502 the tax shall be repealed:

1341 (i) on the day on which a tax under this section takes effect in accordance with  
1342 Subsection (4)(c); and

1343 (ii) in accordance with Section 59-12-504;

1344 (e) (i) if, on the day on which a tax under this section takes effect as provided in  
1345 Subsection (4)(c), any revenues generated by a tax imposed by a city or town under Section  
1346 59-12-501 or 59-12-502 are used as a source of repayment for debt service on any bonded  
1347 indebtedness or other obligations:

1348 (A) the county legislative body shall distribute to the city or town an amount of  
1349 revenues generated by a tax under this section equal to the amount necessary to pay the debt  
1350 service on the bonded indebtedness or other obligations; and

1351 (B) the city or town shall expend the amount described in Subsection (4)(e)(i)(A) to  
1352 repay the bonded indebtedness;

1353 (ii) the city or town may through an interlocal agreement, authorize the distribution  
1354 directly to the public transit district or other entity to pay the debt or other obligation;

1355 (f) if, on the day on which a tax under this section takes effect as provided in  
1356 Subsection (4)(c), any revenues generated by a tax imposed by a county under Section  
1357 59-12-501, 59-12-501.5, or 59-12-502 are used as a source of repayment for debt service on  
1358 any bonded indebtedness or other obligations, the county legislative body shall use the

1359 revenues generated by a tax under this section to repay the bonded indebtedness; and  
1360 (g) if a county has adopted a resolution under Subsection (3)(a), a transit district may  
1361 not incur any new debt or obligation using revenue under Section 59-12-501, 59-12-501.5, or  
1362 59-12-502 for a county that has expressed its intent to hold an election under this section until  
1363 after the election results have been certified.

1364 (5) If a county legislative body imposes a tax under this section and a majority of the  
1365 county's registered voters voting in an election under Subsection (3) vote in favor of the  
1366 imposition of a tax under this section, beginning on the date the tax under this section is  
1367 imposed:

1368 (a) the county legislative body may not impose a sales and use tax under Sections  
1369 59-12-501, 59-12-501.5, 59-12-502, and 59-12-1503; and

1370 (b) a city or town within the county may not impose a sales and use tax under Section  
1371 59-12-501 or 59-12-502.

1372 Section 9. Section **59-12-503** is amended to read:

1373 **59-12-503. Public transit taxes -- Local option direct transfer.**

1374 A county or municipality may elect, in writing, to have the portion of the monthly funds  
1375 transfer that is collected as a public transit sales and use tax under Sections 59-12-501 [~~and~~],  
1376 59-12-501.5, 59-12-502, and 59-12-502.5 to be transferred directly to a designated public  
1377 transit district, subject to the same charge as described under Section 59-12-206.

1378 Section 10. Section **59-12-504** is amended to read:

1379 **59-12-504. Enactment or repeal of tax -- Effective date -- Notice requirements --**  
1380 **Administration, collection, and enforcement of tax.**

1381 (1) For purposes of this section:

1382 (a) "Annexation" means an annexation to:

1383 (i) a county under Title 17, Chapter 2, Annexation to County; or

1384 (ii) a city or town under Title 10, Chapter 2, Part 4, Annexation.

1385 (b) "Annexing area" means an area that is annexed into a county, city, or town.

1386 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after July 1, 2004, a  
1387 county, city, or town enacts or repeals a tax under this part, the enactment or repeal shall take  
1388 effect:

1389 (i) on the first day of a calendar quarter; and

1390 (ii) after a 90-day period beginning on the date the commission receives notice meeting  
1391 the requirements of Subsection (2)(b) from the county, city, or town.

1392 (b) The notice described in Subsection (2)(a)(ii) shall state:

1393 (i) that the county, city, or town will enact or repeal a tax under this part;

1394 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

1395 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

1396 (iv) if the county, city, or town enacts the tax described in Subsection (2)(b)(i), the rate  
1397 of the tax.

1398 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection  
1399 (2)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

1400 (A) that begins after the effective date of the enactment of the tax; and

1401 (B) if the billing period for the transaction begins before the effective date of the  
1402 enactment of the tax under:

1403 (I) Section 59-12-501; [~~or~~]

1404 (II) Section 59-12-501.5;

1405 [~~(III)~~] (III) Section 59-12-502[-]; or

1406 (IV) Section 59-12-502.5.

