

**FUNDING RELATING TO AIRPORTS, HIGHWAYS,  
AND PUBLIC TRANSIT**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: David Clark

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**LONG TITLE**

**General Description:**

This bill amends the Motor Vehicles Code, the Sales and Use Tax Act, and the Transportation Code relating to the local option highway construction and transportation corridor preservation fee, a local sales and use tax to fund tourism, recreation, cultural, convention, and airport facilities, a local sales and use tax to fund certain airport, highway, or public transit projects or services, a state sales and use tax, and financing of certain fixed guideways with certain airport revenue.

**Highlighted Provisions:**

This bill:

- ▶ addresses an audit relating to the local sales and use tax to fund tourism, recreation, cultural, convention, and airport facilities;
- ▶ reallocates a portion of the revenue received from the local option highway construction and transportation corridor preservation fee imposed in a county of the first class from the County of the First Class State Highway Projects Fund to the legislative body of a city of the first class located within a county of the first class that has an international airport with a United States customs office within its boundaries;
- ▶ addresses amounts a seller may retain as a seller discount;
- ▶ repeals a purpose statement;
- ▶ provides part titles;
- ▶ defines terms;

- 30           ▶ provides that a county legislative body may expend certain local sales and use tax
- 31 revenues for an airport facility in addition to other purposes allowed by statute;
- 32           ▶ addresses provisions relating to ordinances and bonding for purposes of the local
- 33 sales and use tax to fund tourism, recreation, cultural, convention, and airport
- 34 facilities;
- 35           ▶ authorizes a county of the second class to impose a local option sales and use tax to
- 36 fund certain airport, highway, or public transit projects or services;
- 37           ▶ addresses the procedures and requirements for imposing the local option sales and
- 38 use tax to fund certain airport, highway, or public transit projects or services,
- 39 including providing that the sales and use tax is an agreement sales and use tax;
- 40           ▶ imposes a state sales and use tax under certain circumstances;
- 41           ▶ addresses the procedures and requirements for imposing the state sales and use tax,
- 42 including providing that:
  - 43           • the sales and use tax is an agreement sales and use tax; and
  - 44           • the revenues are distributed to certain public transit districts;
- 45           ▶ modifies the sources of funding for the Local Transportation Corridor Preservation
- 46 Fund;
- 47           ▶ creates a special revenue fund known as the County of the Second Class State
- 48 Highway Projects Fund, including:
  - 49           • addressing funding of the fund; and
  - 50           • addressing the purposes for which fund monies may be expended;
- 51           ▶ provides that an airport operator may not use airport revenue to contribute to
- 52 constructing, equipping, maintaining, or operating a fixed guideway; and
- 53           ▶ makes technical changes.

54 **Monies Appropriated in this Bill:**

55           None

56 **Other Special Clauses:**

57           This bill provides effective dates.

58           This bill coordinates with H.B. 206, Tax Amendments, to make substantive and  
59 technical amendments, including enacting Sections 59-12-1904, 59-12-1905,  
60 59-12-1906, 59-12-2005, 59-12-2006, and 59-12-2007.

61 **Utah Code Sections Affected:**

62 AMENDS:

- 63           **11-41-102**, as last amended by Laws of Utah 2007, Chapter 9
- 64           **17-31-5.5**, as last amended by Laws of Utah 2007, Chapter 3
- 65           **41-1a-1222**, as last amended by Laws of Utah 2007, Chapters 201 and 274
- 66           **59-12-102**, as last amended by Laws of Utah 2007, Chapters 9, 214, 224, and 288
- 67           **59-12-103**, as last amended by Laws of Utah 2007, Chapters 9, 101, 126, 206, and 288
- 68           **59-12-104.2**, as last amended by Laws of Utah 2003, Chapter 312
- 69           **59-12-108**, as last amended by Laws of Utah 2007, Chapter 9
- 70           **59-12-602**, as last amended by Laws of Utah 1995, Chapter 248
- 71           **59-12-603**, as last amended by Laws of Utah 2007, Chapters 3, 9, and 219
- 72           **72-2-117.5**, as last amended by Laws of Utah 2007, Chapters 181 and 201
- 73           **72-2-121**, as last amended by Laws of Utah 2007, Chapter 201
- 74           **72-10-102**, as last amended by Laws of Utah 2003, Chapter 183

75 ENACTS:

- 76           **59-12-601.1**, Utah Code Annotated 1953
- 77           **59-12-1901**, Utah Code Annotated 1953
- 78           **59-12-1902**, Utah Code Annotated 1953
- 79           **59-12-1903**, Utah Code Annotated 1953
- 80           **59-12-2001**, Utah Code Annotated 1953
- 81           **59-12-2002**, Utah Code Annotated 1953
- 82           **59-12-2003**, Utah Code Annotated 1953
- 83           **59-12-2004**, Utah Code Annotated 1953
- 84           **72-2-121.2**, Utah Code Annotated 1953
- 85           **72-10-215**, Utah Code Annotated 1953

86 REPEALS:

87 **59-12-601**, as last amended by Laws of Utah 1991, Chapter 265

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

90 Section 1. Section **11-41-102** is amended to read:

91 **11-41-102. Definitions.**

92 As used in this chapter:

93 (1) "Agreement" means an oral or written agreement between a:

94 (a) (i) county; or

95 (ii) municipality; and

96 (b) person.

