

**Representative Wayne A. Harper** proposes the following substitute bill:

**SALES AND USE TAX AMENDMENTS**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

Senate Sponsor: Wayne L. Niederhauser

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**LONG TITLE**

**General Description:**

This bill amends the Sales and Use Tax Act, the Transportation Code, and related provisions pertaining to local option sales and use taxes.

**Highlighted Provisions:**

This bill:

- ▶ requires property tax certified tax rate adjustments relating to the imposition of a sales and use tax under the Highways or Public Transit System Tax part;
- ▶ modifies the definition of "agreement sales and use tax";
- ▶ modifies provisions relating to the sales and use tax under the County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities part, including:
  - repealing voter approval requirements;
  - repealing a provision relating to the length of time the tax may be levied;
  - repealing provisions relating to the reauthorization of the tax;
  - modifying the purposes for which revenues collected from the tax may be expended;
  - modifying the distribution of the tax revenues; and
  - under certain circumstances requiring a county legislative body to transfer



- 26 certain revenues collected from the tax to a city or town under an interlocal agreement;
- 27       ▶ modifies provisions relating to the sales and use tax under the Highways or Public
- 28 Transit System Tax part, including:
- 29       • providing that a county may impose the tax;
- 30       • repealing voter approval requirements;
- 31       • limiting the time period for imposing the tax; and
- 32       • modifying the purposes for which revenues collected from the tax may be
- 33 expended;
- 34       ▶ repeals the City or Town Option Funding for Botanical, Cultural, Recreational, and
- 35 Zoological Organizations or Facilities part;
- 36       ▶ authorizes a county of the second class to impose a local option sales and use tax to
- 37 fund certain airport, highway, or public transit projects or services;
- 38       ▶ addresses the procedures and requirements for imposing the local option sales and
- 39 use tax to fund certain airport, highway, or public transit projects or services,
- 40 including providing that the sales and use tax is an agreement sales and use tax;
- 41       ▶ modifies the sources of funding for the Local Transportation Corridor Preservation
- 42 Fund;
- 43       ▶ creates a special revenue fund known as the County of the Second Class State
- 44 Highway Projects Fund, including:
- 45       • addressing funding of the fund; and
- 46       • addressing the purposes for which fund monies may be expended; and
- 47       ▶ making technical changes.

48 **Monies Appropriated in this Bill:**

49       None

50 **Other Special Clauses:**

51       This bill provides effective dates.

52       This bill provides revisor instructions.

53 **Utah Code Sections Affected:**

54 AMENDS:

55       **59-2-924**, as last amended by Laws of Utah 2007, Chapters 107 and 329

56       **59-12-102**, as last amended by Laws of Utah 2007, Chapters 9, 214, 224, and 288

- 57           **59-12-703**, as last amended by Laws of Utah 2007, Chapter 288
- 58           **59-12-704**, as last amended by Laws of Utah 2003, Chapter 296
- 59           **59-12-1001**, as last amended by Laws of Utah 2007, Chapters 288 and 329
- 60           **59-12-1002**, as last amended by Laws of Utah 2006, Chapter 253
- 61           **72-2-117.5**, as last amended by Laws of Utah 2007, Chapters 181 and 201

62 ENACTS:

- 63           **59-12-1901**, Utah Code Annotated 1953
- 64           **59-12-1902**, Utah Code Annotated 1953
- 65           **59-12-1903**, Utah Code Annotated 1953
- 66           **72-2-121.2**, Utah Code Annotated 1953

67 REPEALS:

- 68           **59-12-1401**, as last amended by Laws of Utah 2004, Chapter 317
- 69           **59-12-1402**, as last amended by Laws of Utah 2007, Chapter 288
- 70           **59-12-1403**, as enacted by Laws of Utah 2001, Chapter 192



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

73           Section 1. Section **59-2-924** is amended to read:

74           **59-2-924. Report of valuation of property to county auditor and commission --**  
 75 **Transmittal by auditor to governing bodies -- Certified tax rate -- Calculation of certified**  
 76 **tax rate -- Rulemaking authority -- Adoption of tentative budget.**

77           (1) (a) Before June 1 of each year, the county assessor of each county shall deliver to  
78 the county auditor and the commission the following statements:

79           (i) a statement containing the aggregate valuation of all taxable property in each taxing  
80 entity; and

81           (ii) a statement containing the taxable value of any additional personal property  
82 estimated by the county assessor to be subject to taxation in the current year.

83           (b) The county auditor shall, on or before June 8, transmit to the governing body of  
84 each taxing entity:

85           (i) the statements described in Subsections (1)(a)(i) and (ii);

86           (ii) an estimate of the revenue from personal property;

87           (iii) the certified tax rate; and

88 (iv) all forms necessary to submit a tax levy request.

89 (2) (a) (i) The "certified tax rate" means a tax rate that will provide the same ad  
90 valorem property tax revenues for a taxing entity as were budgeted by that taxing entity for the  
91 prior year.

92 (ii) For purposes of this Subsection (2), "ad valorem property tax revenues" do not  
93 include:

94 (A) collections from redemptions;

95 (B) interest;

96 (C) penalties; and

97 (D) revenue received by a taxing entity from personal property that is:

98 (I) assessed by a county assessor in accordance with Part 3, County Assessment; and

99 (II) semiconductor manufacturing equipment.

100 (iii) (A) Except as otherwise provided in this section, the certified tax rate shall be  
101 calculated by dividing the ad valorem property tax revenues budgeted for the prior year by the  
102 taxing entity by the amount calculated under Subsection (2)(a)(iii)(B).

103 (B) For purposes of Subsection (2)(a)(iii)(A), the legislative body of a taxing entity  
104 shall calculate an amount as follows:

105 (I) calculate for the taxing entity the difference between:

106 (Aa) the aggregate taxable value of all property taxed; and

107 (Bb) any redevelopment adjustments for the current calendar year;

108 (II) after making the calculation required by Subsection (2)(a)(iii)(B)(I), calculate an  
109 amount determined by increasing or decreasing the amount calculated under Subsection  
110 (2)(a)(iii)(B)(I) by the average of the percentage net change in the value of taxable property for  
111 the equalization period for the three calendar years immediately preceding the current calendar  
112 year;

113 (III) after making the calculation required by Subsection (2)(a)(iii)(B)(II), calculate the  
114 product of:

115 (Aa) the amount calculated under Subsection (2)(a)(iii)(B)(II); and

116 (Bb) the percentage of property taxes collected for the five calendar years immediately  
117 preceding the current calendar year; and

118 (IV) after making the calculation required by Subsection (2)(a)(iii)(B)(III), calculate an

119 amount determined by subtracting from the amount calculated under Subsection  
120 (2)(a)(iii)(B)(III) any new growth as defined in this section:  
121 (Aa) within the taxing entity; and  
122 (Bb) for the current calendar year.  
123 (C) For purposes of Subsection (2)(a)(iii)(B)(I), the aggregate taxable value of all  
124 property taxed:  
125 (I) except as provided in Subsection (2)(a)(iii)(C)(II), includes the total taxable value of  
126 the real and personal property contained on the tax rolls of the taxing entity; and  
127 (II) does not include the total taxable value of personal property contained on the tax  
128 rolls of the taxing entity that is:  
129 (Aa) assessed by a county assessor in accordance with Part 3, County Assessment; and  
130 (Bb) semiconductor manufacturing equipment.  
131 (D) For purposes of Subsection (2)(a)(iii)(B)(II), for calendar years beginning on or  
132 after January 1, 2007, the value of taxable property does not include the value of personal  
133 property that is:  
134 (I) within the taxing entity assessed by a county assessor in accordance with Part 3,  
135 County Assessment; and  
136 (II) semiconductor manufacturing equipment.  
137 (E) For purposes of Subsection (2)(a)(iii)(B)(III)(Bb), for calendar years beginning on  
138 or after January 1, 2007, the percentage of property taxes collected does not include property  
139 taxes collected from personal property that is:  
140 (I) within the taxing entity assessed by a county assessor in accordance with Part 3,  
141 County Assessment; and  
142 (II) semiconductor manufacturing equipment.  
143 (F) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
144 the commission may prescribe rules for calculating redevelopment adjustments for a calendar  
145 year.  
146 (iv) (A) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking  
147 Act, the commission shall make rules determining the calculation of ad valorem property tax  
148 revenues budgeted by a taxing entity.  
149 (B) For purposes of Subsection (2)(a)(iv)(A), ad valorem property tax revenues

150 budgeted by a taxing entity shall be calculated in the same manner as budgeted property tax  
151 revenues are calculated for purposes of Section 59-2-913.

152 (v) The certified tax rates for the taxing entities described in this Subsection (2)(a)(v)  
153 shall be calculated as follows:

154 (A) except as provided in Subsection (2)(a)(v)(B), for new taxing entities the certified  
155 tax rate is zero;

156 (B) for each municipality incorporated on or after July 1, 1996, the certified tax rate is:

157 (I) in a county of the first, second, or third class, the levy imposed for municipal-type  
158 services under Sections 17-34-1 and 17-36-9; and

159 (II) in a county of the fourth, fifth, or sixth class, the levy imposed for general county  
160 purposes and such other levies imposed solely for the municipal-type services identified in  
161 Section 17-34-1 and Subsection 17-36-3(22); and

162 (C) for debt service voted on by the public, the certified tax rate shall be the actual levy  
163 imposed by that section, except that the certified tax rates for the following levies shall be  
164 calculated in accordance with Section 59-2-913 and this section:

165 (I) school leeways provided for under Sections 11-2-7, 53A-16-110, 53A-17a-125,  
166 53A-17a-127, 53A-17a-133, 53A-17a-134, 53A-17a-143, 53A-17a-145, and 53A-21-103; and

167 (II) levies to pay for the costs of state legislative mandates or judicial or administrative  
168 orders under Section 59-2-906.3.

169 (vi) (A) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 shall be  
170 established at that rate which is sufficient to generate only the revenue required to satisfy one  
171 or more eligible judgments, as defined in Section 59-2-102.

172 (B) The ad valorem property tax revenue generated by the judgment levy shall not be  
173 considered in establishing the taxing entity's aggregate certified tax rate.

174 (b) (i) For the purpose of calculating the certified tax rate, the county auditor shall use  
175 the taxable value of property on the assessment roll.

176 (ii) For purposes of Subsection (2)(b)(i), the taxable value of property on the  
177 assessment roll does not include:

178 (A) new growth as defined in Subsection (2)(b)(iii); or

179 (B) the total taxable value of personal property contained on the tax rolls of the taxing  
180 entity that is:

181 (I) assessed by a county assessor in accordance with Part 3, County Assessment; and  
182 (II) semiconductor manufacturing equipment.

183 (iii) "New growth" means:

184 (A) the difference between the increase in taxable value of the taxing entity from the  
185 previous calendar year to the current year; minus

186 (B) the amount of an increase in taxable value described in Subsection (2)(b)(v).

187 (iv) For purposes of Subsection (2)(b)(iii), the taxable value of the taxing entity does  
188 not include the taxable value of personal property that is:

189 (A) contained on the tax rolls of the taxing entity if that property is assessed by a  
190 county assessor in accordance with Part 3, County Assessment; and

191 (B) semiconductor manufacturing equipment.

192 (v) Subsection (2)(b)(iii)(B) applies to the following increases in taxable value:

193 (A) the amount of increase to locally assessed real property taxable values resulting  
194 from factoring, reappraisal, or any other adjustments; or

195 (B) the amount of an increase in the taxable value of property assessed by the  
196 commission under Section 59-2-201 resulting from a change in the method of apportioning the  
197 taxable value prescribed by:

198 (I) the Legislature;

199 (II) a court;

200 (III) the commission in an administrative rule; or

201 (IV) the commission in an administrative order.

202 (c) (i) Beginning January 1, 1997, if a taxing entity receives increased revenues from  
203 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,  
204 59-2-405.2, or 59-2-405.3 as a result of any county imposing a sales and use tax under Chapter  
205 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax  
206 rate to offset the increased revenues.

207 (ii) A taxing entity shall decrease its certified tax rate to offset increased revenues from  
208 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,  
209 59-2-405.2, or 59-2-405.3 if:

210 (A) the city or town within which the taxing entity is located:

211 (I) on December 31, 2008, does not impose a tax in accordance with Section

212 59-12-1001; and

213 (II) on or after January 1, 2009, but on or before April 1, 2009, imposes a tax in  
214 accordance with Section 59-12-1001; and

215 (B) the taxing entity receives increased revenues from uniform fees on tangible  
216 personal property under Section 59-2-404, 59-2-405, 59-2-405.1, 59-2-405.2, or 59-2-405.3 as  
217 a result of the city or town imposing a sales and use tax under Section 59-12-1001.

218 (d) (i) ~~[Beginning]~~ Subject to Subsection (2)(d)(iii), beginning on July 1, 1997, if a  
219 county has imposed a sales and use tax under Chapter 12, Part 11, County Option Sales and  
220 Use Tax, the county's certified tax rate shall be:

221 (A) decreased on a one-time basis by the amount of the estimated sales and use tax  
222 revenue to be distributed to the county under Subsection 59-12-1102(3); and

223 (B) increased by the amount necessary to offset the county's reduction in revenue from  
224 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,  
225 59-2-405.2, or 59-2-405.3 as a result of the decrease in the certified tax rate under Subsection  
226 (2)(d)(i)(A).

227 ~~[(ii) The commission shall determine estimates of sales and use tax distributions for~~  
228 ~~purposes of Subsection (2)(d)(i).]~~

229 (ii) Subject to Subsections (2)(d)(iii) and (iv), if a city or town that, on December 31,  
230 2008, does not impose a tax in accordance with Section 59-12-1001, imposes a sales and use  
231 tax in accordance with Section 59-12-1001 on or after January 1, 2009, but on or before April  
232 1, 2009, the city's or town's certified tax rate shall be:

233 (A) decreased on a one-time basis by the amount of the estimated sales and use tax  
234 revenue under Section 59-12-1001 to be distributed to the city or town for the first year that the  
235 city or town imposes the tax; and

236 (B) increased by the amount necessary to offset the city's or town's reduction in  
237 revenue from uniform fees on tangible personal property under Section 59-2-404, 59-2-405,  
238 59-2-405.1, 59-2-405.2, or 59-2-405.3 as a result of the decrease in the certified tax rate under  
239 Subsection (2)(d)(ii)(A).

240 (iii) The commission shall determine estimates of sales and use tax distributions for  
241 purposes of Subsections (2)(d)(i)(A) and (2)(d)(ii)(A).

242 (iv) A certified tax rate increase or decrease required by Subsection (2)(d)(ii) shall be



243 made for the calendar year beginning on the January 1 of the year in which the sales and use  
244 tax is imposed that requires the certified tax rate to be increased or decreased in accordance  
245 with Subsection (2)(d)(ii).

246 (e) Beginning January 1, 1998, if a municipality has imposed an additional resort  
247 communities sales tax under Section 59-12-402, the municipality's certified tax rate shall be  
248 decreased on a one-time basis by the amount necessary to offset the first 12 months of  
249 estimated revenue from the additional resort communities sales and use tax imposed under  
250 Section 59-12-402.

251 (f) (i) (A) For fiscal year 2000, the certified tax rate of each county required under  
252 Subsection 17-34-1(4)(a) to provide advanced life support and paramedic services to the  
253 unincorporated area of the county shall be decreased by the amount necessary to reduce  
254 revenues in that fiscal year by an amount equal to the difference between the amount the county  
255 budgeted in its 2000 fiscal year budget for advanced life support and paramedic services  
256 countywide and the amount the county spent during fiscal year 2000 for those services,  
257 excluding amounts spent from a municipal services fund for those services.

258 (B) For fiscal year 2001, the certified tax rate of each county to which Subsection  
259 (2)(f)(i)(A) applies shall be decreased by the amount necessary to reduce revenues in that fiscal  
260 year by the amount that the county spent during fiscal year 2000 for advanced life support and  
261 paramedic services countywide, excluding amounts spent from a municipal services fund for  
262 those services.

263 (ii) (A) A city or town located within a county of the first class to which Subsection  
264 (2)(f)(i) applies may increase its certified tax rate by the amount necessary to generate within  
265 the city or town the same amount of revenues as the county would collect from that city or  
266 town if the decrease under Subsection (2)(f)(i) did not occur.

267 (B) An increase under Subsection (2)(f)(ii)(A), whether occurring in a single fiscal year  
268 or spread over multiple fiscal years, is not subject to the notice and hearing requirements of  
269 Sections 59-2-918 and 59-2-919.

