

SALES AND USE TAX REVISIONS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John Dougall

Senate Sponsor: Wayne L. Niederhauser

LONG TITLE

General Description:

This bill amends the Sales and Use Tax Act.

Highlighted Provisions:

This bill:

- ▶ repeals certain dates relating to the taxation of food and food ingredients;
- ▶ modifies a sales and use tax exemption relating to sales of aircraft manufactured in the state;
- ▶ modifies requirements for calculating the use tax for purposes of a sales and use tax return filed quarterly;
- ▶ clarifies that a county, city, or town within a transit district may impose a sales and use tax of up to .25% to fund a public transportation system if within the county, city, or town a sales and use tax is also imposed under Title 59, Chapter 12, Part 15, County Option Sales and Use Tax for Highways, Fixed Guideways, or Systems for Public Transit; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date and provides for retrospective operation.

Utah Code Sections Affected:



28 AMENDS:

29 **59-12-103**, as last amended by Laws of Utah 2007, Chapters 9, 101, 126, 206, and 288

30 **59-12-104**, as last amended by Laws of Utah 2007, Chapters 76, 195, 214, 224, 288,

31 295, and 329

32 **59-12-107**, as last amended by Laws of Utah 2006, Chapter 253

33 **59-12-501**, as last amended by Laws of Utah 2007, Chapters 202, 288, and 329



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

36 Section 1. Section **59-12-103** is amended to read:

37 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
38 **tax revenues.**

39 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
40 charged for the following transactions:

41 (a) retail sales of tangible personal property made within the state;

42 (b) amounts paid:

43 (i) to a:

44 (A) telephone service provider regardless of whether the telephone service provider is
45 municipally or privately owned; or

46 (B) telegraph corporation:

47 (I) as defined in Section 54-2-1; and

48 (II) regardless of whether the telegraph corporation is municipally or privately owned;

49 and

50 (ii) for:

51 (A) telephone service, other than mobile telecommunications service, that originates
52 and terminates within the boundaries of this state;

53 (B) mobile telecommunications service that originates and terminates within the
54 boundaries of one state only to the extent permitted by the Mobile Telecommunications

55 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

56 (C) telegraph service;

57 (c) sales of the following for commercial use:

58 (i) gas;

- 59 (ii) electricity;
- 60 (iii) heat;
- 61 (iv) coal;
- 62 (v) fuel oil; or
- 63 (vi) other fuels;
- 64 (d) sales of the following for residential use:
 - 65 (i) gas;
 - 66 (ii) electricity;
 - 67 (iii) heat;
 - 68 (iv) coal;
 - 69 (v) fuel oil; or
 - 70 (vi) other fuels;
- 71 (e) sales of prepared food;
- 72 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 73 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 74 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 75 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 76 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 77 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 78 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 79 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 80 exhibition, cultural, or athletic activity;
- 81 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 82 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
 - 83 (i) the tangible personal property; and
 - 84 (ii) parts used in the repairs or renovations of the tangible personal property described
 - 85 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
 - 86 of that tangible personal property;
- 87 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 88 assisted cleaning or washing of tangible personal property;
- 89 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court

90 accommodations and services that are regularly rented for less than 30 consecutive days;

91 (j) amounts paid or charged for laundry or dry cleaning services;

92 (k) amounts paid or charged for leases or rentals of tangible personal property if within
93 this state the tangible personal property is:

94 (i) stored;

95 (ii) used; or

96 (iii) otherwise consumed;

97 (l) amounts paid or charged for tangible personal property if within this state the
98 tangible personal property is:

99 (i) stored;

100 (ii) used; or

101 (iii) consumed; and

102 (m) amounts paid or charged for prepaid telephone calling cards.

103 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
104 is imposed on a transaction described in Subsection (1) equal to the sum of:

105 (i) a state tax imposed on the transaction at a tax rate of 4.65%; and

106 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
107 transaction under this chapter other than this part.

108 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
109 on a transaction described in Subsection (1)(d) equal to the sum of:

110 (i) a state tax imposed on the transaction at a tax rate of 2%; and

111 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
112 transaction under this chapter other than this part.

113 (c) Except as provided in Subsection (2)(d) or (e), [~~beginning on January 1, 2007,~~] a
114 state tax and a local tax is imposed on amounts paid or charged for food and food ingredients
115 equal to the sum of:

116 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
117 a tax rate of 1.75%; and

118 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
119 amounts paid or charged for food and food ingredients under this chapter other than this part.

120 (d) Except as provided in Subsection (2)(e), if a seller collects a tax in accordance with

121 Subsection 59-12-107(1)(b) on a transaction described in Subsection (1), a state tax and a local
122 tax is imposed on the transaction equal to the sum of:

123 (i) a state tax imposed on the transaction at a tax rate of:

124 (A) 4.65% for a transaction other than a transaction described in Subsection

125 (2)(d)(i)(B) or (2)(d)(i)(C);

126 (B) 2% for a transaction described in Subsection (1)(d); or

127 (C) [~~beginning on January 1, 2007;~~] 1.75% on the amounts paid or charged for food
128 and food ingredients; and

129 (ii) a local tax imposed on the transaction at a tax rate equal to the sum of the following
130 tax rates:

131 (A) the tax rate authorized by Section 59-12-204, but only if all of the counties, cities,
132 and towns in the state impose the tax authorized by Section 59-12-204; and

133 (B) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the
134 state impose the tax authorized by Section 59-12-1102.

135 (e) (i) A state tax and a local tax is imposed on an entire bundled transaction as
136 provided in this Subsection (2)(e) if the bundled transaction is attributable to food and food
137 ingredients and tangible personal property other than food and food ingredients.

138 (ii) If the tax on a bundled transaction described in Subsection (2)(e)(i) is collected by a
139 seller other than a seller that collects a tax in accordance with Subsection 59-12-107(1)(b),
140 beginning on January 1, 2007, a state tax and a local tax is imposed on the entire bundled
141 transaction equal to the sum of:

142 (A) a state tax imposed on the entire bundled transaction at the tax rate described in
143 Subsection (2)(a)(i); and

144 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
145 described in Subsection (2)(a)(ii).

146 (iii) If the tax on a bundled transaction described in Subsection (2)(e)(i) is collected by
147 a seller in accordance with Subsection 59-12-107(1)(b), beginning on January 1, 2007, a state
148 tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

149 (A) a state tax imposed on the entire bundled transaction at the tax rate described in
150 Subsection (2)(d)(i)(A); and

151 (B) a local tax imposed on the entire bundled transaction at a tax rate equal to the sum

152 of the following tax rates:

153 (I) the tax rate authorized by Section 59-12-204, but only if all of the counties, cities,
154 and towns in the state impose the tax authorized by Section 59-12-204; and

155 (II) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the
156 state impose the tax authorized by Section 59-12-1102.

157 (f) Subject to Subsections (2)(g) and (h), a tax rate repeal or tax rate change for a tax
158 rate imposed under the following shall take effect on the first day of a calendar quarter:

- 159 (i) Subsection (2)(a)(i);
- 160 (ii) Subsection (2)(b)(i);
- 161 (iii) Subsection (2)(c)(i);
- 162 (iv) Subsection (2)(d)(i);
- 163 (v) Subsection (2)(e)(ii)(A); or
- 164 (vi) Subsection (2)(e)(iii)(A).

165 (g) (i) For a transaction described in Subsection (2)(g)(iii), a tax rate increase shall take
166 effect on the first day of the first billing period that begins after the effective date of the tax rate
167 increase if the billing period for the transaction begins before the effective date of a tax rate
168 increase imposed under:

- 169 (A) Subsection (2)(a)(i);
- 170 (B) Subsection (2)(b)(i);
- 171 (C) Subsection (2)(c)(i);
- 172 (D) Subsection (2)(d)(i);
- 173 (E) Subsection (2)(e)(ii)(A); or
- 174 (F) Subsection (2)(e)(iii)(A).