97 (2) "Municipality" means a:

98 (a) city; or

99 (b) town.

100 (3) "Payment" includes:

101 (a) a payment;

102 (b) a rebate;

103 (c) a refund; or

104 (d) an amount similar to Subsections (3)(a) through (c).

105 (4) "Regional retail business" means a:

106 (a) retail business that occupies a floor area of more than 80,000 square feet;

107 (b) dealer as defined in Section 41-1a-102;

108 (c) retail shopping facility that has at least two anchor tenants if the total number of  
109 anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square  
110 feet; or

111 (d) grocery store that occupies a floor area of more than 30,000 square feet.

112 (5) (a) "Sales and use tax" means a tax:

113 (i) imposed on transactions within a:

114 (A) county; or  
115 (B) municipality; and  
116 (ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12,  
117 Sales and Use Tax Act.

118 (b) Notwithstanding Subsection (5)(a)(ii), "sales and use tax" does not include a tax  
119 authorized under:

- 120 (i) Subsection 59-12-103(2)(a)(i);
- 121 (ii) Subsection 59-12-103(2)(b)(i);
- 122 (iii) Subsection 59-12-103(2)(c)(i);
- 123 (iv) Subsection 59-12-103(2)(d)(i)(A);
- 124 (v) Subsection 59-12-103(2)(e)(ii)(A);
- 125 (vi) Subsection 59-12-103(2)(e)(iii)(A);
- 126 (vii) Section 59-12-301;
- 127 (viii) Section 59-12-352;
- 128 (ix) Section 59-12-353;
- 129 (x) Section 59-12-603; or
- 130 (xi) Section 59-12-1201.

131 (6) (a) "Sales and use tax incentive payment" means a payment of revenues:

- 132 (i) to a person;
- 133 (ii) by a:
  - 134 (A) county; or
  - 135 (B) municipality;
  - 136 (iii) to induce the person to locate or relocate a regional retail business within the:
    - 137 (A) county; or
    - 138 (B) municipality; and
    - 139 (iv) that are derived from a sales and use tax.

140 (b) "Sales and use tax incentive payment" does not include funding for public  
141 infrastructure.

142 Section 2. Section **17-31-5.5** is amended to read:

143 **17-31-5.5. Independent audit -- Report to county legislative body -- Content.**

144 (1) The legislative body of each county imposing the transient room tax provided for in  
145 Section 59-12-301 shall annually engage an independent auditor to perform an audit to verify  
146 that transient room tax funds are used only as authorized by this chapter and to report the  
147 findings of the audit to the county legislative body.

148 (2) Subsection (1) applies to the tourism, recreation, cultural, [~~and~~] convention, and  
149 airport facilities tax provided for in Section 59-12-603, except that the audit verification  
150 required under this Subsection (2) shall be for the uses authorized under Section 59-12-603.

151 (3) The report required under Subsection (1) shall include a breakdown of expenditures  
152 into the following categories:

153 (a) for the transient room tax, identification of expenditures for:

154 (i) establishing and promoting:

155 (A) recreation;

156 (B) tourism;

157 (C) film production; and

158 (D) conventions;

159 (ii) acquiring, leasing, constructing, furnishing, or operating:

160 (A) convention meeting rooms;

161 (B) exhibit halls;

162 (C) visitor information centers;

163 (D) museums; and

164 (E) related facilities;

165 (iii) acquiring or leasing land required for or related to the purposes listed in Subsection  
166 (3)(a)(ii);

167 (iv) mitigation costs as identified in Subsection 17-31-2(1)(d); and

168 (v) making the annual payment of principal, interest, premiums, and necessary reserves  
169 for any or the aggregate of bonds issued to pay for costs referred to in Subsections

170 17-31-2(2)(c) and (3)(a); and

171 (b) for the tourism, recreation, cultural, [~~and~~] convention, and airport facilities tax,  
172 identification of expenditures for:

173 (i) financing tourism promotion, which means an activity to develop, encourage, solicit,  
174 or market tourism that attracts transient guests to the county, including planning, product  
175 development, and advertising;

176 (ii) the development, operation, and maintenance of the following facilities as defined in  
177 Section 59-12-602:

- 178 (A) [~~tourist facilities~~] an airport facility;
- 179 (B) [~~recreation facilities~~] a convention facility;
- 180 (C) a cultural [~~facilities; and~~] facility;
- 181 (D) [~~convention facilities~~] a recreation facility; and
- 182 (E) a tourist facility; and

183 (iii) a pledge as security for evidences of indebtedness under Subsection 59-12-603(3).

