

TRANSPORTATION REVISIONS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

Senate Sponsor: Sheldon L. Killpack

LONG TITLE

General Description:

This bill amends provisions relating to public transit.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ provides that if a public transit district comprised a geographical area consisting of more than one county as the boundaries of that transit district existed on January 1, 2007:
 - the counties, cities, towns, or unincorporated areas that comprised that district shall be withdrawn from the public transit district as of January 1, 2008; and
 - the public transit district shall be dissolved;
- ▶ provides procedures and requirements for the dissolution of the public transit district;
- ▶ repeals provisions governing the Board of Trustees for a public transit district that has more than 200,000 people residing within the district boundaries;
- ▶ imposes certain sales and use taxes for public transit as state imposed taxes rather than local option sales and use taxes and specifies certain locations where the state sales and use taxes are imposed;
- ▶ authorizes certain local option sales and use taxes for certain transportation purposes;



- 28 ▶ requires the Department of Transportation to provide public transit services to
- 29 counties, cities, towns, or unincorporated areas that are withdrawn from a public
- 30 transit district;
- 31 ▶ creates public transit project development and operations divisions within the
- 32 Department of Transportation;
- 33 ▶ enacts provisions governing the rights and obligations of employees of the
- 34 Department of Transportation providing public transit services;
- 35 ▶ enacts provisions governing public transit facilities and services provided by the
- 36 Department of Transportation; and
- 37 ▶ makes technical changes.

Monies Appropriated in this Bill:

39 None

Other Special Clauses:

41 This bill takes effect on January 1, 2008.

Utah Code Sections Affected:**AMENDS:**

- 44 **10-8-86**, as last amended by Chapter 213, Laws of Utah 1988
- 45 **17A-1-502**, as last amended by Chapter 295, Laws of Utah 2004
- 46 **17A-1-503**, as last amended by Chapter 295, Laws of Utah 2004
- 47 **17A-2-1016**, as last amended by Chapter 136, Laws of Utah 2005
- 48 **17A-2-1051**, as last amended by Chapter 71, Laws of Utah 2005
- 49 **17A-2-1038**, as last amended by Chapters 295 and 336, Laws of Utah 2004
- 50 **17B-2-512**, as last amended by Chapters 89 and 170, Laws of Utah 2003
- 51 **59-12-102**, as last amended by Chapter 1, Laws of Utah 2006, Fourth Special Session
- 52 **59-12-501**, as last amended by Chapter 253, Laws of Utah 2006
- 53 **59-12-502**, as last amended by Chapters 253 and 329, Laws of Utah 2006
- 54 **59-12-504**, as last amended by Chapter 253, Laws of Utah 2006
- 55 **59-12-1001**, as last amended by Chapter 253, Laws of Utah 2006
- 56 **59-12-1502**, as enacted by Chapter 282, Laws of Utah 2003
- 57 **59-12-1503**, as last amended by Chapter 253, Laws of Utah 2006
- 58 **59-12-1703**, as enacted by Chapter 1, Laws of Utah 2006, Fourth Special Session

59 **63-56-502**, as last amended by Chapter 319, Laws of Utah 2006
60 **72-1-102**, as last amended by Chapter 372, Laws of Utah 2001
61 **72-1-203**, as last amended by Chapter 139, Laws of Utah 2006
62 **72-1-204**, as renumbered and amended by Chapter 270, Laws of Utah 1998
63 **72-1-301**, as last amended by Chapter 176, Laws of Utah 2002
64 **72-1-303**, as last amended by Chapter 336, Laws of Utah 2004
65 **72-2-121**, as last amended by Chapter 1, Laws of Utah 2006, Fourth Special Session
66 **72-6-115**, as last amended by Chapter 27, Laws of Utah 2001
67 **72-10-102**, as last amended by Chapter 183, Laws of Utah 2003
68 **76-10-1503**, as last amended by Chapter 151, Laws of Utah 1998

69 ENACTS:

70 **17A-2-1065**, Utah Code Annotated 1953
71 **59-12-1801**, Utah Code Annotated 1953
72 **59-12-1802**, Utah Code Annotated 1953
73 **59-12-1803**, Utah Code Annotated 1953
74 **59-12-1804**, Utah Code Annotated 1953
75 **72-2-301**, Utah Code Annotated 1953
76 **72-14-101**, Utah Code Annotated 1953
77 **72-14-102**, Utah Code Annotated 1953
78 **72-14-103**, Utah Code Annotated 1953
79 **72-14-104**, Utah Code Annotated 1953
80 **72-14-105**, Utah Code Annotated 1953
81 **72-14-106**, Utah Code Annotated 1953
82 **72-14-201**, Utah Code Annotated 1953
83 **72-14-202**, Utah Code Annotated 1953
84 **72-14-203**, Utah Code Annotated 1953

85 REPEALS:

86 **59-12-503**, as enacted by Chapter 131, Laws of Utah 1997

87

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

89 Section 1. Section **10-8-86** is amended to read:

10-8-86. Organization, operation, maintenance, and funding of public transportation system authorized.

(1) The governing body of any municipality may adopt a resolution allowing the municipality to organize, operate, and maintain a public transportation system within such municipality and to impose a sales and a use tax to fund the system as provided in Section ~~[59-12-501]~~ 59-12-1803.

(2) The authority granted municipalities by this section to organize, operate, and maintain a public transportation system is inapplicable to a municipality located in or within five highway or roadway miles of the boundary of an existing transit district, unless the existing transit district consents to the organization and operation of such a system by the municipality.

Section 2. Section **17A-1-502** is amended to read:

17A-1-502. Special districts to submit budgets.

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

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

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

~~[(b) Within 30 days after it is approved by the board, and at least 30 days before the board adopts a final budget, the board of a public transit district serving a population of more than 200,000 people shall send a copy of its tentative budget and notice of the time and place for its budget hearing to:]~~

~~[(i) each of its constituent entities; and]~~

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

~~[(c)]~~ (b) The special district shall include with the tentative budget a signature sheet that includes:

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

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

(2) Each constituent entity and each customer agency that receives the tentative budget shall review the tentative budget submitted by the district and either:

- (a) sign the signature sheet and return it to the district; or
- (b) attend the budget hearing or other meeting scheduled by the district to discuss the objections to the proposed budget.

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

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

- (c) At the budget hearing, the special district board shall:
- (i) explain its budget and answer any questions about it;
 - (ii) specifically address any questions or objections raised by the constituent entity, customer agency, or those attending the meeting; and
 - (iii) seek to resolve the objections.

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

Section 3. Section **17A-1-503** is amended to read:

17A-1-503. Special districts to submit audit reports.

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

- ~~[(i)]~~ (a) each of its constituent entities that has in writing requested a copy; and
 - ~~[(ii)]~~ (b) each of its customer agencies that has in writing requested a copy.
- ~~[(b) Within 30 days after it is presented to the board, the board of a public transit district serving a population of more than 200,000 people shall send a copy of its annual audit report to:]~~

152 ~~[(i) each of its constituent entities; and]~~

153 ~~[(ii) each of its customer agencies that has in writing requested a copy.]~~

154 (2) Each constituent entity and each customer agency that received the audit report
155 shall review the audit report submitted by the district and, if necessary, request a meeting with
156 the independent special district board to discuss the audit report.

157 (3) At the meeting, the special district board shall:

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

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

160 Section 4. Section **17A-2-1016** is amended to read:

161 **17A-2-1016. Powers of incorporated district -- Bidding -- Eminent domain.**

162 (1) As used in this section, "operator" means any city, public agency, person, firm, or
163 private corporation engaged in the transportation of passengers for hire.

164 (2) Any district incorporated under this part may:

165 (a) have perpetual succession;

166 (b) sue and be sued in all actions and proceedings and in all courts and tribunals of
167 competent jurisdiction;

168 (c) adopt a corporate seal and alter it at pleasure;

169 (d) levy and collect taxes only for paying:

170 (i) the principal and interest of bonded indebtedness of the district; or

171 (ii) any final judgment obtained against the district beyond the amount of any
172 collectable insurance or indemnity policy if the district is required by final order of any court of
173 competent jurisdiction to levy a tax to pay the judgment;

174 (e) take by grant, purchase, bequest, devise, or lease, and to hold, enjoy, lease, sell,
175 encumber, alien, or otherwise dispose of real or personal property of every kind within the
176 district;

177 (f) make contracts and enter into stipulations of any nature, including contracts and
178 stipulations:

179 (i) to indemnify and save harmless;

180 (ii) to do all acts to exercise the powers granted in this part; and

181 (iii) with any department or agency of the United States of America, of the state, or
182 with any public agency or private person, firm, or corporation upon terms and conditions the

board of trustees finds are in the best interests of the district;

(g) (i) insure against:

(A) loss of revenues from accident or destruction of the system or any part of the system, from any cause whatsoever; or

(B) public liability or property damage, or against all other types of events, acts, or omissions; and

(ii) provide in the proceedings authorizing the issuance of any bonds for the carrying of any other insurance, in an amount and of such character as may be specified, and for the payment of the premiums on the insurance;

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

(i) purchase all supplies, equipment, and materials;

(j) construct facilities and works, but when the expenditure required exceeds \$25,000 construction shall be let in accordance with Title 63, Chapter 56, Utah Procurement Code;

(k) acquire, contract for, lease, construct, own, operate, control, or use rights-of-way, rail lines, monorails, bus lines, stations, platforms, switches, yards, terminals, parking lots, any facilities necessary or convenient for public transit service, and all structures necessary for access by persons and vehicles;

(l) hire, lease, or contract for the supplying of, or management of, any facilities, operations, equipment, services, employees, or management staff of any operator and provide for subleases or subcontracts by the operator upon terms that are in the public interest; and

(m) operate feeder bus lines and other feeder services as necessary.

(3) (a) Bids or proposals shall be advertised through public notice as determined by the board.

(b) The notice may include publication in a newspaper of general circulation in the district, trade journal, or other method determined by the board at least once and not less than ten days prior to the expiration of the period within which bids or proposals are received.

(c) The board may reject any and all bids or proposals and readvertise or give renounce at its discretion.

(d) If, after rejecting bids or proposals, the board determines and declares by vote of two-thirds of all its members present that in its opinion the supplies, equipment, and materials

may be purchased at a lower price in the open market, the board may proceed to purchase the same in the open market without further observance of the provisions requiring contracts, bids or proposals, advertisement, or notice.

(e) Contracts, in writing or otherwise, may be let without advertising for or inviting bids when any repairs, alterations, or other work or the purchase of materials, supplies, equipment, or other property is found by the board upon a two-thirds vote of its members present to be of urgent necessity, or where the general manager certifies by affidavit that there is only one source for the required supplies, equipment, and materials, or construction items.

(f) If any payment on a contract with a private contractor to construct facilities under this section is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.

(4) (a) Installations in state highways or freeways are subject to the approval of the Department of Transportation.

(b) It is presumed that the use of the streets, roads, highways, and other public places by the district for any of the purposes permitted in this section constitutes no greater burden on adjoining properties than the uses existing on July 9, 1969.

(c) If facilities, other than state highways or freeways referred to in Subsection (2), including streets, roads, highways, pipelines, sewers, water mains, storm drains, poles, and communications wires of another public agency of the state, or of a private owner must be relocated, replaced, or altered in order for the district to construct or operate its system, or to preserve and maintain already constructed district facilities, the facilities shall be relocated, replaced, or altered with reasonable promptness by the respective public corporation, state, or private owner and the district shall by prior agreement reimburse the public corporation, state, or private owner for the reasonable cost incurred in relocation, replacement, or alteration.

(d) The district may enter into an agreement with any city or county having jurisdiction over the street, road, or highway involved and, as may be provided by agreement, close any city street or county road at or near the point of its interception with any district facility or provide for carrying the city street or county road over or under or to a connection with the district facility and may do any and all work on the city street or county road as is necessary. A city street or county road may not be closed directly or indirectly by the construction of district facilities except:

(i) pursuant to agreement; or

(ii) while temporarily necessary during the construction of district facilities.

(5) The state, a municipality, or a county may acquire private property interests within its respective boundaries by eminent domain pursuant to Title 78, Chapter 34, Eminent Domain, including fee simple, easements, air rights, rights-of-way, and other private property interests necessary to the establishment and operation of a public transit district.

(6) (a) Notwithstanding the provisions of this section, if a public transit district incorporated under this part comprised a geographical area consisting of more than one county as the boundaries of that district existed on January 1, 2007:

(i) the counties, cities, towns, or unincorporated areas that comprised that district shall be withdrawn from the public transit district as of January 1, 2008; and

(ii) the public transit district shall be dissolved in accordance with Section 17A-2-1065.

(b) The Department of Transportation shall provide a public transit system for a county, city, town, or unincorporated area that is withdrawn from a public transit district under this Subsection (6) in accordance with Section 72-14-102.

Section 5. Section **17A-2-1038** is amended to read:

17A-2-1038. Board of trustees -- Appointment -- Apportionment -- Qualifications -- Quorum -- Compensation -- Terms.

~~[(1) (a) All powers, privileges, and duties vested in any incorporated district shall be performed by a board of trustees.]~~

~~[(b) The board may delegate the exercise of any duty to any of the offices created under this part.]~~

~~[(2) If 200,000 people or fewer reside within the district boundaries:]~~

~~[(a) (i) the]~~ (1) (a) The board of trustees shall consist of ~~[(A)]~~ members appointed by the legislative bodies of each municipality, county, or unincorporated area within any county on the basis of one member for each full unit of regularly scheduled passenger routes proposed to be served by the district in each municipality or unincorporated area within any county in the following calendar year~~[-and]~~.

~~[(B) for]~~ (b) For purposes of determining membership under Subsection ~~[(2)(a)(i)(A)]~~ (1)(a), the number of service miles comprising a unit shall be determined jointly by the

legislative bodies of the municipalities or counties comprising the district~~[-and]~~.

~~[(ii)-the]~~ (c) The board of trustees may consist of a member that is a commissioner on the Transportation Commission created in Section 72-1-301 and appointed as provided in Subsection ~~[(10)]~~ (8), who shall serve as a nonvoting, ex officio member~~[-]~~.

~~[(b)-members]~~ (d) Members appointed under this Subsection ~~[(2)]~~ (1) shall be appointed and added to the board or omitted from the board at the time scheduled routes are changed, or as municipalities, counties, or unincorporated areas of counties annex to or withdraw from the district using the same appointment procedures~~[-and]~~.

~~[(c)-for]~~ (e) For purposes of appointing members under this Subsection ~~[(2)(b)]~~ (1), municipalities, counties, and unincorporated areas of counties in which regularly scheduled passenger routes proposed to be served by the district in the following calendar year is less than a full unit, as defined in Subsection ~~[(2)(a)]~~ (1)(b), may combine with any other similarly situated municipality or unincorporated area to form a whole unit and may appoint one member for each whole unit formed.

~~[(3)(a)-If more than 200,000 people reside within the district boundaries, the board of trustees shall consist of 15 members appointed as described under this Subsection (3) and one nonvoting, ex officio member appointed as provided in Subsection (10).]~~

~~[(b)-Except as provided under Subsections (3)(c) and (3)(d), the board shall apportion voting members to each county within the district using an average of:]~~

~~[(i)-the proportion of population included in the district and residing within each county, rounded to the nearest 1/15 of the total transit district population; and]~~

~~[(ii)-the proportion of transit sales and use tax collected from areas included in the district and within each county, rounded to the nearest 1/15 of the total transit sales and use tax collected for the transit district.]~~

~~[(c)-The board shall join an entire or partial county not apportioned a voting member under this Subsection (3) with an adjacent county for representation. The combined apportionment basis included in the district of both counties shall be used for the apportionment.]~~

~~[(d)-If rounding to the nearest 1/15 of the total transit district apportionment basis under Subsection (3)(b) results in an apportionment of:]~~

~~[(i)-more than 15 members, the county or combination of counties with the smallest~~

307 additional fraction of a whole member proportion shall have one less member apportioned to it;
308 or]

309 [~~(ii) less than 15 members, the county or combination of counties with the largest~~
310 additional fraction of a whole member proportion shall have one more member apportioned to
311 it.]

312 [~~(e) If the unincorporated area of a county is at least 1/15 of the district's population;~~
313 the county executive, with the advice and consent of the county legislative body, shall appoint
314 one voting member to represent each 1/15 of the district's population within a county's
315 unincorporated area population:]

316 [~~(f) If a municipality's population is at least 1/15 of the district's population, the chief~~
317 municipal executive, with the advice and consent of the municipal legislative body, shall
318 appoint one voting member to represent each 1/15 of the district's population within a
319 municipality:]

320 [~~(g) The number of voting members appointed from a county and municipalities within~~
321 a county under Subsections (3)(e) and (f) shall be subtracted from the county's total voting
322 member apportionment under this Subsection (3).]

323 [~~(h) If the entire county is within the district, the remaining voting members for the~~
324 county shall represent the county or combination of counties if Subsection (3)(e) applies, or the
325 municipalities within the county:]

326 [~~(i) If the entire county is not within the district, and the county is not joined with~~
327 another county under Subsection (3)(e), the remaining voting members for the county shall
328 represent a municipality or combination of municipalities:]

329 [~~(j) Except as provided under Subsections (3)(e) and (f), voting members representing~~
330 counties, combinations of counties if Subsection (3)(c) applies, or municipalities within the
331 county shall be designated and appointed by a simple majority of the chief executives of the
332 municipalities within the county or combinations of counties if Subsection (3)(c) applies. The
333 appointments shall be made by joint written agreement of the appointing municipalities, with
334 the consent and approval of the county legislative body of the county that has at least 1/15 of
335 the district's apportionment basis:]

336 [~~(k) Voting members representing a municipality or combination of municipalities~~
337 shall be designated and appointed by the chief executive officer of the municipality or simple

majority of chief executive officers of municipalities with the consent of the legislative body of the municipality or municipalities.]

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

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

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

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

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

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

~~[(ii) Within 120 days following the receipt of the population estimates under this Subsection (5)(k), the district shall reapportion representation on the board of trustees in accordance with this section.]~~

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

~~[(iv) Upon adoption of the resolution, the board shall forward a copy of the resolution to each of its constituent entities as defined under Section 17A-1-501.]~~

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

~~[(vi) The appointing entities losing a board member shall inform the board of which member currently serving on the board will step down upon appointment of a new member under Subsection (5)(k)(v).]~~

~~[(4)]~~ (2) (a) Except the initial members of the board, the terms of office of the voting members of the board shall be two years or until a successor is appointed, qualified, seated, and

has taken the oath of office.

(b) At the first meeting of the initial members of the board held after July 1, 2004, voting members of the board shall designate by the drawing of lots for 1/2 of their number to serve for one-year terms and 1/2 for two-year terms.

(c) A voting member may not be appointed for more than three successive full terms.

~~[(5)]~~ (3) (a) Vacancies for voting members shall be filled by the official appointing the member creating the vacancy for the unexpired term, unless the official fails to fill the vacancy within 90 days.

(b) If the appointing official under Subsection ~~[(2)]~~ (1) does not fill the vacancy within 90 days, the board of trustees of the authority shall fill the vacancy.

~~[(c) If the appointing official under Subsection (3) does not fill the vacancy within 90 days, the governor, with the advice and consent of the Senate, shall fill the vacancy.]~~

~~[(6)]~~ (4) (a) Each voting member may cast one vote on all questions, orders, resolutions, and ordinances coming before the board of trustees.

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

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

~~[(7) The]~~ (5) Each public transit district shall pay to each voting member:

(a) an attendance fee of \$50 per board or committee meeting attended, not to exceed \$200 in any calendar month to any voting member; and

(b) reasonable mileage and expenses necessarily incurred to attend board or committee meetings.

~~[(8)]~~ (6) (a) Members of the initial board of trustees shall convene at the time and place fixed by the chief executive officer of the entity initiating the proceedings.

(b) Immediately upon convening, the board of trustees shall elect from its voting membership a president, vice president, and secretary who shall serve for a period of two years or until their successors shall be elected and qualified.