1407 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection  
1408 (2)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

1409 (A) that began before the effective date of the repeal of the tax; and

1410 (B) if the billing period for the transaction begins before the effective date of the repeal  
1411 of the tax imposed under:

1412 (I) Section 59-12-501; [~~or~~]

1413 (II) Section 59-12-501.5;

1414 [~~(III)~~] (III) Section 59-12-502[-]; or

1415 (IV) Section 59-12-502.5.

1416 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:

1417 (A) Subsection 59-12-103(1)(b);

1418 (B) Subsection 59-12-103(1)(c);

1419 (C) Subsection 59-12-103(1)(d);

1420 (D) Subsection 59-12-103(1)(e);

- 1421 (E) Subsection 59-12-103(1)(f);
- 1422 (F) Subsection 59-12-103(1)(g);
- 1423 (G) Subsection 59-12-103(1)(h);
- 1424 (H) Subsection 59-12-103(1)(i);
- 1425 (I) Subsection 59-12-103(1)(j); or
- 1426 (J) Subsection 59-12-103(1)(k).
- 1427 (d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue
- 1428 sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 1429 enactment or repeal of a tax described in Subsection (2)(a) takes effect:
- 1430 (A) on the first day of a calendar quarter; and
- 1431 (B) beginning 60 days after the effective date of the enactment or repeal under
- 1432 Subsection (2)(a).
- 1433 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 1434 the commission may by rule define the term "catalogue sale."
- 1435 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs
- 1436 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
- 1437 part for an annexing area, the enactment or repeal shall take effect:
- 1438 (i) on the first day of a calendar quarter; and
- 1439 (ii) after a 90-day period beginning on the date the commission receives notice meeting
- 1440 the requirements of Subsection (3)(b) from the county, city, or town that annexes the annexing
- 1441 area.
- 1442 (b) The notice described in Subsection (3)(a)(ii) shall state:
- 1443 (i) that the annexation described in Subsection (3)(a) will result in an enactment or
- 1444 repeal of a tax under this part for the annexing area;
- 1445 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);
- 1446 (iii) the effective date of the tax described in Subsection (3)(b)(i); and
- 1447 (iv) the rate of the tax described in Subsection (3)(b)(i).
- 1448 (c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
- 1449 (3)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 1450 (A) that begins after the effective date of the enactment of the tax; and
- 1451 (B) if the billing period for the transaction begins before the effective date of the

1452 enactment of the tax under:

1453 (I) Section 59-12-501; [~~or~~]

1454 (II) Section 59-12-501.5;

1455 [~~(III)~~] (III) Section 59-12-502[-]; or

1456 (IV) Section 59-12-502.5.

1457 (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection

1458 (3)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

1459 (A) that began before the effective date of the repeal of the tax; and

1460 (B) if the billing period for the transaction begins before the effective date of the repeal

1461 of the tax imposed under:

1462 (I) Section 59-12-501; [~~or~~]

1463 (II) Section 59-12-501.5;

1464 [~~(III)~~] (III) Section 59-12-502[-]; or

1465 (IV) Section 59-12-502.5.

1466 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:

1467 (A) Subsection 59-12-103(1)(b);

1468 (B) Subsection 59-12-103(1)(c);

1469 (C) Subsection 59-12-103(1)(d);

1470 (D) Subsection 59-12-103(1)(e);

1471 (E) Subsection 59-12-103(1)(f);

1472 (F) Subsection 59-12-103(1)(g);

1473 (G) Subsection 59-12-103(1)(h);

1474 (H) Subsection 59-12-103(1)(i);

1475 (I) Subsection 59-12-103(1)(j); or

1476 (J) Subsection 59-12-103(1)(k).

1477 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue

1478 sale is computed on the basis of sales and use tax rates published in the catalogue, an

1479 enactment or repeal of a tax described in Subsection (3)(a) takes effect:

1480 (A) on the first day of a calendar quarter; and

1481 (B) beginning 60 days after the effective date of the enactment or repeal under

1482 Subsection (3)(a).



1483 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
1484 the commission may by rule define the term "catalogue sale."

1485 (4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be  
1486 administered, collected, and enforced in accordance with:

1487 (i) the same procedures used to administer, collect, and enforce the tax under:

1488 (A) Part 1, Tax Collection; or

1489 (B) Part 2, Local Sales and Use Tax Act; and

1490 (ii) Chapter 1, General Taxation Policies.

1491 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to  
1492 Subsections 59-12-205(2) through (9).

1493 (c) (i) The commission may retain an amount of tax collected under this part of not to  
1494 exceed the lesser of:

1495 (A) 1.5%; or

1496 (B) an amount equal to the cost to the commission of administering this part.