175 (ii) For a transaction described in Subsection (2)(g)(iii), the repeal of a tax or a tax rate
176 decrease shall take effect on the first day of the last billing period that began before the
177 effective date of the repeal of the tax or the tax rate decrease if the billing period for the
178 transaction begins before the effective date of the repeal of the tax or the tax rate decrease
179 imposed under:

- 180 (A) Subsection (2)(a)(i);
- 181 (B) Subsection (2)(b)(i);
- 182 (C) Subsection (2)(c)(i);

- 183 (D) Subsection (2)(d)(i);
- 184 (E) Subsection (2)(e)(ii)(A); or
- 185 (F) Subsection (2)(e)(iii)(A).
- 186 (iii) Subsections (2)(g)(i) and (ii) apply to transactions subject to a tax under:
- 187 (A) Subsection (1)(b);
- 188 (B) Subsection (1)(c);
- 189 (C) Subsection (1)(d);
- 190 (D) Subsection (1)(e);
- 191 (E) Subsection (1)(f);
- 192 (F) Subsection (1)(g);
- 193 (G) Subsection (1)(h);
- 194 (H) Subsection (1)(i);
- 195 (I) Subsection (1)(j); or
- 196 (J) Subsection (1)(k).
- 197 (h) (i) For a tax rate described in Subsection (2)(h)(ii), if a tax due on a catalogue sale
- 198 is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal
- 199 or change in a tax rate takes effect:
- 200 (A) on the first day of a calendar quarter; and
- 201 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 202 (ii) Subsection (2)(h)(i) applies to the tax rates described in the following:
- 203 (A) Subsection (2)(a)(i);
- 204 (B) Subsection (2)(b)(i);
- 205 (C) Subsection (2)(c)(i);
- 206 (D) Subsection (2)(d)(i);
- 207 (E) Subsection (2)(e)(ii)(A); or
- 208 (F) Subsection (2)(e)(iii)(A).
- 209 (iii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 210 the commission may by rule define the term "catalogue sale."
- 211 (3) (a) Except as provided in Subsections (4) through (10), the following state taxes
- 212 shall be deposited into the General Fund:
- 213 (i) the tax imposed by Subsection (2)(a)(i);

- 214 (ii) the tax imposed by Subsection (2)(b)(i);
- 215 (iii) the tax imposed by Subsection (2)(c)(i);
- 216 (iv) the tax imposed by Subsection (2) (d)(i);
- 217 (v) the tax imposed by Subsection (2)(e)(ii)(A); and
- 218 (vi) the tax imposed by Subsection (2)(e)(iii)(A).

219 (b) The following local taxes shall be distributed to a county, city, or town as provided
220 in this chapter:

- 221 (i) the tax imposed by Subsection (2)(a)(ii);
- 222 (ii) the tax imposed by Subsection (2)(b)(ii);
- 223 (iii) the tax imposed by Subsection (2)(c)(ii); and
- 224 (iv) the tax imposed by Subsection (2)(e)(ii)(B).

225 (c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the
226 state shall receive the county's, city's, or town's proportionate share of the revenues generated
227 by the following local taxes as provided in Subsection (3)(c)(ii):

- 228 (A) the local tax described in Subsection (2)(d)(ii); and
- 229 (B) the local tax described in Subsection (2)(e)(iii)(B).

230 (ii) For revenues generated by a tax described in Subsection (3)(c)(i), the commission
231 shall determine a county's, city's, or town's proportionate share of the revenues by:

232 (A) calculating an amount equal to the population of the unincorporated area of the
233 county, city, or town divided by the total population of the state; and

234 (B) multiplying the amount determined under Subsection (3)(c)(ii)(A) by the total
235 amount of revenues generated by the taxes described in Subsection (3)(c)(i) for all counties,
236 cities, and towns.

237 (iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for
238 purposes of this section shall be derived from the most recent official census or census estimate
239 of the United States Census Bureau.

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

243 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
244 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)

245 through (g):

246 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

247 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

248 (B) for the fiscal year; or

249 (ii) \$17,500,000.

250 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
251 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
252 Department of Natural Resources to:

253 (A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to
254 protect sensitive plant and animal species; or

255 (B) award grants, up to the amount authorized by the Legislature in an appropriations
256 act, to political subdivisions of the state to implement the measures described in Subsections
257 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

258 (ii) Money transferred to the Department of Natural Resources under Subsection
259 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
260 person to list or attempt to have listed a species as threatened or endangered under the
261 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

262 (iii) At the end of each fiscal year:

263 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
264 Conservation and Development Fund created in Section 73-10-24;

265 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
266 Program Subaccount created in Section 73-10c-5; and

267 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
268 Program Subaccount created in Section 73-10c-5.

269 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
270 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
271 created in Section 4-18-6.

272 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
273 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
274 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
275 water rights.

- 276 (ii) At the end of each fiscal year:
- 277 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
- 278 Conservation and Development Fund created in Section 73-10-24;
- 279 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
- 280 Program Subaccount created in Section 73-10c-5; and
- 281 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
- 282 Program Subaccount created in Section 73-10c-5.
- 283 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
- 284 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
- 285 Fund created in Section 73-10-24 for use by the Division of Water Resources.
- 286 (ii) In addition to the uses allowed of the Water Resources Conservation and
- 287 Development Fund under Section 73-10-24, the Water Resources Conservation and
- 288 Development Fund may also be used to:
- 289 (A) conduct hydrologic and geotechnical investigations by the Division of Water
- 290 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
- 291 quantifying surface and ground water resources and describing the hydrologic systems of an
- 292 area in sufficient detail so as to enable local and state resource managers to plan for and
- 293 accommodate growth in water use without jeopardizing the resource;
- 294 (B) fund state required dam safety improvements; and
- 295 (C) protect the state's interest in interstate water compact allocations, including the
- 296 hiring of technical and legal staff.
- 297 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
- 298 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
- 299 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.
- 300 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
- 301 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
- 302 created in Section 73-10c-5 for use by the Division of Drinking Water to:
- 303 (i) provide for the installation and repair of collection, treatment, storage, and
- 304 distribution facilities for any public water system, as defined in Section 19-4-102;
- 305 (ii) develop underground sources of water, including springs and wells; and
- 306 (iii) develop surface water sources.

307 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
308 2006, the difference between the following amounts shall be expended as provided in this
309 Subsection (5), if that difference is greater than \$1:

310 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
311 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

312 (ii) \$17,500,000.

313 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

314 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
315 credits; and

316 (B) expended by the Department of Natural Resources for watershed rehabilitation or
317 restoration.

318 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
319 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
320 created in Section 73-10-24.

321 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
322 remaining difference described in Subsection (5)(a) shall be:

323 (A) transferred each fiscal year to the Division of Water Resources as dedicated
324 credits; and

325 (B) expended by the Division of Water Resources for cloud-seeding projects
326 authorized by Title 73, Chapter 15, Modification of Weather.

327 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
328 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
329 created in Section 73-10-24.

330 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
331 remaining difference described in Subsection (5)(a) shall be deposited into the Water
332 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
333 Division of Water Resources for:

334 (i) preconstruction costs:

335 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
336 26, Bear River Development Act; and

337 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project

338 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

339 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
340 Chapter 26, Bear River Development Act;

341 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
342 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

343 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
344 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

345 (e) Any unexpended monies described in Subsection (5)(d) that remain in the Water
346 Resources Conservation and Development Fund at the end of the fiscal year are nonlapsing.

347 (f) After making the transfers required by Subsections (5)(b) and (c) and subject to
348 Subsection (5)(g), 6% of the remaining difference described in Subsection (5)(a) shall be
349 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
350 incurred for employing additional technical staff for the administration of water rights.

351 (g) At the end of each fiscal year, any unexpended dedicated credits described in
352 Subsection (5)(f) over \$150,000 lapse to the Water Resources Conservation and Development
353 Fund created in Section 73-10-24.

354 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
355 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
356 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
357 the Transportation Fund created by Section 72-2-102.