~~[(9)]~~ (7) At the time of a voting member's appointment or during a voting member's tenure in office, a voting member may not hold any employment, except as an independent

contractor or elected public official, with a county or municipality within the district.

~~[(10)] (8) The Transportation Commission created in Section 72-1-301[:(a) for public transit districts serving a population of 200,000 people or fewer,] may appoint a commissioner of the Transportation Commission to serve on the board of trustees as a nonvoting, ex officio member[; and].~~

~~[(b) for public transit districts serving a population of more than 200,000 people, shall appoint a commissioner of the Transportation Commission to serve on the board of trustees as a nonvoting, ex officio member.]~~

Section 6. Section **17A-2-1051** is amended to read:

17A-2-1051. Members of board subject to recall.

(1) (a) A member of the board of trustees of a district is subject to recall at any time by the governing body of the municipality, county, or unincorporated county area from which the member is appointed.

(b) A recall of a member of the board of trustees shall be made in the same manner as original appointment.

(c) The appointing entities shall provide written notice to the member of the board of trustees being recalled.

(2) Upon written notice to the board, a member may resign the board member's position as trustee.

(3) If a member of the board is recalled or resigns under this section, the vacancy shall be filled in accordance with Subsection 17A-2-1038~~[(5)]~~(3).

Section 7. Section **17A-2-1065** is enacted to read:

17A-2-1065. Dissolution of multicounty public transit district.

(1) A public transit district incorporated under this part that comprised a geographical area consisting of more than one county as the boundaries of that transit district existed on January 1, 2007 shall be dissolved in accordance with this section.

(2) Prior to the dissolution of a public transit district described under Subsection (1):

(a) the outstanding debt of the district shall be:

(i) satisfied or discharged in connection with the dissolution; or

(ii) assumed by another governmental entity with the consent of all the holders of that debt and all the holders of other debts of the public transit district; and

431 (b) all outstanding contracts to which the public transit district is a party shall be
432 resolved through mutual termination or the assignment of the district's rights, duties, privileges,
433 and responsibilities to another entity with the consent of the other parties to the contract.

434 (3) The terms of the members of the Board of Trustees of a public transit district
435 described under Subsection (1) appointed under Section 17A-2-1038 expire on January 1,
436 2008, and the Transportation Commission shall serve as the Board of Trustees under Section
437 17A-2-1038 for a public transit district that is subject to dissolution under Subsection (1).

438 (4) (a) (i) Any assets of the public transit district remaining after paying all debts and
439 other obligations of the public transit district shall be used to pay costs associated with the
440 dissolution process under this section.

441 (ii) Any costs of the dissolution process remaining after exhausting the remaining
442 assets of the public transit district under Subsection (4)(a)(i) shall be paid by the Board of
443 Trustees.

444 (b) Any assets of the public transit district remaining after application of Subsection
445 (4)(a) shall be distributed to the Department of Transportation to be used to provide public
446 transit services in accordance with Section 72-14-102.

447 (5) (a) Within 30 days after completion of the requirements under Subsections (2)
448 through (4), the Board of Trustees shall file a notice with the lieutenant governor.

449 (b) The notice required under Subsection (5)(a) shall include a certification by the
450 Board of Trustees that all requirements for the dissolution have been complied with.

451 (c) Upon the lieutenant governor's issuance of the certificate of dissolution under
452 Section 67-1a-6.5, the public transit district is dissolved.

453 Section 8. Section **17B-2-512** is amended to read:

454 **17B-2-512. Protests -- Election.**

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

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

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

460 (iii) for an annexation proposed by a local district that receives sales and use tax funds
461 from the counties, cities, and towns within the local district that impose a sales and use tax

under Section 59-12-501 or 59-12-1803.

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

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

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

(i) timely protests are filed by:

(A) the owners of private real property that:

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

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

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

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

(ii) the proposed annexing local district is one that receives sales and use tax funds from the counties, cities, and towns within the local district that impose a sales and use tax under Section 59-12-501 or 59-12-1803.

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

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

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

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

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

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

Section 9. Section **59-12-102** is amended to read:

59-12-102. Definitions.

As used in this chapter:

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

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

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

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

(a) listed under Subsection (4); and

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

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

(a) Subsection 59-12-103(2)(a)(i) or (2)(b)(iii)(A);

(b) Section 59-12-204;

(c) Section 59-12-401;

(d) Section 59-12-402;

(e) Section 59-12-501;

(f) Section 59-12-502;

(g) Section 59-12-703;

(h) Section 59-12-802;

(i) Section 59-12-804;

(j) Section 59-12-1001;

(k) Section 59-12-1102;

(l) Section 59-12-1302;

(m) Section 59-12-1402; ~~[or]~~

(n) Section 59-12-1503[-];

(o) Section 59-12-1703; or

(p) Section 59-12-1803.

(5) "Aircraft" is as defined in Section 72-10-102.

(6) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(7) "Area agency on aging" is as defined in Section 62A-3-101.

(8) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(9) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(10) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, the holder of a certificate issued by the United States Surface Transportation Board.

(11) (a) Except as provided in Subsection (11)(b), "biomass energy" means any of the

following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) methane produced:

(I) at landfills; or

(II) as a byproduct of the treatment of wastewater residuals;

(D) aquatic plants; and

(E) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor;

(ii) treated woods; or

(iii) biomass from municipal solid waste other than methane produced:

(A) at landfills; or

(B) as a byproduct of the treatment of wastewater residuals.

(12) (a) "Bundled transaction" means the sale of two or more items of tangible personal property if:

(i) one or more of the items of tangible personal property is food and food ingredients;

and

(ii) the items of tangible personal property are:

(A) distinct and identifiable; and

(B) sold for one price that is not itemized.

(b) "Bundled transaction" does not include the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction.

(c) For purposes of Subsection (12)(a)(ii)(A), tangible personal property that is distinct and identifiable does not include:

(i) packaging that:

(A) accompanies the sale of the tangible personal property; and

(B) is incidental or immaterial to the sale of the tangible personal property;

586 (ii) tangible personal property provided free of charge with the purchase of another
587 item of tangible personal property; or

588 (iii) an item of tangible personal property included in the definition of "purchase
589 price."

590 (d) For purposes of Subsection (12)(c)(ii), an item of tangible personal property is
591 provided free of charge with the purchase of another item of tangible personal property if the
592 sales price of the purchased item of tangible personal property does not vary depending on the
593 inclusion of the tangible personal property provided free of charge.

594 (13) "Certified automated system" means software certified by the governing board of
595 the agreement in accordance with Section 59-12-102.1 that:

596 (a) calculates the agreement sales and use tax imposed within a local taxing
597 jurisdiction:

598 (i) on a transaction; and

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

600 (b) determines the amount of agreement sales and use tax to remit to a state that is a
601 member of the agreement; and

602 (c) maintains a record of the transaction described in Subsection (13)(a)(i).

603 (14) "Certified service provider" means an agent certified:

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

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

609 (15) (a) Subject to Subsection (15)(b), "clothing" means all human wearing apparel
610 suitable for general use.

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

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

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

616 (16) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(17) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (39) or residential use under Subsection (76).

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

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

(ii) For purposes of Subsection (18)(b)(i), in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(19) "Component part" includes:

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

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

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

(d) feed, seeds, and seedlings.

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

(a) (i) in digital form; or

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

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

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

(a) a computer to perform a task; or

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

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

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

(24) (a) "Delivery charge" means a charge:

(i) by a seller of:

648 (A) tangible personal property; or
649 (B) services; and
650 (ii) for preparation and delivery of the tangible personal property or services described
651 in Subsection (24)(a)(i) to a location designated by the purchaser.
652 (b) "Delivery charge" includes a charge for the following:
653 (i) transportation;
654 (ii) shipping;
655 (iii) postage;
656 (iv) handling;
657 (v) crating; or
658 (vi) packing.
659 (25) "Dietary supplement" means a product, other than tobacco, that:
660 (a) is intended to supplement the diet;
661 (b) contains one or more of the following dietary ingredients:
662 (i) a vitamin;
663 (ii) a mineral;
664 (iii) an herb or other botanical;
665 (iv) an amino acid;
666 (v) a dietary substance for use by humans to supplement the diet by increasing the total
667 dietary intake; or
668 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
669 described in Subsections (25)(b)(i) through (v);
670 (c) (i) except as provided in Subsection (25)(c)(ii), is intended for ingestion in:
671 (A) tablet form;
672 (B) capsule form;
673 (C) powder form;
674 (D) softgel form;
675 (E) gelcap form; or
676 (F) liquid form; or
677 (ii) notwithstanding Subsection (25)(c)(i), if the product is not intended for ingestion in
678 a form described in Subsections (25)(c)(i)(A) through (F), is not represented:

- 679 (A) as conventional food; and
680 (B) for use as a sole item of:
681 (I) a meal; or
682 (II) the diet; and
683 (d) is required to be labeled as a dietary supplement:
684 (i) identifiable by the "Supplemental Facts" box found on the label; and
685 (ii) as required by 21 C.F.R. Sec. 101.36.
- 686 (26) (a) "Direct mail" means printed material delivered or distributed by United States
687 mail or other delivery service:
688 (i) to:
689 (A) a mass audience; or
690 (B) addressees on a mailing list provided by a purchaser of the mailing list; and
691 (ii) if the cost of the printed material is not billed directly to the recipients.
692 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
693 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
694 (c) "Direct mail" does not include multiple items of printed material delivered to a
695 single address.
- 696 (27) (a) "Drug" means a compound, substance, or preparation, or a component of a
697 compound, substance, or preparation that is:
698 (i) recognized in:
699 (A) the official United States Pharmacopoeia;
700 (B) the official Homeopathic Pharmacopoeia of the United States;
701 (C) the official National Formulary; or
702 (D) a supplement to a publication listed in Subsections (27)(a)(i)(A) through (C);
703 (ii) intended for use in the:
704 (A) diagnosis of disease;
705 (B) cure of disease;
706 (C) mitigation of disease;
707 (D) treatment of disease; or
708 (E) prevention of disease; or
709 (iii) intended to affect:

- 710 (A) the structure of the body; or
711 (B) any function of the body.
- 712 (b) "Drug" does not include:
713 (i) food and food ingredients;
714 (ii) a dietary supplement;
715 (iii) an alcoholic beverage; or
716 (iv) a prosthetic device.
- 717 (28) (a) Except as provided in Subsection (28)(c), "durable medical equipment" means
718 equipment that:
719 (i) can withstand repeated use;
720 (ii) is primarily and customarily used to serve a medical purpose;
721 (iii) generally is not useful to a person in the absence of illness or injury; and
722 (iv) is not worn in or on the body.
- 723 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
724 equipment described in Subsection (28)(a).
- 725 (c) Notwithstanding Subsection (28)(a), "durable medical equipment" does not include
726 mobility enhancing equipment.
- 727 (29) "Electronic" means:
728 (a) relating to technology; and
729 (b) having:
730 (i) electrical capabilities;
731 (ii) digital capabilities;
732 (iii) magnetic capabilities;
733 (iv) wireless capabilities;
734 (v) optical capabilities;
735 (vi) electromagnetic capabilities; or
736 (vii) capabilities similar to Subsections (29)(b)(i) through (vi).
- 737 (30) "Employee" is as defined in Section 59-10-401.
- 738 (31) "Fixed guideway" means a public transit facility that uses and occupies:
739 (a) rail for the use of public transit; or
740 (b) a separate right-of-way for the use of public transit.

- 741 (32) (a) "Food and food ingredients" means substances:
742 (i) regardless of whether the substances are in:
743 (A) liquid form;
744 (B) concentrated form;
745 (C) solid form;
746 (D) frozen form;
747 (E) dried form; or
748 (F) dehydrated form; and
749 (ii) that are:
750 (A) sold for:
751 (I) ingestion by humans; or
752 (II) chewing by humans; and
753 (B) consumed for the substance's:
754 (I) taste; or
755 (II) nutritional value.
756 (b) "Food and food ingredients" includes an item described in Subsection (63)(b)(iii).
757 (c) "Food and food ingredients" does not include:
758 (i) an alcoholic beverage;
759 (ii) tobacco; or
760 (iii) prepared food.
761 (33) (a) "Fundraising sales" means sales:
762 (i) (A) made by a school; or
763 (B) made by a school student;
764 (ii) that are for the purpose of raising funds for the school to purchase equipment,
765 materials, or provide transportation; and
766 (iii) that are part of an officially sanctioned school activity.
767 (b) For purposes of Subsection (33)(a)(iii), "officially sanctioned school activity"
768 means a school activity:
769 (i) that is conducted in accordance with a formal policy adopted by the school or school
770 district governing the authorization and supervision of fundraising activities;
771 (ii) that does not directly or indirectly compensate an individual teacher or other

educational personnel by direct payment, commissions, or payment in kind; and

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

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

(35) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

(36) (a) "Hearing aid" means:

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

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

(II) correct impaired human hearing; and

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

(II) affixed behind the human ear;

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

(iii) a telephone amplifying device.

(b) "Hearing aid" does not include:

(i) except as provided in Subsection (36)(a)(i)(B) or (36)(a)(ii), an instrument or device having an electronic component that is designed to be worn on the body;

(ii) except as provided in Subsection (36)(a)(iii), an assistive listening device or system designed to be used by one individual, including:

(A) a personal amplifying system;

(B) a personal FM system;

(C) a television listening system; or

(D) a device or system similar to a device or system described in Subsections (36)(b)(ii)(A) through (C); or

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

(A) a device or system installed in:

(I) an auditorium;

- 803 (II) a church;
804 (III) a conference room;
805 (IV) a synagogue; or
806 (V) a theater; or
807 (B) a device or system similar to a device or system described in Subsections
808 (36)(b)(iii)(A)(I) through (V).
- 809 (37) (a) "Hearing aid accessory" means a hearing aid:
810 (i) component;
811 (ii) attachment; or
812 (iii) accessory.
813 (b) "Hearing aid accessory" includes:
814 (i) a hearing aid neck loop;
815 (ii) a hearing aid cord;
816 (iii) a hearing aid ear mold;
817 (iv) hearing aid tubing;
818 (v) a hearing aid ear hook; or
819 (vi) a hearing aid remote control.
820 (c) "Hearing aid accessory" does not include:
821 (i) a component, attachment, or accessory designed to be used only with an:
822 (A) instrument or device described in Subsection (36)(b)(i); or
823 (B) assistive listening device or system described in Subsection (36)(b)(ii) or (iii); or
824 (ii) a hearing aid battery.
- 825 (38) "Hydroelectric energy" means water used as the sole source of energy to produce
826 electricity.
- 827 (39) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
828 other fuels:
829 (a) in mining or extraction of minerals;
830 (b) in agricultural operations to produce an agricultural product up to the time of
831 harvest or placing the agricultural product into a storage facility, including:
832 (i) commercial greenhouses;
833 (ii) irrigation pumps;

- 834 (iii) farm machinery;
- 835 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
- 836 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 837 (v) other farming activities;
- 838 (c) in manufacturing tangible personal property at an establishment described in SIC
- 839 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 840 Executive Office of the President, Office of Management and Budget;
- 841 (d) by a scrap recycler if:
- 842 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 843 one or more of the following items into prepared grades of processed materials for use in new
- 844 products:
- 845 (A) iron;
- 846 (B) steel;
- 847 (C) nonferrous metal;
- 848 (D) paper;
- 849 (E) glass;
- 850 (F) plastic;
- 851 (G) textile; or
- 852 (H) rubber; and
- 853 (ii) the new products under Subsection (39)(d)(i) would otherwise be made with
- 854 nonrecycled materials; or
- 855 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
- 856 cogeneration facility as defined in Section 54-2-1.
- 857 (40) (a) Except as provided in Subsection (40)(b), "installation charge" means a charge
- 858 for installing tangible personal property.
- 859 (b) Notwithstanding Subsection (40)(a), "installation charge" does not include a charge
- 860 for repairs or renovations of tangible personal property.
- 861 (41) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 862 personal property for:
- 863 (i) (A) a fixed term; or
- 864 (B) an indeterminate term; and

(ii) consideration.

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

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

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) \$100; or

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

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

(d) For purposes of Subsection (41)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

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

(43) "Local taxing jurisdiction" means a:

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

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

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

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

(45) For purposes of Section 59-12-104, "manufacturing facility" means:

- 896 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
897 Industrial Classification Manual of the federal Executive Office of the President, Office of
898 Management and Budget;
- 899 (b) a scrap recycler if:
- 900 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
901 one or more of the following items into prepared grades of processed materials for use in new
902 products:
- 903 (A) iron;
- 904 (B) steel;
- 905 (C) nonferrous metal;
- 906 (D) paper;
- 907 (E) glass;
- 908 (F) plastic;
- 909 (G) textile; or
- 910 (H) rubber; and
- 911 (ii) the new products under Subsection (45)(b)(i) would otherwise be made with
912 nonrecycled materials; or
- 913 (c) a cogeneration facility as defined in Section 54-2-1.
- 914 (46) "Member of the immediate family of the producer" means a person who is related
915 to a producer described in Subsection 59-12-104(20)(a) as a:
- 916 (a) child or stepchild, regardless of whether the child or stepchild is:
- 917 (i) an adopted child or adopted stepchild; or
- 918 (ii) a foster child or foster stepchild;
- 919 (b) grandchild or stepgrandchild;
- 920 (c) grandparent or stepgrandparent;
- 921 (d) nephew or stepnephew;
- 922 (e) niece or stepniece;
- 923 (f) parent or stepparent;
- 924 (g) sibling or stepsibling;
- 925 (h) spouse;
- 926 (i) person who is the spouse of a person described in Subsections (46)(a) through (g);

927 or

928 (j) person similar to a person described in Subsections (46)(a) through (i) as
929 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah
930 Administrative Rulemaking Act.

931 (47) "Mobile home" is as defined in Section 58-56-3.

932 (48) "Mobile telecommunications service" is as defined in the Mobile
933 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

934 (49) (a) Except as provided in Subsection (49)(c), "mobility enhancing equipment"
935 means equipment that is:

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

938 (ii) appropriate for use in a:

939 (A) home; or

940 (B) motor vehicle; and

941 (iii) not generally used by persons with normal mobility.

942 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
943 the equipment described in Subsection (49)(a).

944 (c) Notwithstanding Subsection (49)(a), "mobility enhancing equipment" does not
945 include:

946 (i) a motor vehicle;

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

949 (iii) durable medical equipment; or

950 (iv) a prosthetic device.

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

955 (51) "Model 2 seller" means a seller that:

956 (a) except as provided in Subsection (51)(b), has selected a certified automated system
957 to perform the seller's sales tax functions for agreement sales and use taxes; and

958 (b) notwithstanding Subsection (51)(a), retains responsibility for remitting all of the
959 sales tax:

960 (i) collected by the seller; and
961 (ii) to the appropriate local taxing jurisdiction.

962 (52) (a) Subject to Subsection (52)(b), "model 3 seller" means a seller that has:
963 (i) sales in at least five states that are members of the agreement;
964 (ii) total annual sales revenues of at least \$500,000,000;
965 (iii) a proprietary system that calculates the amount of tax:
966 (A) for an agreement sales and use tax; and
967 (B) due to each local taxing jurisdiction; and
968 (iv) entered into a performance agreement with the governing board of the agreement.

969 (b) For purposes of Subsection (52)(a), "model 3 seller" includes an affiliated group of
970 sellers using the same proprietary system.

971 (53) "Modular home" means a modular unit as defined in Section 58-56-3.
972 (54) "Motor vehicle" is as defined in Section 41-1a-102.
973 (55) "Oil shale" means a group of fine black to dark brown shales containing
974 bituminous material that yields petroleum upon distillation.

975 (56) (a) "Other fuels" means products that burn independently to produce heat or
976 energy.

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

979 (57) "Pawnbroker" is as defined in Section 13-32a-102.
980 (58) "Pawn transaction" is as defined in Section 13-32a-102.