184 (4) A county legislative body shall provide a copy of a report it receives under this  
185 section to:

- 186 (a) the Governor's Office of Economic Development;
- 187 (b) its tourism tax advisory board; and
- 188 (c) the Office of the Legislative Fiscal Analyst.

189 Section 3. Section **41-1a-1222** is amended to read:

190 **41-1a-1222. Local option highway construction and transportation corridor**  
191 **preservation fee -- Exemptions -- Deposit -- Transfer -- County ordinance -- Notice.**

192 (1) (a) (i) A county legislative body may impose a local option highway construction  
193 and transportation corridor preservation fee of up to \$10 on each motor vehicle registration  
194 within the county.

195 (ii) A fee imposed under Subsection (1)(a)(i) shall be set in whole dollar increments.

196 (b) If imposed under Subsection (1)(a), at the time application is made for registration  
197 or renewal of registration of a motor vehicle under this chapter, the applicant shall pay the local

198 option highway construction and transportation corridor preservation fee established by the  
199 county legislative body.

200 (c) The following are exempt from the fee required under Subsection (1)(a):

201 (i) a motor vehicle that is exempt from the registration fee under Section 41-1a-1209 or  
202 Subsection 41-1a-419(3);

203 (ii) a commercial vehicle with an apportioned registration under Section 41-1a-301; and

204 (iii) a motor vehicle with a Purple Heart special group license plate issued in accordance  
205 with Section 41-1a-421.

206 (2) (a) Except as provided in Subsection (2)(b), the revenue generated under this  
207 section shall be:

208 (i) deposited in the Local Transportation Corridor Preservation Fund created in Section  
209 72-2-117.5;

210 (ii) credited to the county from which it is generated; and

211 (iii) used and distributed in accordance with Section 72-2-117.5.

212 (b) [~~Seventy percent of the~~] The revenue generated by a fee imposed under this section  
213 in a county of the first class shall be[:] deposited or transferred as follows:

214 (i) 50% of the revenue shall be:

215 [(+)] (A) deposited in the County of the First Class State Highway Projects Fund  
216 created in Section 72-2-121; and

217 [(+)] (B) used in accordance with Section 72-2-121[:];

218 (ii) 20% of the revenue shall be:

219 (A) transferred to the legislative body of a city of the first class:

220 (I) located in a county of the first class; and

221 (II) that has:

222 (Aa) an international airport within its boundaries; and

223 (Bb) a United States customs office on the premises of the international airport

224 described in Subsection (2)(b)(ii)(A)(II)(Aa); and

225 (B) used by the city described in Subsection (2)(b)(ii)(A) for highway construction.



226 reconstruction, or maintenance projects; and

227 (iii) 30% of the revenue shall be deposited, credited, and used as provided in Subsection

228 (2)(a).

229 (3) To impose or change the amount of a fee under this section, the county legislative  
230 body shall pass an ordinance:

231 (a) approving the fee;

232 (b) setting the amount of the fee; and

233 (c) providing an effective date for the fee as provided in Subsection (4).

234 (4) (a) If a county legislative body enacts, changes, or repeals a fee under this section,  
235 the enactment, change, or repeal shall take effect on July 1 if the commission receives notice  
236 meeting the requirements of Subsection (4)(b) from the county prior to April 1.

237 (b) The notice described in Subsection (4)(a) shall:

238 (i) state that the county will enact, change, or repeal a fee under this part;

239 (ii) include a copy of the ordinance imposing the fee; and

240 (iii) if the county enacts or changes the fee under this section, state the amount of the  
241 fee.

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

243 **59-12-102. Definitions.**

244 As used in this chapter:

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

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

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

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

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

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

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

- 254 (a) Subsection 59-12-103(2)(a)(i)(A);
- 255 (b) Subsection 59-12-103(2)(b)(i);
- 256 (c) Subsection 59-12-103(2)(c)(i);
- 257 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 258 (e) Subsection 59-12-103(2)(e)(ii)(A)(I);
- 259 (f) Subsection 59-12-103(2)(e)(iii)(A)(I);
- 260 (g) Section 59-12-204;
- 261 (h) Section 59-12-401;
- 262 (i) Section 59-12-402;
- 263 (j) Section 59-12-501;
- 264 (k) Section 59-12-502;
- 265 (l) Section 59-12-703;
- 266 (m) Section 59-12-802;
- 267 (n) Section 59-12-804;
- 268 (o) Section 59-12-1001;
- 269 (p) Section 59-12-1102;
- 270 (q) Section 59-12-1302;
- 271 (r) Section 59-12-1402;
- 272 (s) Section 59-12-1503; [~~or~~]
- 273 (t) Section 59-12-1703[-];
- 274 (u) Section 59-12-1903; or
- 275 (v) Section 59-12-2003.
- 276 (5) "Aircraft" is as defined in Section 72-10-102.
- 277 (6) "Alcoholic beverage" means a beverage that:
- 278 (a) is suitable for human consumption; and
- 279 (b) contains .5% or more alcohol by volume.
- 280 (7) "Area agency on aging" is as defined in Section 62A-3-101.
- 281 (8) "Assisted amusement device" means an amusement device, skill device, or ride