1497 (ii) Any amount the commission retains under Subsection (4)(c)(i) shall be:

1498 (A) placed in the Sales and Use Tax Administrative Fees Account; and

1499 (B) used as provided in Subsection 59-12-206(2).

1500 Section 11. Section **59-12-1001** is amended to read:

1501 **59-12-1001. Authority to impose tax for highways or to fund a system for public**  
1502 **transit -- Ordinance requirements -- Voter approval requirements -- Election**  
1503 **requirements -- Notice of election requirements -- Exceptions to voter approval**  
1504 **requirements -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

1505 (1) (a) Except as provided in Subsections (1)(b) and 59-12-207.1(7)(c), a city or town  
1506 in which the transactions described in Subsection 59-12-103(1) are not subject to a sales and  
1507 use tax under Section 59-12-501, 59-12-501.5, or 59-12-502.5 may as provided in this part  
1508 impose a sales and use tax of .25% on the transactions described in Subsection 59-12-103(1)  
1509 located within the city or town.

1510 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this  
1511 section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are  
1512 exempt from taxation under Section 59-12-104.

1513 (c) For purposes of this Subsection (1), the location of a transaction shall be

1514 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

1515 (2) (a) A city or town imposing a tax under this part may use the revenues generated by  
1516 the tax:

1517 (i) for the construction and maintenance of highways under the jurisdiction of the city  
1518 or town imposing the tax;

1519 (ii) subject to Subsection (2)(b), to fund a system for public transit; or

1520 (iii) for a combination of the purposes described in Subsections (2)(a)(i) and (ii).

1521 (b) (i) For purposes of Subsection (2)(a)(ii) and except as provided in Subsection  
1522 (2)(b)(ii), "public transit" is as defined in Section 17A-2-1004.

1523 (ii) Notwithstanding Subsection (2)(b)(i), "public transit" does not include a fixed  
1524 guideway system.

1525 (3) To impose a tax under this part, the governing body of the city or town shall:

1526 (a) pass an ordinance approving the tax; and

1527 (b) except as provided in Subsection (7), obtain voter approval for the tax as provided  
1528 in Subsection (4).

1529 (4) To obtain voter approval for a tax under Subsection (3)(b), a city or town shall:

1530 (a) hold an election during:

1531 (i) a regular general election; or

1532 (ii) a municipal general election; and

1533 (b) publish notice of the election:

1534 (i) 15 days or more before the day on which the election is held; and

1535 (ii) in a newspaper of general circulation in the city or town.

1536 (5) An ordinance approving a tax under this part shall provide an effective date for the  
1537 tax as provided in Subsection (6).

1538 (6) (a) For purposes of this Subsection (6):

1539 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part  
1540 4, Annexation.

1541 (ii) "Annexing area" means an area that is annexed into a city or town.

1542 (b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after July 1, 2004, a city  
1543 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

1544 (A) on the first day of a calendar quarter; and

1545 (B) after a 90-day period beginning on the date the commission receives notice meeting  
1546 the requirements of Subsection (6)(b)(ii) from the city or town.

1547 (ii) The notice described in Subsection (6)(b)(i)(B) shall state:

1548 (A) that the city or town will enact or repeal a tax under this part;

1549 (B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);

1550 (C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and

1551 (D) if the city or town enacts the tax described in Subsection (6)(b)(ii)(A), the rate of  
1552 the tax.

1553 (c) (i) Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection  
1554 (6)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

1555 (A) that begins after the effective date of the enactment of the tax; and

1556 (B) if the billing period for the transaction begins before the effective date of the  
1557 enactment of the tax under Subsection (1).

1558 (ii) Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection  
1559 (6)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

1560 (A) that began before the effective date of the repeal of the tax; and

1561 (B) if the billing period for the transaction begins before the effective date of the repeal  
1562 of the tax imposed under Subsection (1).

1563 (iii) Subsections (6)(c)(i) and (ii) apply to transactions subject to a tax under:

1564 (A) Subsection 59-12-103(1)(b);

1565 (B) Subsection 59-12-103(1)(c);

1566 (C) Subsection 59-12-103(1)(d);

1567 (D) Subsection 59-12-103(1)(e);

1568 (E) Subsection 59-12-103(1)(f);

1569 (F) Subsection 59-12-103(1)(g);

1570 (G) Subsection 59-12-103(1)(h);

1571 (H) Subsection 59-12-103(1)(i);

1572 (I) Subsection 59-12-103(1)(j); or

1573 (J) Subsection 59-12-103(1)(k).