270 (g) (i) The certified tax rate of each county required under Subsection 17-34-1(4)(b) to  
271 provide detective investigative services to the unincorporated area of the county shall be  
272 decreased:

273 (A) in fiscal year 2001 by the amount necessary to reduce revenues in that fiscal year

274 by at least \$4,400,000; and

275 (B) in fiscal year 2002 by the amount necessary to reduce revenues in that fiscal year  
276 by an amount equal to the difference between \$9,258,412 and the amount of the reduction in  
277 revenues under Subsection (2)(g)(i)(A).

278 (ii) (A) (I) Beginning with municipal fiscal year 2002, a city or town located within a  
279 county to which Subsection (2)(g)(i) applies may increase its certified tax rate to generate  
280 within the city or town the same amount of revenue as the county would have collected during  
281 county fiscal year 2001 from within the city or town except for Subsection (2)(g)(i)(A).

282 (II) Beginning with municipal fiscal year 2003, a city or town located within a county  
283 to which Subsection (2)(g)(i) applies may increase its certified tax rate to generate within the  
284 city or town the same amount of revenue as the county would have collected during county  
285 fiscal year 2002 from within the city or town except for Subsection (2)(g)(i)(B).

286 (B) (I) Except as provided in Subsection (2)(g)(ii)(B)(II), an increase in the city or  
287 town's certified tax rate under Subsection (2)(g)(ii)(A), whether occurring in a single fiscal year  
288 or spread over multiple fiscal years, is subject to the notice and hearing requirements of  
289 Sections 59-2-918 and 59-2-919.

290 (II) For an increase under this Subsection (2)(g)(ii) that generates revenue that does not  
291 exceed the same amount of revenue as the county would have collected except for Subsection  
292 (2)(g)(i), the requirements of Sections 59-2-918 and 59-2-919 do not apply if the city or town:

293 (Aa) publishes a notice that meets the size, type, placement, and frequency  
294 requirements of Section 59-2-919, reflects that the increase is a shift of a tax from one imposed  
295 by the county to one imposed by the city or town, and explains how the revenues from the tax  
296 increase will be used; and

297 (Bb) holds a public hearing on the tax shift that may be held in conjunction with the  
298 city or town's regular budget hearing.

299 (h) (i) This Subsection (2)(h) applies to each county that:

300 (A) establishes a countywide special service district under Title 17A, Chapter 2, Part  
301 13, Utah Special Service District Act, to provide jail service, as provided in Subsection  
302 17A-2-1304(1)(a)(x); and

303 (B) levies a property tax on behalf of the special service district under Section  
304 17A-2-1322.

305 (ii) (A) The certified tax rate of each county to which this Subsection (2)(h) applies  
306 shall be decreased by the amount necessary to reduce county revenues by the same amount of  
307 revenues that will be generated by the property tax imposed on behalf of the special service  
308 district.

309 (B) Each decrease under Subsection (2)(h)(ii)(A) shall occur contemporaneously with  
310 the levy on behalf of the special service district under Section 17A-2-1322.

311 (i) (i) As used in this Subsection (2)(i):

312 (A) "Annexing county" means a county whose unincorporated area is included within a  
313 fire district by annexation.

314 (B) "Annexing municipality" means a municipality whose area is included within a fire  
315 district by annexation.

316 (C) "Equalized fire protection tax rate" means the tax rate that results from:

317 (I) calculating, for each participating county and each participating municipality, the  
318 property tax revenue necessary to cover all of the costs associated with providing fire  
319 protection, paramedic, and emergency services:

320 (Aa) for a participating county, in the unincorporated area of the county; and

321 (Bb) for a participating municipality, in the municipality; and

322 (II) adding all the amounts calculated under Subsection (2)(i)(i)(C)(I) for all  
323 participating counties and all participating municipalities and then dividing that sum by the  
324 aggregate taxable value of the property, as adjusted in accordance with Section 59-2-913:

325 (Aa) for participating counties, in the unincorporated area of all participating counties;  
326 and

327 (Bb) for participating municipalities, in all the participating municipalities.

328 (D) "Fire district" means a service area under Title 17B, Chapter 2a, Part 9, Service  
329 Area Act, in the creation of which an election was not required under Subsection  
330 17B-1-214(3)(c).

331 (E) "Fire protection tax rate" means:

332 (I) for an annexing county, the property tax rate that, when applied to taxable property  
333 in the unincorporated area of the county, generates enough property tax revenue to cover all the  
334 costs associated with providing fire protection, paramedic, and emergency services in the  
335 unincorporated area of the county; and

336 (II) for an annexing municipality, the property tax rate that generates enough property  
337 tax revenue in the municipality to cover all the costs associated with providing fire protection,  
338 paramedic, and emergency services in the municipality.

339 (F) "Participating county" means a county whose unincorporated area is included  
340 within a fire district at the time of the creation of the fire district.

341 (G) "Participating municipality" means a municipality whose area is included within a  
342 fire district at the time of the creation of the fire district.

343 (ii) In the first year following creation of a fire district, the certified tax rate of each  
344 participating county and each participating municipality shall be decreased by the amount of  
345 the equalized fire protection tax rate.

346 (iii) In the first year following annexation to a fire district, the certified tax rate of each  
347 annexing county and each annexing municipality shall be decreased by the fire protection tax  
348 rate.

349 (iv) Each tax levied under this section by a fire district shall be considered to be levied  
350 by:

351 (A) each participating county and each annexing county for purposes of the county's  
352 tax limitation under Section 59-2-908; and

353 (B) each participating municipality and each annexing municipality for purposes of the  
354 municipality's tax limitation under Section 10-5-112, for a town, or Section 10-6-133, for a  
355 city.

356 (j) For the calendar year beginning on January 1, 2007, the calculation of a taxing  
357 entity's certified tax rate shall be adjusted by the amount necessary to offset any change in the  
358 certified tax rate that may result from excluding the following from the certified tax rate under  
359 Subsection (2)(a) enacted by the Legislature during the 2007 General Session:

360 (i) personal property tax revenue:

361 (A) received by a taxing entity;

362 (B) assessed by a county assessor in accordance with Part 3, County Assessment; and

363 (C) for personal property that is semiconductor manufacturing equipment; or

364 (ii) the taxable value of personal property:

365 (A) contained on the tax rolls of a taxing entity;

366 (B) assessed by a county assessor in accordance with Part 3, County Assessment; and

367 (C) that is semiconductor manufacturing equipment.  
368 (3) (a) On or before June 22, each taxing entity shall annually adopt a tentative budget.  
369 (b) If the taxing entity intends to exceed the certified tax rate, it shall notify the county  
370 auditor of:  
371 (i) its intent to exceed the certified tax rate; and  
372 (ii) the amount by which it proposes to exceed the certified tax rate.  
373 (c) The county auditor shall notify all property owners of any intent to exceed the  
374 certified tax rate in accordance with Subsection 59-2-919(2).  
375 (4) (a) The taxable value for the base year under Subsection 17C-1-102(6) shall be  
376 reduced for any year to the extent necessary to provide a community development and renewal  
377 agency established under Title 17C, Limited Purpose Local Government Entities - Community  
378 Development and Renewal Agencies, with approximately the same amount of money the  
379 agency would have received without a reduction in the county's certified tax rate if:  
380 (i) in that year there is a decrease in the certified tax rate under Subsection (2)(c) or  
381 (2)(d)(i);  
382 (ii) the amount of the decrease is more than 20% of the county's certified tax rate of the  
383 previous year; and  
384 (iii) the decrease results in a reduction of the amount to be paid to the agency under  
385 Section 17C-1-403 or 17C-1-404.  
386 (b) The base taxable value under Subsection 17C-1-102(6) shall be increased in any  
387 year to the extent necessary to provide a community development and renewal agency with  
388 approximately the same amount of money as the agency would have received without an  
389 increase in the certified tax rate that year if:  
390 (i) in that year the base taxable value under Subsection 17C-1-102(6) is reduced due to  
391 a decrease in the certified tax rate under Subsection (2)(c) or (2)(d)(i); and  
392 (ii) The certified tax rate of a city, school district, local district, or special service  
393 district increases independent of the adjustment to the taxable value of the base year.  
394 (c) Notwithstanding a decrease in the certified tax rate under Subsection (2)(c) or  
395 (2)(d)(i), the amount of money allocated and, when collected, paid each year to a community  
396 development and renewal agency established under Title 17C, Limited Purpose Local  
397 Government Entities - Community Development and Renewal Agencies, for the payment of

398 bonds or other contract indebtedness, but not for administrative costs, may not be less than that  
399 amount would have been without a decrease in the certified tax rate under Subsection (2)(c) or  
400 (2)(d)(i).

401 Section 2. Section **59-12-102** is amended to read:

402 **59-12-102. Definitions.**

403 As used in this chapter:

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

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

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

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

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

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

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

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

414 (b) Subsection 59-12-103(2)(b)(i);

415 (c) Subsection 59-12-103(2)(c)(i);

416 (d) Subsection 59-12-103(2)(d)(i);

417 (e) Subsection 59-12-103(2)(e)(ii)(A);

418 (f) Subsection 59-12-103(2)(e)(iii)(A);

419 (g) Section 59-12-204;

420 (h) Section 59-12-401;

421 (i) Section 59-12-402;

422 (j) Section 59-12-501;

423 (k) Section 59-12-502;

424 (l) Section 59-12-703;

425 (m) Section 59-12-802;

426 (n) Section 59-12-804;

427 (o) Section 59-12-1001;

428 (p) Section 59-12-1102;

- 429 (q) Section 59-12-1302;
- 430 (r) Section 59-12-1402;
- 431 (s) Section 59-12-1503; [~~or~~]
- 432 (t) Section 59-12-1703[-];
- 433 (u) Section 59-12-1802; or
- 434 (v) Section 59-12-1903.
- 435 (5) "Aircraft" is as defined in Section 72-10-102.
- 436 (6) "Alcoholic beverage" means a beverage that:
  - 437 (a) is suitable for human consumption; and
  - 438 (b) contains .5% or more alcohol by volume.
- 439 (7) "Area agency on aging" is as defined in Section 62A-3-101.
- 440 (8) "Assisted amusement device" means an amusement device, skill device, or ride
- 441 device that is started and stopped by an individual:
  - 442 (a) who is not the purchaser or renter of the right to use or operate the amusement
  - 443 device, skill device, or ride device; and
  - 444 (b) at the direction of the seller of the right to use the amusement device, skill device,
  - 445 or ride device.
- 446 (9) "Assisted cleaning or washing of tangible personal property" means cleaning or
- 447 washing of tangible personal property if the cleaning or washing labor is primarily performed
- 448 by an individual:
  - 449 (a) who is not the purchaser of the cleaning or washing of the tangible personal
  - 450 property; and
  - 451 (b) at the direction of the seller of the cleaning or washing of the tangible personal
  - 452 property.
- 453 (10) "Authorized carrier" means:
  - 454 (a) in the case of vehicles operated over public highways, the holder of credentials
  - 455 indicating that the vehicle is or will be operated pursuant to both the International Registration
  - 456 Plan and the International Fuel Tax Agreement;
  - 457 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
  - 458 certificate or air carrier's operating certificate; or
  - 459 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling

460 stock, the holder of a certificate issued by the United States Surface Transportation Board.

461 (11) (a) Except as provided in Subsection (11)(b), "biomass energy" means any of the  
462 following that is used as the primary source of energy to produce fuel or electricity:

463 (i) material from a plant or tree; or

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

465 (A) slash and brush from forests and woodlands;

466 (B) animal waste;

467 (C) methane produced:

468 (I) at landfills; or

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

470 (D) aquatic plants; and

471 (E) agricultural products.

472 (b) "Biomass energy" does not include:

473 (i) black liquor;

474 (ii) treated woods; or

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

476 (A) at landfills; or

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

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

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

481 and

482 (ii) the items of tangible personal property are:

483 (A) distinct and identifiable; and

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

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

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

490 (i) packaging that:



- 491 (A) accompanies the sale of the tangible personal property; and
- 492 (B) is incidental or immaterial to the sale of the tangible personal property;
- 493 (ii) tangible personal property provided free of charge with the purchase of another
- 494 item of tangible personal property; or
- 495 (iii) an item of tangible personal property included in the definition of "purchase
- 496 price."

497 (d) For purposes of Subsection (12)(c)(ii), an item of tangible personal property is

498 provided free of charge with the purchase of another item of tangible personal property if the

499 sales price of the purchased item of tangible personal property does not vary depending on the

500 inclusion of the tangible personal property provided free of charge.

501 (13) "Certified automated system" means software certified by the governing board of

502 the agreement in accordance with Section 59-12-102.1 that:

- 503 (a) calculates the agreement sales and use tax imposed within a local taxing
- 504 jurisdiction:
- 505 (i) on a transaction; and
- 506 (ii) in the states that are members of the agreement;
- 507 (b) determines the amount of agreement sales and use tax to remit to a state that is a
- 508 member of the agreement; and
- 509 (c) maintains a record of the transaction described in Subsection (13)(a)(i).

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

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

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

516 (15) (a) Subject to Subsection (15)(b), "clothing" means all human wearing apparel

517 suitable for general use.

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

519 commission shall make rules:

- 520 (i) listing the items that constitute "clothing"; and
- 521 (ii) that are consistent with the list of items that constitute "clothing" under the

522 agreement.

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

524 (17) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other  
525 fuels that does not constitute industrial use under Subsection (42) or residential use under  
526 Subsection (80).

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

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

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

535 (19) "Component part" includes:

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

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

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

541 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

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

- 553 (24) (a) "Delivery charge" means a charge:  
554 (i) by a seller of:  
555 (A) tangible personal property; or  
556 (B) services; and  
557 (ii) for preparation and delivery of the tangible personal property or services described  
558 in Subsection (24)(a)(i) to a location designated by the purchaser.  
559 (b) "Delivery charge" includes a charge for the following:  
560 (i) transportation;  
561 (ii) shipping;  
562 (iii) postage;  
563 (iv) handling;  
564 (v) crating; or  
565 (vi) packing.  
566 (25) (a) "Dental prosthesis" means the following if fabricated in a laboratory:  
567 (i) a bridge;  
568 (ii) a crown if that crown covers at least 75% of a tooth structure;  
569 (iii) a denture;  
570 (iv) an implant;  
571 (v) an orthodontic device designed to:  
572 (A) retain the position or spacing of teeth; and  
573 (B) replace a missing tooth;  
574 (vi) a partial denture; or  
575 (vii) a device similar to Subsections (25)(a)(i) through (vi).  
576 (b) "Dental prosthesis" does not include an appliance or device, other than a device  
577 described in Subsection (25)(a), if that appliance or device is used in orthodontic therapy to  
578 apply force to the teeth and their supporting structures to:  
579 (i) produce changes in their relationship to each other; and  
580 (ii) control their growth and development.  
581 (26) "Dietary supplement" means a product, other than tobacco, that:  
582 (a) is intended to supplement the diet;  
583 (b) contains one or more of the following dietary ingredients:

- 584 (i) a vitamin;
- 585 (ii) a mineral;
- 586 (iii) an herb or other botanical;
- 587 (iv) an amino acid;
- 588 (v) a dietary substance for use by humans to supplement the diet by increasing the total  
589 dietary intake; or
- 590 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient  
591 described in Subsections (26)(b)(i) through (v);
- 592 (c) (i) except as provided in Subsection (26)(c)(ii), is intended for ingestion in:
- 593 (A) tablet form;
- 594 (B) capsule form;
- 595 (C) powder form;
- 596 (D) softgel form;
- 597 (E) gelcap form; or
- 598 (F) liquid form; or
- 599 (ii) notwithstanding Subsection (26)(c)(i), if the product is not intended for ingestion in  
600 a form described in Subsections (26)(c)(i)(A) through (F), is not represented:
- 601 (A) as conventional food; and
- 602 (B) for use as a sole item of:
- 603 (I) a meal; or
- 604 (II) the diet; and
- 605 (d) is required to be labeled as a dietary supplement:
- 606 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 607 (ii) as required by 21 C.F.R. Sec. 101.36.
- 608 (27) (a) "Direct mail" means printed material delivered or distributed by United States  
609 mail or other delivery service:
- 610 (i) to:
- 611 (A) a mass audience; or
- 612 (B) addressees on a mailing list provided by a purchaser of the mailing list; and
- 613 (ii) if the cost of the printed material is not billed directly to the recipients.
- 614 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a

615 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

616 (c) "Direct mail" does not include multiple items of printed material delivered to a  
617 single address.