981 (59) (a) "Permanently attached to real property" means that for tangible personal
982 property attached to real property:

983 (i) the attachment of the tangible personal property to the real property:
984 (A) is essential to the use of the tangible personal property; and
985 (B) suggests that the tangible personal property will remain attached to the real
986 property in the same place over the useful life of the tangible personal property; or
987 (ii) if the tangible personal property is detached from the real property, the detachment
988 would:

989 (A) cause substantial damage to the tangible personal property; or
990 (B) require substantial alteration or repair of the real property to which the tangible
991 personal property is attached.

992 (b) "Permanently attached to real property" includes:
993 (i) the attachment of an accessory to the tangible personal property if the accessory is:
994 (A) essential to the operation of the tangible personal property; and
995 (B) attached only to facilitate the operation of the tangible personal property;
996 (ii) a temporary detachment of tangible personal property from real property for a
997 repair or renovation if the repair or renovation is performed where the tangible personal
998 property and real property are located; or
999 (iii) an attachment of the following tangible personal property to real property,
1000 regardless of whether the attachment to real property is only through a line that supplies water,
1001 electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by
1002 rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:
1003 (A) property attached to oil, gas, or water pipelines, other than the property listed in
1004 Subsection (59)(c)(iii);
1005 (B) a hot water heater;
1006 (C) a water softener system; or
1007 (D) a water filtration system, other than a water filtration system manufactured as part
1008 of a refrigerator.

1009 (c) "Permanently attached to real property" does not include:
1010 (i) the attachment of portable or movable tangible personal property to real property if
1011 that portable or movable tangible personal property is attached to real property only for:
1012 (A) convenience;
1013 (B) stability; or
1014 (C) for an obvious temporary purpose;
1015 (ii) the detachment of tangible personal property from real property other than the
1016 detachment described in Subsection (59)(b)(ii); or
1017 (iii) an attachment of the following tangible personal property to real property if the
1018 attachment to real property is only through a line that supplies water, electricity, gas, telephone,
1019 cable, or supplies a similar item as determined by the commission by rule made in accordance

1020 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

1021 (A) a refrigerator;

1022 (B) a washer;

1023 (C) a dryer;

1024 (D) a stove;

1025 (E) a television;

1026 (F) a computer;

1027 (G) a telephone; or

1028 (H) tangible personal property similar to Subsections (59)(c)(iii)(A) through (G) as

1029 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah

1030 Administrative Rulemaking Act.

1031 (60) "Person" includes any individual, firm, partnership, joint venture, association,

1032 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,

1033 municipality, district, or other local governmental entity of the state, or any group or

1034 combination acting as a unit.

1035 (61) "Place of primary use":

1036 (a) for telephone service other than mobile telecommunications service, means the

1037 street address representative of where the purchaser's use of the telephone service primarily

1038 occurs, which shall be:

1039 (i) the residential street address of the purchaser; or

1040 (ii) the primary business street address of the purchaser; or

1041 (b) for mobile telecommunications service, is as defined in the Mobile

1042 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1043 (62) "Postproduction" means an activity related to the finishing or duplication of a

1044 medium described in Subsection 59-12-104(56)(a).

1045 (63) (a) "Prepared food" means:

1046 (i) food:

1047 (A) sold in a heated state; or

1048 (B) heated by a seller;

1049 (ii) two or more food ingredients mixed or combined by the seller for sale as a single

1050 item; or

1051 (iii) except as provided in Subsection (63)(c), food sold with an eating utensil provided
1052 by the seller, including a:

- 1053 (A) plate;
- 1054 (B) knife;
- 1055 (C) fork;
- 1056 (D) spoon;
- 1057 (E) glass;
- 1058 (F) cup;
- 1059 (G) napkin; or
- 1060 (H) straw.

1061 (b) "Prepared food" does not include:

- 1062 (i) food that a seller only:
- 1063 (A) cuts;
- 1064 (B) repackages; or
- 1065 (C) pasteurizes; or
- 1066 (ii) (A) the following:
- 1067 (I) raw egg;
- 1068 (II) raw fish;
- 1069 (III) raw meat;
- 1070 (IV) raw poultry; or
- 1071 (V) a food containing an item described in Subsections (63)(b)(ii)(A)(I) through (IV);

1072 and

- 1073 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 1074 Food and Drug Administration's Food Code that a consumer cook the items described in
- 1075 Subsection (63)(b)(ii)(A) to prevent food borne illness; or
- 1076 (iii) the following if sold without eating utensils provided by the seller:
- 1077 (A) food and food ingredients sold by a seller if the seller's proper primary
- 1078 classification under the 2002 North American Industry Classification System of the federal
- 1079 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 1080 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 1081 Manufacturing;

1082 (B) food and food ingredients sold in an unheated state:
1083 (I) by weight or volume; and
1084 (II) as a single item; or
1085 (C) a bakery item, including:
1086 (I) a bagel;
1087 (II) a bar;
1088 (III) a biscuit;
1089 (IV) bread;
1090 (V) a bun;
1091 (VI) a cake;
1092 (VII) a cookie;
1093 (VIII) a croissant;
1094 (IX) a danish;
1095 (X) a donut;
1096 (XI) a muffin;
1097 (XII) a pastry;
1098 (XIII) a pie;
1099 (XIV) a roll;
1100 (XV) a tart;
1101 (XVI) a torte; or
1102 (XVII) a tortilla.
1103 (c) Notwithstanding Subsection (63)(a)(iii), an eating utensil provided by the seller
1104 does not include the following used to transport the food:
1105 (i) a container; or
1106 (ii) packaging.
1107 (64) "Prescription" means an order, formula, or recipe that is issued:
1108 (a) (i) orally;
1109 (ii) in writing;
1110 (iii) electronically; or
1111 (iv) by any other manner of transmission; and
1112 (b) by a licensed practitioner authorized by the laws of a state.

- 1113 (65) (a) Except as provided in Subsection (65)(b)(ii) or (iii), "prewritten computer
1114 software" means computer software that is not designed and developed:
1115 (i) by the author or other creator of the computer software; and
1116 (ii) to the specifications of a specific purchaser.
1117 (b) "Prewritten computer software" includes:
1118 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
1119 software is not designed and developed:
1120 (A) by the author or other creator of the computer software; and
1121 (B) to the specifications of a specific purchaser;
1122 (ii) notwithstanding Subsection (65)(a), computer software designed and developed by
1123 the author or other creator of the computer software to the specifications of a specific purchaser
1124 if the computer software is sold to a person other than the purchaser; or
1125 (iii) notwithstanding Subsection (65)(a) and except as provided in Subsection (65)(c),
1126 prewritten computer software or a prewritten portion of prewritten computer software:
1127 (A) that is modified or enhanced to any degree; and
1128 (B) if the modification or enhancement described in Subsection (65)(b)(iii)(A) is
1129 designed and developed to the specifications of a specific purchaser.
1130 (c) Notwithstanding Subsection (65)(b)(iii), "prewritten computer software" does not
1131 include a modification or enhancement described in Subsection (65)(b)(iii) if the charges for
1132 the modification or enhancement are:
1133 (i) reasonable; and
1134 (ii) separately stated on the invoice or other statement of price provided to the
1135 purchaser.
- 1136 (66) (a) "Prosthetic device" means a device that is worn on or in the body to:
1137 (i) artificially replace a missing portion of the body;
1138 (ii) prevent or correct a physical deformity or physical malfunction; or
1139 (iii) support a weak or deformed portion of the body.
1140 (b) "Prosthetic device" includes:
1141 (i) parts used in the repairs or renovation of a prosthetic device; or
1142 (ii) replacement parts for a prosthetic device.
1143 (c) "Prosthetic device" does not include:

1144 (i) corrective eyeglasses;
1145 (ii) contact lenses;
1146 (iii) hearing aids; or
1147 (iv) dental prostheses.
1148 (67) (a) "Protective equipment" means an item:
1149 (i) for human wear; and
1150 (ii) that is:
1151 (A) designed as protection:
1152 (I) to the wearer against injury or disease; or
1153 (II) against damage or injury of other persons or property; and
1154 (B) not suitable for general use.
1155 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1156 commission shall make rules:
1157 (i) listing the items that constitute "protective equipment"; and
1158 (ii) that are consistent with the list of items that constitute "protective equipment"
1159 under the agreement.
1160 (68) (a) "Purchase price" and "sales price" mean the total amount of consideration:
1161 (i) valued in money; and
1162 (ii) for which tangible personal property or services are:
1163 (A) sold;
1164 (B) leased; or
1165 (C) rented.
1166 (b) "Purchase price" and "sales price" include:
1167 (i) the seller's cost of the tangible personal property or services sold;
1168 (ii) expenses of the seller, including:
1169 (A) the cost of materials used;
1170 (B) a labor cost;
1171 (C) a service cost;
1172 (D) interest;
1173 (E) a loss;
1174 (F) the cost of transportation to the seller; or

- 1175 (G) a tax imposed on the seller; or
1176 (iii) a charge by the seller for any service necessary to complete the sale.
1177 (c) "Purchase price" and "sales price" do not include:
1178 (i) a discount:
1179 (A) in a form including:
1180 (I) cash;
1181 (II) term; or
1182 (III) coupon;
1183 (B) that is allowed by a seller;
1184 (C) taken by a purchaser on a sale; and
1185 (D) that is not reimbursed by a third party; or
1186 (ii) the following if separately stated on an invoice, bill of sale, or similar document
1187 provided to the purchaser:
1188 (A) the amount of a trade-in;
1189 (B) the following from credit extended on the sale of tangible personal property or
1190 services:
1191 (I) interest charges;
1192 (II) financing charges; or
1193 (III) carrying charges;
1194 (C) a tax or fee legally imposed directly on the consumer;
1195 (D) a delivery charge; or
1196 (E) an installation charge.
1197 (69) "Purchaser" means a person to whom:
1198 (a) a sale of tangible personal property is made; or
1199 (b) a service is furnished.
1200 (70) "Regularly rented" means:
1201 (a) rented to a guest for value three or more times during a calendar year; or
1202 (b) advertised or held out to the public as a place that is regularly rented to guests for
1203 value.
1204 (71) "Renewable energy" means:
1205 (a) biomass energy;

1206 (b) hydroelectric energy;
1207 (c) geothermal energy;
1208 (d) solar energy; or
1209 (e) wind energy.

1210 (72) (a) "Renewable energy production facility" means a facility that:
1211 (i) uses renewable energy to produce electricity; and
1212 (ii) has a production capacity of 20 kilowatts or greater.

1213 (b) A facility is a renewable energy production facility regardless of whether the
1214 facility is:
1215 (i) connected to an electric grid; or
1216 (ii) located on the premises of an electricity consumer.

1217 (73) "Rental" is as defined in Subsection (41).

1218 (74) "Repairs or renovations of tangible personal property" means:
1219 (a) a repair or renovation of tangible personal property that is not permanently attached
1220 to real property; or
1221 (b) attaching tangible personal property to other tangible personal property if the other
1222 tangible personal property to which the tangible personal property is attached is not
1223 permanently attached to real property.

1224 (75) "Research and development" means the process of inquiry or experimentation
1225 aimed at the discovery of facts, devices, technologies, or applications and the process of
1226 preparing those devices, technologies, or applications for marketing.

1227 (76) "Residential use" means the use in or around a home, apartment building, sleeping
1228 quarters, and similar facilities or accommodations.

1229 (77) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1230 than:
1231 (a) resale;
1232 (b) sublease; or
1233 (c) subrent.

1234 (78) (a) "Retailer" means any person engaged in a regularly organized business in
1235 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
1236 who is selling to the user or consumer and not for resale.

1237 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1238 engaged in the business of selling to users or consumers within the state.

1239 (79) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1240 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1241 Subsection 59-12-103(1), for consideration.

1242 (b) "Sale" includes:

1243 (i) installment and credit sales;

1244 (ii) any closed transaction constituting a sale;

1245 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1246 chapter;

1247 (iv) any transaction if the possession of property is transferred but the seller retains the
1248 title as security for the payment of the price; and

1249 (v) any transaction under which right to possession, operation, or use of any article of
1250 tangible personal property is granted under a lease or contract and the transfer of possession
1251 would be taxable if an outright sale were made.

1252 (80) "Sale at retail" is as defined in Subsection (77).

1253 (81) "Sale-leaseback transaction" means a transaction by which title to tangible
1254 personal property that is subject to a tax under this chapter is transferred:

1255 (a) by a purchaser-lessee;

1256 (b) to a lessor;

1257 (c) for consideration; and

1258 (d) if:

1259 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1260 of the tangible personal property;

1261 (ii) the sale of the tangible personal property to the lessor is intended as a form of
1262 financing:

1263 (A) for the property; and

1264 (B) to the purchaser-lessee; and

1265 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1266 is required to:

1267 (A) capitalize the property for financial reporting purposes; and

1268 (B) account for the lease payments as payments made under a financing arrangement.

1269 (82) "Sales price" is as defined in Subsection (68).

1270 (83) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
1271 amounts charged by a school:

1272 (i) sales that are directly related to the school's educational functions or activities
1273 including:

1274 (A) the sale of:

1275 (I) textbooks;

1276 (II) textbook fees;

1277 (III) laboratory fees;

1278 (IV) laboratory supplies; or

1279 (V) safety equipment;

1280 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
1281 that:

1282 (I) a student is specifically required to wear as a condition of participation in a
1283 school-related event or school-related activity; and

1284 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1285 place of ordinary clothing;

1286 (C) sales of the following if the net or gross revenues generated by the sales are
1287 deposited into a school district fund or school fund dedicated to school meals:

1288 (I) food and food ingredients; or

1289 (II) prepared food; or

1290 (D) transportation charges for official school activities; or

1291 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1292 event or school-related activity.

1293 (b) "Sales relating to schools" does not include:

1294 (i) bookstore sales of items that are not educational materials or supplies;

1295 (ii) except as provided in Subsection (83)(a)(i)(B):

1296 (A) clothing;

1297 (B) clothing accessories or equipment;

1298 (C) protective equipment; or

- 1299 (D) sports or recreational equipment; or
- 1300 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1301 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1302 (A) other than a:
- 1303 (I) school;
- 1304 (II) nonprofit organization authorized by a school board or a governing body of a
- 1305 private school to organize and direct a competitive secondary school activity; or
- 1306 (III) nonprofit association authorized by a school board or a governing body of a
- 1307 private school to organize and direct a competitive secondary school activity; and
- 1308 (B) that is required to collect sales and use taxes under this chapter.
- 1309 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1310 commission may make rules defining the term "passed through."
- 1311 (84) For purposes of this section and Section 59-12-104, "school" means:
- 1312 (a) an elementary school or a secondary school that:
- 1313 (i) is a:
- 1314 (A) public school; or
- 1315 (B) private school; and
- 1316 (ii) provides instruction for one or more grades kindergarten through 12; or
- 1317 (b) a public school district.
- 1318 (85) "Seller" means a person that makes a sale, lease, or rental of:
- 1319 (a) tangible personal property; or
- 1320 (b) a service.
- 1321 (86) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1322 means tangible personal property:
- 1323 (i) used primarily in the process of:
- 1324 (A) (I) manufacturing a semiconductor;
- 1325 (II) fabricating a semiconductor; or
- 1326 (III) research or development of a:
- 1327 (Aa) semiconductor; or
- 1328 (Bb) semiconductor manufacturing process; or
- 1329 (B) maintaining an environment suitable for a semiconductor; or

- 1330 (ii) consumed primarily in the process of:
- 1331 (A) (I) manufacturing a semiconductor;
- 1332 (II) fabricating a semiconductor; or
- 1333 (III) research or development of a:
- 1334 (Aa) semiconductor; or
- 1335 (Bb) semiconductor manufacturing process; or
- 1336 (B) maintaining an environment suitable for a semiconductor.
- 1337 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1338 includes:
- 1339 (i) parts used in the repairs or renovations of tangible personal property described in
- 1340 Subsection (86)(a); or
- 1341 (ii) a chemical, catalyst, or other material used to:
- 1342 (A) produce or induce in a semiconductor a:
- 1343 (I) chemical change; or
- 1344 (II) physical change;
- 1345 (B) remove impurities from a semiconductor; or
- 1346 (C) improve the marketable condition of a semiconductor.
- 1347 (87) "Senior citizen center" means a facility having the primary purpose of providing
- 1348 services to the aged as defined in Section 62A-3-101.
- 1349 (88) "Simplified electronic return" means the electronic return:
- 1350 (a) described in Section 318(C) of the agreement; and
- 1351 (b) approved by the governing board of the agreement.
- 1352 (89) "Solar energy" means the sun used as the sole source of energy for producing
- 1353 electricity.
- 1354 (90) (a) "Sports or recreational equipment" means an item:
- 1355 (i) designed for human use; and
- 1356 (ii) that is:
- 1357 (A) worn in conjunction with:
- 1358 (I) an athletic activity; or
- 1359 (II) a recreational activity; and
- 1360 (B) not suitable for general use.

1361 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1362 commission shall make rules:

1363 (i) listing the items that constitute "sports or recreational equipment"; and
1364 (ii) that are consistent with the list of items that constitute "sports or recreational
1365 equipment" under the agreement.

1366 (91) "State" means the state of Utah, its departments, and agencies.

1367 (92) "Storage" means any keeping or retention of tangible personal property or any
1368 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
1369 sale in the regular course of business.

1370 (93) (a) "Tangible personal property" means personal property that:

1371 (i) may be:

1372 (A) seen;

1373 (B) weighed;

1374 (C) measured;

1375 (D) felt; or

1376 (E) touched; or

1377 (ii) is in any manner perceptible to the senses.

1378 (b) "Tangible personal property" includes:

1379 (i) electricity;

1380 (ii) water;

1381 (iii) gas;

1382 (iv) steam; or

1383 (v) prewritten computer software.

1384 (94) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon
1385 and require further processing other than mechanical blending before becoming finished
1386 petroleum products.

1387 (95) (a) "Telecommunications enabling or facilitating equipment, machinery, or
1388 software" means an item listed in Subsection (95)(b) if that item is purchased or leased
1389 primarily to enable or facilitate one or more of the following to function:

1390 (i) telecommunications switching or routing equipment, machinery, or software; or

1391 (ii) telecommunications transmission equipment, machinery, or software.

1392 (b) The following apply to Subsection (95)(a):

1393 (i) a pole;

1394 (ii) software;

1395 (iii) a supplementary power supply;

1396 (iv) temperature or environmental equipment or machinery;

1397 (v) test equipment;

1398 (vi) a tower; or

1399 (vii) equipment, machinery, or software that functions similarly to an item listed in

1400 Subsections (95)(b)(i) through (vi) as determined by the commission by rule made in

1401 accordance with Subsection (95)(c).

1402 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1403 commission may by rule define what constitutes equipment, machinery, or software that

1404 functions similarly to an item listed in Subsections (95)(b)(i) through (vi).

1405 (96) "Telecommunications equipment, machinery, or software required for 911

1406 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.

1407 Sec. 20.18.

1408 (97) "Telecommunications maintenance or repair equipment, machinery, or software"

1409 means equipment, machinery, or software purchased or leased primarily to maintain or repair

1410 one or more of the following, regardless of whether the equipment, machinery, or software is

1411 purchased or leased as a spare part or as an upgrade or modification to one or more of the

1412 following:

1413 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1414 (b) telecommunications switching or routing equipment, machinery, or software; or

1415 (c) telecommunications transmission equipment, machinery, or software.

1416 (98) (a) "Telecommunications switching or routing equipment, machinery, or software"

1417 means an item listed in Subsection (98)(b) if that item is purchased or leased primarily for

1418 switching or routing:

1419 (i) voice communications;

1420 (ii) data communications; or

1421 (iii) telephone service.