358 (7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies,
359 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial
360 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed
361 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable
362 transactions under Subsection (1).

363 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds
364 have been paid off and the highway projects completed that are intended to be paid from
365 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the
366 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of
367 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section
368 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated

369 by a 1/64% tax rate on the taxable transactions under Subsection (1).

370 (8) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal
371 year 2004-05, the commission shall each year on or before the September 30 immediately
372 following the last day of the fiscal year deposit the difference described in Subsection (8)(b)
373 into the Remote Sales Restricted Account created in Section 59-12-103.2 if that difference is
374 greater than \$0.

375 (b) The difference described in Subsection (8)(a) is equal to the difference between:

376 (i) the total amount of the revenues the commission received from sellers collecting the
377 taxes described in Subsections (2)(d)(i) and (2)(e)(iii)(A) for the fiscal year immediately
378 preceding the September 30 described in Subsection (8)(a); and

379 (ii) \$7,279,673.

380 (9) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in
381 Subsection (7)(a), and until Subsection (9)(b) applies, for a fiscal year beginning on or after
382 July 1, 2007, the Division of Finance shall deposit into the Centennial Highway Fund
383 Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection
384 (3)(a) equal to 8.3% of the revenues collected from the following taxes, which represents a
385 portion of the approximately 17% of sales and use tax revenues generated annually by the sales
386 and use tax on vehicles and vehicle-related products:

387 (i) the tax imposed by Subsection (2)(a)(i);

388 (ii) the tax imposed by Subsection (2)(b)(i);

389 (iii) the tax imposed by Subsection (2)(c)(i); and

390 (iv) the tax imposed by Subsection (2)(e)(ii)(A).

391 (b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under
392 Subsection (7)(b), when the highway general obligation bonds have been paid off and the
393 highway projects completed that are intended to be paid from revenues deposited in the
394 Centennial Highway Fund Restricted Account as determined by the Executive Appropriations
395 Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the
396 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes
397 listed under Subsection (3)(a) equal to 8.3% of the revenues collected from the following taxes,
398 which represents a portion of the approximately 17% of sales and use tax revenues generated
399 annually by the sales and use tax on vehicles and vehicle-related products:

- 400 (i) the tax imposed by Subsection (2)(a)(i);
- 401 (ii) the tax imposed by Subsection (2)(b)(i);
- 402 (iii) the tax imposed by Subsection (2)(c)(i); and
- 403 (iv) the tax imposed by Subsection (2)(e)(ii)(A).

404 (10) (a) Notwithstanding Subsection (3)(a) and until Subsection (10)(b) applies, the
405 Division of Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes
406 listed under Subsection (3)(a) into the Critical Highway Needs Fund created by Section
407 72-2-125.

408 (b) Notwithstanding Subsection (3)(a) and in addition to any amounts deposited under
409 Subsections (7) and (9), when the general obligation bonds authorized by Section 63B-16-101
410 have been paid off and the highway projects completed that are included in the prioritized
411 project list under Subsection 72-2-125(4) as determined in accordance with Subsection
412 72-2-125(6), the Division of Finance shall annually deposit \$90,000,000 of the revenues
413 generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund
414 of 2005 created by Section 72-2-124.

415 Section 2. Section **59-12-104** is amended to read:

416 **59-12-104. Exemptions.**

417 The following sales and uses are exempt from the taxes imposed by this chapter:

418 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
419 under Chapter 13, Motor and Special Fuel Tax Act;

420 (2) sales to the state, its institutions, and its political subdivisions; however, this
421 exemption does not apply to sales of:

422 (a) construction materials except:

423 (i) construction materials purchased by or on behalf of institutions of the public
424 education system as defined in Utah Constitution Article X, Section 2, provided the
425 construction materials are clearly identified and segregated and installed or converted to real
426 property which is owned by institutions of the public education system; and

427 (ii) construction materials purchased by the state, its institutions, or its political
428 subdivisions which are installed or converted to real property by employees of the state, its
429 institutions, or its political subdivisions; or

430 (b) tangible personal property in connection with the construction, operation,

431 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
432 providing additional project capacity, as defined in Section 11-13-103;

433 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

434 (i) the proceeds of each sale do not exceed \$1; and

435 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
436 the cost of the item described in Subsection (3)(b) as goods consumed; and

437 (b) Subsection (3)(a) applies to:

438 (i) food and food ingredients; or

439 (ii) prepared food;

440 (4) sales of the following to a commercial airline carrier for in-flight consumption:

441 (a) food and food ingredients;

442 (b) prepared food; or

443 (c) services related to Subsection (4)(a) or (b);

444 (5) sales of parts and equipment for installation in aircraft operated by common carriers
445 in interstate or foreign commerce;

446 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
447 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
448 exhibitor, distributor, or commercial television or radio broadcaster;

449 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
450 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
451 washing of tangible personal property;

452 (b) if a seller that sells at the same business location assisted cleaning or washing of
453 tangible personal property and cleaning or washing of tangible personal property that is not
454 assisted cleaning or washing of tangible personal property, the exemption described in
455 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
456 or washing of the tangible personal property; and

457 (c) for purposes of Subsection (7)(b) and in accordance with Title 63, Chapter 46a,
458 Utah Administrative Rulemaking Act, the commission may make rules:

459 (i) governing the circumstances under which sales are at the same business location;
460 and

461 (ii) establishing the procedures and requirements for a seller to separately account for

462 sales of assisted cleaning or washing of tangible personal property;

463 (8) sales made to or by religious or charitable institutions in the conduct of their regular
464 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
465 fulfilled;

466 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
467 this state if the vehicle is:

468 (a) not registered in this state; and

469 (b) (i) not used in this state; or
470 (ii) used in this state:

471 (A) if the vehicle is not used to conduct business, for a time period that does not
472 exceed the longer of:

473 (I) 30 days in any calendar year; or
474 (II) the time period necessary to transport the vehicle to the borders of this state; or
475 (B) if the vehicle is used to conduct business, for the time period necessary to transport
476 the vehicle to the borders of this state;

477 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

478 (i) the item is intended for human use; and
479 (ii) (A) a prescription was issued for the item; or
480 (B) the item was purchased by a hospital or other medical facility; and
481 (b) (i) Subsection (10)(a) applies to:
482 (A) a drug;
483 (B) a syringe; or
484 (C) a stoma supply; and
485 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
486 commission may by rule define the terms:
487 (A) "syringe"; or
488 (B) "stoma supply";

489 (11) sales or use of property, materials, or services used in the construction of or
490 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

491 (12) (a) sales of an item described in Subsection (12)(c) served by:
492 (i) the following if the item described in Subsection (12)(c) is not available to the

493 general public:

494 (A) a church; or

495 (B) a charitable institution;

496 (ii) an institution of higher education if:

497 (A) the item described in Subsection (12)(c) is not available to the general public; or

498 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan

499 offered by the institution of higher education; or

500 (b) sales of an item described in Subsection (12)(c) provided for a patient by:

501 (i) a medical facility; or

502 (ii) a nursing facility; and

503 (c) Subsections (12)(a) and (b) apply to:

504 (i) food and food ingredients;

505 (ii) prepared food; or

506 (iii) alcoholic beverages;

507 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property

508 by a person:

509 (i) regardless of the number of transactions involving the sale of that tangible personal

510 property by that person; and

511 (ii) not regularly engaged in the business of selling that type of tangible personal

512 property;

513 (b) this Subsection (13) does not apply if:

514 (i) the sale is one of a series of sales of a character to indicate that the person is

515 regularly engaged in the business of selling that type of tangible personal property;

516 (ii) the person holds that person out as regularly engaged in the business of selling that

517 type of tangible personal property;

518 (iii) the person sells an item of tangible personal property that the person purchased as

519 a sale that is exempt under Subsection (25); or

520 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of

521 this state in which case the tax is based upon:

522 (A) the bill of sale or other written evidence of value of the vehicle or vessel being