618 (28) (a) "Disposable home medical equipment or supplies" means medical equipment  
619 or supplies that:

620 (i) cannot withstand repeated use; and

621 (ii) are purchased by, for, or on behalf of a person other than:

622 (A) a health care facility as defined in Section 26-21-2;

623 (B) a health care provider as defined in Section 78-14-3;

624 (C) an office of a health care provider described in Subsection (28)(a)(ii)(B); or

625 (D) a person similar to a person described in Subsections (28)(a)(ii)(A) through (C).

626 (b) "Disposable home medical equipment or supplies" does not include:

627 (i) a drug;

628 (ii) durable medical equipment;

629 (iii) a hearing aid;

630 (iv) a hearing aid accessory;

631 (v) mobility enhancing equipment; or

632 (vi) tangible personal property used to correct impaired vision, including:

633 (A) eyeglasses; or

634 (B) contact lenses.

635 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
636 commission may by rule define what constitutes medical equipment or supplies.

637 (29) (a) "Drug" means a compound, substance, or preparation, or a component of a  
638 compound, substance, or preparation that is:

639 (i) recognized in:

640 (A) the official United States Pharmacopoeia;

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

642 (C) the official National Formulary; or

643 (D) a supplement to a publication listed in Subsections (29)(a)(i)(A) through (C);

644 (ii) intended for use in the:

645 (A) diagnosis of disease;

- 646 (B) cure of disease;
- 647 (C) mitigation of disease;
- 648 (D) treatment of disease; or
- 649 (E) prevention of disease; or
- 650 (iii) intended to affect:
- 651 (A) the structure of the body; or
- 652 (B) any function of the body.
- 653 (b) "Drug" does not include:
- 654 (i) food and food ingredients;
- 655 (ii) a dietary supplement;
- 656 (iii) an alcoholic beverage; or
- 657 (iv) a prosthetic device.
- 658 (30) (a) Except as provided in Subsection (30)(c), "durable medical equipment" means
- 659 equipment that:
- 660 (i) can withstand repeated use;
- 661 (ii) is primarily and customarily used to serve a medical purpose;
- 662 (iii) generally is not useful to a person in the absence of illness or injury; and
- 663 (iv) is not worn in or on the body.
- 664 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 665 equipment described in Subsection (30)(a).
- 666 (c) Notwithstanding Subsection (30)(a), "durable medical equipment" does not include
- 667 mobility enhancing equipment.
- 668 (31) "Electronic" means:
- 669 (a) relating to technology; and
- 670 (b) having:
- 671 (i) electrical capabilities;
- 672 (ii) digital capabilities;
- 673 (iii) magnetic capabilities;
- 674 (iv) wireless capabilities;
- 675 (v) optical capabilities;
- 676 (vi) electromagnetic capabilities; or

- 677 (vii) capabilities similar to Subsections (31)(b)(i) through (vi).
- 678 (32) "Employee" is as defined in Section 59-10-401.
- 679 (33) "Fixed guideway" means a public transit facility that uses and occupies:
  - 680 (a) rail for the use of public transit; or
  - 681 (b) a separate right-of-way for the use of public transit.
- 682 (34) (a) "Food and food ingredients" means substances:
  - 683 (i) regardless of whether the substances are in:
    - 684 (A) liquid form;
    - 685 (B) concentrated form;
    - 686 (C) solid form;
    - 687 (D) frozen form;
    - 688 (E) dried form; or
    - 689 (F) dehydrated form; and
  - 690 (ii) that are:
    - 691 (A) sold for:
      - 692 (I) ingestion by humans; or
      - 693 (II) chewing by humans; and
    - 694 (B) consumed for the substance's:
      - 695 (I) taste; or
      - 696 (II) nutritional value.
  - 697 (b) "Food and food ingredients" includes an item described in Subsection (66)(b)(iii).
  - 698 (c) "Food and food ingredients" does not include:
    - 699 (i) an alcoholic beverage;
    - 700 (ii) tobacco; or
    - 701 (iii) prepared food.
- 702 (35) (a) "Fundraising sales" means sales:
  - 703 (i) (A) made by a school; or
  - 704 (B) made by a school student;
  - 705 (ii) that are for the purpose of raising funds for the school to purchase equipment,
  - 706 materials, or provide transportation; and
  - 707 (iii) that are part of an officially sanctioned school activity.

708 (b) For purposes of Subsection (35)(a)(iii), "officially sanctioned school activity"  
709 means a school activity:

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

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

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

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

718 (37) "Governing board of the agreement" means the governing board of the agreement  
719 that is:

720 (a) authorized to administer the agreement; and

721 (b) established in accordance with the agreement.

722 (38) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

723 (i) the executive branch of the state, including all departments, institutions, boards,  
724 divisions, bureaus, offices, commissions, and committees;

725 (ii) the judicial branch of the state, including the courts, the Judicial Council, the  
726 Office of the Court Administrator, and similar administrative units in the judicial branch;

727 (iii) the legislative branch of the state, including the House of Representatives, the  
728 Senate, the Legislative Printing Office, the Office of Legislative Research and General  
729 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal  
730 Analyst;

731 (iv) the National Guard;

732 (v) an independent entity as defined in Section 63E-1-102; or

733 (vi) a political subdivision as defined in Section 17B-1-102.

734 (b) "Governmental entity" does not include the state systems of public and higher  
735 education, including:

736 (i) a college campus of the Utah College of Applied Technology;

737 (ii) a school;

738 (iii) the State Board of Education;



- 739 (iv) the State Board of Regents; or
- 740 (v) a state institution of higher education as defined in Section 53B-3-102.
- 741 (39) (a) "Hearing aid" means:
- 742 (i) an instrument or device having an electronic component that is designed to:
- 743 (A) (I) improve impaired human hearing; or
- 744 (II) correct impaired human hearing; and
- 745 (B) (I) be worn in the human ear; or
- 746 (II) affixed behind the human ear;
- 747 (ii) an instrument or device that is surgically implanted into the cochlea; or
- 748 (iii) a telephone amplifying device.
- 749 (b) "Hearing aid" does not include:
- 750 (i) except as provided in Subsection (39)(a)(i)(B) or (39)(a)(ii), an instrument or device
- 751 having an electronic component that is designed to be worn on the body;
- 752 (ii) except as provided in Subsection (39)(a)(iii), an assistive listening device or system
- 753 designed to be used by one individual, including:
- 754 (A) a personal amplifying system;
- 755 (B) a personal FM system;
- 756 (C) a television listening system; or
- 757 (D) a device or system similar to a device or system described in Subsections
- 758 (39)(b)(ii)(A) through (C); or
- 759 (iii) an assistive listening device or system designed to be used by more than one
- 760 individual, including:
- 761 (A) a device or system installed in:
- 762 (I) an auditorium;
- 763 (II) a church;
- 764 (III) a conference room;
- 765 (IV) a synagogue; or
- 766 (V) a theater; or
- 767 (B) a device or system similar to a device or system described in Subsections
- 768 (39)(b)(iii)(A)(I) through (V).
- 769 (40) (a) "Hearing aid accessory" means a hearing aid:

- 770 (i) component;
- 771 (ii) attachment; or
- 772 (iii) accessory.
- 773 (b) "Hearing aid accessory" includes:
- 774 (i) a hearing aid neck loop;
- 775 (ii) a hearing aid cord;
- 776 (iii) a hearing aid ear mold;
- 777 (iv) hearing aid tubing;
- 778 (v) a hearing aid ear hook; or
- 779 (vi) a hearing aid remote control.
- 780 (c) "Hearing aid accessory" does not include:
- 781 (i) a component, attachment, or accessory designed to be used only with an:
- 782 (A) instrument or device described in Subsection (39)(b)(i); or
- 783 (B) assistive listening device or system described in Subsection (39)(b)(ii) or (iii); or
- 784 (ii) a hearing aid battery.
- 785 (41) "Hydroelectric energy" means water used as the sole source of energy to produce
- 786 electricity.
- 787 (42) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 788 other fuels:
- 789 (a) in mining or extraction of minerals;
- 790 (b) in agricultural operations to produce an agricultural product up to the time of
- 791 harvest or placing the agricultural product into a storage facility, including:
- 792 (i) commercial greenhouses;
- 793 (ii) irrigation pumps;
- 794 (iii) farm machinery;
- 795 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
- 796 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 797 (v) other farming activities;
- 798 (c) in manufacturing tangible personal property at an establishment described in SIC
- 799 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 800 Executive Office of the President, Office of Management and Budget;

801 (d) by a scrap recycler if:

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

805 (A) iron;

806 (B) steel;

807 (C) nonferrous metal;

808 (D) paper;

809 (E) glass;

810 (F) plastic;

811 (G) textile; or

812 (H) rubber; and

813 (ii) the new products under Subsection (42)(d)(i) would otherwise be made with  
814 nonrecycled materials; or

815 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a  
816 cogeneration facility as defined in Section 54-2-1.

817 (43) (a) Except as provided in Subsection (43)(b), "installation charge" means a charge  
818 for installing tangible personal property.

819 (b) Notwithstanding Subsection (43)(a), "installation charge" does not include a charge  
820 for repairs or renovations of tangible personal property.

821 (44) (a) "Lease" or "rental" means a transfer of possession or control of tangible  
822 personal property for:

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

824 (B) an indeterminate term; and

825 (ii) consideration.

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

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

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

832 deferred payment plan that requires the transfer of title upon completion of the required  
833 payments;

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

836 (A) upon completion of required payments; and

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

838 (I) \$100; or

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

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

843 (d) For purposes of Subsection (44)(c)(iii), an operator is necessary for equipment to  
844 perform as designed if the operator's duties exceed the:

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

846 (ii) maintenance of tangible personal property; or

847 (iii) inspection of tangible personal property.

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

850 (46) "Local taxing jurisdiction" means a:

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

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

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

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

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

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

857 Industrial Classification Manual of the federal Executive Office of the President, Office of  
858 Management and Budget;

859 (b) a scrap recycler if:

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

- 863 (A) iron;
- 864 (B) steel;
- 865 (C) nonferrous metal;
- 866 (D) paper;
- 867 (E) glass;
- 868 (F) plastic;
- 869 (G) textile; or
- 870 (H) rubber; and
- 871 (ii) the new products under Subsection (48)(b)(i) would otherwise be made with
- 872 nonrecycled materials; or
- 873 (c) a cogeneration facility as defined in Section 54-2-1.
- 874 (49) "Member of the immediate family of the producer" means a person who is related
- 875 to a producer described in Subsection 59-12-104(20)(a) as a:
- 876 (a) child or stepchild, regardless of whether the child or stepchild is:
- 877 (i) an adopted child or adopted stepchild; or
- 878 (ii) a foster child or foster stepchild;
- 879 (b) grandchild or stepgrandchild;
- 880 (c) grandparent or stepgrandparent;
- 881 (d) nephew or stepnephew;
- 882 (e) niece or stepniece;
- 883 (f) parent or stepparent;
- 884 (g) sibling or stepsibling;
- 885 (h) spouse;
- 886 (i) person who is the spouse of a person described in Subsections (49)(a) through (g);
- 887 or
- 888 (j) person similar to a person described in Subsections (49)(a) through (i) as
- 889 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah
- 890 Administrative Rulemaking Act.
- 891 (50) "Mobile home" is as defined in Section 58-56-3.
- 892 (51) "Mobile telecommunications service" is as defined in the Mobile
- 893 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

894 (52) (a) Except as provided in Subsection (52)(c), "mobility enhancing equipment"  
895 means equipment that is:

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

898 (ii) appropriate for use in a:

899 (A) home; or

900 (B) motor vehicle; and

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

902 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of  
903 the equipment described in Subsection (52)(a).

904 (c) Notwithstanding Subsection (52)(a), "mobility enhancing equipment" does not  
905 include:

906 (i) a motor vehicle;

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

909 (iii) durable medical equipment; or

910 (iv) a prosthetic device.

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

915 (54) "Model 2 seller" means a seller that:

916 (a) except as provided in Subsection (54)(b), has selected a certified automated system  
917 to perform the seller's sales tax functions for agreement sales and use taxes; and

918 (b) notwithstanding Subsection (54)(a), retains responsibility for remitting all of the  
919 sales tax:

920 (i) collected by the seller; and

921 (ii) to the appropriate local taxing jurisdiction.

922 (55) (a) Subject to Subsection (55)(b), "model 3 seller" means a seller that has:

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

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

- 925 (iii) a proprietary system that calculates the amount of tax:
- 926 (A) for an agreement sales and use tax; and
- 927 (B) due to each local taxing jurisdiction; and
- 928 (iv) entered into a performance agreement with the governing board of the agreement.
- 929 (b) For purposes of Subsection (55)(a), "model 3 seller" includes an affiliated group of
- 930 sellers using the same proprietary system.
- 931 (56) "Modular home" means a modular unit as defined in Section 58-56-3.
- 932 (57) "Motor vehicle" is as defined in Section 41-1a-102.
- 933 (58) "Oil shale" means a group of fine black to dark brown shales containing
- 934 bituminous material that yields petroleum upon distillation.
- 935 (59) (a) "Other fuels" means products that burn independently to produce heat or
- 936 energy.
- 937 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
- 938 personal property.
- 939 (60) "Pawnbroker" is as defined in Section 13-32a-102.
- 940 (61) "Pawn transaction" is as defined in Section 13-32a-102.
- 941 (62) (a) "Permanently attached to real property" means that for tangible personal
- 942 property attached to real property:
- 943 (i) the attachment of the tangible personal property to the real property:
- 944 (A) is essential to the use of the tangible personal property; and
- 945 (B) suggests that the tangible personal property will remain attached to the real
- 946 property in the same place over the useful life of the tangible personal property; or
- 947 (ii) if the tangible personal property is detached from the real property, the detachment
- 948 would:
- 949 (A) cause substantial damage to the tangible personal property; or
- 950 (B) require substantial alteration or repair of the real property to which the tangible
- 951 personal property is attached.
- 952 (b) "Permanently attached to real property" includes:
- 953 (i) the attachment of an accessory to the tangible personal property if the accessory is:
- 954 (A) essential to the operation of the tangible personal property; and
- 955 (B) attached only to facilitate the operation of the tangible personal property;

956 (ii) a temporary detachment of tangible personal property from real property for a  
957 repair or renovation if the repair or renovation is performed where the tangible personal  
958 property and real property are located; or

959 (iii) an attachment of the following tangible personal property to real property,  
960 regardless of whether the attachment to real property is only through a line that supplies water,  
961 electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by  
962 rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

963 (A) property attached to oil, gas, or water pipelines, other than the property listed in  
964 Subsection (62)(c)(iii);

965 (B) a hot water heater;

966 (C) a water softener system; or

967 (D) a water filtration system, other than a water filtration system manufactured as part  
968 of a refrigerator.

969 (c) "Permanently attached to real property" does not include:

970 (i) the attachment of portable or movable tangible personal property to real property if  
971 that portable or movable tangible personal property is attached to real property only for:

972 (A) convenience;

973 (B) stability; or

974 (C) for an obvious temporary purpose;

975 (ii) the detachment of tangible personal property from real property other than the  
976 detachment described in Subsection (62)(b)(ii); or

977 (iii) an attachment of the following tangible personal property to real property if the  
978 attachment to real property is only through a line that supplies water, electricity, gas, telephone,  
979 cable, or supplies a similar item as determined by the commission by rule made in accordance  
980 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

981 (A) a refrigerator;

982 (B) a washer;

983 (C) a dryer;

984 (D) a stove;

985 (E) a television;

986 (F) a computer;



987 (G) a telephone; or

988 (H) tangible personal property similar to Subsections (62)(c)(iii)(A) through (G) as  
989 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah  
990 Administrative Rulemaking Act.

991 (63) "Person" includes any individual, firm, partnership, joint venture, association,  
992 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,  
993 municipality, district, or other local governmental entity of the state, or any group or  
994 combination acting as a unit.

995 (64) "Place of primary use":

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

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

1000 (ii) the primary business street address of the purchaser; or

1001 (b) for mobile telecommunications service, is as defined in the Mobile  
1002 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1003 (65) "Postproduction" means an activity related to the finishing or duplication of a  
1004 medium described in Subsection 59-12-104(56)(a).