282 device that is started and stopped by an individual:

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

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

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

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

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

294 (10) "Authorized carrier" means:

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

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

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

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

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

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

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

307 (B) animal waste;

308 (C) methane produced:

309 (I) at landfills; or

- 310 (II) as a byproduct of the treatment of wastewater residuals;
- 311 (D) aquatic plants; and
- 312 (E) agricultural products.
- 313 (b) "Biomass energy" does not include:
- 314 (i) black liquor;
- 315 (ii) treated woods; or
- 316 (iii) biomass from municipal solid waste other than methane produced:
- 317 (A) at landfills; or
- 318 (B) as a byproduct of the treatment of wastewater residuals.
- 319 (12) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 320 property if:
- 321 (i) one or more of the items of tangible personal property is food and food ingredients;
- 322 and
- 323 (ii) the items of tangible personal property are:
- 324 (A) distinct and identifiable; and
- 325 (B) sold for one price that is not itemized.
- 326 (b) "Bundled transaction" does not include the sale of tangible personal property if the
- 327 sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of
- 328 tangible personal property included in the transaction.
- 329 (c) For purposes of Subsection (12)(a)(ii)(A), tangible personal property that is distinct
- 330 and identifiable does not include:
- 331 (i) packaging that:
- 332 (A) accompanies the sale of the tangible personal property; and
- 333 (B) is incidental or immaterial to the sale of the tangible personal property;
- 334 (ii) tangible personal property provided free of charge with the purchase of another item
- 335 of tangible personal property; or
- 336 (iii) an item of tangible personal property included in the definition of "purchase price."
- 337 (d) For purposes of Subsection (12)(c)(ii), an item of tangible personal property is

338 provided free of charge with the purchase of another item of tangible personal property if the  
339 sales price of the purchased item of tangible personal property does not vary depending on the  
340 inclusion of the tangible personal property provided free of charge.

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

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

344 (i) on a transaction; and

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

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

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

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

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

351 and

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

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

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

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

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

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

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

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

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

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

374 (19) "Component part" includes:

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

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

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

380 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

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

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

393 (i) by a seller of:

- 394 (A) tangible personal property; or
- 395 (B) services; and
- 396 (ii) for preparation and delivery of the tangible personal property or services described
- 397 in Subsection (24)(a)(i) to a location designated by the purchaser.
- 398 (b) "Delivery charge" includes a charge for the following:
- 399 (i) transportation;
- 400 (ii) shipping;
- 401 (iii) postage;
- 402 (iv) handling;
- 403 (v) crating; or
- 404 (vi) packing.
- 405 (25) (a) "Dental prosthesis" means the following if fabricated in a laboratory:
- 406 (i) a bridge;
- 407 (ii) a crown if that crown covers at least 75% of a tooth structure;
- 408 (iii) a denture;
- 409 (iv) an implant;
- 410 (v) an orthodontic device designed to:
- 411 (A) retain the position or spacing of teeth; and
- 412 (B) replace a missing tooth;
- 413 (vi) a partial denture; or
- 414 (vii) a device similar to Subsections (25)(a)(i) through (vi).
- 415 (b) "Dental prosthesis" does not include an appliance or device, other than a device
- 416 described in Subsection (25)(a), if that appliance or device is used in orthodontic therapy to
- 417 apply force to the teeth and their supporting structures to:
- 418 (i) produce changes in their relationship to each other; and
- 419 (ii) control their growth and development.
- 420 (26) "Dietary supplement" means a product, other than tobacco, that:
- 421 (a) is intended to supplement the diet;