1422 (b) The following apply to Subsection (98)(a):

- 1423 (i) a bridge;
1424 (ii) a computer;
1425 (iii) a cross connect;
1426 (iv) a modem;
1427 (v) a multiplexer;
1428 (vi) plug in circuitry;
1429 (vii) a router;
1430 (viii) software;
1431 (ix) a switch; or
1432 (x) equipment, machinery, or software that functions similarly to an item listed in
1433 Subsections (98)(b)(i) through (ix) as determined by the commission by rule made in
1434 accordance with Subsection (98)(c).
- 1435 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1436 commission may by rule define what constitutes equipment, machinery, or software that
1437 functions similarly to an item listed in Subsections (98)(b)(i) through (ix).
- 1438 (99) (a) "Telecommunications transmission equipment, machinery, or software" means
1439 an item listed in Subsection (99)(b) if that item is purchased or leased primarily for sending,
1440 receiving, or transporting:
- 1441 (i) voice communications;
1442 (ii) data communications; or
1443 (iii) telephone service.
- 1444 (b) The following apply to Subsection (99)(a):
- 1445 (i) an amplifier;
1446 (ii) a cable;
1447 (iii) a closure;
1448 (iv) a conduit;
1449 (v) a controller;
1450 (vi) a duplexer;
1451 (vii) a filter;
1452 (viii) an input device;
1453 (ix) an input/output device;

1454 (x) an insulator;
1455 (xi) microwave machinery or equipment;
1456 (xii) an oscillator;
1457 (xiii) an output device;
1458 (xiv) a pedestal;
1459 (xv) a power converter;
1460 (xvi) a power supply;
1461 (xvii) a radio channel;
1462 (xviii) a radio receiver;
1463 (xix) a radio transmitter;
1464 (xx) a repeater;
1465 (xxi) software;
1466 (xxii) a terminal;
1467 (xxiii) a timing unit;
1468 (xxiv) a transformer;
1469 (xxv) a wire; or

1470 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
1471 Subsections (99)(b)(i) through (xxv) as determined by the commission by rule made in
1472 accordance with Subsection (99)(c).

1473 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1474 commission may by rule define what constitutes equipment, machinery, or software that
1475 functions similarly to an item listed in Subsections (99)(b)(i) through (xxv).

1476 (100) (a) "Telephone service" means a two-way transmission:

1477 (i) by:

1478 (A) wire;

1479 (B) radio;

1480 (C) lightwave; or

1481 (D) other electromagnetic means; and

1482 (ii) of one or more of the following:

1483 (A) a sign;

1484 (B) a signal;

1485 (C) writing;
1486 (D) an image;
1487 (E) sound;
1488 (F) a message;
1489 (G) data; or
1490 (H) other information of any nature.

1491 (b) "Telephone service" includes:
1492 (i) mobile telecommunications service;
1493 (ii) private communications service; or
1494 (iii) automated digital telephone answering service.

1495 (c) "Telephone service" does not include a service or a transaction that a state or a
1496 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
1497 Tax Freedom Act, Pub. L. No. 105-277.

1498 (101) Notwithstanding where a call is billed or paid, "telephone service address"
1499 means:
1500 (a) if the location described in this Subsection (101)(a) is known, the location of the
1501 telephone service equipment:
1502 (i) to which a call is charged; and
1503 (ii) from which the call originates or terminates;
1504 (b) if the location described in Subsection (101)(a) is not known but the location
1505 described in this Subsection (101)(b) is known, the location of the origination point of the
1506 signal of the telephone service first identified by:
1507 (i) the telecommunications system of the seller; or
1508 (ii) if the system used to transport the signal is not that of the seller, information
1509 received by the seller from its service provider; or
1510 (c) if the locations described in Subsection (101)(a) or (b) are not known, the location
1511 of a purchaser's primary place of use.

1512 (102) (a) "Telephone service provider" means a person that:
1513 (i) owns, controls, operates, or manages a telephone service; and
1514 (ii) engages in an activity described in Subsection (102)(a)(i) for the shared use with or
1515 resale to any person of the telephone service.

1516 (b) A person described in Subsection (102)(a) is a telephone service provider whether
1517 or not the Public Service Commission of Utah regulates:

1518 (i) that person; or

1519 (ii) the telephone service that the person owns, controls, operates, or manages.

1520 (103) "Tobacco" means:

1521 (a) a cigarette;

1522 (b) a cigar;

1523 (c) chewing tobacco;

1524 (d) pipe tobacco; or

1525 (e) any other item that contains tobacco.

1526 (104) "Unassisted amusement device" means an amusement device, skill device, or
1527 ride device that is started and stopped by the purchaser or renter of the right to use or operate
1528 the amusement device, skill device, or ride device.

1529 (105) (a) "Use" means the exercise of any right or power over tangible personal
1530 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that
1531 property, item, or service.

1532 (b) "Use" does not include the sale, display, demonstration, or trial of that property in
1533 the regular course of business and held for resale.

1534 (106) (a) Subject to Subsection (106)(b), "vehicle" means the following that are
1535 required to be titled, registered, or titled and registered:

1536 (i) an aircraft as defined in Section 72-10-102;

1537 (ii) a vehicle as defined in Section 41-1a-102;

1538 (iii) an off-highway vehicle as defined in Section 41-22-2; or

1539 (iv) a vessel as defined in Section 41-1a-102.

1540 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

1541 (i) a vehicle described in Subsection (106)(a); or

1542 (ii) (A) a locomotive;

1543 (B) a freight car;

1544 (C) railroad work equipment; or

1545 (D) other railroad rolling stock.

1546 (107) "Vehicle dealer" means a person engaged in the business of buying, selling, or

1547 exchanging a vehicle as defined in Subsection (106).

1548 (108) (a) Except as provided in Subsection (108)(b), "waste energy facility" means a
1549 facility that generates electricity:

1550 (i) using as the primary source of energy waste materials that would be placed in a
1551 landfill or refuse pit if it were not used to generate electricity, including:

1552 (A) tires;

1553 (B) waste coal; or

1554 (C) oil shale; and

1555 (ii) in amounts greater than actually required for the operation of the facility.

1556 (b) "Waste energy facility" does not include a facility that incinerates:

1557 (i) municipal solid waste;

1558 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or

1559 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1560 (109) "Watercraft" means a vessel as defined in Section 73-18-2.

1561 (110) "Wind energy" means wind used as the sole source of energy to produce
1562 electricity.

1563 (111) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
1564 location by the United States Postal Service.

1565 Section 10. Section **59-12-501** is amended to read:

1566 **Part 5. State Public Transportation Taxes**

1567 **59-12-501. State public transportation tax -- Base -- Rate.**

1568 (1) ~~[(a)(i) In addition to other sales and use taxes, any county, city, or town within a~~
1569 ~~transit district organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act,~~
1570 ~~may impose a sales and use tax of up to] Beginning on January 1, 2008, a state tax of .25% is~~
1571 ~~imposed on the transactions described in Subsection 59-12-103(1) [located within the county,~~
1572 ~~city, or town,] to fund a state public [transportation] transit system.~~

1573 ~~[(ii) (2) Notwithstanding Subsection (1)[(a)(i), a county, city, or town may not~~
1574 ~~impose], a tax under this section may not be imposed on[-(A)] the sales and uses described in~~
1575 ~~Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section~~
1576 ~~59-12-104[, and].~~

1577 ~~[(B) any amounts paid or charged by a seller that collects a tax under Subsection~~

~~59-12-107(1)(b):]~~

(3) The tax imposed by Subsection (1) shall be imposed within the boundaries of a geographical area that were within the boundaries of a transit district:

(a) organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;

(b) as the boundaries of that transit district existed on January 1, 2007; and

(c) if that transit district was comprised of a geographical area consisting of more than one county.

~~[(b)]~~ (4) For purposes of this ~~[Subsection (1)]~~ section, the location of a transaction shall be determined in accordance with Section 59-12-207.

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

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

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

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

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

~~[(3) This section may not be construed to require an election in jurisdictions where voters have previously approved a public transit sales or use tax:]~~

(5) Revenue generated by a tax under this section shall be:

(a) deposited in the Public Transit Fund created by Section 72-2-301; and

(b) expended as provided in Section 72-2-301.

Section 11. Section **59-12-502** is amended to read:

59-12-502. State tax for fixed guideway, expanded public transportation system,

and interstate improvements -- Base -- Rate.

(1) ~~[(a)(i) In addition to other sales and use taxes, including the public transit district tax authorized by Section 59-12-501, a county, city, or town within a transit district organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act, may impose a sales and use tax of]~~ Beginning on January 1, 2008, a state tax of .25% is imposed on the transactions described in Subsection 59-12-103(1) ~~[located within the county, city, or town,]~~ to fund a fixed guideway and expanded public transportation system.

~~[(ii) (2) Notwithstanding Subsection (1)[(a)(i), a county, city, or town may not impose], a tax under this section may not be imposed on[(A)] the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104[; and].~~

~~[(B) any amounts paid or charged by a seller that collects a tax under Subsection 59-12-107(1)(b);]~~

(3) The tax imposed by Subsection (1) shall be imposed within the boundaries of the following if the following imposed a tax under this section on January 1, 2007:

(a) a county of the first class, including the cities and towns within the boundaries of that county of the first class;

(b) a county of the second class, including the cities and towns within the boundaries of that county of the second class; or

(c) a combination of Subsections (3)(a) and (b).

~~[(b)]~~ (4) For purposes of this [Subsection (1)] section, the location of a transaction shall be determined in accordance with Section 59-12-207.

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

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

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

~~[(3)(a) This section may not be construed to require an election in jurisdictions where~~

voters have previously approved a public transit sales or use tax.]

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

~~[(4) No public funds shall be spent to promote the required election.]~~

(5) ~~[(a)]~~ Notwithstanding ~~[the designated use of revenues in]~~ Subsection (1), of the revenues generated by the state tax imposed under this section ~~[by any]~~ within the boundaries of a county of the first class, including the cities and towns within the boundaries of that county of the first class:

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

~~[(ii)]~~ (b) ~~[except as provided in Subsection (5)(b),]~~ 25% shall be allocated to fund new construction, major renovations, and improvements to Interstate 15 and state highways within ~~[the]~~ that county of the first class and to pay any debt service and bond issuance costs related to those projects.

~~[(b) Notwithstanding the designated use of revenues in Subsection (1), beginning on July 1, 2006, and ending on July 1, 2007, a county of the first class may expend an amount not to exceed \$3,500,000 of the revenues described in Subsection (5)(a)(ii) for expenses relating to reconfiguring railroad curves within that county to reduce rail congestion.]~~

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

(6) (a) Revenues generated by a tax under this section that are allocated for the purpose described under Subsection (5)(a) shall be:

(i) deposited in the Public Transit Fund created by Section 72-2-301; and

(ii) expended as provided in Section 72-2-301.

(b) Revenues generated by a tax under this section that are allocated for the purpose described under Subsection (5)(b) shall be:

(i) deposited in the Public Transportation System Tax Highway Fund created in Section 72-2-121; and

(ii) expended as provided in Section 72-2-121.

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

59-12-504. Enactment or repeal of tax -- Effective date -- Administration, collection, and enforcement of tax.

~~[(1) For purposes of this section:]~~

~~[(a) "Annexation" means an annexation to:]~~

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

~~[(ii) a city or town under Title 10, Chapter 2, Part 4, Annexation:]~~

~~[(b) "Annexing area" means an area that is annexed into a county, city, or town:]~~

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

~~[(i) on the first day of a calendar quarter; and]~~

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

~~[(b) The notice described in Subsection (2)(a)(ii) shall state:]~~

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

~~[(ii) the statutory authority for the tax described in Subsection (2)(b)(i);]~~

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

~~[(iv) if the county, city, or town enacts the tax described in Subsection (2)(b)(i), the rate of the tax:]~~

(1) Subject to Subsections (2) and (3), a tax rate repeal or a tax rate change for a tax imposed under this part shall take effect on the first day of a calendar quarter.

~~[(c) (i)]~~ (2) (a) ~~[Notwithstanding Subsection (2)(a), for]~~ For a transaction described in Subsection (2)(c)~~[(iii)]~~, the enactment of a tax shall take effect on the first day of the first billing period~~[: (A)]~~ that begins after the effective date of the enactment of the tax~~[: and (B)]~~ if the billing period for the transaction begins before the effective date of the enactment of the tax under:

~~[(F)]~~ (i) Section 59-12-501; or

~~[(H)]~~ (ii) Section 59-12-502.

~~[(i)]~~ (b) ~~[Notwithstanding Subsection (2)(a), for]~~ For a transaction described in

1702 Subsection (2)(c)(~~(iii)~~), the repeal of a tax shall take effect on the first day of the last billing
 1703 period[~~-(A)~~] that began before the effective date of the repeal of the tax[~~;-and-(B)~~] if the billing
 1704 period for the transaction begins before the effective date of the repeal of the tax imposed
 1705 under:

1706 [~~(A)~~] (i) Section 59-12-501; or

1707 [~~(B)~~] (ii) Section 59-12-502.

1708 [~~(iii)~~] (c) Subsections (2)[~~(c)(i)~~] (a) and [~~(ii)~~] (b) apply to transactions subject to a tax
 1709 under:

1710 [~~(A)~~] (i) Subsection 59-12-103(1)(b);

1711 [~~(B)~~] (ii) Subsection 59-12-103(1)(c);

1712 [~~(C)~~] (iii) Subsection 59-12-103(1)(d);

1713 [~~(D)~~] (iv) Subsection 59-12-103(1)(e);

1714 [~~(E)~~] (v) Subsection 59-12-103(1)(f);

1715 [~~(F)~~] (vi) Subsection 59-12-103(1)(g);

1716 [~~(G)~~] (vii) Subsection 59-12-103(1)(h);

1717 [~~(H)~~] (viii) Subsection 59-12-103(1)(i);

1718 [~~(I)~~] (ix) Subsection 59-12-103(1)(j); or

1719 [~~(J)~~] (x) Subsection 59-12-103(1)(k).

1720 [~~(d)(i)~~] (3) (a) [~~Notwithstanding Subsection (2)(a), if~~] If a tax due under this [chapter]
 1721 part on a catalogue sale is computed on the basis of sales and use tax rates published in the
 1722 catalogue, an enactment or repeal of a tax [~~described in Subsection (2)(a)~~] under this part takes
 1723 effect:

1724 [~~(A)~~] (i) on the first day of a calendar quarter; and

1725 [~~(B)~~] (ii) beginning 60 days after the effective date of the enactment or repeal [~~under~~
 1726 ~~Subsection (2)(a)~~] of the tax under this part.

1727 [~~(ii)~~] (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
 1728 Act, the commission may by rule define the term "catalogue sale."

1729 [~~(3)(a)~~] ~~Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs~~
 1730 ~~on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this~~
 1731 ~~part for an annexing area, the enactment or repeal shall take effect.]~~

1732 [(i) on the first day of a calendar quarter; and]

1733 ~~[(ii) after a 90-day period beginning on the date the commission receives notice~~
1734 ~~meeting the requirements of Subsection (3)(b) from the county, city, or town that annexes the~~
1735 ~~annexing area.]~~

1736 ~~[(b) The notice described in Subsection (3)(a)(ii) shall state:]~~

1737 ~~[(i) that the annexation described in Subsection (3)(a) will result in an enactment or~~
1738 ~~repeal of a tax under this part for the annexing area;]~~

1739 ~~[(ii) the statutory authority for the tax described in Subsection (3)(b)(i);]~~
1740 ~~[(iii) the effective date of the tax described in Subsection (3)(b)(i); and]~~
1741 ~~[(iv) the rate of the tax described in Subsection (3)(b)(i).]~~

1742 ~~[(c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection~~
1743 ~~(3)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:]~~

1744 ~~[(A) that begins after the effective date of the enactment of the tax; and]~~

1745 ~~[(B) if the billing period for the transaction begins before the effective date of the~~
1746 ~~enactment of the tax under:]~~

1747 ~~[(I) Section 59-12-501; or]~~

1748 ~~[(H) Section 59-12-502.]~~

1749 ~~[(ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection~~
1750 ~~(3)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:]~~

1751 ~~[(A) that began before the effective date of the repeal of the tax; and]~~

1752 ~~[(B) if the billing period for the transaction begins before the effective date of the~~
1753 ~~repeal of the tax imposed under:]~~

1754 ~~[(I) Section 59-12-501; or]~~

1755 ~~[(H) Section 59-12-502.]~~

1756 ~~[(iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:]~~

1757 ~~[(A) Subsection 59-12-103(1)(b);]~~
1758 ~~[(B) Subsection 59-12-103(1)(c);]~~
1759 ~~[(C) Subsection 59-12-103(1)(d);]~~
1760 ~~[(D) Subsection 59-12-103(1)(e);]~~
1761 ~~[(E) Subsection 59-12-103(1)(f);]~~
1762 ~~[(F) Subsection 59-12-103(1)(g);]~~
1763 ~~[(G) Subsection 59-12-103(1)(h);]~~

1764 ~~[(H) Subsection 59-12-103(1)(i);]~~
1765 ~~[(I) Subsection 59-12-103(1)(j); or]~~
1766 ~~[(J) Subsection 59-12-103(1)(k).]~~
1767 ~~[(d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a~~
1768 ~~catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an~~
1769 ~~enactment or repeal of a tax described in Subsection (3)(a) takes effect:]~~
1770 ~~[(A) on the first day of a calendar quarter; and]~~
1771 ~~[(B) beginning 60 days after the effective date of the enactment or repeal under~~
1772 ~~Subsection (3)(a).]~~
1773 ~~[(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~
1774 ~~the commission may by rule define the term "catalogue sale."]~~
1775 (4) [(a)] ~~[Except as provided in Subsection (4)(b), a]~~ A tax ~~[authorized under]~~ imposed
1776 by this part shall be administered, collected, and enforced in accordance with:
1777 [(i)] (a) the same procedures used to administer, collect, and enforce the tax under[:
1778 (A)] Part 1, Tax Collection; ~~[or]~~ and
1779 ~~[(B) Part 2, Local Sales and Use Tax Act; and]~~
1780 [(ii)] (b) Chapter 1, General Taxation Policies.
1781 ~~[(b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to~~
1782 ~~Subsections 59-12-205(2) through (7).]~~
1783 Section 13. Section **59-12-1001** is amended to read:
1784 **59-12-1001. Authority to impose tax for highways or to fund a system for public**
1785 **transit -- Base -- Rate -- Ordinance requirements -- Voter approval requirements --**
1786 **Election requirements -- Notice of election requirements -- Exceptions to voter approval**
1787 **requirements -- Enactment or repeal of tax -- Effective date -- Notice requirements.**
1788 (1) (a) A city or town in which the transactions described in Subsection 59-12-103(1)
1789 are not subject to a sales and use tax under Section 59-12-501 or 59-12-1803 may as provided
1790 in this part impose a sales and use tax of .25% on the transactions described in Subsection
1791 59-12-103(1) located within the city or town.
1792 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
1793 section on:
1794 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses

1795 are exempt from taxation under Section 59-12-104; and
1796 (ii) any amounts paid or charged by a seller that collects a tax under Subsection
1797 59-12-107(1)(b).
1798 (c) For purposes of this Subsection (1), the location of a transaction shall be
1799 determined in accordance with Section 59-12-207.
1800 (2) (a) A city or town imposing a tax under this part may use the revenues generated by
1801 the tax:
1802 (i) for the construction and maintenance of highways under the jurisdiction of the city
1803 or town imposing the tax;
1804 (ii) subject to Subsection (2)(b), to fund a system for public transit; or
1805 (iii) for a combination of the purposes described in Subsections (2)(a)(i) and (ii).
1806 (b) (i) For purposes of Subsection (2)(a)(ii) and except as provided in Subsection
1807 (2)(b)(ii), "public transit" is as defined in Section 17A-2-1004.
1808 (ii) Notwithstanding Subsection (2)(b)(i), "public transit" does not include a fixed
1809 guideway system.
1810 (3) To impose a tax under this part, the governing body of the city or town shall:
1811 (a) pass an ordinance approving the tax; and
1812 (b) except as provided in Subsection (7), obtain voter approval for the tax as provided
1813 in Subsection (4).
1814 (4) To obtain voter approval for a tax under Subsection (3)(b), a city or town shall:
1815 (a) hold an election during:
1816 (i) a regular general election; or
1817 (ii) a municipal general election; and
1818 (b) publish notice of the election:
1819 (i) 15 days or more before the day on which the election is held; and
1820 (ii) in a newspaper of general circulation in the city or town.
1821 (5) An ordinance approving a tax under this part shall provide an effective date for the
1822 tax as provided in Subsection (6).
1823 (6) (a) For purposes of this Subsection (6):
1824 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
1825 4, Annexation.