1005 (66) (a) "Prepared food" means:

1006 (i) food:

1007 (A) sold in a heated state; or

1008 (B) heated by a seller;

1009 (ii) two or more food ingredients mixed or combined by the seller for sale as a single  
1010 item; or

1011 (iii) except as provided in Subsection (66)(c), food sold with an eating utensil provided  
1012 by the seller, including a:

1013 (A) plate;

1014 (B) knife;

1015 (C) fork;

1016 (D) spoon;

1017 (E) glass;

- 1018 (F) cup;
- 1019 (G) napkin; or
- 1020 (H) straw.
- 1021 (b) "Prepared food" does not include:
- 1022 (i) food that a seller only:
- 1023 (A) cuts;
- 1024 (B) repackages; or
- 1025 (C) pasteurizes; or
- 1026 (ii) (A) the following:
- 1027 (I) raw egg;
- 1028 (II) raw fish;
- 1029 (III) raw meat;
- 1030 (IV) raw poultry; or
- 1031 (V) a food containing an item described in Subsections (66)(b)(ii)(A)(I) through (IV);
- 1032 and
- 1033 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 1034 Food and Drug Administration's Food Code that a consumer cook the items described in
- 1035 Subsection (66)(b)(ii)(A) to prevent food borne illness; or
- 1036 (iii) the following if sold without eating utensils provided by the seller:
- 1037 (A) food and food ingredients sold by a seller if the seller's proper primary
- 1038 classification under the 2002 North American Industry Classification System of the federal
- 1039 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 1040 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 1041 Manufacturing;
- 1042 (B) food and food ingredients sold in an unheated state:
- 1043 (I) by weight or volume; and
- 1044 (II) as a single item; or
- 1045 (C) a bakery item, including:
- 1046 (I) a bagel;
- 1047 (II) a bar;
- 1048 (III) a biscuit;

- 1049 (IV) bread;
- 1050 (V) a bun;
- 1051 (VI) a cake;
- 1052 (VII) a cookie;
- 1053 (VIII) a croissant;
- 1054 (IX) a danish;
- 1055 (X) a donut;
- 1056 (XI) a muffin;
- 1057 (XII) a pastry;
- 1058 (XIII) a pie;
- 1059 (XIV) a roll;
- 1060 (XV) a tart;
- 1061 (XVI) a torte; or
- 1062 (XVII) a tortilla.
- 1063 (c) Notwithstanding Subsection (66)(a)(iii), an eating utensil provided by the seller
- 1064 does not include the following used to transport the food:
  - 1065 (i) a container; or
  - 1066 (ii) packaging.
- 1067 (67) "Prescription" means an order, formula, or recipe that is issued:
  - 1068 (a) (i) orally;
  - 1069 (ii) in writing;
  - 1070 (iii) electronically; or
  - 1071 (iv) by any other manner of transmission; and
  - 1072 (b) by a licensed practitioner authorized by the laws of a state.
- 1073 (68) (a) Except as provided in Subsection (68)(b)(ii) or (iii), "prewritten computer
- 1074 software" means computer software that is not designed and developed:
  - 1075 (i) by the author or other creator of the computer software; and
  - 1076 (ii) to the specifications of a specific purchaser.
  - 1077 (b) "Prewritten computer software" includes:
    - 1078 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
    - 1079 software is not designed and developed:

- 1080 (A) by the author or other creator of the computer software; and
- 1081 (B) to the specifications of a specific purchaser;
- 1082 (ii) notwithstanding Subsection (68)(a), computer software designed and developed by
- 1083 the author or other creator of the computer software to the specifications of a specific purchaser
- 1084 if the computer software is sold to a person other than the purchaser; or
- 1085 (iii) notwithstanding Subsection (68)(a) and except as provided in Subsection (68)(c),
- 1086 prewritten computer software or a prewritten portion of prewritten computer software:
- 1087 (A) that is modified or enhanced to any degree; and
- 1088 (B) if the modification or enhancement described in Subsection (68)(b)(iii)(A) is
- 1089 designed and developed to the specifications of a specific purchaser.
- 1090 (c) Notwithstanding Subsection (68)(b)(iii), "prewritten computer software" does not
- 1091 include a modification or enhancement described in Subsection (68)(b)(iii) if the charges for
- 1092 the modification or enhancement are:
- 1093 (i) reasonable; and
- 1094 (ii) separately stated on the invoice or other statement of price provided to the
- 1095 purchaser.
- 1096 (69) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 1097 (i) artificially replace a missing portion of the body;
- 1098 (ii) prevent or correct a physical deformity or physical malfunction; or
- 1099 (iii) support a weak or deformed portion of the body.
- 1100 (b) "Prosthetic device" includes:
- 1101 (i) parts used in the repairs or renovation of a prosthetic device;
- 1102 (ii) replacement parts for a prosthetic device; or
- 1103 (iii) a dental prosthesis.
- 1104 (c) "Prosthetic device" does not include:
- 1105 (i) corrective eyeglasses;
- 1106 (ii) contact lenses; or
- 1107 (iii) hearing aids.
- 1108 (70) (a) "Protective equipment" means an item:
- 1109 (i) for human wear; and
- 1110 (ii) that is:

- 1111 (A) designed as protection:
- 1112 (I) to the wearer against injury or disease; or
- 1113 (II) against damage or injury of other persons or property; and
- 1114 (B) not suitable for general use.
- 1115 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1116 commission shall make rules:
- 1117 (i) listing the items that constitute "protective equipment"; and
- 1118 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1119 under the agreement.
- 1120 (71) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
- 1121 printed matter, other than a photocopy:
- 1122 (i) regardless of:
- 1123 (A) characteristics;
- 1124 (B) copyright;
- 1125 (C) form;
- 1126 (D) format;
- 1127 (E) method of reproduction; or
- 1128 (F) source; and
- 1129 (ii) made available in printed or electronic format.
- 1130 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1131 commission may by rule define the term "photocopy."
- 1132 (72) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 1133 (i) valued in money; and
- 1134 (ii) for which tangible personal property or services are:
- 1135 (A) sold;
- 1136 (B) leased; or
- 1137 (C) rented.
- 1138 (b) "Purchase price" and "sales price" include:
- 1139 (i) the seller's cost of the tangible personal property or services sold;
- 1140 (ii) expenses of the seller, including:
- 1141 (A) the cost of materials used;

- 1142 (B) a labor cost;
- 1143 (C) a service cost;
- 1144 (D) interest;
- 1145 (E) a loss;
- 1146 (F) the cost of transportation to the seller; or
- 1147 (G) a tax imposed on the seller; or
- 1148 (iii) a charge by the seller for any service necessary to complete the sale.
- 1149 (c) "Purchase price" and "sales price" do not include:
- 1150 (i) a discount:
- 1151 (A) in a form including:
- 1152 (I) cash;
- 1153 (II) term; or
- 1154 (III) coupon;
- 1155 (B) that is allowed by a seller;
- 1156 (C) taken by a purchaser on a sale; and
- 1157 (D) that is not reimbursed by a third party; or
- 1158 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 1159 provided to the purchaser:
- 1160 (A) the amount of a trade-in;
- 1161 (B) the following from credit extended on the sale of tangible personal property or
- 1162 services:
- 1163 (I) interest charges;
- 1164 (II) financing charges; or
- 1165 (III) carrying charges;
- 1166 (C) a tax or fee legally imposed directly on the consumer;
- 1167 (D) a delivery charge; or
- 1168 (E) an installation charge.
- 1169 (73) "Purchaser" means a person to whom:
- 1170 (a) a sale of tangible personal property is made; or
- 1171 (b) a service is furnished.
- 1172 (74) "Regularly rented" means:

1173 (a) rented to a guest for value three or more times during a calendar year; or  
1174 (b) advertised or held out to the public as a place that is regularly rented to guests for  
1175 value.

1176 (75) "Renewable energy" means:

- 1177 (a) biomass energy;
- 1178 (b) hydroelectric energy;
- 1179 (c) geothermal energy;
- 1180 (d) solar energy; or
- 1181 (e) wind energy.

1182 (76) (a) "Renewable energy production facility" means a facility that:

- 1183 (i) uses renewable energy to produce electricity; and
- 1184 (ii) has a production capacity of 20 kilowatts or greater.

1185 (b) A facility is a renewable energy production facility regardless of whether the  
1186 facility is:

- 1187 (i) connected to an electric grid; or
- 1188 (ii) located on the premises of an electricity consumer.

1189 (77) "Rental" is as defined in Subsection (44).

1190 (78) "Repairs or renovations of tangible personal property" means:

- 1191 (a) a repair or renovation of tangible personal property that is not permanently attached  
1192 to real property; or
- 1193 (b) attaching tangible personal property to other tangible personal property if the other  
1194 tangible personal property to which the tangible personal property is attached is not  
1195 permanently attached to real property.

1196 (79) "Research and development" means the process of inquiry or experimentation  
1197 aimed at the discovery of facts, devices, technologies, or applications and the process of  
1198 preparing those devices, technologies, or applications for marketing.

1199 (80) "Residential use" means the use in or around a home, apartment building, sleeping  
1200 quarters, and similar facilities or accommodations.

1201 (81) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
1202 than:

- 1203 (a) resale;

1204 (b) sublease; or

1205 (c) subrent.

1206 (82) (a) "Retailer" means any person engaged in a regularly organized business in  
1207 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and  
1208 who is selling to the user or consumer and not for resale.

1209 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
1210 engaged in the business of selling to users or consumers within the state.

1211 (83) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
1212 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
1213 Subsection 59-12-103(1), for consideration.

1214 (b) "Sale" includes:

1215 (i) installment and credit sales;

1216 (ii) any closed transaction constituting a sale;

1217 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
1218 chapter;

1219 (iv) any transaction if the possession of property is transferred but the seller retains the  
1220 title as security for the payment of the price; and

1221 (v) any transaction under which right to possession, operation, or use of any article of  
1222 tangible personal property is granted under a lease or contract and the transfer of possession  
1223 would be taxable if an outright sale were made.

1224 (84) "Sale at retail" is as defined in Subsection (81).

1225 (85) "Sale-leaseback transaction" means a transaction by which title to tangible  
1226 personal property that is subject to a tax under this chapter is transferred:

1227 (a) by a purchaser-lessee;

1228 (b) to a lessor;

1229 (c) for consideration; and

1230 (d) if:

1231 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase  
1232 of the tangible personal property;

1233 (ii) the sale of the tangible personal property to the lessor is intended as a form of  
1234 financing;



- 1235 (A) for the property; and
- 1236 (B) to the purchaser-lessee; and
- 1237 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
- 1238 is required to:
  - 1239 (A) capitalize the property for financial reporting purposes; and
  - 1240 (B) account for the lease payments as payments made under a financing arrangement.
- 1241 (86) "Sales price" is as defined in Subsection (72).
- 1242 (87) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
- 1243 amounts charged by a school:
  - 1244 (i) sales that are directly related to the school's educational functions or activities
  - 1245 including:
    - 1246 (A) the sale of:
      - 1247 (I) textbooks;
      - 1248 (II) textbook fees;
      - 1249 (III) laboratory fees;
      - 1250 (IV) laboratory supplies; or
      - 1251 (V) safety equipment;
    - 1252 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
  - 1253 that:
    - 1254 (I) a student is specifically required to wear as a condition of participation in a
    - 1255 school-related event or school-related activity; and
    - 1256 (II) is not readily adaptable to general or continued usage to the extent that it takes the
    - 1257 place of ordinary clothing;
    - 1258 (C) sales of the following if the net or gross revenues generated by the sales are
    - 1259 deposited into a school district fund or school fund dedicated to school meals:
      - 1260 (I) food and food ingredients; or
      - 1261 (II) prepared food; or
      - 1262 (D) transportation charges for official school activities; or
    - 1263 (ii) amounts paid to or amounts charged by a school for admission to a school-related
    - 1264 event or school-related activity.
  - 1265 (b) "Sales relating to schools" does not include:

- 1266 (i) bookstore sales of items that are not educational materials or supplies;
- 1267 (ii) except as provided in Subsection (87)(a)(i)(B):
- 1268 (A) clothing;
- 1269 (B) clothing accessories or equipment;
- 1270 (C) protective equipment; or
- 1271 (D) sports or recreational equipment; or
- 1272 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1273 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1274 (A) other than a:
- 1275 (I) school;
- 1276 (II) nonprofit organization authorized by a school board or a governing body of a
- 1277 private school to organize and direct a competitive secondary school activity; or
- 1278 (III) nonprofit association authorized by a school board or a governing body of a
- 1279 private school to organize and direct a competitive secondary school activity; and
- 1280 (B) that is required to collect sales and use taxes under this chapter.
- 1281 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1282 commission may make rules defining the term "passed through."
- 1283 (88) For purposes of this section and Section 59-12-104, "school":
- 1284 (a) means:
- 1285 (i) an elementary school or a secondary school that:
- 1286 (A) is a:
- 1287 (I) public school; or
- 1288 (II) private school; and
- 1289 (B) provides instruction for one or more grades kindergarten through 12; or
- 1290 (ii) a public school district; and
- 1291 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1292 (89) "Seller" means a person that makes a sale, lease, or rental of:
- 1293 (a) tangible personal property; or
- 1294 (b) a service.
- 1295 (90) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1296 means tangible personal property:

- 1297 (i) used primarily in the process of:
- 1298 (A) (I) manufacturing a semiconductor;
- 1299 (II) fabricating a semiconductor; or
- 1300 (III) research or development of a:
- 1301 (Aa) semiconductor; or
- 1302 (Bb) semiconductor manufacturing process; or
- 1303 (B) maintaining an environment suitable for a semiconductor; or
- 1304 (ii) consumed primarily in the process of:
- 1305 (A) (I) manufacturing a semiconductor;
- 1306 (II) fabricating a semiconductor; or
- 1307 (III) research or development of a:
- 1308 (Aa) semiconductor; or
- 1309 (Bb) semiconductor manufacturing process; or
- 1310 (B) maintaining an environment suitable for a semiconductor.
- 1311 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1312 includes:
- 1313 (i) parts used in the repairs or renovations of tangible personal property described in
- 1314 Subsection (90)(a); or
- 1315 (ii) a chemical, catalyst, or other material used to:
- 1316 (A) produce or induce in a semiconductor a:
- 1317 (I) chemical change; or
- 1318 (II) physical change;
- 1319 (B) remove impurities from a semiconductor; or
- 1320 (C) improve the marketable condition of a semiconductor.
- 1321 (91) "Senior citizen center" means a facility having the primary purpose of providing
- 1322 services to the aged as defined in Section 62A-3-101.
- 1323 (92) "Simplified electronic return" means the electronic return:
- 1324 (a) described in Section 318(C) of the agreement; and
- 1325 (b) approved by the governing board of the agreement.
- 1326 (93) "Solar energy" means the sun used as the sole source of energy for producing
- 1327 electricity.

- 1328 (94) (a) "Sports or recreational equipment" means an item:  
1329 (i) designed for human use; and  
1330 (ii) that is:  
1331 (A) worn in conjunction with:  
1332 (I) an athletic activity; or  
1333 (II) a recreational activity; and  
1334 (B) not suitable for general use.  
1335 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1336 commission shall make rules:  
1337 (i) listing the items that constitute "sports or recreational equipment"; and  
1338 (ii) that are consistent with the list of items that constitute "sports or recreational  
1339 equipment" under the agreement.  
1340 (95) "State" means the state of Utah, its departments, and agencies.  
1341 (96) "Storage" means any keeping or retention of tangible personal property or any  
1342 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except  
1343 sale in the regular course of business.  
1344 (97) (a) "Tangible personal property" means personal property that:  
1345 (i) may be:  
1346 (A) seen;  
1347 (B) weighed;  
1348 (C) measured;  
1349 (D) felt; or  
1350 (E) touched; or  
1351 (ii) is in any manner perceptible to the senses.  
1352 (b) "Tangible personal property" includes:  
1353 (i) electricity;  
1354 (ii) water;  
1355 (iii) gas;  
1356 (iv) steam; or  
1357 (v) prewritten computer software.  
1358 (98) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon

1359 and require further processing other than mechanical blending before becoming finished  
1360 petroleum products.

1361 (99) (a) "Telecommunications enabling or facilitating equipment, machinery, or  
1362 software" means an item listed in Subsection (99)(b) if that item is purchased or leased  
1363 primarily to enable or facilitate one or more of the following to function:

1364 (i) telecommunications switching or routing equipment, machinery, or software; or

1365 (ii) telecommunications transmission equipment, machinery, or software.

1366 (b) The following apply to Subsection (99)(a):

1367 (i) a pole;

1368 (ii) software;

1369 (iii) a supplementary power supply;

1370 (iv) temperature or environmental equipment or machinery;

1371 (v) test equipment;

1372 (vi) a tower; or

1373 (vii) equipment, machinery, or software that functions similarly to an item listed in

1374 Subsections (99)(b)(i) through (vi) as determined by the commission by rule made in

1375 accordance with Subsection (99)(c).