- 422 (b) contains one or more of the following dietary ingredients:
- 423 (i) a vitamin;
- 424 (ii) a mineral;
- 425 (iii) an herb or other botanical;
- 426 (iv) an amino acid;
- 427 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 428 dietary intake; or
- 429 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 430 described in Subsections (26)(b)(i) through (v);
- 431 (c) (i) except as provided in Subsection (26)(c)(ii), is intended for ingestion in:
- 432 (A) tablet form;
- 433 (B) capsule form;
- 434 (C) powder form;
- 435 (D) softgel form;
- 436 (E) gelcap form; or
- 437 (F) liquid form; or
- 438 (ii) notwithstanding Subsection (26)(c)(i), if the product is not intended for ingestion in
- 439 a form described in Subsections (26)(c)(i)(A) through (F), is not represented:
- 440 (A) as conventional food; and
- 441 (B) for use as a sole item of:
- 442 (I) a meal; or
- 443 (II) the diet; and
- 444 (d) is required to be labeled as a dietary supplement:
- 445 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 446 (ii) as required by 21 C.F.R. Sec. 101.36.
- 447 (27) (a) "Direct mail" means printed material delivered or distributed by United States
- 448 mail or other delivery service:
- 449 (i) to:



- 450 (A) a mass audience; or
- 451 (B) addressees on a mailing list provided by a purchaser of the mailing list; and
- 452 (ii) if the cost of the printed material is not billed directly to the recipients.
- 453 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 454 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 455 (c) "Direct mail" does not include multiple items of printed material delivered to a single
- 456 address.

457 (28) (a) "Disposable home medical equipment or supplies" means medical equipment or

458 supplies that:

- 459 (i) cannot withstand repeated use; and
- 460 (ii) are purchased by, for, or on behalf of a person other than:
  - 461 (A) a health care facility as defined in Section 26-21-2;
  - 462 (B) a health care provider as defined in Section 78-14-3;
  - 463 (C) an office of a health care provider described in Subsection (28)(a)(ii)(B); or
  - 464 (D) a person similar to a person described in Subsections (28)(a)(ii)(A) through (C).

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

- 466 (i) a drug;
- 467 (ii) durable medical equipment;
- 468 (iii) a hearing aid;
- 469 (iv) a hearing aid accessory;
- 470 (v) mobility enhancing equipment; or
- 471 (vi) tangible personal property used to correct impaired vision, including:
  - 472 (A) eyeglasses; or
  - 473 (B) contact lenses.

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

475 commission may by rule define what constitutes medical equipment or supplies.

476 (29) (a) "Drug" means a compound, substance, or preparation, or a component of a

477 compound, substance, or preparation that is:

- 478 (i) recognized in:
- 479 (A) the official United States Pharmacopoeia;
- 480 (B) the official Homeopathic Pharmacopoeia of the United States;
- 481 (C) the official National Formulary; or
- 482 (D) a supplement to a publication listed in Subsections (29)(a)(i)(A) through (C);
- 483 (ii) intended for use in the:
- 484 (A) diagnosis of disease;
- 485 (B) cure of disease;
- 486 (C) mitigation of disease;
- 487 (D) treatment of disease; or
- 488 (E) prevention of disease; or
- 489 (iii) intended to affect:
- 490 (A) the structure of the body; or
- 491 (B) any function of the body.
- 492 (b) "Drug" does not include:
- 493 (i) food and food ingredients;
- 494 (ii) a dietary supplement;
- 495 (iii) an alcoholic beverage; or
- 496 (iv) a prosthetic device.
- 497 (30) (a) Except as provided in Subsection (30)(c), "durable medical equipment" means
- 498 equipment that:
- 499 (i) can withstand repeated use;
- 500 (ii) is primarily and customarily used to serve a medical purpose;
- 501 (iii) generally is not useful to a person in the absence of illness or injury; and
- 502 (iv) is not worn in or on the body.
- 503 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 504 equipment described in Subsection (30)(a).
- 505 (c) Notwithstanding Subsection (30)(a), "durable medical equipment" does not include

506 mobility enhancing equipment.

507 (31) "Electronic" means:

508 (a) relating to technology; and

509 (b) having:

510 (i) electrical capabilities;

511 (ii) digital capabilities;

512 (iii) magnetic capabilities;

513 (iv) wireless capabilities;

514 (v) optical capabilities;

515 (vi) electromagnetic capabilities; or

516 (vii) capabilities similar to Subsections (31)(b)(i) through (vi).

517 (32) "Employee" is as defined in Section 59-10-401.

518 (33) "Fixed guideway" means a public transit facility that uses and occupies:

519 (a) rail for the use of public transit; or

520 (b) a separate right-of-way for the use of public transit.