523 sold; or

524 (B) in the absence of a bill of sale or other written evidence of value, the fair market
525 value of the vehicle or vessel being sold at the time of the sale as determined by the
526 commission; and

527 (c) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
528 commission shall make rules establishing the circumstances under which:

529 (i) a person is regularly engaged in the business of selling a type of tangible personal
530 property;

531 (ii) a sale of tangible personal property is one of a series of sales of a character to
532 indicate that a person is regularly engaged in the business of selling that type of tangible
533 personal property; or

534 (iii) a person holds that person out as regularly engaged in the business of selling a type
535 of tangible personal property;

536 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
537 July 1, 2006, for a purchase or lease by a manufacturing facility other than a cogeneration
538 facility, for the following:

539 (i) machinery and equipment that:

540 (A) is used:

541 (I) for a manufacturing facility other than a manufacturing facility that is a scrap
542 recycler described in Subsection 59-12-102(48)(b):

543 (Aa) in the manufacturing process; and

544 (Bb) to manufacture an item sold as tangible personal property; or

545 (II) for a manufacturing facility that is a scrap recycler described in Subsection
546 59-12-102(48)(b), to process an item sold as tangible personal property; and

547 (B) has an economic life of three or more years; and

548 (ii) normal operating repair or replacement parts that:

549 (A) have an economic life of three or more years; and

550 (B) are used:

551 (I) for a manufacturing facility in the state other than a manufacturing facility that is a
552 scrap recycler described in Subsection 59-12-102(48)(b), in the manufacturing process; or

553 (II) for a manufacturing facility in the state that is a scrap recycler described in
554 Subsection 59-12-102(48)(b), to process an item sold as tangible personal property;

555 (b) (i) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
556 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
557 for the following:

558 (A) machinery and equipment that:

559 (I) is used:

560 (Aa) in the manufacturing process; and

561 (Bb) to manufacture an item sold as tangible personal property; and

562 (II) has an economic life of three or more years; and

563 (B) normal operating repair or replacement parts that:

564 (I) are used in the manufacturing process in a manufacturing facility in the state; and

565 (II) have an economic life of three or more years; and

566 (ii) for amounts paid or charged on or after July 1, 2005, but on or before June 30,
567 2006, for a purchase or lease described in Subsection (14)(b)(i), a cogeneration facility may
568 claim the exemption allowed by Subsection (14)(b)(i) by filing for a refund:

569 (A) for sales and use taxes paid under this chapter on the purchase or lease payment;
570 and

571 (B) in accordance with Section 59-12-110;

572 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
573 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
574 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
575 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
576 of the 2002 North American Industry Classification System of the federal Executive Office of
577 the President, Office of Management and Budget:

578 (i) machinery and equipment that:

579 (A) are used in:

580 (I) the production process, other than the production of real property; or

581 (II) research and development; and

582 (B) have an economic life of three or more years; and

583 (ii) normal operating repair or replacement parts that:

584 (A) have an economic life of three or more years; and

585 (B) are used in:

586 (I) the production process, other than the production of real property, in an
587 establishment described in this Subsection (14)(c) in the state; or
588 (II) research and development in an establishment described in this Subsection (14)(c)
589 in the state;

590 (d) for purposes of this Subsection (14) and in accordance with Title 63, Chapter 46a,
591 Utah Administrative Rulemaking Act, the commission:

592 (i) shall by rule define the term "establishment"; and
593 (ii) may by rule define what constitutes:

594 (A) processing an item sold as tangible personal property;
595 (B) the production process, other than the production of real property; or
596 (C) research and development; and

597 (e) on or before October 1, 2011, and every five years after October 1, 2011, the
598 commission shall:

599 (i) review the exemptions described in this Subsection (14) and make
600 recommendations to the Revenue and Taxation Interim Committee concerning whether the
601 exemptions should be continued, modified, or repealed; and

602 (ii) include in its report:

603 (A) the cost of the exemptions;
604 (B) the purpose and effectiveness of the exemptions; and
605 (C) the benefits of the exemptions to the state;

606 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

607 (i) tooling;
608 (ii) special tooling;
609 (iii) support equipment;
610 (iv) special test equipment; or
611 (v) parts used in the repairs or renovations of tooling or equipment described in
612 Subsections (15)(a)(i) through (iv); and

613 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

614 (i) the tooling, equipment, or parts are used or consumed exclusively in the
615 performance of any aerospace or electronics industry contract with the United States
616 government or any subcontract under that contract; and

617 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
618 title to the tooling, equipment, or parts is vested in the United States government as evidenced
619 by:

620 (A) a government identification tag placed on the tooling, equipment, or parts; or

621 (B) listing on a government-approved property record if placing a government
622 identification tag on the tooling, equipment, or parts is impractical;

623 (16) sales of newspapers or newspaper subscriptions;

624 (17) (a) except as provided in Subsection (17)(b), tangible personal property traded in
625 as full or part payment of the purchase price, except that for purposes of calculating sales or use
626 tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and
627 the tax is based upon:

628 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
629 vehicle being traded in; or

630 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
631 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
632 commission; and

633 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the
634 following items of tangible personal property traded in as full or part payment of the purchase
635 price:

636 (i) money;

637 (ii) electricity;

638 (iii) water;

639 (iv) gas; or

640 (v) steam;

641 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
642 used or consumed primarily and directly in farming operations, regardless of whether the
643 tangible personal property:

644 (A) becomes part of real estate; or

645 (B) is installed by a:

646 (I) farmer;

647 (II) contractor; or

648 (III) subcontractor; or
649 (ii) sales of parts used in the repairs or renovations of tangible personal property if the
650 tangible personal property is exempt under Subsection (18)(a)(i); and
651 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following
652 tangible personal property are subject to the taxes imposed by this chapter:
653 (i) (A) subject to Subsection (18)(b)(i)(B), the following tangible personal property if
654 the tangible personal property is used in a manner that is incidental to farming:
655 (I) machinery;
656 (II) equipment;
657 (III) materials; or
658 (IV) supplies; and
659 (B) tangible personal property that is considered to be used in a manner that is
660 incidental to farming includes:
661 (I) hand tools; or
662 (II) maintenance and janitorial equipment and supplies;
663 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property if the tangible
664 personal property is used in an activity other than farming; and
665 (B) tangible personal property that is considered to be used in an activity other than
666 farming includes:
667 (I) office equipment and supplies; or
668 (II) equipment and supplies used in:
669 (Aa) the sale or distribution of farm products;
670 (Bb) research; or
671 (Cc) transportation; or
672 (iii) a vehicle required to be registered by the laws of this state during the period
673 ending two years after the date of the vehicle's purchase;
674 (19) sales of hay;
675 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
676 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
677 garden, farm, or other agricultural produce is sold by:
678 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other

679 agricultural produce;

680 (b) an employee of the producer described in Subsection (20)(a); or

681 (c) a member of the immediate family of the producer described in Subsection (20)(a);

682 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued

683 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

684 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,

685 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,

686 wholesaler, or retailer for use in packaging tangible personal property to be sold by that

687 manufacturer, processor, wholesaler, or retailer;

688 (23) property stored in the state for resale;

689 (24) (a) purchases of property if:

690 (i) the property is:

691 (A) purchased outside of this state;

692 (B) brought into this state:

693 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

694 (II) by a nonresident person who is not living or working in this state at the time of the

695 purchase;

696 (C) used for the personal use or enjoyment of the nonresident person described in

697 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

698 (D) not used in conducting business in this state; and

699 (ii) for:

700 (A) property other than the property described in Subsection (24)(a)(ii)(B), the first use

701 of the property for a purpose for which the property is designed occurs outside of this state;

702 (B) a boat, the boat is registered outside of this state; or

703 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

704 outside of this state;

705 (b) the exemption provided for in Subsection (24)(a) does not apply to:

706 (i) a lease or rental of property; or

707 (ii) a sale of a vehicle exempt under Subsection (33); and

708 (c) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for

709 purposes of Subsection (24)(a), the commission may by rule define what constitutes the