1376 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1377 commission may by rule define what constitutes equipment, machinery, or software that

1378 functions similarly to an item listed in Subsections (99)(b)(i) through (vi).

1379 (100) "Telecommunications equipment, machinery, or software required for 911  
1380 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.  
1381 Sec. 20.18.

1382 (101) "Telecommunications maintenance or repair equipment, machinery, or software"

1383 means equipment, machinery, or software purchased or leased primarily to maintain or repair

1384 one or more of the following, regardless of whether the equipment, machinery, or software is

1385 purchased or leased as a spare part or as an upgrade or modification to one or more of the

1386 following:

1387 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1388 (b) telecommunications switching or routing equipment, machinery, or software; or

1389 (c) telecommunications transmission equipment, machinery, or software.

1390 (102) (a) "Telecommunications switching or routing equipment, machinery, or  
1391 software" means an item listed in Subsection (102)(b) if that item is purchased or leased  
1392 primarily for switching or routing:

- 1393 (i) voice communications;
- 1394 (ii) data communications; or
- 1395 (iii) telephone service.

1396 (b) The following apply to Subsection (102)(a):

- 1397 (i) a bridge;
- 1398 (ii) a computer;
- 1399 (iii) a cross connect;
- 1400 (iv) a modem;
- 1401 (v) a multiplexer;
- 1402 (vi) plug in circuitry;
- 1403 (vii) a router;
- 1404 (viii) software;
- 1405 (ix) a switch; or

1406 (x) equipment, machinery, or software that functions similarly to an item listed in  
1407 Subsections (102)(b)(i) through (ix) as determined by the commission by rule made in  
1408 accordance with Subsection (102)(c).

1409 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1410 commission may by rule define what constitutes equipment, machinery, or software that  
1411 functions similarly to an item listed in Subsections (102)(b)(i) through (ix).

1412 (103) (a) "Telecommunications transmission equipment, machinery, or software"  
1413 means an item listed in Subsection (103)(b) if that item is purchased or leased primarily for  
1414 sending, receiving, or transporting:

- 1415 (i) voice communications;
- 1416 (ii) data communications; or
- 1417 (iii) telephone service.

1418 (b) The following apply to Subsection (103)(a):

- 1419 (i) an amplifier;
- 1420 (ii) a cable;

- 1421 (iii) a closure;
- 1422 (iv) a conduit;
- 1423 (v) a controller;
- 1424 (vi) a duplexer;
- 1425 (vii) a filter;
- 1426 (viii) an input device;
- 1427 (ix) an input/output device;
- 1428 (x) an insulator;
- 1429 (xi) microwave machinery or equipment;
- 1430 (xii) an oscillator;
- 1431 (xiii) an output device;
- 1432 (xiv) a pedestal;
- 1433 (xv) a power converter;
- 1434 (xvi) a power supply;
- 1435 (xvii) a radio channel;
- 1436 (xviii) a radio receiver;
- 1437 (xix) a radio transmitter;
- 1438 (xx) a repeater;
- 1439 (xxi) software;
- 1440 (xxii) a terminal;
- 1441 (xxiii) a timing unit;
- 1442 (xxiv) a transformer;
- 1443 (xxv) a wire; or
- 1444 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1445 Subsections (103)(b)(i) through (xxv) as determined by the commission by rule made in
- 1446 accordance with Subsection (103)(c).

1447 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1448 commission may by rule define what constitutes equipment, machinery, or software that

1449 functions similarly to an item listed in Subsections (103)(b)(i) through (xxv).

1450 (104) (a) "Telephone service" means a two-way transmission:

1451 (i) by:

- 1452 (A) wire;
- 1453 (B) radio;
- 1454 (C) lightwave; or
- 1455 (D) other electromagnetic means; and
- 1456 (ii) of one or more of the following:
  - 1457 (A) a sign;
  - 1458 (B) a signal;
  - 1459 (C) writing;
  - 1460 (D) an image;
  - 1461 (E) sound;
  - 1462 (F) a message;
  - 1463 (G) data; or
  - 1464 (H) other information of any nature.
- 1465 (b) "Telephone service" includes:
  - 1466 (i) mobile telecommunications service;
  - 1467 (ii) private communications service; or
  - 1468 (iii) automated digital telephone answering service.
- 1469 (c) "Telephone service" does not include a service or a transaction that a state or a
- 1470 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
- 1471 Tax Freedom Act, Pub. L. No. 105-277.
- 1472 (105) Notwithstanding where a call is billed or paid, "telephone service address"
- 1473 means:
  - 1474 (a) if the location described in this Subsection (105)(a) is known, the location of the
  - 1475 telephone service equipment:
    - 1476 (i) to which a call is charged; and
    - 1477 (ii) from which the call originates or terminates;
  - 1478 (b) if the location described in Subsection (105)(a) is not known but the location
  - 1479 described in this Subsection (105)(b) is known, the location of the origination point of the
  - 1480 signal of the telephone service first identified by:
    - 1481 (i) the telecommunications system of the seller; or
    - 1482 (ii) if the system used to transport the signal is not that of the seller, information



1483 received by the seller from its service provider; or

1484 (c) if the locations described in Subsection (105)(a) or (b) are not known, the location  
1485 of a purchaser's primary place of use.

1486 (106) (a) "Telephone service provider" means a person that:

1487 (i) owns, controls, operates, or manages a telephone service; and

1488 (ii) engages in an activity described in Subsection (106)(a)(i) for the shared use with or  
1489 resale to any person of the telephone service.

1490 (b) A person described in Subsection (106)(a) is a telephone service provider whether  
1491 or not the Public Service Commission of Utah regulates:

1492 (i) that person; or

1493 (ii) the telephone service that the person owns, controls, operates, or manages.

1494 (107) "Tobacco" means:

1495 (a) a cigarette;

1496 (b) a cigar;

1497 (c) chewing tobacco;

1498 (d) pipe tobacco; or

1499 (e) any other item that contains tobacco.

1500 (108) "Unassisted amusement device" means an amusement device, skill device, or  
1501 ride device that is started and stopped by the purchaser or renter of the right to use or operate  
1502 the amusement device, skill device, or ride device.

1503 (109) (a) "Use" means the exercise of any right or power over tangible personal  
1504 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that  
1505 property, item, or service.

1506 (b) "Use" does not include the sale, display, demonstration, or trial of that property in  
1507 the regular course of business and held for resale.

1508 (110) (a) Subject to Subsection (110)(b), "vehicle" means the following that are  
1509 required to be titled, registered, or titled and registered:

1510 (i) an aircraft as defined in Section 72-10-102;

1511 (ii) a vehicle as defined in Section 41-1a-102;

1512 (iii) an off-highway vehicle as defined in Section 41-22-2; or

1513 (iv) a vessel as defined in Section 41-1a-102.

1514 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:  
1515 (i) a vehicle described in Subsection (110)(a); or  
1516 (ii) (A) a locomotive;  
1517 (B) a freight car;  
1518 (C) railroad work equipment; or  
1519 (D) other railroad rolling stock.  
1520 (111) "Vehicle dealer" means a person engaged in the business of buying, selling, or  
1521 exchanging a vehicle as defined in Subsection (110).

1522 (112) (a) Except as provided in Subsection (112)(b), "waste energy facility" means a  
1523 facility that generates electricity:

1524 (i) using as the primary source of energy waste materials that would be placed in a  
1525 landfill or refuse pit if it were not used to generate electricity, including:

1526 (A) tires;

1527 (B) waste coal; or

1528 (C) oil shale; and

1529 (ii) in amounts greater than actually required for the operation of the facility.

1530 (b) "Waste energy facility" does not include a facility that incinerates:

1531 (i) municipal solid waste;

1532 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or

1533 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1534 (113) "Watercraft" means a vessel as defined in Section 73-18-2.

1535 (114) "Wind energy" means wind used as the sole source of energy to produce  
1536 electricity.

1537 (115) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic  
1538 location by the United States Postal Service.

1539 Section 3. Section **59-12-703** is amended to read:

1540 **59-12-703. Imposition of tax -- Base -- Rate -- Uses of tax monies -- Enactment or**  
1541 **repeal of tax -- Effective date -- Notice requirements.**

1542 (1) (a) (i) A county legislative body may [~~submit an opinion question to the residents of~~  
1543 ~~that county, by majority vote of all members of the legislative body, so that each resident of the~~  
1544 ~~county, except residents in municipalities that have already imposed a sales and use tax under~~

1545 ~~Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological~~  
 1546 ~~Organizations or Facilities, has an opportunity to express the resident's opinion on the~~  
 1547 ~~imposition of a local] by a majority vote of the members of the county legislative body impose~~  
 1548 ~~a sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located~~  
 1549 ~~within the county[, to fund recreational and zoological facilities, botanical, cultural, and~~  
 1550 ~~zoological organizations, and rural radio stations, in that county], including the cities and towns~~  
 1551 ~~located in the county.~~

1552 (ii) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a  
 1553 tax under this section on:

1554 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
 1555 are exempt from taxation under Section 59-12-104;

1556 ~~[(B) sales and uses within municipalities that have already imposed a sales and use tax~~  
 1557 ~~under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and~~  
 1558 ~~Zoological Organizations or Facilities;]~~

1559 ~~[(C) (B) amounts paid or charged by a seller that collects a tax under Subsection~~  
 1560 ~~59-12-107(1)(b); and~~

1561 ~~[(D) (C) except as provided in Subsection (1)(c), amounts paid or charged for food~~  
 1562 ~~and food ingredients.~~

1563 (b) For purposes of this Subsection (1), the location of a transaction shall be  
 1564 determined in accordance with Section 59-12-207.

1565 (c) A county legislative body imposing a tax under this section shall impose the tax on  
 1566 amounts paid or charged for food and food ingredients if:

1567 (i) the food and food ingredients are sold as part of a bundled transaction attributable to  
 1568 food and food ingredients and tangible personal property other than food and food ingredients;  
 1569 and

1570 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in  
 1571 accordance with Subsection 59-12-107(1)(b).

1572 ~~[(d) The election shall follow the procedures outlined in Title 11, Chapter 14, Local~~  
 1573 ~~Government Bonding Act.]~~

1574 ~~[(2) (a) If the county legislative body determines that a majority of the county's~~  
 1575 ~~registered voters voting on the imposition of the tax have voted in favor of the imposition of~~

1576 the tax as prescribed in Subsection (1)(a), the county legislative body may impose the tax by a  
1577 majority vote of all members of the legislative body on the transactions:]

1578 [(i) described in Subsection (1); and]

1579 [(ii) within the county, including the cities and towns located in the county, except  
1580 those cities and towns that have already imposed a sales and use tax under Part 14, City or  
1581 Town Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or  
1582 Facilities.]

1583 [(b) A county legislative body may revise county ordinances to reflect statutory  
1584 changes to the distribution formula or eligible recipients of revenues generated from a tax  
1585 imposed under Subsection (2)(a):]

1586 [(i) after the county legislative body submits an opinion question to residents of the  
1587 county in accordance with Subsection (1) giving them the opportunity to express their opinion  
1588 on the proposed revisions to county ordinances; and]

1589 [(ii) if the county legislative body determines that a majority of those voting on the  
1590 opinion question have voted in favor of the revisions.]

1591 [(3)] (2) [The monies generated from any] Subject to Section 59-12-704, the revenues  
1592 collected from a tax imposed under [Subsection (2)] this section shall be [used for funding]  
1593 expended as follows:

1594 (a) a county legislative body of a county of the first class shall expend revenues  
1595 collected from a tax imposed under this section to fund:

1596 [(a)] (i) recreational facilities and zoological facilities located within the county or a  
1597 city or town located in the county[-; except a city or town that has already imposed a sales and  
1598 use tax under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and  
1599 Zoological Organizations or Facilities]; and

1600 [(b)] (ii) ongoing operating expenses of:

1601 [(i)] (A) recreational facilities described in Subsection [(3)] (2)(a)(i);

1602 [(ii)] (B) botanical, cultural, and zoological organizations within the county; and

1603 [(iii)] (C) rural radio stations within the county[-]; or

1604 (b) a county of the second, third, fourth, fifth, or sixth class shall:

1605 (i) deposit the revenues collected from a tax imposed under this section into the  
1606 county's general fund; and

1607 (ii) expend the revenues collected from a tax imposed under this section for the same  
 1608 purposes for which the county expends the county's general fund revenues.

1609 [~~(4)~~] (3) (a) [~~A~~] Except as provided in Subsection (3)(b), a tax authorized under this  
 1610 part shall be: [~~(i) except as provided in Subsection (4)(b);~~] administered, collected, and  
 1611 enforced in accordance with:

1612 [~~A~~] (i) the same procedures used to administer, collect, and enforce the tax under:

1613 [~~(B)~~] (A) Part 1, Tax Collection; or

1614 [~~(B)~~] (B) Part 2, Local Sales and Use Tax Act; and

1615 [~~(B)~~] (ii) Chapter 1, General Taxation Policies~~;~~ and].

1616 [~~(ii) levied for a period of ten years and may be reauthorized at the end of the ten-year~~  
 1617 ~~period in accordance with this section.]~~

1618 (b) [~~Notwithstanding Subsection (4)(a)(i), a~~] A tax under this part is not subject to  
 1619 Subsections 59-12-205(2) through (7).

1620 [~~(5)~~] (4) (a) For purposes of this Subsection [~~(5)~~] (4):

1621 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,  
 1622 Annexation to County.

1623 (ii) "Annexing area" means an area that is annexed into a county.

1624 (b) (i) Except as provided in Subsection [~~(5)~~] (4)(c) or (d), if, on or after July 1, 2004, a  
 1625 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

1626 (A) on the first day of a calendar quarter; and

1627 (B) after a 90-day period beginning on the date the commission receives notice meeting  
 1628 the requirements of Subsection [~~(5)~~] (4)(b)(ii) from the county.

1629 (ii) The notice described in Subsection [~~(5)~~] (4)(b)(i)(B) shall state:

1630 (A) that the county will enact or repeal a tax under this part;

1631 (B) the statutory authority for the tax described in Subsection [~~(5)~~] (4)(b)(ii)(A);

1632 (C) the effective date of the tax described in Subsection [~~(5)~~] (4)(b)(ii)(A); and

1633 (D) if the county enacts the tax described in Subsection [~~(5)~~] (4)(b)(ii)(A), the rate of  
 1634 the tax.