- 1826 (ii) "Annexing area" means an area that is annexed into a city or town.
- 1827 (b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after July 1, 2004, a city
- 1828 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:
- 1829 (A) on the first day of a calendar quarter; and
- 1830 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 1831 the requirements of Subsection (6)(b)(ii) from the city or town.
- 1832 (ii) The notice described in Subsection (6)(b)(i)(B) shall state:
- 1833 (A) that the city or town will enact or repeal a tax under this part;
- 1834 (B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);
- 1835 (C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and
- 1836 (D) if the city or town enacts the tax described in Subsection (6)(b)(ii)(A), the rate of
- 1837 the tax.
- 1838 (c) (i) Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection
- 1839 (6)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period[:
- 1840 ~~(A)]~~ that begins after the effective date of the enactment of the tax[~~;~~ ~~and (B)] if the billing~~
- 1841 period for the transaction begins before the effective date of the enactment of the tax under
- 1842 Subsection (1).
- 1843 (ii) Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection
- 1844 (6)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period[~~:(A)]~~
- 1845 that began before the effective date of the repeal of the tax[~~;~~ ~~and (B)] if the billing period for~~
- 1846 the transaction begins before the effective date of the repeal of the tax imposed under
- 1847 Subsection (1).
- 1848 (iii) Subsections (6)(c)(i) and (ii) apply to transactions subject to a tax under:
- 1849 (A) Subsection 59-12-103(1)(b);
- 1850 (B) Subsection 59-12-103(1)(c);
- 1851 (C) Subsection 59-12-103(1)(d);
- 1852 (D) Subsection 59-12-103(1)(e);
- 1853 (E) Subsection 59-12-103(1)(f);
- 1854 (F) Subsection 59-12-103(1)(g);
- 1855 (G) Subsection 59-12-103(1)(h);
- 1856 (H) Subsection 59-12-103(1)(i);

1857 (I) Subsection 59-12-103(1)(j); or

1858 (J) Subsection 59-12-103(1)(k).

1859 (d) (i) Notwithstanding Subsection (6)(b)(i), if a tax due under this chapter on a
1860 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
1861 enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:

1862 (A) on the first day of a calendar quarter; and

1863 (B) beginning 60 days after the effective date of the enactment or repeal under
1864 Subsection (6)(b)(i).

1865 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
1866 the commission may by rule define the term "catalogue sale."

1867 (e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs
1868 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
1869 part for an annexing area, the enactment or repeal shall take effect:

1870 (A) on the first day of a calendar quarter; and

1871 (B) after a 90-day period beginning on the date the commission receives notice meeting
1872 the requirements of Subsection (6)(e)(ii) from the city or town that annexes the annexing area.

1873 (ii) The notice described in Subsection (6)(e)(i)(B) shall state:

1874 (A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or
1875 repeal of a tax under this part for the annexing area;

1876 (B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);

1877 (C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and

1878 (D) the rate of the tax described in Subsection (6)(e)(ii)(A).

1879 (f) (i) Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection
1880 (6)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period[:
1881 ~~(A)~~] that begins after the effective date of the enactment of the tax[~~;~~ and ~~(B)~~] if the billing
1882 period for the transaction begins before the effective date of the enactment of the tax under
1883 Subsection (1).

1884 (ii) Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection
1885 (6)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period[:~~(A)~~]
1886 that began before the effective date of the repeal of the tax[~~;~~ and ~~(B)~~] if the billing period for
1887 the transaction begins before the effective date of the repeal of the tax imposed under

1888 Subsection (1).

1889 (iii) Subsections (6)(f)(i) and (ii) apply to transactions subject to a tax under:

1890 (A) Subsection 59-12-103(1)(b);

1891 (B) Subsection 59-12-103(1)(c);

1892 (C) Subsection 59-12-103(1)(d);

1893 (D) Subsection 59-12-103(1)(e);

1894 (E) Subsection 59-12-103(1)(f);

1895 (F) Subsection 59-12-103(1)(g);

1896 (G) Subsection 59-12-103(1)(h);

1897 (H) Subsection 59-12-103(1)(i);

1898 (I) Subsection 59-12-103(1)(j); or

1899 (J) Subsection 59-12-103(1)(k).

1900 (g) (i) Notwithstanding Subsection (6)(e)(i), if a tax due under this chapter on a

1901 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an

1902 enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:

1903 (A) on the first day of a calendar quarter; and

1904 (B) beginning 60 days after the effective date of the enactment or repeal under

1905 Subsection (6)(e)(i).

1906 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

1907 the commission may by rule define the term "catalogue sale."

1908 (7) (a) Except as provided in Subsection (7)(b), a city or town is not subject to the

1909 voter approval requirements of Subsection (3)(b) if:

1910 (i) on or before January 1, 1996, the city or town imposed a license fee or tax on

1911 businesses based on gross receipts pursuant to Section 10-1-203; or

1912 (ii) the city or town:

1913 (A) on or before June 30, 2002, obtained voter approval in accordance with Subsection

1914 (3)(b) to impose a tax under this part for a purpose described in Subsection (2)(a)(i); and

1915 (B) on or after July 1, 2002, uses the revenues generated by a tax under this part for a

1916 purpose described in Subsection (2)(a).

1917 (b) Notwithstanding Subsection (7)(a), the exception from the voter approval

1918 requirements in Subsection (7)(a)(i) does not apply to a city or town that, on or before January

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

Section 14. Section **59-12-1502** is amended to read:

59-12-1502. Definitions.

As used in this part:

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

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

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

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

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

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

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

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

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

Section 15. Section **59-12-1503** is amended to read:

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

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

(i) on the transactions:

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

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

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

(iii) in addition to any other sales and use tax authorized under this chapter.

(b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; or

(ii) any amounts paid or charged by a seller that collects a tax under Subsection 59-12-107(1)(b).

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Section 59-12-207.

(2) (a) Subject to Subsection (2)(b), before obtaining the approval required by Subsection (3), a county legislative body shall adopt a resolution specifying the percentage of revenues the county will receive from the tax under this part that will be allocated to fund one or more of the following:

(i) a project or service relating to a fixed guideway system~~[-(A)]~~ for the portion of the project or service that is performed within the county~~[-and]~~;

~~[(B) if the fixed guideway system is owned and operated by a public transit district organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;]~~

(ii) a project or service relating to a system for public transit~~[-(A)]~~ for the portion of the project or service that is performed within the county; ~~[and]~~ or

~~[(B) if the system for public transit is owned and operated by a public transit district organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; or]~~

(iii) the following relating to a state highway within the county:

(A) a project beginning on or after the day on which a county legislative body imposes a tax under this part only within the county involving:

(I) new construction;

(II) a renovation;

(III) an improvement; or

(IV) an environmental study;

(B) debt service on a project described in Subsections (2)(a)(iii)(A)(I) through (IV); or

(C) bond issuance costs relating to a project described in Subsections (2)(a)(iii)(A)(I) through (IV).

(b) (i) A county legislative body shall in the resolution required by Subsection (2)(a) allocate as required by Subsection (2)(a) 100% of the revenues the county will receive from the tax under this part.

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

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

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

(A) impose the tax; and

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

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

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

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

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

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

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

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

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

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

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

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

(b) If a county legislative body imposes a tax under Subsection (4)(a), the revenues

2012 generated by the tax shall be:

2013 (i) allocated in accordance with the allocations specified in the resolution under
2014 Subsection (2); and

2015 (ii) expended as provided in this part.

2016 (5) If a county legislative body allocates revenues generated by the tax for a project
2017 described in Subsection (2)(a)(iii)(A), before beginning the project the county legislative body
2018 shall:

2019 (a) obtain approval from the Transportation Commission to complete the project; and

2020 (b) enter into an interlocal agreement:

2021 (i) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;

2022 (ii) with the Department of Transportation; and

2023 (iii) to complete the project.

2024 (6) (a) If after a county legislative body imposes a tax under Subsection (4) the county
2025 legislative body seeks to change the allocation of the tax specified in the resolution under
2026 Subsection (2), the county legislative body may change the allocation of the tax by:

2027 (i) adopting a resolution in accordance with Subsection (2) specifying the percentage of
2028 revenues the county will receive from the tax under this part that will be allocated to fund one
2029 or more of the systems or projects described in Subsection (2);

2030 (ii) obtaining approval to change the allocation of the tax from a majority of the
2031 members of the county legislative body; and

2032 (iii) (A) submitting an opinion question to the county's registered voters voting on
2033 changing the allocation of the tax so that each registered voter has the opportunity to express
2034 the registered voter's opinion on whether the allocation of the tax should be changed; and

2035 (B) obtaining approval to change the allocation of the tax from a majority of the
2036 county's registered voters voting on changing the allocation of the tax.

2037 (b) (i) The opinion question required by Subsection (6)(a)(iii) shall state the allocations
2038 specified in the resolution:

2039 (A) adopted in accordance with Subsection (6)(a)(i); and

2040 (B) approved by the county legislative body in accordance with Subsection (6)(a)(ii).

2041 (ii) The election required by Subsection (6)(a)(iii) shall follow the procedures and
2042 requirements of Title 11, Chapter 14, Local Government Bonding Act.

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

- (A) by the commission;
- (B) to the county;
- (C) monthly; and
- (D) by electronic funds transfer.

(ii) Notwithstanding Subsection (7)(a)(i), a county may request that the commission transfer the revenues described in Subsection (7)(a)(i):

- (A) directly to ~~[a public transit district:]~~ the Department of Transportation; and
~~[(F) organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;~~
~~and]~~
~~[(H) designated by the county; and]~~
- (B) by providing written notice to the commission~~[: (F)]~~ requesting the revenues to be transferred directly to ~~[a public transit district]~~ the Department of Transportation as provided in Subsection (7)(a)(ii)(A)~~[: and (H) designating the public transit district to which the revenues are requested to be transferred].~~

(b) Revenues generated by a tax under this part that are allocated for a purpose described in Subsection (2)(a)(iii) shall be:

- (i) deposited into the State Highway Projects Within Counties Fund created by Section 72-2-121.1; and
- (ii) expended as provided in Section 72-2-121.1.

(8) (a) (i) Except as provided in Subsection (8)(a)(ii), the tax authorized under this part shall be administered, collected, and enforced in accordance with:

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

(ii) Notwithstanding Subsection (8)(a)(i), a tax under this part is not subject to Subsections 59-12-205(2) through (7).

- (b) (i) The commission may retain an amount of tax collected under this part of not to

2074 exceed the lesser of:

2075 (A) 1.5%; or

2076 (B) an amount equal to the cost to the commission of administering this part.

2077 (ii) Any amount the commission retains under Subsection (8)(b)(i) shall be:

2078 (A) placed in the Sales and Use Tax Administrative Fees Account; and

2079 (B) used as provided in Subsection 59-12-206(2).

2080 (9) (a) (i) Except as provided in Subsection (9)(b) or (c), if, on or after July 1, 2004, a

2081 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

2082 (A) on the first day of a calendar quarter; and

2083 (B) after a 90-day period beginning on the date the commission receives notice meeting

2084 the requirements of Subsection (9)(a)(ii) from the county.

2085 (ii) The notice described in Subsection (9)(a)(i)(B) shall state:

2086 (A) that the county will enact or repeal a tax under this part;

2087 (B) the statutory authority for the tax described in Subsection (9)(a)(ii)(A);

2088 (C) the effective date of the tax described in Subsection (9)(a)(ii)(A); and

2089 (D) if the county enacts the tax described in Subsection (9)(a)(ii)(A), the rate of the tax.

2090 (b) (i) Notwithstanding Subsection (9)(a)(i), for a transaction described in Subsection

2091 (9)(b)(iii), the enactment of a tax shall take effect on the first day of the first billing period[~~;~~

2092 ~~(A)]~~ that begins after the effective date of the enactment of the tax[~~;~~ ~~and (B)~~] if the billing

2093 period for the transaction begins before the effective date of the enactment of the tax under

2094 Subsection (1).

2095 (ii) Notwithstanding Subsection (9)(a)(i), for a transaction described in Subsection

2096 (9)(b)(iii), the repeal of a tax shall take effect on the first day of the last billing period[~~;~~ ~~(A)~~

2097 that began before the effective date of the repeal of the tax[~~;~~ ~~and (B)~~] if the billing period for

2098 the transaction begins before the effective date of the repeal of the tax imposed under

2099 Subsection (1).

2100 (iii) Subsections (9)(b)(i) and (ii) apply to transactions subject to a tax under:

2101 (A) Subsection 59-12-103(1)(b);

2102 (B) Subsection 59-12-103(1)(c);

2103 (C) Subsection 59-12-103(1)(d);

2104 (D) Subsection 59-12-103(1)(e);

2105 (E) Subsection 59-12-103(1)(f);

2106 (F) Subsection 59-12-103(1)(g);

2107 (G) Subsection 59-12-103(1)(h);

2108 (H) Subsection 59-12-103(1)(i);

2109 (I) Subsection 59-12-103(1)(j); or

2110 (J) Subsection 59-12-103(1)(k).

2111 (c) (i) Notwithstanding Subsection (9)(a)(i), if a tax due under this chapter on a
2112 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
2113 enactment or repeal of a tax described in Subsection (9)(a)(i) takes effect:

2114 (A) on the first day of a calendar quarter; and

2115 (B) beginning 60 days after the effective date of the enactment or repeal under
2116 Subsection (9)(a)(i).

2117 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
2118 the commission may by rule define the term "catalogue sale."

2119 (d) (i) Except as provided in Subsection (9)(e) or (f), if, for an annexation that occurs
2120 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
2121 part for an annexing area, the enactment or repeal shall take effect:

2122 (A) on the first day of a calendar quarter; and

2123 (B) after a 90-day period beginning on the date the commission receives notice meeting
2124 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

2125 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

2126 (A) that the annexation described in Subsection (9)(d)(i)(B) will result in an enactment
2127 or repeal of a tax under this part for the annexing area;

2128 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

2129 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

2130 (D) the rate of the tax described in Subsection (9)(d)(ii)(A).

2131 (e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
2132 (9)(e)(iii), the enactment of a tax shall take effect on the first day of the first billing period[
2133 ~~(A)~~] that begins after the effective date of the enactment of the tax[~~;~~ and ~~(B)~~] if the billing
2134 period for the transaction begins before the effective date of the enactment of the tax under
2135 Subsection (1).

(ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection (9)(e)(iii), the repeal of a tax shall take effect on the first day of the last billing period~~[-(A)]~~ that began before the effective date of the repeal of the tax~~[-and-(B)]~~ if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under Subsection (1).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 16. Section **59-12-1703** is amended to read:

59-12-1703. Base -- Rate -- Imposition of tax -- Opinion question election -- Use of tax revenues -- Administration, collection, and enforcement of tax by commission -- Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.

(1) (a) Beginning on or after April 1, 2007, and subject to the other provisions of this part, a county legislative body may impose a sales and use tax of up to .25%:

(i) on the transactions:

2167 (A) described in Subsection 59-12-103(1); and
2168 (B) within the county, including the cities and towns within the county;
2169 (ii) for the purposes described in Subsection (4); and
2170 (iii) in addition to any other sales and use tax authorized under this chapter.
2171 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
2172 tax under this section on:
2173 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
2174 are exempt from taxation under Section 59-12-104; or
2175 (ii) any amounts paid or charged by a seller that collects a tax under Subsection
2176 59-12-107(1)(b).
2177 (c) For purposes of this Subsection (1), the location of a transaction shall be
2178 determined in accordance with Section 59-12-207.
2179 (2) (a) [~~Except as provided in Subsection (2)(d), before~~] Before imposing a tax under
2180 this part, a county legislative body shall:
2181 (i) obtain approval from a majority of the members of the county legislative body to
2182 impose the tax; and
2183 (ii) submit an opinion question to the county's registered voters voting on the
2184 imposition of the tax so that each registered voter has the opportunity to express the registered
2185 voter's opinion on whether a tax should be imposed under this part.
2186 (b) (i) In a county of the first or second class, the opinion question required by
2187 Subsection (2)(a)(ii) shall state the following:
2188 "Shall (insert the name of the county), Utah, be authorized to impose a (insert the
2189 amount of the sales and use tax up to .25%) sales and use tax for corridor preservation,
2190 congestion mitigation, or to expand capacity for regionally significant transportation facilities?"
2191 (ii) In a county of the third, fourth, fifth, or sixth class, the opinion question required by
2192 Subsection (2)(a)(ii) shall state the following:
2193 "Shall (insert the name of the county), Utah, be authorized to impose a (insert the
2194 amount of the sales and use tax up to .25%) sales and use tax for transportation projects,
2195 corridor preservation, congestion mitigation, or to expand capacity for regionally significant
2196 transportation facilities?"
2197 (c) [~~Except as provided in Subsection (2)(d), the~~] The election required by this

2198 Subsection (2) shall be held:

2199 (i) at a regular general election conducted in accordance with the procedures and
2200 requirements of Title 20A, Election Code, governing regular elections; or

2201 (ii) at a special election called by the county legislative body that is:

2202 (A) held only on the date of a municipal general election as provided in Subsection
2203 20A-1-202(1); and

2204 (B) authorized in accordance with the procedures and requirements of Section
2205 20A-1-203.

2206 ~~[(d) Notwithstanding Subsection (2)(a) or (c), if a county seeks to impose a tax under~~
2207 ~~this part on or after April 1, 2007, but on or before December 31, 2007, the county legislative~~
2208 ~~body shall:]~~

2209 ~~[(i) obtain the approval required by Subsection (2)(a)(i) within five calendar days of~~
2210 ~~September 20, 2006;]~~

2211 ~~[(ii) direct the county clerk to submit the opinion question required by Subsection~~
2212 ~~(2)(a)(ii) during the November 7, 2006 general election; and]~~

2213 ~~[(iii) hold the election required by this section on November 7, 2006;]~~

2214 (3) If a county legislative body determines that a majority of the county's registered
2215 voters voting on the imposition of the tax have voted in favor of the imposition of the tax in
2216 accordance with Subsection (2), the county legislative body shall impose the tax in accordance
2217 with this section.

2218 (4) (a) Subject to Subsections (5) and (6), the revenues generated by a tax under this
2219 part may only be expended for:

2220 (i) a project or service:

2221 (A) relating to a regionally significant transportation facility;

2222 (B) for the portion of the project or service that is performed within the county;

2223 (C) for new capacity or congestion mitigation if the project or service is performed
2224 within a county:

2225 (I) of the first class;

2226 (II) of the second class; or

2227 (III) that is part of an area metropolitan planning organization;

2228 (D) (I) if the project or service is a principal arterial highway or a minor arterial

2229 highway in a county of the first or second class, that is part of the county and municipal master
2230 plan and part of:

2231 (Aa) the statewide long-range plan; or

2232 (Bb) the regional transportation plan of the area metropolitan planning organization if a
2233 metropolitan planning organization exists for the area; or

2234 (II) if the project or service is for a fixed guideway or an airport, that is part of the
2235 regional transportation plan of the area metropolitan planning organization if a metropolitan
2236 planning organization exists for the area; and

2237 (E) that is on a priority list:

2238 (I) created by the county's council of governments in accordance with Subsection (5);

2239 and

2240 (II) approved by the county legislative body in accordance with Subsection (6);

2241 (ii) corridor preservation for a project described in Subsection (4)(a)(i) as provided in
2242 Subsection (7)(b); or

2243 (iii) any debt service and bond issuance costs related to a project described in
2244 Subsection (4)(a)(i) or (ii).

2245 (b) In a county of the first or second class, a regionally significant transportation
2246 facility project or service described in Subsection (4)(a)(i)(A) [~~must~~] shall have a funded year
2247 priority designation on a Statewide Transportation Improvement Program and Transportation
2248 Improvement Program if the project or service described in Subsection (4)(a)(i) is:

2249 (i) a principal arterial highway as defined in Section 72-4-102.5;

2250 (ii) a minor arterial highway as defined in Section 72-4-102.5; or

2251 (iii) a major collector highway:

2252 (A) as defined in Section 72-4-102.5; and

2253 (B) in a rural area.