710 following:

711 (i) conducting business in this state if that phrase has the same meaning in this

712 Subsection (24) as in Subsection (66);

713 (ii) the first use of property if that phrase has the same meaning in this Subsection (24)

714 as in Subsection (66); or

715 (iii) a purpose for which property is designed if that phrase has the same meaning in

716 this Subsection (24) as in Subsection (66);

717 (25) property purchased for resale in this state, in the regular course of business, either

718 in its original form or as an ingredient or component part of a manufactured or compounded

719 product;

720 (26) property upon which a sales or use tax was paid to some other state, or one of its

721 subdivisions, except that the state shall be paid any difference between the tax paid and the tax

722 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if

723 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax

724 Act;

725 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a

726 person for use in compounding a service taxable under the subsections;

727 (28) purchases made in accordance with the special supplemental nutrition program for

728 women, infants, and children established in 42 U.S.C. Sec. 1786;

729 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,

730 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens

731 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification

732 Manual of the federal Executive Office of the President, Office of Management and Budget;

733 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State

734 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

735 (a) not registered in this state; and

736 (b) (i) not used in this state; or

737 (ii) used in this state:

738 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a

739 time period that does not exceed the longer of:

740 (I) 30 days in any calendar year; or

741 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
742 the borders of this state; or

743 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
744 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
745 state;

746 (31) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah
747 where a sales or use tax is not imposed, [~~even~~] if the title is passed in Utah;

748 (32) amounts paid for the purchase of telephone service for purposes of providing
749 telephone service;

750 (33) sales, leases, or uses of the following:

751 (a) a vehicle by an authorized carrier; or

752 (b) tangible personal property that is installed on a vehicle:

753 (i) sold or leased to or used by an authorized carrier; and

754 (ii) before the vehicle is placed in service for the first time;

755 (34) (a) 45% of the sales price of any new manufactured home; and

756 (b) 100% of the sales price of any used manufactured home;

757 (35) sales relating to schools and fundraising sales;

758 (36) sales or rentals of durable medical equipment if:

759 (a) a person presents a prescription for the durable medical equipment; and

760 (b) the durable medical equipment is used for home use only;

761 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
762 Section 72-11-102; and

763 (b) the commission shall by rule determine the method for calculating sales exempt
764 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

765 (38) sales to a ski resort of:

766 (a) snowmaking equipment;

767 (b) ski slope grooming equipment;

768 (c) passenger ropeways as defined in Section 72-11-102; or

769 (d) parts used in the repairs or renovations of equipment or passenger ropeways
770 described in Subsections (38)(a) through (c);

771 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

772 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
773 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
774 59-12-102;

775 (b) if a seller that sells or rents at the same business location the right to use or operate
776 for amusement, entertainment, or recreation one or more unassisted amusement devices and
777 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
778 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
779 amusement, entertainment, or recreation for the assisted amusement devices; and

780 (c) for purposes of Subsection (40)(b) and in accordance with Title 63, Chapter 46a,
781 Utah Administrative Rulemaking Act, the commission may make rules:

782 (i) governing the circumstances under which sales are at the same business location;
783 and

784 (ii) establishing the procedures and requirements for a seller to separately account for
785 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
786 assisted amusement devices;

787 (41) (a) sales of photocopies by:

788 (i) a governmental entity; or

789 (ii) an entity within the state system of public education, including:

790 (A) a school; or

791 (B) the State Board of Education; or

792 (b) sales of publications by a governmental entity;

793 (42) amounts paid for admission to an athletic event at an institution of higher
794 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
795 20 U.S.C. Sec. 1681 et seq.;

796 (43) sales of telephone service charged to a prepaid telephone calling card;

797 (44) (a) sales of:

798 (i) hearing aids;

799 (ii) hearing aid accessories; or

800 (iii) except as provided in Subsection (44)(b), parts used in the repairs or renovations
801 of hearing aids or hearing aid accessories; and

802 (b) for purposes of this Subsection (44), notwithstanding Subsection (44)(a)(iii),

803 "parts" does not include batteries;

804 (45) (a) sales made to or by:

805 (i) an area agency on aging; or

806 (ii) a senior citizen center owned by a county, city, or town; or

807 (b) sales made by a senior citizen center that contracts with an area agency on aging;

808 (46) sales or leases of semiconductor fabricating, processing, research, or development

809 materials regardless of whether the semiconductor fabricating, processing, research, or

810 development materials:

811 (a) actually come into contact with a semiconductor; or

812 (b) ultimately become incorporated into real property;

813 (47) an amount paid by or charged to a purchaser for accommodations and services

814 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section

815 59-12-104.2;

816 (48) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary

817 sports event registration certificate in accordance with Section 41-3-306 for the event period

818 specified on the temporary sports event registration certificate;

819 (49) sales or uses of electricity, if the sales or uses are:

820 (a) made under a tariff adopted by the Public Service Commission of Utah only for

821 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy

822 source, as designated in the tariff by the Public Service Commission of Utah; and

823 (b) for an amount of electricity that is:

824 (i) unrelated to the amount of electricity used by the person purchasing the electricity

825 under the tariff described in Subsection (49)(a); and

826 (ii) equivalent to the number of kilowatthours specified in the tariff described in

827 Subsection (49)(a) that may be purchased under the tariff described in Subsection (49)(a);

828 (50) sales or rentals of mobility enhancing equipment if a person presents a

829 prescription for the mobility enhancing equipment;

830 (51) sales of water in a:

831 (a) pipe;

832 (b) conduit;

833 (c) ditch; or

834 (d) reservoir;

835 (52) sales of currency or coinage that constitute legal tender of the United States or of a
836 foreign nation;

837 (53) (a) sales of an item described in Subsection (53)(b) if the item:

838 (i) does not constitute legal tender of any nation; and

839 (ii) has a gold, silver, or platinum content of 80% or more; and

840 (b) Subsection (53)(a) applies to a gold, silver, or platinum:

841 (i) ingot;

842 (ii) bar;

843 (iii) medallion; or

844 (iv) decorative coin;

845 (54) amounts paid on a sale-leaseback transaction;

846 (55) sales of a prosthetic device:

847 (a) for use on or in a human;

848 (b) for which a prescription is issued; and

849 (c) to a person that presents a prescription for the prosthetic device;

850 (56) (a) except as provided in Subsection (56)(b), purchases, leases, or rentals of
851 machinery or equipment by an establishment described in Subsection (56)(c) if the machinery
852 or equipment is primarily used in the production or postproduction of the following media for
853 commercial distribution:

854 (i) a motion picture;

855 (ii) a television program;

856 (iii) a movie made for television;

857 (iv) a music video;

858 (v) a commercial;

859 (vi) a documentary; or

860 (vii) a medium similar to Subsections (56)(a)(i) through (vi) as determined by the
861 commission by administrative rule made in accordance with Subsection (56)(d); or

862 (b) notwithstanding Subsection (56)(a), purchases, leases, or rentals of machinery or
863 equipment by an establishment described in Subsection (56)(c) that is used for the production
864 or postproduction of the following are subject to the taxes imposed by this chapter:

- 865 (i) a live musical performance;
- 866 (ii) a live news program; or
- 867 (iii) a live sporting event;
- 868 (c) the following establishments listed in the 1997 North American Industry
- 869 Classification System of the federal Executive Office of the President, Office of Management
- 870 and Budget, apply to Subsections (56)(a) and (b):
- 871 (i) NAICS Code 512110; or
- 872 (ii) NAICS Code 51219; and
- 873 (d) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 874 commission may by rule:
- 875 (i) prescribe what constitutes a medium similar to Subsections (56)(a)(i) through (vi);
- 876 or
- 877 (ii) define:
- 878 (A) "commercial distribution";
- 879 (B) "live musical performance";
- 880 (C) "live news program"; or
- 881 (D) "live sporting event";
- 882 (57) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
- 883 or before June 30, 2009, of machinery or equipment that:
- 884 (i) is leased or purchased for or by a facility that:
- 885 (A) is a renewable energy production facility;
- 886 (B) is located in the state; and
- 887 (C) (I) becomes operational on or after July 1, 2004; or
- 888 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 889 2004 as a result of the use of the machinery or equipment;
- 890 (ii) has an economic life of five or more years; and
- 891 (iii) is used to make the facility or the increase in capacity of the facility described in
- 892 Subsection (57)(a)(i) operational up to the point of interconnection with an existing
- 893 transmission grid including:
- 894 (A) a wind turbine;
- 895 (B) generating equipment;