1635 (c) (i) Notwithstanding Subsection [~~(5)~~] (4)(b)(i), for a transaction described in  
 1636 Subsection [~~(5)~~] (4)(c)(iii), the enactment of a tax shall take effect on the first day of the first  
 1637 billing period:

- 1638 (A) that begins after the effective date of the enactment of the tax; and
- 1639 (B) if the billing period for the transaction begins before the effective date of the
- 1640 enactment of the tax under this section.
- 1641 (ii) Notwithstanding Subsection [~~5~~] 4(b)(i), for a transaction described in
- 1642 Subsection [~~5~~] 4(c)(iii), the repeal of a tax shall take effect on the first day of the last billing
- 1643 period:
- 1644 (A) that began before the effective date of the repeal of the tax; and
- 1645 (B) if the billing period for the transaction begins before the effective date of the repeal
- 1646 of the tax imposed under this section.
- 1647 (iii) Subsections [~~5~~] 4(c)(i) and (ii) apply to transactions subject to a tax under:
- 1648 (A) Subsection 59-12-103(1)(b);
- 1649 (B) Subsection 59-12-103(1)(c);
- 1650 (C) Subsection 59-12-103(1)(d);
- 1651 (D) Subsection 59-12-103(1)(e);
- 1652 (E) Subsection 59-12-103(1)(f);
- 1653 (F) Subsection 59-12-103(1)(g);
- 1654 (G) Subsection 59-12-103(1)(h);
- 1655 (H) Subsection 59-12-103(1)(i);
- 1656 (I) Subsection 59-12-103(1)(j); or
- 1657 (J) Subsection 59-12-103(1)(k).
- 1658 (d) (i) Notwithstanding Subsection [~~5~~] 4(b)(i), if a tax due under this chapter on a
- 1659 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 1660 enactment or repeal of a tax described in Subsection [~~5~~] 4(b)(i) takes effect:
- 1661 (A) on the first day of a calendar quarter; and
- 1662 (B) beginning 60 days after the effective date of the enactment or repeal under
- 1663 Subsection [~~5~~] 4(b)(i).
- 1664 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 1665 the commission may by rule define the term "catalogue sale."
- 1666 (e) (i) Except as provided in Subsection [~~5~~] 4(f) or (g), if, for an annexation that
- 1667 occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax
- 1668 under this part for an annexing area, the enactment or repeal shall take effect:

- 1669 (A) on the first day of a calendar quarter; and
- 1670 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 1671 the requirements of Subsection [~~(5)~~] (4)(e)(ii) from the county that annexes the annexing area.
- 1672 (ii) The notice described in Subsection [~~(5)~~] (4)(e)(i)(B) shall state:
- 1673 (A) that the annexation described in Subsection [~~(5)~~] (4)(e)(i) will result in an
- 1674 enactment or repeal of a tax under this part for the annexing area;
- 1675 (B) the statutory authority for the tax described in Subsection [~~(5)~~] (4)(e)(ii)(A);
- 1676 (C) the effective date of the tax described in Subsection [~~(5)~~] (4)(e)(ii)(A); and
- 1677 (D) the rate of the tax described in Subsection [~~(5)~~] (4)(e)(ii)(A).
- 1678 (f) (i) Notwithstanding Subsection [~~(5)~~] (4)(e)(i), for a transaction described in
- 1679 Subsection [~~(5)~~] (4)(f)(iii), the enactment of a tax shall take effect on the first day of the first
- 1680 billing period:
- 1681 (A) that begins after the effective date of the enactment of the tax; and
- 1682 (B) if the billing period for the transaction begins before the effective date of the
- 1683 enactment of the tax under this section.
- 1684 (ii) Notwithstanding Subsection [~~(5)~~] (4)(e)(i), for a transaction described in
- 1685 Subsection [~~(5)~~] (4)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing
- 1686 period:
- 1687 (A) that began before the effective date of the repeal of the tax; and
- 1688 (B) if the billing period for the transaction begins before the effective date of the repeal
- 1689 of the tax imposed under this section.
- 1690 (iii) Subsections [~~(5)~~] (4)(f)(i) and (ii) apply to transactions subject to a tax under:
- 1691 (A) Subsection 59-12-103(1)(b);
- 1692 (B) Subsection 59-12-103(1)(c);
- 1693 (C) Subsection 59-12-103(1)(d);
- 1694 (D) Subsection 59-12-103(1)(e);
- 1695 (E) Subsection 59-12-103(1)(f);
- 1696 (F) Subsection 59-12-103(1)(g);
- 1697 (G) Subsection 59-12-103(1)(h);
- 1698 (H) Subsection 59-12-103(1)(i);
- 1699 (I) Subsection 59-12-103(1)(j); or

1700 (J) Subsection 59-12-103(1)(k).

1701 (g) (i) Notwithstanding Subsection [~~(5)~~] (4)(e)(i), if a tax due under this chapter on a  
1702 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an  
1703 enactment or repeal of a tax described in Subsection [~~(5)~~] (4)(e)(i) takes effect:

1704 (A) on the first day of a calendar quarter; and

1705 (B) beginning 60 days after the effective date of the enactment or repeal under  
1706 Subsection [~~(5)~~] (4)(e)(i).

1707 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
1708 the commission may by rule define the term "catalogue sale."

1709 Section 4. Section **59-12-704** is amended to read:

1710 **59-12-704. Distribution of revenues -- Advisory board creation -- Determining**  
1711 **operating expenses.**

1712 (1) Except as provided in Subsections (3)(b) and (5), and subject to [~~the requirements~~  
1713 ~~of this section~~] Subsection (7), [~~any~~] revenues collected by a county of the first class under this  
1714 part shall be distributed annually by the county legislative body [~~to support recreational and~~  
1715 ~~zoological facilities and botanical, cultural, and zoological organizations~~] for a purpose  
1716 described in Subsection 59-12-703(3)(a) within that [~~first class~~] county of the first class as  
1717 follows:

1718 (a) 30% of the revenue collected by the county under this section shall be distributed  
1719 by the county legislative body to support recreational facilities located within the county;

1720 (b) (i) subject to Subsection (1)(b)(ii) and except as provided in Subsection (1)(b)(iii),  
1721 12-1/8% of the revenue collected by the county under this section shall be distributed by the  
1722 county legislative body to support no more than three zoological facilities and organizations  
1723 located within the county, with 94.5% of that revenue being distributed to zoological facilities  
1724 and organizations with average annual operating expenses of \$2,000,000 or more and 5.5% of  
1725 that revenue being distributed to zoological facilities and organizations with average annual  
1726 operating expenses of less than \$2,000,000;

1727 (ii) except as provided in Subsection (1)(b)(iii), the county legislative body shall  
1728 distribute the monies described in Subsection (1)(b)(i) among the zoological facilities and  
1729 organizations in proportion to their average annual operating expenses as determined under  
1730 Subsection (3); and



1731 (iii) if a zoological facility or organization is created or relocated within the county  
1732 after June 1, 2003, the county legislative body shall distribute the monies described in  
1733 Subsection (1)(b)(i) as it determines appropriate;

1734 (c) (i) 48-7/8% of the revenue collected by the county under this section shall be  
1735 distributed to no more than 23 botanical and cultural organizations with average annual  
1736 operating expenses of more than \$250,000 as determined under Subsection (3);

1737 (ii) subject to Subsection (1)(c)(iii), the county legislative body shall distribute the  
1738 monies described in Subsection (1)(c)(i) among the organizations and in proportion to their  
1739 average annual operating expenses as determined under Subsection (3); and

1740 (iii) the amount distributed to any organization described in Subsection (1)(c)(i) may  
1741 not exceed 35% of the organization's operating budget; and

1742 (d) (i) 9% of the revenue collected by the county under this section shall be distributed  
1743 to botanical and cultural organizations that do not receive revenue under Subsection (1)(c)(i);  
1744 and

1745 (ii) the county legislative body shall determine how the monies shall be distributed  
1746 among the organizations described in Subsection (1)(d)(i).

1747 (2) (a) The county legislative body of each county of the first class that imposes a tax  
1748 under this part shall create an advisory board to advise the county legislative body on  
1749 disbursement of funds to botanical and cultural organizations under Subsection (1)(c)(i).

1750 (b) (i) The advisory board under Subsection (2)(a) shall consist of seven members  
1751 appointed by the county legislative body.

1752 (ii) In a county of the first class, two of the seven members of the advisory board under  
1753 Subsection (2)(a) shall be appointed from the Utah Arts Council.

1754 (3) (a) Except as provided in Subsection (3)(b), to be eligible to receive monies  
1755 collected by the county under this part, a botanical, cultural, and zoological organization  
1756 located within a county of the first class shall, every three years:

1757 (i) calculate their average annual operating expenses based upon audited operating  
1758 expenses for three preceding fiscal years; and

1759 (ii) submit to the appropriate county legislative body:

1760 (A) a verified audit of annual operating expenses for each of those three preceding  
1761 fiscal years; and

1762 (B) the average annual operating expenses as calculated under Subsection (3)(a)(i).

1763 (b) ~~[Notwithstanding Subsection (3)(a), the]~~ The county legislative body described in  
1764 Subsection (3)(a)(ii) may waive the operating expenses reporting requirements under  
1765 Subsection (3)(a) for organizations described in Subsection (1)(d)(i).

1766 (4) When calculating average annual operating expenses as described in Subsection  
1767 (3), each botanical, cultural, and zoological organization shall use the same three-year fiscal  
1768 period as determined by the county legislative body.

1769 (5) (a) By July 1 of each year, the county legislative body of a first class county may  
1770 index the threshold amount in Subsections (1)(c) and (d).

1771 (b) Any change under Subsection (5)(a) shall be rounded off to the nearest \$100.

1772 ~~[(6) (a) Beginning on July 1, 2001, in a county except for a county of the first class, the~~  
1773 ~~county legislative body shall by ordinance provide for the distribution of the entire amount of~~  
1774 ~~the revenues generated by the tax imposed by this section as provided in this Subsection (6).]~~

1775 ~~[(b) Pursuant to an interlocal agreement established in accordance with Title 11,~~  
1776 ~~Chapter 13, Interlocal Cooperation Act, a county described in Subsection (6)(a) may distribute~~  
1777 ~~to a city, town, or political subdivision within the county revenues generated by a tax under this~~  
1778 ~~part.]~~

1779 ~~[(c) The revenues distributed under Subsection (6)(a) or (b) shall be used for one or~~  
1780 ~~more organizations or facilities defined in Section 59-12-702 regardless of whether the~~  
1781 ~~revenues are distributed:]~~

1782 ~~[(i) directly by the county described in Subsection (6)(a) to be used for an organization~~  
1783 ~~or facility defined in Section 59-12-702; or]~~

1784 ~~[(ii) in accordance with an interlocal agreement described in Subsection (6)(b).]~~

1785 (6) (a) In accordance with an interlocal agreement established under Title 11, Chapter  
1786 13, Interlocal Cooperation Act, a county legislative body that imposes a tax under this part  
1787 shall transfer revenues collected from a tax under this part within a city or town to that city  
1788 legislative body or town legislative body if, on July 1, 2008, the city or town imposes a city or  
1789 town option sales and use tax:

1790 (i) for botanical, cultural, recreational, and zoological organizations or facilities; and

1791 (ii) that is repealed by this bill.

1792 (b) Subject to Subsections (6)(c) and (d), a city legislative body or town legislative

1793 body that receives a transfer of revenues under this Subsection (6) shall by ordinance provide  
 1794 for the distribution of the entire amount of the revenues collected from a tax under this part.

1795 (c) A city legislative body or town legislative body that receives a transfer of revenues  
 1796 under this section shall expend the revenues for one or more of the following:

1797 (i) a botanical organization;

1798 (ii) a cultural facility;

1799 (iii) a cultural organization;

1800 (iv) a recreational facility;

1801 (v) a rural radio station;

1802 (vi) a zoological facility; or

1803 (vii) a zoological organization.

1804 (7) A county legislative body may retain up to 1.5% of the proceeds from a tax under  
 1805 this part for the cost of administering ~~[the provisions of]~~ this part.

1806 (8) The commission may retain an amount not to exceed ~~[1-1/2%]~~ 1.5% of the tax  
 1807 collected under this part for the cost of administering this part.

1808 Section 5. Section **59-12-1001** is amended to read:

1809 **59-12-1001. Authority to impose tax for highways or to fund a system for public**  
 1810 **transit -- Base -- Rate -- Ordinance requirements -- Enactment or repeal of tax --**  
 1811 **Effective date -- Notice requirements.**

1812 (1) (a) ~~[A]~~ Beginning on January 1, 2009, a county, city, or town in which the  
 1813 transactions described in Subsection 59-12-103(1) are not subject to a sales and use tax under  
 1814 Section 59-12-501 may as provided in this part impose a sales and use tax of ~~[(i) beginning on~~  
 1815 ~~January 1, 1998, and ending on December 31, 2007, .25% on the transactions described in~~  
 1816 ~~Subsection 59-12-103(1) located within the city or town; or (ii) beginning on January 1, 2008,]~~  
 1817 .30% on the transactions described in Subsection 59-12-103(1) located within the county, city,  
 1818 or town.

1819 (b) If a county, city, or town does not have a tax under this part in effect on April 1,  
 1820 2009, the county, city, or town may not impose a tax under this part.

1821 ~~[(b)]~~ (c) Notwithstanding Subsection (1)(a), a county, city, or town may not impose a  
 1822 tax under this section on:

1823 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses

1824 are exempt from taxation under Section 59-12-104;

1825 (ii) amounts paid or charged by a seller that collects a tax under Subsection  
1826 59-12-107(1)(b); and

1827 (iii) except as provided in Subsection (1)~~(f)~~ (e), amounts paid or charged for food  
1828 and food ingredients.

1829 ~~(e)~~ (d) For purposes of this Subsection (1), the location of a transaction shall be  
1830 determined in accordance with Section 59-12-207.

1831 ~~(f)~~ (e) A county, city, or town imposing a tax under this section shall impose the tax  
1832 on amounts paid or charged for food and food ingredients if:

1833 (i) the food and food ingredients are sold as part of a bundled transaction attributable to  
1834 food and food ingredients and tangible personal property other than food and food ingredients;  
1835 and

1836 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in  
1837 accordance with Subsection 59-12-107(1)(b).

1838 (2) ~~(a)~~ A county, city, or town imposing a tax under this part may ~~[use the revenues~~  
1839 ~~generated by the tax]~~ expend the revenues collected from the tax as follows:

1840 ~~[(i) for the construction and maintenance of highways under the jurisdiction of the city~~  
1841 ~~or town imposing the tax;]~~

1842 ~~[(ii) subject to Subsection (2)(b), to fund a system for public transit; or]~~

1843 ~~[(iii) for a combination of the purposes described in Subsections (2)(a)(i) and (ii).]~~

1844 ~~[(b) (i) For purposes of Subsection (2)(a)(ii) and except as provided in Subsection~~  
1845 ~~(2)(b)(ii), "public transit" is as defined in Section 17B-2a-802.]~~

1846 ~~[(ii) Notwithstanding Subsection (2)(b)(i), "public transit" does not include a fixed~~  
1847 ~~guideway system.]~~

1848 (a) the first priority is to fund a project or service relating to a state highway for the  
1849 portion of the project or service that is performed within the county, city, or town;

1850 (b) the second priority is to fund a project or service relating to a principal arterial  
1851 highway as defined in Section 72-4-102.5 for the portion of the project or service that is  
1852 performed within the county, city, or town;

1853 (c) the third priority is to fund a project or service relating to a minor arterial highway  
1854 as defined in Section 72-4-102.5 for the portion of the project or service that is performed

1855 within the county, city, or town:

1856 (d) the fourth priority is to fund a project or service relating to a major collector  
1857 highway as defined in Section 72-4-102.5 for the portion of the project or service that is  
1858 performed within the county, city, or town:

1859 (e) the fifth priority is to fund a project or service relating to a minor collector road as  
1860 defined in Section 72-4-102.5 for the portion of the project or service that is performed within  
1861 the county, city, or town:

1862 (f) the sixth priority is to fund the construction and maintenance of a highway under the  
1863 jurisdiction of the county, city, or town:

1864 (g) the seventh priority is to fund a system for public transit as defined in Section  
1865 59-12-1502;

1866 (h) the eighth priority is to fund a fixed guideway as defined in Section 59-12-1702; or

1867 (i) for a combination of Subsections (2)(a) through (h).

1868 (3) To impose a tax under this part, the ~~[governing body of the]~~ county, city, or town  
1869 legislative body shall~~[(a) pass]~~ adopt an ordinance ~~[approving]~~ imposing the tax~~[-and]~~.

1870 ~~[(b) except as provided in Subsection (7) or (8), obtain voter approval for the tax as~~  
1871 ~~provided in Subsection (4).]~~

1872 ~~[(4) To obtain voter approval for a tax under Subsection (3)(b), a city or town shall:]~~

1873 ~~[(a) hold an election during:]~~

1874 ~~[(i) a regular general election; or]~~

1875 ~~[(ii) a municipal general election; and]~~

1876 ~~[(b) publish notice of the election:]~~

1877 ~~[(i) 15 days or more before the day on which the election is held; and]~~

1878 ~~[(ii) in a newspaper of general circulation in the city or town.]~~

1879 ~~[(5)]~~ (4) An ordinance approving a tax under this part shall provide an effective date  
1880 for the tax as provided in Subsection ~~[(6)]~~ (5).

1881 ~~[(6)]~~ (5) (a) For purposes of this Subsection ~~[(6)]~~ (5):

1882 (i) "Annexation" means an annexation to:

1883 (A) a county under Title 17, Chapter 2, Annexation to County; or

1884 (B) a city or town under Title 10, Chapter 2, Part 4, Annexation.

1885 (ii) "Annexing area" means an area that is annexed into a county, city, or town.

1886 (b) (i) Except as provided in Subsection [~~(6)~~] (5)(c) or (d), if, on or after [~~April 1,~~  
1887 ~~2008~~] July 1, 2009, a county, city, or town enacts or repeals a tax under this part, the enactment  
1888 or repeal shall take effect:

1889 (A) on the first day of a calendar quarter; and

1890 (B) after a 90-day period beginning on the date the commission receives notice meeting  
1891 the requirements of Subsection [~~(6)~~] (5)(b)(ii) from the city or town.

1892 (ii) The notice described in Subsection [~~(6)~~] (5)(b)(i)(B) shall state:

1893 (A) that the county, city, or town will enact or repeal a tax under this part;

1894 (B) the statutory authority for the tax described in Subsection [~~(6)~~] (5)(b)(ii)(A);

1895 (C) the effective date of the tax described in Subsection [~~(6)~~] (5)(b)(ii)(A); and

1896 (D) if the county, city, or town enacts the tax described in Subsection [~~(6)~~

1897 (5)(b)(ii)(A), the rate of the tax.