2254 (c) Notwithstanding the designated use of revenues in Subsection (4)(a), of the
2255 revenues generated by the tax imposed under this section by any county of the first or second
2256 class, 25% or more shall be expended for the purpose described in Subsection (4)(a)(ii).

2257 (d) For purposes of this Subsection (4), the revenues a county will receive from a tax
2258 under this part do not include amounts retained by the commission in accordance with
2259 Subsection (8).

2260 (5) (a) The county's council of governments shall create a priority list of regionally
2261 significant transportation facility projects described in Subsection (4)(a) using the process
2262 described in Subsection (5)(b) and present the priority list to the county's legislative body for
2263 approval as described in Subsection (6).

2264 (b) Subject to Sections 59-12-1704 and 59-12-1705, a council of governments shall
2265 establish a council of governments' endorsement process which includes prioritization and
2266 application procedures for use of the revenues a county will receive from a tax under this part.

2267 (6) (a) The council of governments shall submit the priority list described in
2268 Subsection (5) to the county's legislative body and obtain approval of the list from a majority of
2269 the members of the county legislative body.

2270 (b) A county's council of governments may only submit one priority list per calendar
2271 year.

2272 (c) A county legislative body may only consider and approve one priority list per
2273 calendar year.

2274 (7) (a) (i) Except as provided in Subsections (7)(a)(ii) and (7)(b), revenues described in
2275 Subsection (4) shall be transmitted:

2276 (A) by the commission;

2277 (B) to the county;

2278 (C) monthly; and

2279 (D) by electronic funds transfer.

2280 (ii) A county may request that the commission transfer a portion of the revenues
2281 described in Subsection (4):

2282 (A) directly to ~~[a public transit district:]~~ the Department of Transportation; and
2283 ~~[(F) organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;~~
2284 ~~and]~~

2285 ~~[(H) designated by the county; and]~~

2286 (B) by providing written notice to the commission~~[: (F)]~~ requesting the revenues to be
2287 transferred directly to ~~[a public transit district as provided in Subsection (7)(a)(ii)(A); and]~~ the
2288 Department of Transportation.

2289 ~~[(H) designating the public transit district to which the revenues are requested to be~~
2290 ~~transferred:]~~

2291 (b) (i) Except as provided in Subsection (7)(b)(ii), revenues generated by a tax under
2292 this part that are allocated for a purpose described in Subsection (4)(a)(ii) shall be:

2293 (A) deposited in or transferred to the Local Transportation Corridor Preservation Fund
2294 created by Section 72-2-117.5; and

2295 (B) expended as provided in Section 72-2-117.5.

2296 (ii) In a county of the first class, revenues generated by a tax under this part that are
2297 allocated for a purpose described in Subsection (4)(a)(ii) shall be:

2298 (A) deposited in or transferred to the Public Transportation System Tax Highway Fund
2299 created by Section 72-2-121; and

2300 (B) expended as provided in Section 72-2-121.

2301 (8) (a) (i) Except as provided in Subsection (8)(b), the tax authorized under this part
2302 shall be administered, collected, and enforced in accordance with:

2303 (A) the same procedures used to administer, collect, and enforce the tax under:

2304 (I) Part 1, Tax Collection; or

2305 (II) Part 2, Local Sales and Use Tax Act; and

2306 (B) Chapter 1, General Taxation Policies.

2307 (ii) A tax under this part is not subject to Subsections 59-12-205(2) through (7).

2308 (b) (i) The commission may retain an amount of tax collected under this part of not to
2309 exceed the lesser of:

2310 (A) 1.5%; or

2311 (B) an amount equal to the cost to the commission of administering this part.

2312 (ii) Any amount the commission retains under Subsection (8)(b)(i) shall be:

2313 (A) placed in the Sales and Use Tax Administrative Fees Account; and

2314 (B) used as provided in Subsection 59-12-206(2).

2315 (9) (a) (i) Except as provided in Subsection (9)(b) or (c), if, on or after April 1, 2007, a
2316 county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,
2317 or change shall take effect:

2318 (A) on the first day of a calendar quarter; and

2319 (B) after a 90-day period beginning on the date the commission receives notice meeting
2320 the requirements of Subsection (9)(a)(ii) from the county.

2321 (ii) The notice described in Subsection (9)(a)(i)(B) shall state:

2322 (A) that the county will enact, repeal, or change the rate of a tax under this part;

2323 (B) the statutory authority for the tax described in Subsection (9)(a)(ii)(A);

2324 (C) the effective date of the tax described in Subsection (9)(a)(ii)(A); and

2325 (D) if the county enacts the tax or changes the rate of the tax described in Subsection

2326 (9)(a)(ii)(A), the rate of the tax.

2327 (b) (i) For a transaction described in Subsection (9)(b)(iii), if the billing period for the

2328 transaction begins before the effective date of the enactment of the tax or tax rate increase

2329 under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on the first

2330 day of the first billing period that begins after the effective date of the enactment of the tax or

2331 the tax rate increase.

2332 (ii) For a transaction described in Subsection (9)(b)(iii), if the billing period for the

2333 transaction begins before the effective date of the repeal of the tax or the tax rate decrease

2334 imposed under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the

2335 first day of the last billing period that began before the effective date of the repeal of the tax or

2336 the tax rate decrease.

2337 (iii) Subsections (9)(b)(i) and (ii) apply to transactions subject to a tax under:

2338 (A) Subsection 59-12-103(1)(b);

2339 (B) Subsection 59-12-103(1)(c);

2340 (C) Subsection 59-12-103(1)(d);

2341 (D) Subsection 59-12-103(1)(e);

2342 (E) Subsection 59-12-103(1)(f);

2343 (F) Subsection 59-12-103(1)(g);

2344 (G) Subsection 59-12-103(1)(h);

2345 (H) Subsection 59-12-103(1)(i);

2346 (I) Subsection 59-12-103(1)(j); or

2347 (J) Subsection 59-12-103(1)(k).

2348 (c) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of

2349 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of

2350 a tax described in Subsection (9)(a)(i) takes effect:

2351 (A) on the first day of a calendar quarter; and

2352 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the

rate of the tax under Subsection (9)(a)(i).

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

(d) (i) Except as provided in Subsection (9)(e) or (f), if, for an annexation that occurs on or after April 1, 2007, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

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

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (9)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (9)(d)(i)(B) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(d)(ii)(A), the rate of the tax.

(e) (i) For a transaction described in Subsection (9)(e)(iii), if the billing period for the transaction begins before the effective date of the enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) For a transaction described in Subsection (9)(e)(iii), if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

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

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

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

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

- 2384 (D) Subsection 59-12-103(1)(e);
2385 (E) Subsection 59-12-103(1)(f);
2386 (F) Subsection 59-12-103(1)(g);
2387 (G) Subsection 59-12-103(1)(h);
2388 (H) Subsection 59-12-103(1)(i);
2389 (I) Subsection 59-12-103(1)(j); or
2390 (J) Subsection 59-12-103(1)(k).

2391 (f) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
2392 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
2393 a tax described in Subsection (9)(d)(i) takes effect:

2394 (A) on the first day of a calendar quarter; and

2395 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
2396 rate under Subsection (9)(d)(i).

2397 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
2398 the commission may by rule define the term "catalogue sale."

2399 Section 17. Section **59-12-1801** is enacted to read:

2400 **Part 18. Local Option Sales and Use Tax for Public Transportation Systems Act**
2401 **59-12-1801. Title.**

2402 This part is known as the "Local Option Sales and Use Tax for Public Transportation
2403 Systems Act."

2404 Section 18. Section **59-12-1802** is enacted to read:

2405 **59-12-1802. Definitions.**

2406 As used in this section:

2407 (1) "Qualifying city" means a city that:

2408 (a) imposed a tax in accordance with Section 59-12-501 on January 1, 2007; and

2409 (b) on July 1, 2007, is not located within the boundaries of a geographical area within
2410 which a state tax is imposed under Section 59-12-501.

2411 (2) "Qualifying town" means a town that:

2412 (a) imposed a tax in accordance with Section 59-12-501 on January 1, 2007; and

2413 (b) on July 1, 2007, is not located within the boundaries of a geographical area within
2414 which a state tax is imposed under Section 59-12-501.

- 2415 (3) "Qualifying unincorporated area" means a geographical area:
2416 (a) that is a portion of the unincorporated area of a county;
2417 (b) within which a tax was imposed in accordance with Section 59-12-501 on January
2418 1, 2007; and
2419 (c) that, on July 1, 2007, is not located within the boundaries of a geographical area
2420 within which a state tax is imposed under Section 59-12-501.
- 2421 Section 19. Section **59-12-1803** is enacted to read:
2422 **59-12-1803. Imposition of tax -- Base -- Rate.**
- 2423 (1) Subject to the other provisions of this part, beginning on July 1, 2007, a sales and
2424 use tax of up to .25% may be imposed to fund a public transportation system:
2425 (a) by the legislative body of a qualifying city on the transactions described in
2426 Subsection 59-12-103(1) located within the qualifying city;
2427 (b) by the legislative body of a qualifying town on the transactions described in
2428 Subsection 59-12-103(1) located within the qualifying town; or
2429 (c) by the legislative body of a county on the transactions described in Subsection
2430 59-12-103(1) located within a qualifying unincorporated area within the county.
- 2431 (2) Notwithstanding Subsection (1), a tax under this section may not be imposed on:
2432 (a) the sales and uses described in Section 59-12-104 to the extent the sales and uses
2433 are exempt from taxation under Section 59-12-104; or
2434 (b) any amounts paid or charged by a seller that collects a tax under Subsection
2435 59-12-107(1)(b).
- 2436 (3) For purposes of this section, the location of a transaction shall be determined in
2437 accordance with Section 59-12-207.
- 2438 Section 20. Section **59-12-1804** is enacted to read:
2439 **59-12-1804. Enactment or repeal of tax -- Effective date -- Notice requirements --**
2440 **Administration, collection, and enforcement of tax.**
- 2441 (1) For purposes of this section:
2442 (a) "Annexation" means an annexation to:
2443 (i) a county under Title 17, Chapter 2, Annexation to County; or
2444 (ii) a city or town under Title 10, Chapter 2, Part 4, Annexation.
2445 (b) "Annexing area" means an area that is annexed into a county, city, or town.

2446 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after July 1, 2007, a
2447 county, city, or town enacts or repeals a tax under this part, the enactment or repeal shall take
2448 effect:

2449 (i) on the first day of a calendar quarter; and
2450 (ii) after a 90-day period beginning on the date the commission receives notice meeting
2451 the requirements of Subsection (2)(b) from the county, city, or town.

2452 (b) The notice described in Subsection (2)(a)(ii) shall state:

2453 (i) that the county, city, or town will enact or repeal a tax under this part;
2454 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);
2455 (iii) the effective date of the tax described in Subsection (2)(b)(i); and
2456 (iv) if the county, city, or town enacts the tax described in Subsection (2)(b)(i), the rate
2457 of the tax.

2458 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
2459 (2)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period that
2460 begins after the effective date of the enactment of the tax if the billing period for the transaction
2461 begins before the effective date of the enactment of the tax under this part.

2462 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
2463 (2)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period that
2464 began before the effective date of the repeal of the tax if the billing period for the transaction
2465 begins before the effective date of the repeal of the tax imposed under this part.

2466 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:

2467 (A) Subsection 59-12-103(1)(b);
2468 (B) Subsection 59-12-103(1)(c);
2469 (C) Subsection 59-12-103(1)(d);
2470 (D) Subsection 59-12-103(1)(e);
2471 (E) Subsection 59-12-103(1)(f);
2472 (F) Subsection 59-12-103(1)(g);
2473 (G) Subsection 59-12-103(1)(h);
2474 (H) Subsection 59-12-103(1)(i);
2475 (I) Subsection 59-12-103(1)(j); or
2476 (J) Subsection 59-12-103(1)(k).

2477 (d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue
2478 sale is computed on the basis of sales and use tax rates published in the catalogue, an
2479 enactment or repeal of a tax described in Subsection (2)(a) takes effect:
2480 (A) on the first day of a calendar quarter; and
2481 (B) beginning 60 days after the effective date of the enactment or repeal under
2482 Subsection (2)(a).
2483 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
2484 the commission may by rule define the term "catalogue sale."
2485 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs
2486 on or after July 1, 2007, the annexation will result in the enactment or repeal of a tax under this
2487 part for an annexing area, the enactment or repeal shall take effect:
2488 (i) on the first day of a calendar quarter; and
2489 (ii) after a 90-day period beginning on the date the commission receives notice meeting
2490 the requirements of Subsection (3)(b) from the county, city, or town that annexes the annexing
2491 area.
2492 (b) The notice described in Subsection (3)(a)(ii) shall state:
2493 (i) that the annexation described in Subsection (3)(a) will result in an enactment or
2494 repeal of a tax under this part for the annexing area;
2495 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);
2496 (iii) the effective date of the tax described in Subsection (3)(b)(i); and
2497 (iv) the rate of the tax described in Subsection (3)(b)(i).
2498 (c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
2499 (3)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period that
2500 begins after the effective date of the enactment of the tax if the billing period for the transaction
2501 begins before the effective date of the enactment of the tax under this part.
2502 (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
2503 (3)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period that
2504 began before the effective date of the repeal of the tax if the billing period for the transaction
2505 begins before the effective date of the repeal of the tax imposed under this part.
2506 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:
2507 (A) Subsection 59-12-103(1)(b);

2508 (B) Subsection 59-12-103(1)(c);
2509 (C) Subsection 59-12-103(1)(d);
2510 (D) Subsection 59-12-103(1)(e);
2511 (E) Subsection 59-12-103(1)(f);
2512 (F) Subsection 59-12-103(1)(g);
2513 (G) Subsection 59-12-103(1)(h);
2514 (H) Subsection 59-12-103(1)(i);
2515 (I) Subsection 59-12-103(1)(j); or
2516 (J) Subsection 59-12-103(1)(k).
2517 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this part on a catalogue
2518 sale is computed on the basis of sales and use tax rates published in the catalogue, an
2519 enactment or repeal of a tax described in Subsection (3)(a) takes effect:
2520 (A) on the first day of a calendar quarter; and
2521 (B) beginning 60 days after the effective date of the enactment or repeal under
2522 Subsection (3)(a).
2523 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
2524 the commission may by rule define the term "catalogue sale."
2525 (4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be
2526 administered, collected, and enforced in accordance with:
2527 (i) the same procedures used to administer, collect, and enforce the tax under:
2528 (A) Part 1, Tax Collection; or
2529 (B) Part 2, Local Sales and Use Tax Act; and
2530 (ii) Chapter 1, General Taxation Policies.
2531 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to
2532 Subsections 59-12-205(2) through (7).
2533 Section 21. Section **63-56-502** is amended to read:
2534 **63-56-502. Procurement of design-build transportation project contracts.**
2535 (1) As used in this section:
2536 (a) "Design-build transportation project contract" means the procurement of both the
2537 design and construction of a transportation project in a single contract with a company or
2538 combination of companies capable of providing the necessary engineering services and

2539 construction.

2540 (b) "Transportation agency" means:

2541 (i) the Department of Transportation;

2542 (ii) a county of the first or second class, as defined in Section 17-50-501;

2543 (iii) a municipality of the first class, as defined in Section 10-2-301; and

2544 ~~[(iv) a public transit district that has more than 200,000 people residing within its~~
2545 ~~boundaries; and]~~

2546 ~~[(v)]~~ (iv) a public airport authority.

2547 (2) Except as provided in Subsection (3), a transportation agency may award a
2548 design-build transportation project contract for any transportation project that has an estimated
2549 cost of at least \$50,000,000 by following the requirements of this section.

2550 (3) (a) The Department of Transportation:

2551 (i) may award a design-build transportation project contract for any transportation
2552 project by following the requirements of this section; and

2553 (ii) shall make rules, by following the procedures and requirements of Title 63, Chapter
2554 46a, Utah Administrative Rulemaking Act, establishing requirements for the procurement of its
2555 design-build transportation project contracts in addition to those required by this section.

2556 ~~[(b) A public transit district that has more than 200,000 people residing within its~~
2557 ~~boundaries;]~~

2558 ~~[(i) may award a design-build transportation project contract for any transportation~~
2559 ~~project by following the requirements of this section; and]~~

2560 ~~[(ii) shall pass ordinances or a resolution establishing requirements for the procurement~~
2561 ~~of its design-build transportation project contracts in addition to those required by this section.]~~

2562 ~~[(c)]~~ (b) A design-build transportation project contract authorized under this
2563 Subsection (3) is not subject to the estimated cost threshold under Subsection (2).

2564 (4) (a) Before entering a design-build transportation project contract, a transportation
2565 agency may issue a request for qualifications to prequalify potential contractors.

2566 (b) Public notice of the request for qualifications shall be given in accordance with
2567 policy board rules.

2568 (c) A transportation agency shall require, as part of the qualifications specified in the
2569 request for qualifications, that potential contractors at least demonstrate their:

2570 (i) construction experience;
2571 (ii) design experience;
2572 (iii) financial, manpower, and equipment resources available for the project; and
2573 (iv) experience in other design-build transportation projects with attributes similar to
2574 the project being procured.

2575 (d) The request for qualifications shall identify the number of eligible competing
2576 proposers that the transportation agency will select to submit a proposal, which must be at least
2577 two.

2578 (5) (a) The transportation agency shall:

2579 (i) evaluate the responses received from the request for qualifications;
2580 (ii) select from their number those qualified to submit proposals; and
2581 (iii) invite those respondents to submit proposals based upon the transportation
2582 agency's request for proposals.

2583 (b) (i) Except as provided in Subsection (5)(b)(ii), if the transportation agency fails to
2584 receive at least two qualified eligible competing proposers, the transportation agency shall
2585 readvertise the project.

2586 (ii) Until July 1, 2010, a transportation agency may award a contract for a
2587 transportation project that has an estimated cost of \$5,000,000 or less to a qualified eligible
2588 proposer if:

2589 (A) only a single proposal is received; and
2590 (B) the transportation agency determines that:
2591 (I) the proposal is advantageous to the state; and
2592 (II) the proposal price is reasonable.

2593 (iii) The Transportation Interim Committee and Government Operations Interim
2594 Committee of the Legislature shall review Subsection (5)(b)(ii) prior to November 30, 2009.

2595 (6) The transportation agency shall issue a request for proposals to those qualified
2596 respondents that:

2597 (a) includes a scope of work statement constituting an information for proposal that
2598 may include:

2599 (i) preliminary design concepts;
2600 (ii) design criteria, needs, and objectives;

2601 (iii) warranty and quality control requirements;
2602 (iv) applicable standards;
2603 (v) environmental documents;
2604 (vi) constraints;
2605 (vii) time expectations or limitations;
2606 (viii) incentives or disincentives; and
2607 (ix) other special considerations;
2608 (b) requires submitters to provide:
2609 (i) a sealed cost proposal;
2610 (ii) a critical path matrix schedule, including cash flow requirements;
2611 (iii) proposal security; and
2612 (iv) other items required by the department for the project; and
2613 (c) may include award of a stipulated fee to be paid to submitters who submit
2614 unsuccessful proposals.
2615 (7) The transportation agency shall:
2616 (a) evaluate the submissions received in response to the request for proposals from the
2617 prequalified proposers;
2618 (b) comply with rules relating to discussion of proposals, best and final offers, and
2619 evaluations of the proposals submitted; and
2620 (c) after considering price and other identified factors, award the contract to the
2621 responsible proposer whose proposal is most advantageous to the state.
2622 Section 22. Section **72-1-102** is amended to read:
2623 **72-1-102. Definitions.**
2624 As used in this title:
2625 (1) "Commission" means the Transportation Commission created under Section
2626 72-1-301.
2627 (2) "Construction" means the construction, reconstruction, replacement, and
2628 improvement of the highways, including the acquisition of rights-of-way and material sites.
2629 (3) "Department" means the Department of Transportation created in Section 72-1-201.
2630 (4) "Executive director" means the executive director of the department appointed
2631 under Section 72-1-202.