896 (C) a control and monitoring system;
897 (D) a power line;
898 (E) substation equipment;
899 (F) lighting;
900 (G) fencing;
901 (H) pipes; or
902 (I) other equipment used for locating a power line or pole; and
903 (b) this Subsection (57) does not apply to:
904 (i) machinery or equipment used in construction of:
905 (A) a new renewable energy production facility; or
906 (B) the increase in the capacity of a renewable energy production facility;
907 (ii) contracted services required for construction and routine maintenance activities;
908 and
909 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
910 of the facility described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or
911 acquired after:
912 (A) the renewable energy production facility described in Subsection (57)(a)(i) is
913 operational as described in Subsection (57)(a)(iii); or
914 (B) the increased capacity described in Subsection (57)(a)(i) is operational as described
915 in Subsection (57)(a)(iii);
916 (58) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
917 or before June 30, 2009, of machinery or equipment that:
918 (i) is leased or purchased for or by a facility that:
919 (A) is a waste energy production facility;
920 (B) is located in the state; and
921 (C) (I) becomes operational on or after July 1, 2004; or
922 (II) has its generation capacity increased by one or more megawatts on or after July 1,
923 2004 as a result of the use of the machinery or equipment;
924 (ii) has an economic life of five or more years; and
925 (iii) is used to make the facility or the increase in capacity of the facility described in
926 Subsection (58)(a)(i) operational up to the point of interconnection with an existing

927 transmission grid including:

928 (A) generating equipment;

929 (B) a control and monitoring system;

930 (C) a power line;

931 (D) substation equipment;

932 (E) lighting;

933 (F) fencing;

934 (G) pipes; or

935 (H) other equipment used for locating a power line or pole; and

936 (b) this Subsection (58) does not apply to:

937 (i) machinery or equipment used in construction of:

938 (A) a new waste energy facility; or

939 (B) the increase in the capacity of a waste energy facility;

940 (ii) contracted services required for construction and routine maintenance activities;

941 and

942 (iii) unless the machinery or equipment is used or acquired for an increase in capacity

943 described in Subsection (58)(a)(i)(C)(II), machinery or equipment used or acquired after:

944 (A) the waste energy facility described in Subsection (58)(a)(i) is operational as

945 described in Subsection (58)(a)(iii); or

946 (B) the increased capacity described in Subsection (58)(a)(i) is operational as described

947 in Subsection (58)(a)(iii);

948 (59) (a) leases of five or more years or purchases made on or after July 1, 2004 but on

949 or before June 30, 2009, of machinery or equipment that:

950 (i) is leased or purchased for or by a facility that:

951 (A) is located in the state;

952 (B) produces fuel from biomass energy including:

953 (I) methanol; or

954 (II) ethanol; and

955 (C) (I) becomes operational on or after July 1, 2004; or

956 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as

957 a result of the installation of the machinery or equipment;

958 (ii) has an economic life of five or more years; and
959 (iii) is installed on the facility described in Subsection (59)(a)(i);
960 (b) this Subsection (59) does not apply to:
961 (i) machinery or equipment used in construction of:
962 (A) a new facility described in Subsection (59)(a)(i); or
963 (B) the increase in capacity of the facility described in Subsection (59)(a)(i); or
964 (ii) contracted services required for construction and routine maintenance activities;
965 and
966 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
967 described in Subsection (59)(a)(i)(C)(II), machinery or equipment used or acquired after:
968 (A) the facility described in Subsection (59)(a)(i) is operational; or
969 (B) the increased capacity described in Subsection (59)(a)(i) is operational;
970 (60) amounts paid to a purchaser as a rebate from the manufacturer of a new vehicle
971 for purchasing the new vehicle;
972 (61) (a) subject to Subsection (61)(b), sales of tangible personal property to persons
973 within this state that is subsequently shipped outside the state and incorporated pursuant to
974 contract into and becomes a part of real property located outside of this state, except to the
975 extent that the other state or political entity imposes a sales, use, gross receipts, or other similar
976 transaction excise tax on it against which the other state or political entity allows a credit for
977 taxes imposed by this chapter; and
978 (b) the exemption provided for in Subsection (61)(a):
979 (i) is allowed only if the exemption is applied:
980 (A) in calculating the purchase price of the tangible personal property; and
981 (B) to a written contract that is in effect on July 1, 2004; and
982 (ii) (A) does not apply beginning on the day on which the contract described in
983 Subsection (61)(b)(i):
984 (I) is substantially modified; or
985 (II) terminates; and
986 (B) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
987 the commission may by rule prescribe the circumstances under which a contract is substantially
988 modified;

- 989 (62) purchases:
- 990 (a) of one or more of the following items in printed or electronic format:
- 991 (i) a list containing information that includes one or more:
- 992 (A) names; or
- 993 (B) addresses; or
- 994 (ii) a database containing information that includes one or more:
- 995 (A) names; or
- 996 (B) addresses; and
- 997 (b) used to send direct mail;
- 998 (63) redemptions or repurchases of property by a person if that property was:
- 999 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 1000 (b) redeemed or repurchased within the time period established in a written agreement
- 1001 between the person and the pawnbroker for redeeming or repurchasing the property;
- 1002 (64) (a) purchases or leases of an item described in Subsection (64)(b) if the item:
- 1003 (i) is purchased or leased by, or on behalf of, a telephone service provider; and
- 1004 (ii) has a useful economic life of one or more years; and
- 1005 (b) the following apply to Subsection (64)(a):
- 1006 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 1007 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 1008 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 1009 (iv) telecommunications switching or routing equipment, machinery, or software; or
- 1010 (v) telecommunications transmission equipment, machinery, or software;
- 1011 (65) (a) beginning on July 1, 2006, and ending on June 30, 2016, purchases of tangible
- 1012 personal property used in the research and development of coal-to-liquids, oil shale, or tar
- 1013 sands technology; and
- 1014 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1015 commission may, for purposes of Subsection (65)(a), make rules defining what constitutes
- 1016 tangible personal property used in the research and development of coal-to-liquids, oil shale,
- 1017 and tar sands technology;
- 1018 (66) (a) purchases of property if:
- 1019 (i) the property is:

1020 (A) purchased outside of this state;
1021 (B) brought into this state at any time after the purchase described in Subsection
1022 (66)(a)(i)(A); and
1023 (C) used in conducting business in this state; and
1024 (ii) for:
1025 (A) property other than the property described in Subsection (66)(a)(ii)(B), the first use
1026 of the property for a purpose for which the property is designed occurs outside of this state; or
1027 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
1028 outside of this state;
1029 (b) the exemption provided for in Subsection (66)(a) does not apply to:
1030 (i) a lease or rental of property; or
1031 (ii) a sale of a vehicle exempt under Subsection (33); and
1032 (c) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for
1033 purposes of Subsection (66)(a), the commission may by rule define what constitutes the
1034 following:
1035 (i) conducting business in this state if that phrase has the same meaning in this
1036 Subsection (66) as in Subsection (24);
1037 (ii) the first use of property if that phrase has the same meaning in this Subsection (66)
1038 as in Subsection (24); or
1039 (iii) a purpose for which property is designed if that phrase has the same meaning in
1040 this Subsection (66) as in Subsection (24);
1041 (67) sales of disposable home medical equipment or supplies if:
1042 (a) a person presents a prescription for the disposable home medical equipment or
1043 supplies;
1044 (b) the disposable home medical equipment or supplies are used exclusively by the
1045 person to whom the prescription described in Subsection (67)(a) is issued; and
1046 (c) the disposable home medical equipment and supplies are listed as eligible for
1047 payment under:
1048 (i) Title XVIII, federal Social Security Act; or
1049 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
1050 and

1051 (68) sales to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
1052 District Act, or to a subcontractor of a public transit district, including sales of construction
1053 materials that are to be installed or converted to real property owned by the public transit
1054 district.