1898 (c) (i) Notwithstanding Subsection [~~(6)~~] (5)(b)(i), for a transaction described in  
1899 Subsection [~~(6)~~] (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first  
1900 billing period:

1901 (A) that begins after the effective date of the enactment of the tax; and

1902 (B) if the billing period for the transaction begins before the effective date of the  
1903 enactment of the tax under Subsection (1).

1904 (ii) Notwithstanding Subsection [~~(6)~~] (5)(b)(i), for a transaction described in  
1905 Subsection [~~(6)~~] (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing  
1906 period:

1907 (A) that began before the effective date of the repeal of the tax; and

1908 (B) if the billing period for the transaction begins before the effective date of the repeal  
1909 of the tax imposed under Subsection (1).

1910 (iii) Subsections [~~(6)~~] (5)(c)(i) and (ii) apply to transactions subject to a tax under:

1911 (A) Subsection 59-12-103(1)(b);

1912 (B) Subsection 59-12-103(1)(c);

1913 (C) Subsection 59-12-103(1)(d);

1914 (D) Subsection 59-12-103(1)(e);

1915 (E) Subsection 59-12-103(1)(f);

1916 (F) Subsection 59-12-103(1)(g);

- 1917 (G) Subsection 59-12-103(1)(h);
- 1918 (H) Subsection 59-12-103(1)(i);
- 1919 (I) Subsection 59-12-103(1)(j); or
- 1920 (J) Subsection 59-12-103(1)(k).
- 1921 (d) (i) Notwithstanding Subsection [~~6~~] (5)(b)(i), if a tax due under this chapter on a
- 1922 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 1923 enactment or repeal of a tax described in Subsection [~~6~~] (5)(b)(i) takes effect:
- 1924 (A) on the first day of a calendar quarter; and
- 1925 (B) beginning 60 days after the effective date of the enactment or repeal under
- 1926 Subsection [~~6~~] (5)(b)(i).
- 1927 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 1928 the commission may by rule define the term "catalogue sale."
- 1929 (e) (i) Except as provided in Subsection [~~6~~] (5)(f) or (g), if, for an annexation that
- 1930 occurs on or after [~~July 1, 2004~~] July 1, 2009, the annexation will result in the enactment or
- 1931 repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:
- 1932 (A) on the first day of a calendar quarter; and
- 1933 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 1934 the requirements of Subsection [~~6~~] (5)(e)(ii) from the county, city, or town that annexes the
- 1935 annexing area.
- 1936 (ii) The notice described in Subsection [~~6~~] (5)(e)(i)(B) shall state:
- 1937 (A) that the annexation described in Subsection [~~6~~] (5)(e)(i) will result in an
- 1938 enactment or repeal of a tax under this part for the annexing area;
- 1939 (B) the statutory authority for the tax described in Subsection [~~6~~] (5)(e)(ii)(A);
- 1940 (C) the effective date of the tax described in Subsection [~~6~~] (5)(e)(ii)(A); and
- 1941 (D) the rate of the tax described in Subsection [~~6~~] (5)(e)(ii)(A).
- 1942 (f) (i) Notwithstanding Subsection [~~6~~] (5)(e)(i), for a transaction described in
- 1943 Subsection [~~6~~] (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first
- 1944 billing period:
- 1945 (A) that begins after the effective date of the enactment of the tax; and
- 1946 (B) if the billing period for the transaction begins before the effective date of the
- 1947 enactment of the tax under Subsection (1).

1948 (ii) Notwithstanding Subsection ~~[(6)]~~ (5)(e)(i), for a transaction described in  
 1949 Subsection ~~[(6)]~~ (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing  
 1950 period:

1951 (A) that began before the effective date of the repeal of the tax; and

1952 (B) if the billing period for the transaction begins before the effective date of the repeal  
 1953 of the tax imposed under Subsection (1).

1954 (iii) Subsections ~~[(6)]~~ (5)(f)(i) and (ii) apply to transactions subject to a tax under:

1955 (A) Subsection 59-12-103(1)(b);

1956 (B) Subsection 59-12-103(1)(c);

1957 (C) Subsection 59-12-103(1)(d);

1958 (D) Subsection 59-12-103(1)(e);

1959 (E) Subsection 59-12-103(1)(f);

1960 (F) Subsection 59-12-103(1)(g);

1961 (G) Subsection 59-12-103(1)(h);

1962 (H) Subsection 59-12-103(1)(i);

1963 (I) Subsection 59-12-103(1)(j); or

1964 (J) Subsection 59-12-103(1)(k).

1965 (g) (i) Notwithstanding Subsection ~~[(6)]~~ (5)(e)(i), if a tax due under this chapter on a  
 1966 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an  
 1967 enactment or repeal of a tax described in Subsection ~~[(6)]~~ (5)(e)(i) takes effect:

1968 (A) on the first day of a calendar quarter; and

1969 (B) beginning 60 days after the effective date of the enactment or repeal under  
 1970 Subsection ~~[(6)]~~ (5)(e)(i).

1971 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
 1972 the commission may by rule define the term "catalogue sale."

1973 ~~[(7)(a) Except as provided in Subsection (7)(b), a city or town is not subject to the~~  
 1974 ~~voter approval requirements of Subsection (3)(b) if:]~~

1975 ~~[(i) on or before January 1, 1996, the city or town imposed a license fee or tax on~~  
 1976 ~~businesses based on gross receipts pursuant to Section 10-1-203; or]~~

1977 ~~[(ii) the city or town:]~~

1978 ~~[(A) on or before June 30, 2002, obtained voter approval in accordance with~~



1979 ~~Subsection (3)(b) to impose a tax under this part for a purpose described in Subsection~~  
 1980 ~~(2)(a)(i); and]~~

1981 ~~[(B) on or after July 1, 2002, uses the revenues generated by a tax under this part for a~~  
 1982 ~~purpose described in Subsection (2)(a).]~~

1983 ~~[(b) Notwithstanding Subsection (7)(a), the exception from the voter approval~~  
 1984 ~~requirements in Subsection (7)(a)(i) does not apply to a city or town that, on or before January~~  
 1985 ~~1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts~~  
 1986 ~~pursuant to Section 10-1-203.]~~

1987 ~~[(8) A city or town is not subject to the voter approval requirements of Subsection~~  
 1988 ~~(3)(b) if:]~~

1989 ~~[(a) on December 31, 2007, the city or town imposes a tax of .25% under this section;~~  
 1990 ~~and]~~

1991 ~~[(b) on or after January 1, 2008, the city or town increases the tax rate under this~~  
 1992 ~~section to .30%.]~~

1993 Section 6. Section **59-12-1002** is amended to read:

1994 **59-12-1002. Collection of taxes by commission -- Administration, collection, and**  
 1995 **enforcement of tax -- Charge for service.**

1996 (1) The commission shall:

1997 (a) collect the tax imposed by a county, city, or town under this part; and

1998 (b) subject to Subsection (3), transmit to the county, city, or town monthly by  
 1999 electronic funds transfer the revenues generated by the tax imposed by the county, city, or  
 2000 town.

2001 (2) (a) Except as provided in Subsection (2)(b), a tax authorized under this part shall be  
 2002 administered, collected, and enforced in accordance with:

2003 (i) the same procedures used to administer, collect, and enforce the tax under:

2004 (A) Part 1, Tax Collection; or

2005 (B) Part 2, Local Sales and Use Tax Act; and

2006 (ii) Chapter 1, General Taxation Policies.

2007 (b) Notwithstanding Subsection (2)(a), a tax under this part is not subject to  
 2008 Subsections 59-12-205(2) through (7).

2009 (3) (a) The commission shall charge a county, city, or town imposing a tax under this

2010 part a fee for administering the tax as provided in Subsections (3)(b) and (c).

2011 (b) The fee shall be in an amount equal to the costs of administering the tax under this  
2012 part, except that the fee may not exceed 1-1/2% of the revenues generated in the county, city, or  
2013 town by the tax under this part.

2014 (c) Fees under this Subsection (3) shall be:

2015 (i) placed in the Sales and Use Tax Administrative Fees Account; and

2016 (ii) used for sales tax administration as provided in Subsection 59-12-206(2).

2017 Section 7. Section **59-12-1901** is enacted to read:

2018 **Part 19. County of the Second Class Airport, Highway, and Public Transit Sales and Use**  
2019 **Tax Act**

2020 **59-12-1901. Title.**

2021 This part is known as the "County of the Second Class Airport, Highway, and Public  
2022 Transit Sales and Use Tax Act."

2023 Section 8. Section **59-12-1902** is enacted to read:

2024 **59-12-1902. Definitions.**

2025 As used in this part:

2026 (1) "Airport facility" is as defined in Section 59-12-602.

2027 (2) "Annexation" means an annexation to a county under Title 17, Chapter 2,

2028 Annexation to County.

2029 (3) "Annexing area" means an area that is annexed into a county.

2030 (4) "Fixed guideway" is as defined in Section 59-12-1702.

2031 (5) "Local highway of regional significance" means a local highway that is a:

2032 (a) principal arterial highway as defined in Section 72-4-102.5;

2033 (b) a minor arterial highway as defined in Section 72-4-102.5;

2034 (c) a major collector highway as defined in Section 72-4-102.5; or

2035 (d) a minor collector road as defined in Section 72-4-102.5.

2036 (6) "Public transit" is as defined in Section 59-12-1502.

2037 Section 9. Section **59-12-1903** is enacted to read:

2038 **59-12-1903. Imposition of tax -- Base -- Rate -- Expenditure of revenues collected**  
2039 **from the tax -- Administration, collection, and enforcement of tax by commission --**  
2040 **Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**

2041 (1) (a) Subject to the other provisions of this section and except as provided in  
2042 Subsection (2), beginning on January 1, 2009, a county legislative body of a county of the  
2043 second class may impose a sales and use tax on the transactions:

2044 (i) described in Subsection 59-12-103(1); and  
2045 (ii) within the county, including the cities and towns within the county.

2046 (b) For purposes of Subsection (1)(a), a county legislative body may impose a tax at a  
2047 rate of:

2048 (i) .10%, to be deposited as provided in Subsection (4)(c)(i) into the County of the  
2049 Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as  
2050 provided in Section 72-2-121.2; or

2051 (ii) .25%, to be expended as follows:

2052 (A) .10% to be deposited as provided in Subsection (4)(c)(i) into the County of the  
2053 Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as  
2054 provided in Section 72-2-121.2;

2055 (B) .05%, to be deposited as provided in Subsection (4)(c)(ii) into the Local  
2056 Transportation Corridor Preservation Fund created by Section 72-2-117.5 and expended and  
2057 distributed in accordance with Section 72-2-117.5; and

2058 (C) as determined by the county legislative body, .10% to be:

2059 (I) deposited as provided in Subsection (4)(c)(i) into the County of the Second Class  
2060 State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in  
2061 Section 72-2-121.2;

2062 (II) expended for:

2063 (Aa) a state highway designated under Title 72, Chapter 4, Part 1, Designation of State  
2064 Highways Act;

2065 (Bb) a local highway of regional significance; or

2066 (Cc) a combination of Subsections (1)(b)(ii)(C)(II)(Aa) and (Bb);

2067 (III) expended for a project or service relating to a system for public transit for the  
2068 portion of the project or service that is performed within the county;

2069 (IV) expended for a project or service relating to a fixed guideway for the portion of  
2070 the project or service that is performed within the county;

2071 (V) expended for a project or service relating to airport facility;

2072 (Aa) if that airport facility is part of the regional transportation plan of the area  
2073 metropolitan planning organization if a metropolitan planning organization exists for the area;

2074 and

2075 (Bb) for the portion of the project or service that is performed within the county; or  
2076 (VI) deposited or expended for a combination of Subsections (1)(b)(ii)(C)(I) through  
2077 (V).

2078 (c) If a county legislative body imposes a tax under this part, the county legislative  
2079 body may not impose a tax under Part 17, County Option Sales and Use Tax for Transportation  
2080 Act.

2081 (d) For purposes of this Subsection (1), the location of a transaction shall be  
2082 determined in accordance with Section 59-12-207.

2083 (2) (a) A county legislative body may not impose a tax under this part on:

2084 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
2085 are exempt from taxation under Section 59-12-104;

2086 (ii) any amounts paid or charged by a seller that collects a tax under Subsection  
2087 59-12-107(1)(b); or

2088 (iii) except as provided in Subsection (2)(b), amounts paid or charged for food and  
2089 food ingredients.

2090 (b) A county legislative body imposing a tax under this part shall impose the tax on  
2091 amounts paid or charged for food and food ingredients if:

2092 (i) the food and food ingredients are sold as part of a bundled transaction attributable to  
2093 food and food ingredients and tangible personal property other than food and food ingredients;

2094 and

2095 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in  
2096 accordance with Subsection 59-12-107(1)(b).

2097 (3) To impose a tax under this part, a county legislative body shall obtain approval  
2098 from a majority of the members of the county legislative body.

2099 (4) (a) Except as provided in Subsection (4)(b) or (c) or Subsection (6), the  
2100 commission shall transmit revenues collected within a county from a tax under this part that are  
2101 required to be expended for a purpose described in Subsection (1)(b)(ii)(C):

2102 (i) to the county legislative body;

- 2103 (ii) monthly; and
- 2104 (iii) by electronic funds transfer.
- 2105 (b) Except as provided in Subsection (6), the commission shall transfer the revenues
- 2106 described in Subsection (4)(a) directly to a public transit district organized under Title 17B,
- 2107 Chapter 2a, Part 8, Public Transit District Act, if the county legislative body:
- 2108 (i) provides written notice to the commission requesting the transfer; and
- 2109 (ii) designates the public transit district to which the county legislative body requests
- 2110 the commission to transfer the revenues described in Subsection (4)(a).
- 2111 (c) Except as provided in Subsection (6), the commission shall deposit revenues
- 2112 collected within a county from a tax under this part that:
- 2113 (i) are required to be expended for a purpose described in Subsection (1)(b)(i) or
- 2114 (1)(b)(ii)(A) into the County of the Second Class State Highway Projects Fund created by
- 2115 Section 72-2-121.2;
- 2116 (ii) are required to be expended for a purpose described in Subsection (1)(B)(ii)(B) into
- 2117 the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or
- 2118 (iii) a county legislative body determines to expend for a purpose described in
- 2119 Subsection (1)(b)(ii)(C)(I) into the County of the Second Class State Highway Projects Fund
- 2120 created by Section 72-2-121.2 if the county legislative body provides written notice to the
- 2121 commission requesting the deposit.
- 2122 (5) (a) Except as provided in Subsection (5)(b), the commission shall administer,
- 2123 collect, and enforce a tax under this part in accordance with:
- 2124 (i) the same procedures used to administer, collect, and enforce the tax under:
- 2125 (A) Part 1, Tax Collection; or
- 2126 (B) Part 2, Local Sales and Use Tax Act; and
- 2127 (ii) Chapter 1, General Taxation Policies.
- 2128 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).
- 2129 (6) (a) The commission may retain an amount of tax collected under this part of not to
- 2130 exceed the lesser of:
- 2131 (i) 1.5%; or
- 2132 (ii) an amount equal to the cost to the commission of administering this part.
- 2133 (b) Any amount the commission retains under Subsection (6)(a) shall be:

2134 (i) deposited into the Sales and Use Tax Administrative Fees Account; and  
2135 (ii) used as provided in Subsection 59-12-206(2).  
2136 (7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009,  
2137 a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment,  
2138 repeal, or change shall take effect:  
2139 (A) on the first day of a calendar quarter; and  
2140 (B) after a 90-day period beginning on the date the commission receives notice meeting  
2141 the requirements of Subsection (7)(a)(ii) from the county.  
2142 (ii) The notice described in Subsection (7)(a)(i)(B) shall state:  
2143 (A) that the county will enact, repeal, or change the rate of a tax under this part;  
2144 (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);  
2145 (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and  
2146 (D) if the county enacts the tax or changes the rate of the tax described in Subsection  
2147 (7)(a)(ii)(A), the rate of the tax.  
2148 (b) (i) For a transaction described in Subsection (7)(b)(iii), if the billing period for the  
2149 transaction begins before the effective date of the enactment of the tax or the tax rate increase  
2150 under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on the first  
2151 day of the first billing period that begins after the effective date of the enactment of the tax or  
2152 the tax rate increase.  
2153 (ii) For a transaction described in Subsection (7)(b)(iii), if the billing period for the  
2154 transaction begins before the effective date of the repeal of the tax or the tax rate decrease  
2155 imposed under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the  
2156 first day of the last billing period that began before the effective date of the repeal of the tax or  
2157 the tax rate decrease.  
2158 (iii) Subsections (7)(b)(i) and (ii) apply to transactions subject to a tax under:  
2159 (A) Subsection 59-12-103(1)(b);  
2160 (B) Subsection 59-12-103(1)(c);  
2161 (C) Subsection 59-12-103(1)(d);  
2162 (D) Subsection 59-12-103(1)(e);  
2163 (E) Subsection 59-12-103(1)(f);  
2164 (F) Subsection 59-12-103(1)(g);

2165 (G) Subsection 59-12-103(1)(h);

2166 (H) Subsection 59-12-103(1)(i);

2167 (I) Subsection 59-12-103(1)(j); or

2168 (J) Subsection 59-12-103(1)(k).