2632 (5) "Farm tractor" has the meaning set forth in Section 41-1a-102.

2633 (6) "Federal aid primary highway" means that portion of connected main highways
2634 located within this state officially designated by the department and approved by the United
2635 States Secretary of Transportation under Title 23, Highways, U.S.C.

2636 (7) "Fixed guideway" means a public transit facility that uses and occupies:

2637 (a) rail for the use of public transit; or

2638 (b) a separate right-of-way for the use of public transit.

2639 ~~[(7)]~~ (8) "Highway" means any public road, street, alley, lane, court, place, viaduct,
2640 tunnel, culvert, bridge, or structure laid out or erected for public use, or dedicated or abandoned
2641 to the public, or made public in an action for the partition of real property, including the entire
2642 area within the right-of-way.

2643 ~~[(8)]~~ (9) "Highway authority" means the department or the legislative, executive, or
2644 governing body of a county or municipality.

2645 ~~[(9)]~~ (10) "Implement of husbandry" has the meaning set forth in Section 41-1a-102.

2646 ~~[(10)]~~ (11) "Interstate system" means any highway officially designated by the
2647 department and included as part of the national interstate and defense highways, as provided in
2648 the Federal Aid Highway Act of 1956 and any supplemental acts or amendments.

2649 ~~[(11)]~~ (12) "Limited-access facility" means a highway especially designated for
2650 through traffic, and over, from, or to which neither owners nor occupants of abutting lands nor
2651 other persons have any right or easement, or have only a limited right or easement of access,
2652 light, air, or view.

2653 ~~[(12)]~~ (13) "Motor vehicle" has the same meaning set forth in Section 41-1a-102.

2654 ~~[(13)]~~ (14) "Municipality" has the same meaning set forth in Section 10-1-104.

2655 ~~[(14)]~~ (15) "National highway systems highways" means that portion of connected
2656 main highways located within this state officially designated by the department and approved
2657 by the United States Secretary of Transportation under Title 23, Highways, U.S.C.

2658 (16) "Person" has the same meaning as defined in Section 59-12-102.

2659 ~~[(15)]~~ (17) (a) "Port-of-entry" means a fixed or temporary facility constructed,
2660 operated, and maintained by the department where drivers, vehicles, and vehicle loads are
2661 checked or inspected for compliance with state and federal laws as specified in Section
2662 72-9-501.

2663 (b) "Port-of-entry" includes inspection and checking stations and weigh stations.

2664 ~~[(16)]~~ (18) "Port-of-entry agent" means a person employed at a port-of-entry to perform
2665 the duties specified in Section 72-9-501.

2666 (19) "Public transit" means the transportation of passengers only and their incidental
2667 baggage by means other than:

2668 (a) chartered bus;

2669 (b) sightseeing bus;

2670 (c) taxi; or

2671 (d) other vehicle not on an individual passenger fare paying basis.

2672 ~~[(17)]~~ (20) "Right-of-way" means real property or an interest in real property, usually
2673 in a strip, acquired for or devoted to a highway.

2674 ~~[(18)]~~ (21) "Sealed" does not preclude acceptance of electronically sealed and submitted
2675 bids or proposals in addition to bids or proposals manually sealed and submitted.

2676 ~~[(19)]~~ (22) "Semitrailer" has the meaning set forth in Section 41-1a-102.

2677 ~~[(20)]~~ (23) "SR" means state route and has the same meaning as state highway as
2678 defined in this section.

2679 ~~[(21)]~~ (24) "State highway" means those highways designated as state highways in
2680 Title 72, Chapter 4, Designation of State Highways Act.

2681 ~~[(22)]~~ (25) "State highway purposes" has the meaning set forth in Section 72-5-102.

2682 ~~[(23)]~~ (26) "State transportation systems" means all streets, alleys, roads, highways,
2683 and thoroughfares of any kind, including connected structures, airports, spaceports, and all
2684 other modes and forms of conveyance used by the public.

2685 ~~[(24)]~~ (27) "Trailer" has the meaning set forth in Section 41-1a-102.

2686 (28) "Transit facility" means a transit vehicle, transit station, depot, passenger loading
2687 or unloading zone, parking lot, or other facility leased by or operated by or on behalf of the
2688 department and related to the public transit services provided by the department, including
2689 railway or right-of-way, railway line, and a reasonable area immediately adjacent to a
2690 designated stop on the route traveled by a transit vehicle.

2691 (29) "Transit vehicle" means a passenger bus, coach, railcar, van, or other vehicle
2692 operated as public transportation by the department.

2693 ~~[(25)]~~ (30) "Truck tractor" has the meaning set forth in Section 41-1a-102.

2694 ~~[(26)]~~ (31) "UDOT" means the Utah Department of Transportation.

2695 ~~[(27)]~~ (32) "Vehicle" has the same meaning set forth in Section 41-1a-102.

2696 Section 23. Section **72-1-203** is amended to read:

2697 **72-1-203. Deputy director -- Appointment -- Qualifications -- Other assistants**

2698 **and advisers -- Salaries.**

2699 (1) The executive director shall appoint a ~~[deputy]~~ director of highways, who shall be a
2700 registered professional engineer in the state and shall serve at the discretion of the executive
2701 director.

2702 (2) ~~(a)~~ The ~~[deputy]~~ director of highways is the chief engineer of the department.

2703 ~~(b)~~ The ~~[deputy]~~ director of highways shall assist the executive director and is
2704 responsible for:

2705 ~~[(a)]~~ (i) highway program and project development; and

2706 ~~[(b)]~~ (ii) operation and maintenance of the state ~~[transportation]~~ highway systems.

2707 (3) (a) The executive director shall appoint a director of public transit, who shall have
2708 actual experience in the management, construction, and operation of public transit facilities and
2709 fixed guideways.

2710 ~~(b)~~ The director of public transit shall assist the executive director and is responsible
2711 for:

2712 (i) public transit program and project development;

2713 (ii) operation and maintenance of state public transit systems; and

2714 (iii) interfacing with metropolitan planning organizations and elected officials to
2715 develop and effectively operate state public transit systems.

2716 ~~[(3)]~~ (4) (a) The executive director may also appoint assistants to administer the
2717 divisions of the department.

2718 ~~(b)~~ These assistants shall serve at the discretion of the executive director.

2719 ~~[(4)]~~ (5) In addition, the executive director may employ other assistants and advisers as
2720 the executive director finds necessary and fix salaries in accordance with the salary standards
2721 adopted by the Department of Human Resource Management.

2722 Section 24. Section **72-1-204** is amended to read:

2723 **72-1-204. Divisions enumerated -- Duties.**

2724 The divisions of the department are:

- 2725 (1) the Administrative Services Division responsible for:
- 2726 (a) all personnel management including recruiting, training, testing, developing, and
- 2727 assisting the transition of personnel into the department;
- 2728 (b) maintaining records;
- 2729 (c) data processing;
- 2730 (d) procuring administrative supplies and equipment; and
- 2731 (e) risk management;
- 2732 (2) the Comptroller Division responsible for:
- 2733 (a) all financial aspects of the department, including budgeting, accounting, and
- 2734 contracting; and
- 2735 (b) providing all material data and documentation necessary for effective fiscal
- 2736 planning and programming;
- 2737 (3) the Internal Audit Division responsible for:
- 2738 (a) conducting and verifying all internal audits and reviews within the department;
- 2739 (b) performing financial and compliance audits to determine the allowability and
- 2740 reasonableness of proposals, accounting records, and final costs of consultants, contractors,
- 2741 utility companies, and other entities used by the department; and
- 2742 (c) implementing audit procedures that meet or exceed generally accepted auditing
- 2743 standards relating to revenues, expenditures, and funding;
- 2744 (4) the Community Relations Division responsible for:
- 2745 (a) coordinating, organizing, and managing the department's public hearing process;
- 2746 (b) responding to citizens' complaints and requests;
- 2747 (c) developing and implementing the department's public information programs;
- 2748 (d) assisting the divisions and regions in the department's citizen involvement
- 2749 programs; and
- 2750 (e) preparing and distributing internal department communications;
- 2751 (5) the Program Development Division responsible for:
- 2752 (a) developing transportation plans for state transportation systems;
- 2753 (b) collecting, processing, and storing transportation data to support department's
- 2754 engineering functions;
- 2755 (c) designating state transportation systems qualifications;

2756 (d) developing a statewide transportation improvement program for approval by the
2757 commission;

2758 (e) providing cartographic services to the department; and

2759 (f) assisting local governments in participating in federal-aid transportation programs;

2760 (6) the Highway Project Development Division responsible for:

2761 (a) developing statewide standards for highway project design and construction;

2762 (b) providing support for highway project development in the areas of design
2763 environment, right-of-way, materials testing, structures, value engineering, and construction;

2764 (c) designing specialty highway projects; and

2765 (d) performing research into materials and methods for construction of state
2766 transportation systems; ~~and~~

2767 (7) the Highways and Aeronautics Operations Division responsible for:

2768 (a) maintaining the state highway transportation systems;

2769 (b) state highway transportation systems safety;

2770 (c) operating state ports-of-entry;

2771 (d) operating state motor carrier safety programs in accordance with this title and
2772 federal law;

2773 (e) aeronautical operations; and

2774 (f) providing equipment for department engineering and maintenance functions[-];

2775 (8) the Public Transit Project Development Division responsible for:

2776 (a) developing statewide standards for public transit facility design and construction;

2777 (b) providing support for public transit facility and fixed guideway development in the
2778 areas of design, environment, right-of-way, materials testing, structures, value engineering, and
2779 construction;

2780 (c) designing specialty transit facility and fixed guideway projects; and

2781 (d) performing research into materials and methods for construction of state public
2782 transit or fixed guideway systems; and

2783 (9) the Public Transit Operations Division responsible for:

2784 (a) maintaining the state public transit systems;

2785 (b) state public transit systems safety; and

2786 (c) operating public transit systems in accordance with this title and federal law.

2787 Section 25. Section **72-1-301** is amended to read:

2788 **72-1-301. Transportation Commission created -- Members, appointment, terms --**
2789 **Qualifications -- Pay and expenses -- Chair -- Quorum -- Surety bond.**

2790 (1) (a) There is created the Transportation Commission which shall consist of [~~seven~~]
2791 11 members.

2792 (b) The members of the commission shall be residents of Utah.

2793 (c) No more than [~~four~~] six of the commissioners shall be members of any one political
2794 party.

2795 (d) (i) The commissioners shall be appointed by the governor, with the consent of the
2796 Senate, for a term of six years, beginning on April 1 of odd-numbered years, except as provided
2797 under Subsection (1)(d)(ii).

2798 (ii) The first two additional commissioners serving on the seven member commission
2799 shall be appointed for terms of two years nine months and four years nine months, respectively,
2800 initially commencing on July 1, 1996, and subsequently commencing as specified under
2801 Subsection (1)(d)(i).

2802 (e) The commissioners serve on a part-time basis.

2803 (f) Each commissioner shall remain in office until a successor is appointed and
2804 qualified.

2805 (2) The selection of the commissioners shall be as follows:

2806 (a) one commissioner from Box Elder, Cache, or Rich county;

2807 (b) one commissioner from Salt Lake or Tooele county;

2808 (c) one commissioner from Carbon, Emery, Grand, or San Juan county;

2809 (d) one commissioner from Beaver, Garfield, Iron, Kane, Millard, Piute, Sanpete,
2810 Sevier, Washington, or Wayne county;

2811 (e) one commissioner from Weber, Davis, or Morgan county;

2812 (f) one commissioner from Juab, Utah, Wasatch, Duchesne, Summit, Uintah, or
2813 Daggett county; [~~and~~]

2814 (g) one commissioner from Salt Lake County that represents the interests of public
2815 transit;

2816 (h) one commissioner from Davis or Weber county that represents the interests of
2817 public transit;

2818 (i) one commissioner from Utah or Tooele county that represents the interests of public
2819 transit; and

2820 ~~[(g)]~~ (j) [one commissioner] two commissioners selected from the state at large.

2821 (3) (a) Members appointed before May 2, 1996, shall continue to receive the
2822 compensation, per diem, expenses, and benefits they were receiving as of January 1, 1996.

2823 (b) Members appointed after May 2, 1996, shall receive no compensation or benefits
2824 for their services, but may receive per diem and expenses incurred in the performance of the
2825 member's official duties at the rates established by the Division of Finance under Sections
2826 63A-3-106 and 63A-3-107.

2827 (c) Members may decline to receive compensation, benefits, per diem, and expenses
2828 for their service.

2829 (4) (a) One member of the commission shall be designated by the governor as chair.

2830 (b) The commission shall select one member as vice chair to act in the chair's absence.

2831 (5) Any four commissioners constitute a quorum.

2832 (6) (a) Each member of the commission shall qualify by:

2833 (i) taking the constitutional oath of office; and

2834 (ii) giving a surety bond.

2835 (b) The Division of Finance of the Department of Administrative Services shall
2836 determine the form and amount of the bond, and the state shall pay the bond premium.

2837 Section 26. Section **72-1-303** is amended to read:

2838 **72-1-303. Duties of commission.**

2839 (1) The commission has the following duties:

2840 ~~[(1)]~~ (a) determining priorities and funding levels of projects in the state transportation
2841 systems for each fiscal year based on project lists compiled by the department;

2842 ~~[(2)]~~ (b) determining additions and deletions to state highways under Chapter 4,
2843 Designation of State Highways Act;

2844 ~~[(3)]~~ (c) holding public hearings and otherwise providing for public input in
2845 transportation matters;

2846 ~~[(4)]~~ (d) making policies and rules in accordance with Title 63, Chapter 46a, Utah
2847 Administrative Rulemaking Act, necessary to perform the commission's duties described under
2848 this section;

2849 ~~[(5)]~~ (e) in accordance with Section 63-46b-12, reviewing orders issued by the
2850 executive director in adjudicative proceedings held in accordance with Title 63, Chapter 46b,
2851 Administrative Procedures Act;

2852 ~~[(6)]~~ (f) advising the department in state transportation systems policy;

2853 ~~[(7)]~~ (g) approving settlement agreements of condemnation cases subject to Section
2854 63-38b-401;

2855 ~~[(8)]~~ (h) in accordance with Section 17A-2-1038, appointing a commissioner to serve
2856 as a nonvoting, ex officio member on the board of trustees of a public transit district;

2857 ~~[(9)]~~ (i) in accordance with Section 17A-2-1039, reviewing, at least annually, the
2858 short-term and long-range public transit plans; and

2859 ~~[(10)]~~ (j) reviewing administrative rules made, amended, or repealed by the
2860 department.

2861 (2) The commission has the following duties with respect to public transit facilities:

2862 (a) determining the public transit facilities that should be acquired or constructed;

2863 (b) supervising and regulating every transit facility owned and operated by the
2864 department, including the fixing of rates, fares, rentals, charges, and classifications thereof, and
2865 making and enforcement of rules, regulations, contracts, practices, and schedules, for or in
2866 connection with any public transit facility owned or controlled by the department; and

2867 (c) making rules in accordance with Title 63, Chapter 46a, Utah Administrative
2868 Rulemaking Act, necessary for the government and management of the affairs of public transit
2869 facilities owned or operated by the department and for carrying into effect the provisions of this
2870 title.

2871 Section 27. Section **72-2-121** is amended to read:

2872 **72-2-121. Public Transportation System Tax Highway Fund.**

2873 (1) There is created a special revenue fund entitled the Public Transportation System
2874 Tax Highway Fund.

2875 (2) The fund consists of monies generated from the following revenue sources:

2876 (a) any voluntary contributions received for new construction, major renovations, and
2877 improvements to Interstate 15 and state highways within a county of the first class;

2878 (b) the portion of the sales and use tax described in Subsection 59-12-502(5)~~[(a)(ii)]~~(b)
2879 deposited in or transferred to the fund ~~[through an interlocal agreement]~~; and

(c) the portion of the sales and use tax described in Subsection 59-12-1703(4)(a)(ii) and required by Subsection 59-12-1703(7)(b)(ii) to be deposited in or transferred to the fund.

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

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

(4) The executive director may use fund monies, as prioritized by the Transportation Commission:

(a) for the portion of the monies generated from the revenue sources described in Subsections (2)(a) and (b), only for new construction, major renovations, and improvements to Interstate 15 and state highways within a county of the first class and to pay any debt service and bond issuance costs related to those projects; and

(b) for the portion of the monies generated from the revenue sources described in Subsection (2)(c), only for state highway corridor preservation for new state highway projects within a county of the first class, to pay any debt service and bond issuance costs related to those projects, and shall not supplant monies already designated for state projects.

(5) The additional administrative costs of the department to administer this fund shall be paid from the monies in the fund.

Section 28. Section **72-2-301** is enacted to read:

Part 3. Public Transit Fund

72-2-301. Public Transit Fund.

(1) There is created a fund entitled the "Public Transit Fund."

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

(a) any voluntary contributions received for the construction, operation, and maintenance of public transit facilities;

(b) appropriations made to the fund by the Legislature;

(c) the sales and use tax amounts provided for in Sections 59-12-501 and 59-12-502;
and

(d) passenger fares imposed in accordance with Section 72-14-201.

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

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

(4) The executive director may use fund monies, as prioritized by the Transportation Commission, only to pay the costs of construction, major reconstruction, major renovation,

2911 operations, or maintenance of public transit facilities.

2912 Section 29. Section **72-6-115** is amended to read:

2913 **72-6-115. Traffic Management Committee -- Appointment -- Duties.**

2914 (1) As used in this section, "committee" means the Traffic Management Committee
2915 created in this section.

2916 (2) (a) There is created within the Department of Transportation the Traffic
2917 Management Committee comprising up to 13 members knowledgeable about traffic
2918 engineering, traffic flow, air quality, or intelligent transportation systems as follows:

2919 (i) two members designated by the executive director of the department;

2920 (ii) one member designated by the Utah Association of Counties;

2921 (iii) one member designated by the Department of Environmental Quality;

2922 (iv) one member designated by the Wasatch Front Regional Council;

2923 (v) one member designated by the Mountainland Association of Governments;

2924 (vi) one member designated by the Commissioner of Public Safety; ~~and~~

2925 (vii) one member designated by the Utah League of Cities and Towns;

2926 (viii) one member designated by the ~~[general manager of a public transit district with~~
2927 ~~more than 200,000 people residing within the public transit district boundaries]~~ executive
2928 director representing the interests of state public transit facilities;

2929 (ix) up to four additional members designated by the committee for one-year terms;
2930 and

2931 (x) a designating entity under Subsections (2)(a)(i) through (viii) may designate an
2932 alternative member to serve in the absence of its designated member.

2933 (b) The committee shall:

2934 (i) advise the department on matters related to the implementation and administration
2935 of this section;

2936 (ii) make recommendations to law enforcement agencies related to traffic flow and
2937 incident management during heavy traffic periods;

2938 (iii) make recommendations to the department, counties, and municipalities on
2939 increasing the safety and efficiency of highways using current traffic management systems,
2940 including traffic signal coordination, traffic monitoring, freeway ramp metering, variable
2941 message signing, and incident management; and

2942 (iv) evaluate the cost effectiveness of implementing a specific traffic management
2943 system on a highway considering:
2944 (A) existing traffic volume in the area;
2945 (B) the necessity and potential of reducing vehicle emissions in the area;
2946 (C) the feasibility of the traffic management system on the highway; and
2947 (D) whether traffic congestion will be reduced by the system.
2948 (c) The committee shall annually elect a chair and a vice chair from its members.
2949 (d) When a vacancy occurs in the membership for any reason, the replacement shall be
2950 appointed.
2951 (e) The committee shall meet as it determines necessary to accomplish its duties.
2952 (f) Reasonable notice shall be given to each member of the committee prior to any
2953 meeting.
2954 (g) A majority of the committee constitutes a quorum for the transaction of business.
2955 (h) (i) (A) Members who are not government employees shall receive no compensation
2956 or benefits for their services, but may receive per diem and expenses incurred in the
2957 performance of the member's official duties at the rates established by the Division of Finance
2958 under Sections 63A-3-106 and 63A-3-107.
2959 (B) Members may decline to receive per diem and expenses for their service.
2960 (ii) (A) State government officer and employee members who do not receive salary, per
2961 diem, or expenses from their agency for their service may receive per diem and expenses
2962 incurred in the performance of their official duties from the committee at the rates established
2963 by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
2964 (B) State government officer and employee members may decline to receive per diem
2965 and expenses for their service.
2966 (iii) (A) Local government members who do not receive salary, per diem, or expenses
2967 from the entity that they represent for their service may receive per diem and expenses incurred
2968 in the performance of their official duties at the rates established by the Division of Finance
2969 under Sections 63A-3-106 and 63A-3-107.
2970 (B) Local government members may decline to receive per diem and expenses for their
2971 service.
2972 (3) (a) The Department of Transportation shall implement and administer traffic

2973 management systems to facilitate the efficient flow of motor vehicle traffic on state highways
2974 to improve regional mobility, and to reduce motor vehicle emissions where those
2975 improvements are cost effective, as determined by the committee in accordance with criteria
2976 under Subsection (2)(b).