1055 Section 3. Section **59-12-107** is amended to read:

1056 **59-12-107. Collection, remittance, and payment of tax by sellers or other persons**
1057 **-- Returns -- Direct payment by purchaser of vehicle -- Other liability for collection --**
1058 **Rulemaking authority -- Credits -- Treatment of bad debt -- Penalties.**

1059 (1) (a) Except as provided in Subsection (1)(d) or Section 59-12-107.1 and subject to
1060 Subsection (1)(e), each seller shall pay or collect and remit the sales and use taxes imposed by
1061 this chapter if within this state the seller:

1062 (i) has or utilizes:

1063 (A) an office;

1064 (B) a distribution house;

1065 (C) a sales house;

1066 (D) a warehouse;

1067 (E) a service enterprise; or

1068 (F) a place of business similar to Subsections (1)(a)(i)(A) through (E);

1069 (ii) maintains a stock of goods;

1070 (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the
1071 state, unless the seller's only activity in the state is:

1072 (A) advertising; or

1073 (B) solicitation by:

1074 (I) direct mail;

1075 (II) electronic mail;

1076 (III) the Internet;

1077 (IV) telephone; or

1078 (V) a means similar to Subsection (1)(a)(iii)(A) or (B);

1079 (iv) regularly engages in the delivery of property in the state other than by:

1080 (A) common carrier; or

1081 (B) United States mail; or

1082 (v) regularly engages in an activity directly related to the leasing or servicing of
1083 property located within the state.

1084 (b) A seller that does not meet one or more of the criteria provided for in Subsection
1085 (1)(a):

1086 (i) except as provided in Subsection (1)(b)(ii), may voluntarily:

1087 (A) collect a tax on a transaction described in Subsection 59-12-103(1); and

1088 (B) remit the tax to the commission as provided in this part; or

1089 (ii) notwithstanding Subsection (1)(b)(i), shall collect a tax on a transaction described
1090 in Subsection 59-12-103(1) if Section 59-12-103.1 requires the seller to collect the tax.

1091 (c) A person shall pay a use tax imposed by this chapter on a transaction described in
1092 Subsection 59-12-103(1) if:

1093 (i) the seller did not collect a tax imposed by this chapter on the transaction; and

1094 (ii) the person:

1095 (A) stores the tangible personal property in the state;

1096 (B) uses the tangible personal property in the state; or

1097 (C) consumes the tangible personal property in the state.

1098 (d) The ownership of property that is located at the premises of a printer's facility with
1099 which the retailer has contracted for printing and that consists of the final printed product,
1100 property that becomes a part of the final printed product, or copy from which the printed
1101 product is produced, shall not result in the retailer being considered to have or maintain an
1102 office, distribution house, sales house, warehouse, service enterprise, or other place of
1103 business, or to maintain a stock of goods, within this state.

1104 (e) (i) As used in this Subsection (1)(e):

1105 (A) "affiliated group" is as defined in Section 59-7-101, except that "affiliated group"
1106 includes a corporation that is qualified to do business but is not otherwise doing business in
1107 this state;

1108 (B) "common ownership" is as defined in Section 59-7-101;

1109 (C) "related seller" means a seller that:

1110 (I) is not required to pay or collect and remit sales and use taxes under Subsection
1111 (1)(a) or Section 59-12-103.1;

1112 (II) is:

- 1113 (Aa) related to a seller that is required to pay or collect and remit sales and use taxes
1114 under Subsection (1)(a) as part of an affiliated group or because of common ownership; or
1115 (Bb) a limited liability company owned by the parent corporation of an affiliated group
1116 if that parent corporation of the affiliated group is required to pay or collect and remit sales and
1117 use taxes under Subsection (1)(a); and
1118 (III) does not voluntarily collect and remit a tax under Subsection (1)(b)(i).
1119 (ii) A seller is not required to pay or collect and remit sales and use taxes under
1120 Subsection (1)(a):
1121 (A) if the seller is a related seller;
1122 (B) if the seller to which the related seller is related does not engage in any of the
1123 following activities on behalf of the related seller:
1124 (I) advertising;
1125 (II) marketing;
1126 (III) sales; or
1127 (IV) other services; and
1128 (C) if the seller to which the related seller is related accepts the return of an item sold
1129 by the related seller, the seller to which the related seller is related accepts the return of that
1130 item:
1131 (I) sold by a seller that is not a related seller; and
1132 (II) on the same terms as the return of an item sold by that seller to which the related
1133 seller is related.
1134 (2) (a) Except as provided in Section 59-12-107.1, a tax under this chapter shall be
1135 collected from a purchaser.
1136 (b) A seller may not collect as tax an amount, without regard to fractional parts of one
1137 cent, in excess of the tax computed at the rates prescribed by this chapter.
1138 (c) (i) Each seller shall:
1139 (A) give the purchaser a receipt for the tax collected; or
1140 (B) bill the tax as a separate item and declare the name of this state and the seller's
1141 sales and use tax license number on the invoice for the sale.
1142 (ii) The receipt or invoice is prima facie evidence that the seller has collected the tax
1143 and relieves the purchaser of the liability for reporting the tax to the commission as a

1144 consumer.

1145 (d) A seller is not required to maintain a separate account for the tax collected, but is
1146 considered to be a person charged with receipt, safekeeping, and transfer of public moneys.

1147 (e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the
1148 benefit of the state and for payment to the commission in the manner and at the time provided
1149 for in this chapter.

1150 (f) If any seller, during any reporting period, collects as a tax an amount in excess of
1151 the lawful state and local percentage of total taxable sales allowed under this chapter, the seller
1152 shall remit to the commission the full amount of the tax imposed under this chapter, plus any
1153 excess.

1154 (g) If the accounting methods regularly employed by the seller in the transaction of the
1155 seller's business are such that reports of sales made during a calendar month or quarterly period
1156 will impose unnecessary hardships, the commission may accept reports at intervals that will, in
1157 the commission's opinion, better suit the convenience of the taxpayer or seller and will not
1158 jeopardize collection of the tax.

1159 (3) (a) Except as provided in Subsection (4) and Section 59-12-108, the sales or use tax
1160 imposed by this chapter is due and payable to the commission quarterly on or before the last
1161 day of the month next succeeding each calendar quarterly period.

1162 (b) (i) Each seller shall, on or before the last day of the month next succeeding each
1163 calendar quarterly period, file with the commission a return for the preceding quarterly period.

1164 (ii) The seller shall remit with the return under Subsection (3)(b)(i) the amount of the
1165 tax required under this chapter to be collected or paid for the period covered by the return.

1166 (c) Each return shall contain information and be in a form the commission prescribes
1167 by rule.

1168 (d) The sales tax as computed in the return shall be based upon the total nonexempt
1169 sales made during the period, including both cash and charge sales.

1170 (e) The use tax as computed in the return shall be based upon the total amount of [~~sales~~
1171 ~~and~~] purchases for storage, use, or other consumption in this state made during the period,
1172 including both by cash and by charge.

1173 (f) (i) Subject to Subsection (3)(f)(ii) and in accordance with Title 63, Chapter 46a,
1174 Utah Administrative Rulemaking Act, the commission may by rule extend the time for making

1175 returns and paying the taxes.

1176 (ii) An extension under Subsection (3)(f)(i) may not be for more than 90 days.

1177 (g) The commission may require returns and payment of the tax to be made for other
1178 than quarterly periods if the commission considers it necessary in order to ensure the payment
1179 of the tax imposed by this chapter.