2169 (c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales  
2170 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax  
2171 described in Subsection (7)(a)(i) takes effect:

2172 (A) on the first day of a calendar quarter; and

2173 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the  
2174 rate of the tax under Subsection (7)(a)(i).

2175 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
2176 the commission may by rule define the term "catalogue sale."

2177 (d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs  
2178 on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the  
2179 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take  
2180 effect:

2181 (A) on the first day of a calendar quarter; and

2182 (B) after a 90-day period beginning on the date the commission receives notice meeting  
2183 the requirements of Subsection (7)(d)(ii) from the county that annexes the annexing area.

2184 (ii) The notice described in Subsection (7)(d)(i)(B) shall state:

2185 (A) that the annexation described in Subsection (7)(d)(i)(B) will result in an enactment,  
2186 repeal, or change in the rate of a tax under this part for the annexing area;

2187 (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

2188 (C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

2189 (D) if the county enacts the tax or changes the rate of the tax described in Subsection  
2190 (7)(d)(ii)(A), the rate of the tax.

2191 (e) (i) For a transaction described in Subsection (7)(e)(iii), if the billing period for the  
2192 transaction begins before the effective date of the enactment of the tax or a tax rate increase  
2193 under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on the first  
2194 day of the first billing period that begins after the effective date of the enactment of the tax or  
2195 the tax rate increase.

2196 (ii) For a transaction described in Subsection (7)(e)(iii), if the billing period for the  
2197 transaction begins before the effective date of the repeal of the tax or the tax rate decrease  
2198 imposed under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the  
2199 first day of the last billing period that began before the effective date of the repeal of the tax or  
2200 the tax rate decrease.

2201 (iii) Subsections (7)(e)(i) and (ii) apply to transactions subject to a tax under:

2202 (A) Subsection 59-12-103(1)(b);

2203 (B) Subsection 59-12-103(1)(c);

2204 (C) Subsection 59-12-103(1)(d);

2205 (D) Subsection 59-12-103(1)(e);

2206 (E) Subsection 59-12-103(1)(f);

2207 (F) Subsection 59-12-103(1)(g);

2208 (G) Subsection 59-12-103(1)(h);

2209 (H) Subsection 59-12-103(1)(i);

2210 (I) Subsection 59-12-103(1)(j); or

2211 (J) Subsection 59-12-103(1)(k).

2212 (f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales  
2213 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax  
2214 described in Subsection (7)(d)(i) takes effect:

2215 (A) on the first day of a calendar quarter; and

2216 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the  
2217 rate under Subsection (7)(d)(i).

2218 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
2219 the commission may by rule define the term "catalogue sale."

2220 Section 10. Section **72-2-117.5** is amended to read:

2221 **72-2-117.5. Local Transportation Corridor Preservation Fund -- Distribution.**

2222 (1) As used in this section:

2223 (a) "Council of governments" means a decision-making body in each county composed  
2224 of the county governing body and the mayors of each municipality in the county.

2225 (b) "Metropolitan planning organization" has the same meaning as defined in Section  
2226 72-1-208.5.



2227 (2) There is created the Local Transportation Corridor Preservation Fund within the  
2228 Transportation Fund.

2229 (3) The fund shall be funded from the following sources:

2230 (a) a local option transportation corridor preservation fee imposed under Section  
2231 41-1a-1222;

2232 (b) appropriations made to the fund by the Legislature;

2233 (c) contributions from other public and private sources for deposit into the fund;

2234 (d) interest earnings on cash balances;

2235 (e) all monies collected from rents and sales of real property acquired with fund  
2236 monies;

2237 (f) proceeds from general obligation bonds, revenue bonds, or other obligations issued  
2238 as authorized by Title 63B, Bonds; [~~and~~]

2239 (g) the portion of the sales and use tax described in Subsection 59-12-1703(4)(a)(ii)  
2240 and required by Subsection 59-12-1703(7)(b)(i) to be deposited into the fund[~~;~~]; and

2241 (h) sales and use tax revenues required by Section 59-12-1903 to be deposited into the  
2242 fund.

2243 (4) (a) All monies appropriated to the Local Transportation Corridor Preservation Fund  
2244 are nonlapsing.

2245 (b) The State Tax Commission shall provide the department with sufficient data for the  
2246 department to allocate the revenues:

2247 (i) provided under Subsection (3)(a) to each county imposing a local option  
2248 transportation corridor preservation fee under Section 41-1a-1222; [~~and~~]

2249 (ii) provided under Subsection 59-12-1703(4)(a)(ii) to each county imposing a county  
2250 option sales and use tax for transportation[~~;~~]; and

2251 (iii) provided under Subsection (3)(h) to each county of the second class imposing the  
2252 sales and use tax authorized by Section 59-12-1903.

2253 (c) The monies allocated under Subsection (4)(b):

2254 (i) shall be used for the purposes provided in this section for each county; and

2255 (ii) are allocated to each county as provided in this section:

2256 (A) with the condition that the state will not be charged for any asset purchased with  
2257 the monies allocated under Subsection (4)(b); and

2258 (B) are considered a local matching contribution for the purposes described under  
2259 Section 72-2-123 if used on a state highway.

2260 (d) Administrative costs of the department to implement this section shall be paid from  
2261 the fund.

2262 (5) (a) The department shall authorize the expenditure of fund monies to allow a  
2263 highway authority to acquire real property or any interests in real property for state, county, and  
2264 municipal highway corridors subject to:

2265 (i) monies available in the fund to each county under Subsection (4)(b); and

2266 (ii) the provisions of this section.

2267 (b) Fund monies may be used to pay interest on debts incurred in accordance with this  
2268 section.

2269 (c) (i) (A) Fund monies may be used to pay maintenance costs of properties acquired  
2270 under this section but limited to a total of 5% of the purchase price of the property.

2271 (B) Any additional maintenance cost shall be paid from funds other than under this  
2272 section.

2273 (C) Revenue generated by any property acquired under this section is excluded from  
2274 the limitations under this Subsection (5)(c)(i).

2275 (ii) Fund monies may be used to pay direct costs of acquisition of properties acquired  
2276 under this section.

2277 (d) Fund monies allocated under Subsection (4)(b) may be used by a county highway  
2278 authority for countywide transportation planning if:

2279 (i) the county is not included in a metropolitan planning organization;

2280 (ii) the transportation planning is part of the county's continuing, cooperative, and  
2281 comprehensive process for transportation planning, corridor preservation, right-of-way  
2282 acquisition, and project programming;

2283 (iii) no more than four years allocation every 20 years to each county is used for  
2284 transportation planning under this Subsection (5)(d); and

2285 (iv) the county otherwise qualifies to use the fund monies as provided under this  
2286 section.

2287 (e) (i) Fund monies allocated under Subsection (4)(b) may be used by a county  
2288 highway authority for transportation corridor planning that is part of the corridor elements of an

2289 ongoing work program of transportation projects.

2290 (ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the  
2291 direction of:

2292 (A) the metropolitan planning organization if the county is within the boundaries of a  
2293 metropolitan planning organization; or

2294 (B) the department if the county is not within the boundaries of a metropolitan  
2295 planning organization.

2296 (6) (a) (i) The Local Transportation Corridor Preservation Fund shall be used to  
2297 preserve highway corridors, promote long-term statewide transportation planning, save on  
2298 acquisition costs, and promote the best interests of the state in a manner which minimizes  
2299 impact on prime agricultural land.

2300 (ii) The Local Transportation Corridor Preservation Fund shall only be used to preserve  
2301 a highway corridor that is right-of-way:

2302 (A) in a county of the first or second class for a:

2303 (I) state highway;

2304 (II) a principal arterial highway as defined in Section 72-4-102.5;

2305 (III) a minor arterial highway as defined in Section 72-4-102.5; or

2306 (IV) a collector highway in an urban area as defined in Section 72-4-102.5; or

2307 (B) in a county of the third, fourth, fifth, or sixth class for a:

2308 (I) state highway;

2309 (II) a principal arterial highway as defined in Section 72-4-102.5;

2310 (III) a minor arterial highway as defined in Section 72-4-102.5;

2311 (IV) a major collector highway as defined in Section 72-4-102.5; or

2312 (V) a minor collector road as defined in Section 72-4-102.5.

2313 (iii) The Local Transportation Corridor Preservation Fund may not be used for a  
2314 highway corridor that is primarily a recreational trail as defined under Section 63-11a-101.

2315 (b) (i) The department shall develop and implement a program to educate highway  
2316 authorities on the objectives, application process, use, and responsibilities of the Local  
2317 Transportation Corridor Preservation Fund as provided under this section to promote the most  
2318 efficient and effective use of fund monies including priority use on designated high priority  
2319 corridor preservation projects.

2320 (ii) The department shall develop a model transportation corridor property acquisition  
2321 policy or ordinance that meets federal requirements for the benefit of a highway authority to  
2322 acquire real property or any interests in real property under this section.

2323 (c) The department shall authorize the expenditure of fund monies after determining  
2324 that the expenditure is being made in accordance with this section from applications that are:

2325 (i) made by a highway authority;

2326 (ii) endorsed by the council of governments; and

2327 (iii) for a right-of-way purchase for a highway authorized under Subsection (6)(a)(ii).

2328 (7) (a) (i) A council of governments shall establish a council of governments  
2329 endorsement process which includes prioritization and application procedures for use of the  
2330 monies allocated to each county under this section.

2331 (ii) The endorsement process under Subsection (7)(a)(i) may include review or  
2332 endorsement of the preservation project by the:

2333 (A) metropolitan planning organization if the county is within the boundaries of a  
2334 metropolitan planning organization; or

2335 (B) the department if the county is not within the boundaries of a metropolitan  
2336 planning organization.

2337 (b) All fund monies shall be prioritized by each highway authority and council of  
2338 governments based on considerations, including:

2339 (i) areas with rapidly expanding population;

2340 (ii) the willingness of local governments to complete studies and impact statements  
2341 that meet department standards;

2342 (iii) the preservation of corridors by the use of local planning and zoning processes;

2343 (iv) the availability of other public and private matching funds for a project;

2344 (v) the cost-effectiveness of the preservation projects;

2345 (vi) long and short-term maintenance costs for property acquired; and

2346 (vii) whether the transportation corridor is included as part of:

2347 (A) the county and municipal master plan; and

2348 (B) (I) the statewide long range plan; or

2349 (II) the regional transportation plan of the area metropolitan planning organization if  
2350 one exists for the area.

- 2351 (c) The council of governments shall:
- 2352 (i) establish a priority list of highway corridor preservation projects within the county;
- 2353 (ii) submit the list described in Subsection (7)(c)(i) to the county's legislative body for
- 2354 approval; and
- 2355 (iii) obtain approval of the list described in Subsection (7)(c)(i) from a majority of the
- 2356 members of the county legislative body.
- 2357 (d) A county's council of governments may only submit one priority list described in
- 2358 Subsection (7)(c)(i) per calendar year.
- 2359 (e) A county legislative body may only consider and approve one priority list described
- 2360 in Subsection (7)(c)(i) per calendar year.
- 2361 (8) (a) Unless otherwise provided by written agreement with another highway
- 2362 authority, the highway authority that holds the deed to the property is responsible for
- 2363 maintenance of the property.
- 2364 (b) The transfer of ownership for property acquired under this section from one
- 2365 highway authority to another shall include a recorded deed for the property and a written
- 2366 agreement between the highway authorities.
- 2367 (9) (a) The proceeds from any bonds or other obligations secured by revenues of the
- 2368 Local Transportation Corridor Preservation Fund shall be used for the purposes authorized for
- 2369 funds under this section.
- 2370 (b) The highway authority shall pledge the necessary part of the revenues of the Local
- 2371 Transportation Corridor Preservation Fund to the payment of principal and interest on the
- 2372 bonds or other obligations.
- 2373 (10) (a) A highway authority may not apply for monies under this section to purchase a
- 2374 right-of-way for a state highway unless the highway authority has:
- 2375 (i) a transportation corridor property acquisition policy or ordinance in effect that
- 2376 meets federal requirements for the acquisition of real property or any interests in real property
- 2377 under this section; and
- 2378 (ii) an access management policy or ordinance in effect that meets the requirements
- 2379 under Subsection 72-2-117(9).
- 2380 (b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a
- 2381 written agreement with the department for the acquisition of real property or any interests in

2382 real property under this section.

2383 Section 11. Section **72-2-121.2** is enacted to read:

2384 **72-2-121.2. County of the Second Class State Highway Projects Fund.**

2385 (1) As used in this section, "fund" means the County of the Second Class State  
2386 Highway Projects Fund created by this section.

2387 (2) There is created within the Transportation Fund a special revenue fund known as  
2388 the County of the Second Class State Highway Projects Fund.

2389 (3) The fund shall be funded by monies collected from:

2390 (a) any voluntary contributions the department receives for new construction, major  
2391 renovations, and improvements to state highways within a county of the second class; and

2392 (b) the sales and use tax described in:

2393 (i) Subsection 59-12-1903(1)(b)(i);

2394 (ii) Subsection 59-12-1903(1)(b)(ii)(A); or

2395 (iii) Subsection 59-12-1903(1)(b)(ii)(C)(I) as determined by the county legislative body  
2396 of the county of the second class.

2397 (4) The department shall make a separate accounting for:

2398 (a) the revenues described in Subsection (3); and

2399 (b) each county of the second class for which revenues are deposited into the fund.

2400 (5) (a) The fund shall earn interest.

2401 (b) Interest earned on fund monies shall be deposited into the fund.

2402 (6) The executive director may use fund monies only:

2403 (a) for right-of-way acquisition, new construction, major renovations, and  
2404 improvements to state highways within a county of the second class in an amount that does not  
2405 exceed the amounts deposited for or allocated to that county of the second class in accordance  
2406 with this section;

2407 (b) to pay any debt service and bond issuance costs related to a purpose described in  
2408 Subsection (6)(a) in an amount that does not exceed the amounts deposited for or allocated to  
2409 that county of the second class described in Subsection (6)(a) in accordance with this section;  
2410 and

2411 (c) to pay the costs of the department to administer the fund in an amount not to exceed  
2412 interest earned by the fund monies.

2413 (7) If interest remains in the fund after the executive director pays the costs of the  
2414 department to administer the fund, the interest shall be:

2415 (a) allocated to each county of the second class for which revenues are deposited into  
2416 the fund in proportion to the deposits made into the fund for that county of the second class;

2417 and

2418 (b) expended for the purposes described in Subsection (6).

2419 (8) Revenues described in Subsection (3)(b) that are deposited into the fund are  
2420 considered to be a local matching contribution for the purposes described in Section 72-2-123.

2421 **Section 12. Repealer.**

2422 This bill repeals:

2423 **Section 59-12-1401, Purpose statement -- Definitions -- Scope of part.**

2424 **Section 59-12-1402, Opinion question election -- Base -- Rate -- Imposition of tax --**

2425 **Uses of tax monies -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

2426 **Section 59-12-1403, Distribution of revenues -- Administrative costs.**

2427 **Section 13. Effective date.**

2428 (1) Except as provided in Subsections (2) and (3), this bill takes effect on January 1,  
2429 2009.

2430 (2) The enactments of the following sections take effect on May 5, 2008:

2431 (a) Section 59-12-1901;

2432 (b) Section 59-12-1902;

2433 (c) Section 59-12-1903; and

2434 (d) Section 72-2-121.2.

2435 (3) The amendments to Section 72-2-117.5 take effect on May 5, 2008.

2436 **Section 14. Revisor instructions.**

2437 It is the intent of the Legislature that, in preparing the Utah Code database for  
2438 publication, the Office of Legislative Research and General Counsel shall replace the reference  
2439 in Subsection 59-12-704(6)(a) from "by this bill" to the bill's designated chapter and section  
2440 number in the Laws of Utah.