521 (34) (a) "Food and food ingredients" means substances:

522 (i) regardless of whether the substances are in:

523 (A) liquid form;

524 (B) concentrated form;

525 (C) solid form;

526 (D) frozen form;

527 (E) dried form; or

528 (F) dehydrated form; and

529 (ii) that are:

530 (A) sold for:

531 (I) ingestion by humans; or

532 (II) chewing by humans; and

533 (B) consumed for the substance's:

- 534 (I) taste; or
- 535 (II) nutritional value.
- 536 (b) "Food and food ingredients" includes an item described in Subsection (66)(b)(iii).
- 537 (c) "Food and food ingredients" does not include:
- 538 (i) an alcoholic beverage;
- 539 (ii) tobacco; or
- 540 (iii) prepared food.
- 541 (35) (a) "Fundraising sales" means sales:
- 542 (i) (A) made by a school; or
- 543 (B) made by a school student;
- 544 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 545 materials, or provide transportation; and
- 546 (iii) that are part of an officially sanctioned school activity.
- 547 (b) For purposes of Subsection (35)(a)(iii), "officially sanctioned school activity" means
- 548 a school activity:
- 549 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 550 district governing the authorization and supervision of fundraising activities;
- 551 (ii) that does not directly or indirectly compensate an individual teacher or other
- 552 educational personnel by direct payment, commissions, or payment in kind; and
- 553 (iii) the net or gross revenues from which are deposited in a dedicated account
- 554 controlled by the school or school district.
- 555 (36) "Geothermal energy" means energy contained in heat that continuously flows
- 556 outward from the earth that is used as the sole source of energy to produce electricity.
- 557 (37) "Governing board of the agreement" means the governing board of the agreement
- 558 that is:
- 559 (a) authorized to administer the agreement; and
- 560 (b) established in accordance with the agreement.
- 561 (38) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

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

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

566 (iii) the legislative branch of the state, including the House of Representatives, the  
567 Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel,  
568 the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

569 (iv) the National Guard;

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

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

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

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

575 (ii) a school;

576 (iii) the State Board of Education;

577 (iv) the State Board of Regents; or

578 (v) a state institution of higher education as defined in Section 53B-3-102.

579 (39) (a) "Hearing aid" means:

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

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

582 (II) correct impaired human hearing; and

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

584 (II) affixed behind the human ear;

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

586 (iii) a telephone amplifying device.

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

588 (i) except as provided in Subsection (39)(a)(i)(B) or (39)(a)(ii), an instrument or device  
589 having an electronic component that is designed to be worn on the body;

590 (ii) except as provided in Subsection (39)(a)(iii), an assistive listening device or system  
591 designed to be used by one individual, including:

592 (A) a personal amplifying system;

593 (B) a personal FM system;

594 (C) a television listening system; or

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

596 (39)(b)(ii)(A) through (C); or

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

599 (A) a device or system installed in:

600 (I) an auditorium;

601 (II) a church;

602 (III) a conference room;

603 (IV) a synagogue; or

604 (V) a theater; or

605 (B) a device or system similar to a device or system described in Subsections

606 (39)(b)(iii)(A)(I) through (V).

607 (40) (a) "Hearing aid accessory" means a hearing aid:

608 (i) component;

609 (ii) attachment; or

610 (iii) accessory.

611 (b) "Hearing aid accessory" includes:

612 (i) a hearing aid neck loop;

613 (ii) a hearing aid cord;

614 (iii) a hearing aid ear mold;

615 (iv) hearing aid tubing;

616 (v) a hearing aid ear hook; or

617 (vi) a hearing aid remote control.

- 618 (c) "Hearing aid accessory" does not include:
- 619 (i) a component, attachment, or accessory designed to be used only with an:
- 620 (A) instrument or device described in Subsection (39)(b)(i); or
- 621 (B) assistive listening device or system described in Subsection (39)(b)(ii) or (iii); or
- 622 (ii) a hearing aid battery.
- 623 (41) "Hydroelectric energy" means water used as the sole source of energy to produce
- 624 electricity.
- 625 (42) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 626 other fuels:
- 627 (a) in mining or extraction of minerals;
- 628 (b) in agricultural operations to produce an agricultural product up to the time of
- 629 harvest or placing the agricultural product into a storage facility, including:
- 630 (i) commercial greenhouses;
- 631 (ii) irrigation pumps;
- 632 (iii) farm machinery;
- 633 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
- 634 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 635 (v) other farming activities;
- 636 (c) in manufacturing tangible personal property at an establishment described in SIC
- 637 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 638 Executive Office of the President, Office of Management and Budget;
- 639 (d) by a scrap recycler if:
- 640 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 641 one or more of the following items into prepared grades of processed materials for use in new
- 642 products:
- 643 (A) iron;
- 644 (B) steel;
- 645 (C) nonferrous metal;

646 (D) paper;

647 (E) glass;

648 (F) plastic;

649 (G) textile; or

650 (H) rubber; and

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

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

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

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

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

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

662 (B) an indeterminate term; and

663 (ii) consideration.