1180 (4) (a) On each vehicle sale made by other than a regular licensed vehicle dealer, the
1181 purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to
1182 titling or registration under the laws of this state.

1183 (b) The commission shall collect the tax described in Subsection (4)(a) when the
1184 vehicle is titled or registered.

1185 (5) If any sale of tangible personal property or any other taxable transaction under
1186 Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not
1187 responsible for the collection or payment of the tax imposed on the sale and the retailer is
1188 responsible for the collection or payment of the tax imposed on the sale if:

1189 (a) the retailer represents that the personal property is purchased by the retailer for
1190 resale; and

1191 (b) the personal property is not subsequently resold.

1192 (6) If any sale of property or service subject to the tax is made to a person prepaying
1193 sales or use tax in accordance with Title 63, Chapter 51, Resource Development, or to a
1194 contractor or subcontractor of that person, the person to whom such payment or consideration
1195 is payable is not responsible for the collection or payment of the sales or use tax and the person
1196 prepaying the sales or use tax is responsible for the collection or payment of the sales or use tax
1197 if the person prepaying the sales or use tax represents that the amount prepaid as sales or use
1198 tax has not been fully credited against sales or use tax due and payable under the rules
1199 promulgated by the commission.

1200 (7) (a) For purposes of this Subsection (7):

1201 (i) Except as provided in Subsection (7)(a)(ii), "bad debt" is as defined in Section 166,
1202 Internal Revenue Code.

1203 (ii) Notwithstanding Subsection (7)(a)(i), "bad debt" does not include:

1204 (A) an amount included in the purchase price of tangible personal property or a service
1205 that is:

- 1206 (I) not a transaction described in Subsection 59-12-103(1); or
- 1207 (II) exempt under Section 59-12-104;
- 1208 (B) a financing charge;
- 1209 (C) interest;
- 1210 (D) a tax imposed under this chapter on the purchase price of tangible personal
- 1211 property or a service;
- 1212 (E) an uncollectible amount on tangible personal property that:
- 1213 (I) is subject to a tax under this chapter; and
- 1214 (II) remains in the possession of a seller until the full purchase price is paid;
- 1215 (F) an expense incurred in attempting to collect any debt; or
- 1216 (G) an amount that a seller does not collect on repossessed property.
- 1217 (b) A seller may deduct bad debt from the total amount from which a tax under this
- 1218 chapter is calculated on a return.
- 1219 (c) A seller may file a refund claim with the commission if:
- 1220 (i) the amount of bad debt for the time period described in Subsection (7)(e) exceeds
- 1221 the amount of the seller's sales that are subject to a tax under this chapter for that same time
- 1222 period; and
- 1223 (ii) as provided in Section 59-12-110.
- 1224 (d) A bad debt deduction under this section may not include interest.
- 1225 (e) A bad debt may be deducted under this Subsection (7) on a return for the time
- 1226 period during which the bad debt:
- 1227 (i) is written off as uncollectible in the seller's books and records; and
- 1228 (ii) would be eligible for a bad debt deduction:
- 1229 (A) for federal income tax purposes; and
- 1230 (B) if the seller were required to file a federal income tax return.
- 1231 (f) If a seller recovers any portion of bad debt for which the seller makes a deduction or
- 1232 claims a refund under this Subsection (7), the seller shall report and remit a tax under this
- 1233 chapter:
- 1234 (i) on the portion of the bad debt the seller recovers; and
- 1235 (ii) on a return filed for the time period for which the portion of the bad debt is
- 1236 recovered.

- 1237 (g) For purposes of reporting a recovery of a portion of bad debt under Subsection
1238 (7)(f), a seller shall apply amounts received on the bad debt in the following order:
1239 (i) in a proportional amount:
1240 (A) to the purchase price of the tangible personal property or service; and
1241 (B) to the tax due under this chapter on the tangible personal property or service; and
1242 (ii) to:
1243 (A) interest charges;
1244 (B) service charges; and
1245 (C) other charges.
- 1246 (8) (a) A seller may not, with intent to evade any tax, fail to timely remit the full
1247 amount of tax required by this chapter.
1248 (b) A violation of this section is punishable as provided in Section 59-1-401.
1249 (c) Each person who fails to pay any tax to the state or any amount of tax required to be
1250 paid to the state, except amounts determined to be due by the commission under Sections
1251 59-12-110 and 59-12-111, within the time required by this chapter, or who fails to file any
1252 return as required by this chapter, shall pay, in addition to the tax, penalties and interest as
1253 provided in Section 59-12-110.
- 1254 (d) For purposes of prosecution under this section, each quarterly tax period in which a
1255 seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the
1256 tax required to be remitted, constitutes a separate offense.
- 1257 Section 4. Section **59-12-501** is amended to read:
1258 **59-12-501. Public transit tax -- Base -- Rate -- Voter approval.**
- 1259 (1) (a) (i) In addition to other sales and use taxes, any county, city, or town may impose
1260 a sales and use tax of up to:
1261 (A) [~~beginning on January 1, 1988, and ending on December 31, 2007~~] for a county,
1262 city, or town other than a county, city, or town described in Subsection (1)(a)(i)(B), .25% on
1263 the transactions described in Subsection 59-12-103(1) located within the county, city, or town,
1264 to fund a public transportation system; or
1265 (B) beginning on January 1, 2008, [~~if within the boundaries of the~~] for a county, city, or
1266 town within which a tax is not imposed under Part 15, County Option Sales and Use Tax for
1267 Highways, Fixed Guideways, or Systems for Public Transit Act, .30% on the transactions

1268 described in Subsection 59-12-103(1) located within the county, city, or town, to fund a public
1269 transportation system.

1270 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax
1271 under this section on:

1272 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses
1273 are exempt from taxation under Section 59-12-104;

1274 (B) amounts paid or charged by a seller that collects a tax under Subsection
1275 59-12-107(1)(b); and

1276 (C) except as provided in Subsection (1)(c), amounts paid or charged for food and food
1277 ingredients.

1278 (b) For purposes of this Subsection (1), the location of a transaction shall be
1279 determined in accordance with Section 59-12-207.

1280 (c) A county, city, or town imposing a tax under this section shall impose the tax on
1281 amounts paid or charged for food and food ingredients if:

1282 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
1283 food and food ingredients and tangible personal property other than food and food ingredients;
1284 and

1285 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
1286 accordance with Subsection 59-12-107(1)(b).

1287 (d) Except as provided in Subsection (3) or (4), a county, city, or town may impose a
1288 tax under this section only if the governing body of the county, city, or town, by resolution,
1289 submits the proposal to all the qualified voters within the county, city, or town for approval at a
1290 general or special election conducted in the manner provided by statute.

1291 (2) (a) Notice of any such election shall be given by the county, city, or town governing
1292 body 15 days in advance in the manner prescribed by statute.

1293 (b) If a majority of the voters voting in such election approve the proposal, it shall
1294 become effective on the date provided by the county, city, or town governing body.

1295 (3) This section may not be construed to require an election in jurisdictions where
1296 voters have previously approved a public transit sales or use tax.

1297 (4) A county, city, or town is not subject to the voter approval requirements of this
1298 section if:

1299 (a) on December 31, 2007, the county, city, or town imposes a tax of .25% under this
1300 section; and

1301 (b) on or after January 1, 2008, subject to Subsection (1)(a)(i)(B), the county, city, or
1302 town increases the tax rate under this section to up to .30%.

1303 Section 5. **Effective date -- Retrospective operation.**

1304 If approved by two-thirds of all the members elected to each house, this bill:

1305 (1) takes effect upon approval by the governor, or the day following the constitutional
1306 time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in
1307 the case of a veto, the date of veto override; and

1308 (2) has retrospective operation to January 1, 2008.

Legislative Review Note
as of 12-7-07 12:44 PM

Office of Legislative Research and General Counsel

H.B. 251 - Sales and Use Tax Revisions

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