1574 (d) (i) Notwithstanding Subsection (6)(b)(i), if a tax due under this chapter on a  
1575 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an

1576 enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:

1577 (A) on the first day of a calendar quarter; and

1578 (B) beginning 60 days after the effective date of the enactment or repeal under  
1579 Subsection (6)(b)(i).

1580 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
1581 the commission may by rule define the term "catalogue sale."

1582 (e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs  
1583 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this  
1584 part for an annexing area, the enactment or repeal shall take effect:

1585 (A) on the first day of a calendar quarter; and

1586 (B) after a 90-day period beginning on the date the commission receives notice meeting  
1587 the requirements of Subsection (6)(e)(ii) from the city or town that annexes the annexing area.

1588 (ii) The notice described in Subsection (6)(e)(i)(B) shall state:

1589 (A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or  
1590 repeal of a tax under this part for the annexing area;

1591 (B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);

1592 (C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and

1593 (D) the rate of the tax described in Subsection (6)(e)(ii)(A).

1594 (f) (i) Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection  
1595 (6)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

1596 (A) that begins after the effective date of the enactment of the tax; and

1597 (B) if the billing period for the transaction begins before the effective date of the  
1598 enactment of the tax under Subsection (1).

1599 (ii) Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection  
1600 (6)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

1601 (A) that began before the effective date of the repeal of the tax; and

1602 (B) if the billing period for the transaction begins before the effective date of the repeal  
1603 of the tax imposed under Subsection (1).

1604 (iii) Subsections (6)(f)(i) and (ii) apply to transactions subject to a tax under:

1605 (A) Subsection 59-12-103(1)(b);

1606 (B) Subsection 59-12-103(1)(c);

- 1607 (C) Subsection 59-12-103(1)(d);
- 1608 (D) Subsection 59-12-103(1)(e);
- 1609 (E) Subsection 59-12-103(1)(f);
- 1610 (F) Subsection 59-12-103(1)(g);
- 1611 (G) Subsection 59-12-103(1)(h);
- 1612 (H) Subsection 59-12-103(1)(i);
- 1613 (I) Subsection 59-12-103(1)(j); or
- 1614 (J) Subsection 59-12-103(1)(k).

1615 (g) (i) Notwithstanding Subsection (6)(e)(i), if a tax due under this chapter on a  
1616 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an  
1617 enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:

1618 (A) on the first day of a calendar quarter; and

1619 (B) beginning 60 days after the effective date of the enactment or repeal under  
1620 Subsection (6)(e)(i).

1621 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
1622 the commission may by rule define the term "catalogue sale."

1623 (7) (a) Except as provided in Subsection (7)(b), a city or town is not subject to the  
1624 voter approval requirements of Subsection (3)(b) if:

1625 (i) on or before January 1, 1996, the city or town imposed a license fee or tax on  
1626 businesses based on gross receipts pursuant to Section 10-1-203; or

1627 (ii) the city or town:

1628 (A) on or before June 30, 2002, obtained voter approval in accordance with Subsection  
1629 (3)(b) to impose a tax under this part for a purpose described in Subsection (2)(a)(i); and

1630 (B) on or after July 1, 2002, uses the revenues generated by a tax under this part for a  
1631 purpose described in Subsection (2)(a).

1632 (b) Notwithstanding Subsection (7)(a), the exception from the voter approval  
1633 requirements in Subsection (7)(a)(i) does not apply to a city or town that, on or before January  
1634 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts  
1635 pursuant to Section 10-1-203.

1636 Section 12. Section **59-12-1502** is amended to read:

1637 **59-12-1502. Definitions.**

1638 As used in this part:

1639 (1) "Annexation" means an annexation to a county under Title 17, Chapter 2,  
1640 Annexation to County.

1641 (2) "Annexing area" means an area that is annexed into a county.

1642 (3) "Qualifying county" means a county in which:

1643 (a) a sales and use tax authorized by Section 59-12-502 is not imposed by:

1644 [~~(a)~~] (i) the county;

1645 [~~(b)~~] (ii) a city within the county; or

1646 [~~(c)~~] (iii) a town within the county~~[-];~~ or

1647 (b) a sales and use tax authorized by Section 59-12-502.5 is not imposed by the county.

1648 (4) "State highway" means a highway designated as a state highway under Title 72,  
1649 Chapter 4, Designation of State Highways Act.

1650 (5) (a) Except as provided in Subsection (5)(b), "public transit" is as defined in Section  
1651 17A-2-1004.

1652 (b) Notwithstanding Subsection (5)(a), "public transit" does not include a fixed  
1653 guideway system.

1654 Section 13. **Effective date.**

1655 This bill takes effect on July 1, 2005.