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

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

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

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



- 674 (A) upon completion of required payments; and
- 675 (B) if the payment of an option price does not exceed the greater of:
  - 676 (I) \$100; or
  - 677 (II) 1% of the total required payments; or
  - 678 (iii) providing tangible personal property along with an operator for a fixed period of
  - 679 time or an indeterminate period of time if the operator is necessary for equipment to perform as
  - 680 designed.
- 681 (d) For purposes of Subsection (44)(c)(iii), an operator is necessary for equipment to
- 682 perform as designed if the operator's duties exceed the:
  - 683 (i) set-up of tangible personal property;
  - 684 (ii) maintenance of tangible personal property; or
  - 685 (iii) inspection of tangible personal property.
- 686 (45) "Load and leave" means delivery to a purchaser by use of a tangible storage media
- 687 if the tangible storage media is not physically transferred to the purchaser.
- 688 (46) "Local taxing jurisdiction" means a:
  - 689 (a) county that is authorized to impose an agreement sales and use tax;
  - 690 (b) city that is authorized to impose an agreement sales and use tax; or
  - 691 (c) town that is authorized to impose an agreement sales and use tax.
- 692 (47) "Manufactured home" is as defined in Section 58-56-3.
- 693 (48) For purposes of Section 59-12-104, "manufacturing facility" means:
  - 694 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
  - 695 Industrial Classification Manual of the federal Executive Office of the President, Office of
  - 696 Management and Budget;
  - 697 (b) a scrap recycler if:
    - 698 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
    - 699 one or more of the following items into prepared grades of processed materials for use in new
    - 700 products:
      - 701 (A) iron;

- 702 (B) steel;
- 703 (C) nonferrous metal;
- 704 (D) paper;
- 705 (E) glass;
- 706 (F) plastic;
- 707 (G) textile; or
- 708 (H) rubber; and
- 709 (ii) the new products under Subsection (48)(b)(i) would otherwise be made with
- 710 nonrecycled materials; or
- 711 (c) a cogeneration facility as defined in Section 54-2-1.
- 712 (49) "Member of the immediate family of the producer" means a person who is related
- 713 to a producer described in Subsection 59-12-104(20)(a) as a:
- 714 (a) child or stepchild, regardless of whether the child or stepchild is:
- 715 (i) an adopted child or adopted stepchild; or
- 716 (ii) a foster child or foster stepchild;
- 717 (b) grandchild or stepgrandchild;
- 718 (c) grandparent or stepgrandparent;
- 719 (d) nephew or stepnephew;
- 720 (e) niece or stepniece;
- 721 (f) parent or stepparent;
- 722 (g) sibling or stepsibling;
- 723 (h) spouse;
- 724 (i) person who is the spouse of a person described in Subsections (49)(a) through (g);
- 725 or
- 726 (j) person similar to a person described in Subsections (49)(a) through (i) as determined
- 727 by the commission by rule made in accordance with Title 63, Chapter 46a, Utah Administrative
- 728 Rulemaking Act.
- 729 (50) "Mobile home" is as defined in Section 58-56-3.

730 (51) "Mobile telecommunications service" is as defined in the Mobile  
731 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

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

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

736 (ii) appropriate for use in a:

737 (A) home; or

738 (B) motor vehicle; and

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

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

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

744 (i) a motor vehicle;

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

747 (iii) durable medical equipment; or

748 (iv) a prosthetic device.

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

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

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

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

- 758 (i) collected by the seller; and  
759 (ii) to the appropriate local taxing jurisdiction.
- 760 (55) (a) Subject to Subsection (55)(b), "model 3 seller" means a seller that has:  
761 (i) sales in at least five states that are members of the agreement;  
762 (ii) total annual sales revenues of at least \$500,000,000;  
763 (iii) a proprietary system that calculates the amount of tax:  
764 (A) for an agreement sales and use tax; and  
765 (B) due to each local taxing jurisdiction; and  
766 (iv) entered into a performance agreement with the governing board of the agreement.
- 767 (b) For purposes of Subsection (55)(a), "model 3 seller" includes an affiliated group of  
768 sellers using the same proprietary system.
- 769 (56) "Modular home" means a modular unit as defined in Section 58-56-3.  
770 (57) "Motor vehicle" is as defined in Section 41-1a-102.
- 771 (58) "Oil shale" means a group of fine black to dark brown shales containing bituminous  
772 material that yields petroleum upon distillation.
- 773 (59) (a) "Other fuels" means products that burn independently to produce heat or  
774 energy.
- 775 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible  
776 personal property.
- 777 (60) "Pawnbroker" is as defined in Section 13-32a-102.  
778 (61) "Pawn transaction" is as defined in Section 13-32a-102.
- 779 (62) (a) "Permanently attached to real property" means that for tangible personal  
780 property attached to real property:  
781 (i) the attachment of the tangible personal property to the real property:  
782 (A) is essential to the use of the tangible personal property; and  
783 (B) suggests that the tangible personal property will remain attached to the real  
784 property in the same place over the useful life of the tangible personal property; or  
785 (ii) if the tangible personal property is detached from the real property, the detachment

786 would:

787 (A) cause substantial damage to the tangible personal property; or

788 (B) require substantial alteration or repair of the real property to which the tangible  
789 personal property is attached.