2977 (b) A traffic management system shall be designed to allow safe, efficient, and
2978 effective:

2979 (i) integration of existing traffic management systems;

2980 (ii) additions of highways and intersections under county and city administrative
2981 jurisdiction;

2982 (iii) incorporation of other traffic management systems; and

2983 (iv) adaptation to future traffic needs.

2984 (4) (a) The cost of implementing and administering a traffic management system shall
2985 be shared pro rata by the department and the counties and municipalities using it.

2986 (b) The department shall enter into an agreement or contract under Title 11, Chapter
2987 13, Interlocal Cooperation Act, with a county or municipality to share costs incurred under this
2988 section.

2989 (5) Additional highways and intersections under the administrative jurisdiction of a
2990 county or municipality may be added to a traffic management system upon application of the
2991 county or municipality after:

2992 (a) a recommendation of the committee;

2993 (b) approval by the department;

2994 (c) determination of the appropriate cost share of the addition under Subsection (4)(a);

2995 and

2996 (d) an agreement under Subsection (4)(b).

2997 (6) The committee may establish technical advisory committees as needed to assist in
2998 accomplishing its duties under this section.

2999 Section 30. Section **72-10-102** is amended to read:

3000 **72-10-102. Definitions.**

3001 As used in this chapter:

3002 (1) "Acrobatics" means the intentional maneuvers of an aircraft not necessary to air
3003 navigation.

3004 (2) "Aeronautics" means transportation by aircraft, air instruction, the operation, repair,
3005 or maintenance of aircraft, and the design, operation, repair, or maintenance of airports, or
3006 other air navigation facilities.

3007 (3) "Aeronautics instructor" means any individual engaged in giving or offering to give
3008 instruction in aeronautics, flying, or ground subjects, either with or without:

3009 (a) compensation or other reward;

3010 (b) advertising the occupation;

3011 (c) calling his facilities an air school, or any equivalent term; or

3012 (d) employing or using other instructors.

3013 (4) "Aircraft" means any contrivance now known or in the future invented, used, or
3014 designed for navigation of or flight in the air.

3015 (5) "Air instruction" means the imparting of aeronautical information by any aviation
3016 instructor or in any air school or flying club.

3017 (6) "Airport" means any area of land, water, or both, that:

3018 (a) is used or is made available for landing and takeoff;

3019 (b) provides facilities for the shelter, supply, and repair of aircraft, and handling of
3020 passengers and cargo; and

3021 (c) meets the minimum requirements established by the division as to size and design,
3022 surface, marking, equipment, and operation.

3023 (7) "Airport authority" means a political subdivision of the state, other than a county or
3024 municipality, that is authorized by statute to operate an airport.

3025 (8) "Air school" means any person engaged in giving, offering to give, or advertising,
3026 representing, or holding himself out as giving, with or without compensation or other reward,
3027 instruction in aeronautics, flying, or ground subjects, or in more than one of these subjects.

3028 (9) "Airworthiness" means conformity with requirements prescribed by the Federal
3029 Aviation Administration regarding the structure or functioning of aircraft, engine, parts, or
3030 accessories.

3031 (10) "Antique aircraft" means a civil aircraft that is:

3032 (a) 30 years old or older, calculated as to include the current year;

3033 (b) primarily a collector's item and used solely for recreational or display purposes;

3034 (c) not used for daily or regular transportation; and

- 3035 (d) not used for commercial operations.
- 3036 (11) "Civil aircraft" means any aircraft other than a public aircraft.
- 3037 (12) "Commercial aircraft" means aircraft used for commercial purposes.
- 3038 (13) "Commercial airport" means a landing area, landing strip, or airport that may be
3039 used for commercial operations.
- 3040 (14) "Commercial flight operator" means a person who conducts commercial
3041 operations.
- 3042 (15) "Commercial operations" means:
- 3043 (a) any operations of an aircraft for compensation or hire or any services performed
3044 incidental to the operation of any aircraft for which a fee is charged or compensation is
3045 received, including the servicing, maintaining, and repairing of aircraft, the rental or charter of
3046 aircraft, the operation of flight or ground schools, the operation of aircraft for the application or
3047 distribution of chemicals or other substances, and the operation of aircraft for hunting and
3048 fishing; or
- 3049 (b) the brokering or selling of any of these services; but
- 3050 (c) does not include any operations of aircraft as common carriers certificated by the
3051 federal government or the services incidental to those operations.
- 3052 (16) "Dealer" means any person who is actively engaged in the business of flying for
3053 demonstration purposes, or selling or exchanging aircraft, and who has an established place of
3054 business.
- 3055 (17) "Division" means the Highways and Aeronautics Operations Division in the
3056 Department of Transportation, created in Section 72-1-204.
- 3057 (18) "Experimental aircraft" means:
- 3058 (a) any aircraft designated by the Federal Aviation Administration or the military as
3059 experimental and used solely for the purpose of experiments, or tests regarding the structure or
3060 functioning of aircraft, engines, or their accessories; and
- 3061 (b) any aircraft designated by the Federal Aviation Administration as:
- 3062 (i) being custom or amateur built; and
- 3063 (ii) used for recreational, educational, or display purposes.
- 3064 (19) "Flight" means any kind of locomotion by aircraft while in the air.
- 3065 (20) "Flying club" means five or more persons who for neither profit nor reward own,

3066 lease, or use one or more aircraft for the purpose of instruction, pleasure, or both.

3067 (21) "Glider" means an aircraft heavier than air, similar to an airplane, but without a
3068 power plant.

3069 (22) "Mechanic" means a person who constructs, repairs, adjusts, inspects, or
3070 overhauls aircraft, engines, or accessories.

3071 (23) "Parachute jumper" means any person who has passed the required test for
3072 jumping with a parachute from an aircraft, and has passed an examination showing that he
3073 possesses the required physical and mental qualifications for the jumping.

3074 (24) "Parachute rigger" means any person who has passed the required test for packing,
3075 repairing, and maintaining parachutes.

3076 (25) "Passenger aircraft" means aircraft used for transporting persons, in addition to the
3077 pilot or crew, with or without their necessary personal belongings.

3078 (26) "Person" means any individual, corporation, limited liability company, or
3079 association of individuals.

3080 (27) "Pilot" means any person who operates the controls of an aircraft while in-flight.

3081 (28) "Primary glider" means any glider that has a gliding angle of less than ten to one.

3082 (29) "Public aircraft" means an aircraft used exclusively in the service of any
3083 government or of any political subdivision, including the government of the United States, of
3084 the District of Columbia, and of any state, territory, or insular possession of the United States,
3085 but not including any government-owned aircraft engaged in carrying persons or goods for
3086 commercial purposes.

3087 (30) "Reckless flying" means the operation or piloting of any aircraft recklessly, or in a
3088 manner as to endanger the property, life, or body of any person, due regard being given to the
3089 prevailing weather conditions, field conditions, and to the territory being flown over.

3090 (31) "Registration number" means the number assigned by the Federal Aviation
3091 Administration to any aircraft, whether or not the number includes a letter or letters.

3092 (32) "Secondary glider" means any glider that has a gliding angle between ten to one
3093 and 16 to one, inclusive.

3094 (33) "Soaring glider" means any glider that has a gliding angle of more than 16 to one.

3095 Section 31. Section **72-14-101** is enacted to read:

3096 **CHAPTER 14. PUBLIC TRANSIT ACT**

Part 1. General Provisions

72-14-101. Title -- Legislative findings.

(1) This chapter is known as the "Public Transit Act."

(2) The Legislature hereby finds and declares that:

(a) the predominant part of the state's population is located in its rapidly expanding metropolitan and other urban areas which generally cross the boundary lines of local jurisdictions and often extend into two or more counties;

(b) the welfare and vitality of urban areas, the satisfactory movement of people within these areas, the lessening of traffic congestion and the effectiveness of housing, tourist, highway, and other governmental programs, are being jeopardized thereby; and

(c) the problems involved in adequately furnishing public urban transportation for the present and future needs of the people of the state are of such magnitude and complexity that the various urban transit districts, municipalities, and counties acting individually, lack the ability, finances, and jurisdiction to resolve, establish, and coordinate urban transportation.

(3) Therefore, it is essential to establish a division within the Department of Transportation to provide public transit which can exercise jurisdiction without being restricted to municipal corporate or county limits and represents the interests of the state in the coordination of urban transportation systems.

(4) It is the purpose of this part to provide the means necessary to provide public transit services for persons presently and in the future.

Section 32. Section **72-14-102** is enacted to read:

72-14-102. Department public transit responsibilities -- Employee rights.

(1) (a) Beginning on July 1, 2007, the department shall:

(i) provide a public transit system for the transportation of passengers and their incidental baggage for a county, city, town, or unincorporated area if the county, city, town, or unincorporated area was within the boundaries of a transit district:

(A) organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;

(B) as the boundaries of that transit district existed on January 1, 2007; and

(C) if that transit district comprised of a geographical area consisting of more than one county;

(ii) purchase all supplies, equipment, and materials necessary for the construction,

3128 maintenance, and operation of public transit facilities;

3129 (iii) construct public transit facilities and works; and

3130 (iv) acquire, contract for, lease, construct, own, operate, control, or use rights-of-way,
3131 rail lines, monorails, bus lines, stations, platforms, switches, yards, terminals, parking lots, any
3132 facilities necessary or convenient for public transit service, and all structures necessary for
3133 access by persons and vehicles.

3134 (b) The department may:

3135 (i) provide the public transit services required under this section; or

3136 (ii) contract with another person to provide the public transit services required under
3137 this section.

3138 (2) (a) Employees of a public transit district described under Subsection (1)(a), to the
3139 extent necessary for the operation of public transit facilities by the department, except
3140 executive or administrative officers and employees, shall be transferred to and appointed
3141 employees of the department.

3142 (b) The employees under Subsection (2)(a) shall be given sick leave, seniority,
3143 vacation, and pension or retirement credits in accordance with the records of the public transit
3144 district dissolved in accordance with Subsection 17A-2-1016(6).

3145 (c) Members and beneficiaries of any pension or retirement plan or other program of
3146 benefits established by the dissolved public transit district, shall continue to have rights,
3147 privileges, benefits, obligations, and status with respect to the pension or retirement plan or
3148 program.

3149 (d) Terms, conditions, and provisions of any pension or retirement plan or of any
3150 amendment or modification to the pension or retirement plan affecting employees may be
3151 established, amended, or modified by agreement with the employees or their duly authorized
3152 representatives.

3153 Section 33. Section **72-14-103** is enacted to read:

3154 **72-14-103. Participation in federal programs authorized.**

3155 (1) The department may solicit, contract, accept grants, contributions, or loans from the
3156 United States, or any department, instrumentality, or agency of the United States to:

3157 (a) establish, finance, construct, improve, maintain, or operate transit facilities and
3158 equipment; or

(b) to study and plan transit facilities in accordance with any legislation Congress has adopted or may adopt.

(2) The department may do all things necessary within the limitations imposed under this chapter in order to avail itself of any aid, assistance, or cooperation available under federal legislation, including compliance with labor standards and the making of arrangements for employees as may be required by the United States or any department, instrumentality, or agency of the United States.

Section 34. Section **72-14-104** is enacted to read:

72-14-104. Traffic laws applicable.

The department is subject, in the operation of its transit facilities, transit vehicles, and equipment, to the laws and regulations of the state and of applicable municipalities relating to traffic and operation of vehicles upon the streets and highways of the state.

Section 35. Section **72-14-105** is enacted to read:

72-14-105. Employee rights and benefits extended under federal law to apply.

(1) The rights, benefits, and other employee protective conditions and remedies of Section 13(c) of the Urban Mass Transportation Act of 1964, as amended by 49 U.S.C. 5333(b), as determined by the Secretary of Labor, apply to:

(a) the department's establishment and operation of a public transit service or system;
and

(b) a lease, contract, or other arrangement that the department enters into for the operation of a public transit service or system.

(2) Whenever the department operates a public transit system or service, or enters into any lease, contract, or other arrangement for the operation of a public transit system or service, the department shall take such action as may be necessary to extend to employees or affected public transit service systems furnishing like services, in accordance with seniority, the first opportunity for reasonably comparable employment in any available nonsupervisory jobs in respect to such operations for which they can qualify after a reasonable training period.

(3) Employment under Subsection (2) shall not result in any worsening of the employee's position in the employee's former employment or any loss of wages, hours, working conditions, seniority, fringe benefits, and rights and privileges pertaining thereto.

Section 36. Section **72-14-106** is enacted to read:

72-14-106. Employees may organize and bargain collectively -- Strikes prohibited
-- District to enter into bargaining agreements.

(1) Except as provided in Subsection (2), employees of any public transit system established and operated by the department shall have the right to self-organization, to form, join, or assist labor organizations and to bargain collectively through representatives of their own choosing.

(2) Employees of a public transit system established and operated by the department and labor organizations may not join in any strike against the public transit system.

(3) The district shall recognize and bargain exclusively with any labor organization representing a majority of its employees in an appropriate unit with respect to wages, salaries, hours, working conditions, and welfare and pension and retirement provisions, and, upon reaching agreement with such labor organization, to enter into and execute a written contract incorporating therein the agreements so reached.

Section 37. Section **72-14-201** is enacted to read:

Part 2. Passenger Fares

72-14-201. Establishment of passenger fares.

(1) (a) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall set the amount of any rates or charges for public transit services provided.

(b) Rates and charges established under this section for public transit services provided shall be reasonable.

(c) To the extent practicable, rates and charges established by the commission under this Subsection (1) shall result in enough revenue to make the transit system self-supporting and sufficient to:

(i) pay the operating expenses of the public transit service provided;

(ii) provide for repairs, maintenance, and depreciation of works and property owned or operated by the department;

(iii) provide for the purchase, lease, or acquisition of property and equipment; and

(iv) provide for payment of contracts, agreements, leases, and other legal liabilities incurred by the department.

(2) Rates or charges collected under this section shall be deposited in the Public Transportation Fund created by Section 72-2-301.

3221 Section 38. Section **72-14-202** is enacted to read:

3222 **72-14-202. Failure to pay fare -- Infraction.**

3223 (1) A person may not ride a transit vehicle without payment of the applicable fare
3224 established by the commission.

3225 (2) A person who violates Subsection (1) is guilty of an infraction.

3226 Section 39. Section **72-14-203** is enacted to read:

3227 **72-14-203. Law enforcement officers.**

3228 (1) The department may employ law enforcement officers or contract with other law
3229 enforcement agencies to provide law enforcement services for public transit facilities.

3230 (2) A law enforcement officer employed or provided by contract under Subsection (1)
3231 is a law enforcement officer under Section 53-13-103 and shall be subject to the provisions of
3232 that section.

3233 Section 40. Section **76-10-1503** is amended to read:

3234 **76-10-1503. Definitions.**

3235 As used in this act:

3236 (1) "Bus" means any passenger bus or coach or other motor vehicle having a seating
3237 capacity of 15 or more passengers operated by a bus company for the purpose of carrying
3238 passengers or cargo for hire and includes a transit vehicle, as defined in Section 17A-2-1004,
3239 of;

3240 (a) a public transit district under Title 17A, Chapter 2, Part 10, Utah Public Transit
3241 District Act; or

3242 (b) the Department of Transportation.

3243 (2) "Bus company" or "company" means any person, group of persons or corporation
3244 providing for-hire transportation to passengers or cargo by bus upon the highways in the state,
3245 including passengers and cargo in interstate or intrastate travel. These terms also include local
3246 public bodies, public transit districts, municipalities, public corporations, boards and
3247 commissions established under the laws of the state providing transportation to passengers or
3248 cargo by bus upon the highways in the state, whether or not for hire.

3249 (3) "Charter" means a group of persons, pursuant to a common purpose and under a
3250 single contract, and at a fixed charge in accordance with a bus company's tariff, which has
3251 acquired the exclusive use of a bus to travel together to a specified destination or destinations.

3252 (4) "Passenger" means any person transported or served by a bus company, including
3253 persons accompanying or meeting another being transported, any person shipping or receiving
3254 cargo and any person purchasing a ticket or receiving a pass.

3255 (5) (a) "Terminal" means a bus station or depot or any other facility operated or leased
3256 by or operated on behalf of a bus company and includes a transit facility, as defined in Section
3257 17A-2-1004, of:

3258 (i) a public transit district under Title 17A, Chapter 2, Part 10, Utah Public Transit
3259 District Act; or

3260 (ii) the Department of Transportation.

3261 (b) ~~[This term]~~ "Terminal" includes a reasonable area immediately adjacent to any
3262 designated stop along the route traveled by any bus operated by a bus company and parking lots
3263 or areas adjacent to terminals.

3264 Section 41. **Repealer.**

3265 This bill repeals:

3266 Section **59-12-503, Public transit taxes -- Local option direct transfer.**

3267 Section 42. **Effective date.**

3268 This bill takes effect on January 1, 2008.

Legislative Review Note
as of 2-5-07 10:54 AM

Office of Legislative Research and General Counsel

H.B. 166 - Transportation Revisions

Fiscal Note

2007 General Session

State of Utah

State Impact

Provisions of this bill transfers the administrative functions and revenue stream of the Utah Transit Authority into the Department of Transportation. The Attorney General's cost to handle the merger and merged operations will require an appropriation of \$1,494,100 (including \$38,500 one-time office equipment costs) from the Transportation Fund to the Office of Attorney General in FY 2008. The bill increases the Transportation Commission by four members requiring an ongoing appropriation of \$25,100 from the Transportation Fund. The cost to the Tax Commission to send vendor bulletins informing them of tax rate changes will require a one-time appropriation of \$33,300 from the General Fund in FY 2008. It is unknown at this time if efficiencies or increased costs could be expected when combining administrative functions. Areas such as human resources, procurement processes, accounting policies and procedures, risk management, facility and construction procedures, auditing requirements, investment policies and procedures, bonding requirements and procedures will be required to undergo conversions to state systems. One time transition costs for these functions could be at least \$1,000,000, requiring that amount be appropriated as one-time funds from the Transportation Fund. If the decision is made to co-locate management functions, there would be an additional one-time expense which cannot be estimated at this time. Provisions of the bill will shift revenue from counties to the state for transit purposes. The FY 2008 change to the State is estimated to be a gain of \$62,711,300. And FY 2009 revenue shift is estimated to be gain of \$130,690,300 to the State.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>
General Fund, One-Time	\$0	\$33,300	\$0	\$0	\$0	\$0
Transportation Fund	\$0	\$2,519,200	\$1,480,700	\$0	\$0	\$0
Restricted Funds	\$0	\$0	\$0	\$0	\$62,711,300	\$130,690,300
Total	\$0	\$2,552,500	\$1,480,700	\$0	\$62,711,300	\$130,690,300

Individual, Business and/or Local Impact

Counties are estimated to receive \$32,588,100 less revenue in FY 2008 and \$67,913,500 less revenue in FY 2009 for transit purposes under provisions of the bill.