790 (b) "Permanently attached to real property" includes:

791 (i) the attachment of an accessory to the tangible personal property if the accessory is:

792 (A) essential to the operation of the tangible personal property; and

793 (B) attached only to facilitate the operation of the tangible personal property;

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

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

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

803 (B) a hot water heater;

804 (C) a water softener system; or

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

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

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

810 (A) convenience;

811 (B) stability; or

812 (C) for an obvious temporary purpose;

813 (ii) the detachment of tangible personal property from real property other than the

814 detachment described in Subsection (62)(b)(ii); or

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

819 (A) a refrigerator;

820 (B) a washer;

821 (C) a dryer;

822 (D) a stove;

823 (E) a television;

824 (F) a computer;

825 (G) a telephone; or

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

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

833 (64) "Place of primary use":

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

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

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

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

841 (65) "Postproduction" means an activity related to the finishing or duplication of a

842 medium described in Subsection 59-12-104(56)(a).  
843 (66) (a) "Prepared food" means:  
844 (i) food:  
845 (A) sold in a heated state; or  
846 (B) heated by a seller;  
847 (ii) two or more food ingredients mixed or combined by the seller for sale as a single  
848 item; or  
849 (iii) except as provided in Subsection (66)(c), food sold with an eating utensil provided  
850 by the seller, including a:  
851 (A) plate;  
852 (B) knife;  
853 (C) fork;  
854 (D) spoon;  
855 (E) glass;  
856 (F) cup;  
857 (G) napkin; or  
858 (H) straw.  
859 (b) "Prepared food" does not include:  
860 (i) food that a seller only:  
861 (A) cuts;  
862 (B) repackages; or  
863 (C) pasteurizes; or  
864 (ii) (A) the following:  
865 (I) raw egg;  
866 (II) raw fish;  
867 (III) raw meat;  
868 (IV) raw poultry; or  
869 (V) a food containing an item described in Subsections (66)(b)(ii)(A)(I) through (IV);

870 and

871 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the  
872 Food and Drug Administration's Food Code that a consumer cook the items described in  
873 Subsection (66)(b)(ii)(A) to prevent food borne illness; or

874 (iii) the following if sold without eating utensils provided by the seller:

875 (A) food and food ingredients sold by a seller if the seller's proper primary classification  
876 under the 2002 North American Industry Classification System of the federal Executive Office  
877 of the President, Office of Management and Budget, is manufacturing in Sector 311, Food  
878 Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

879 (B) food and food ingredients sold in an unheated state:

880 (I) by weight or volume; and

881 (II) as a single item; or

882 (C) a bakery item, including:

883 (I) a bagel;

884 (II) a bar;

885 (III) a biscuit;

886 (IV) bread;

887 (V) a bun;

888 (VI) a cake;

889 (VII) a cookie;

890 (VIII) a croissant;

891 (IX) a danish;

892 (X) a donut;

893 (XI) a muffin;

894 (XII) a pastry;

895 (XIII) a pie;

896 (XIV) a roll;

897 (XV) a tart;



898 (XVI) a torte; or  
899 (XVII) a tortilla.  
900 (c) Notwithstanding Subsection (66)(a)(iii), an eating utensil provided by the seller does  
901 not include the following used to transport the food:  
902 (i) a container; or  
903 (ii) packaging.  
904 (67) "Prescription" means an order, formula, or recipe that is issued:  
905 (a) (i) orally;  
906 (ii) in writing;  
907 (iii) electronically; or  
908 (iv) by any other manner of transmission; and  
909 (b) by a licensed practitioner authorized by the laws of a state.  
910 (68) (a) Except as provided in Subsection (68)(b)(ii) or (iii), "prewritten computer  
911 software" means computer software that is not designed and developed:  
912 (i) by the author or other creator of the computer software; and  
913 (ii) to the specifications of a specific purchaser.  
914 (b) "Prewritten computer software" includes:  
915 (i) a prewritten upgrade to computer software if the prewritten upgrade to the  
916 computer software is not designed and developed:  
917 (A) by the author or other creator of the computer software; and  
918 (B) to the specifications of a specific purchaser;  
919 (ii) notwithstanding Subsection (68)(a), computer software designed and developed by  
920 the author or other creator of the computer software to the specifications of a specific purchaser  
921 if the computer software is sold to a person other than the purchaser; or  
922 (iii) notwithstanding Subsection (68)(a) and except as provided in Subsection (68)(c),  
923 prewritten computer software or a prewritten portion of prewritten computer software:  
924 (A) that is modified or enhanced to any degree; and  
925 (B) if the modification or enhancement described in Subsection (68)(b)(iii)(A) is

926 designed and developed to the specifications of a specific purchaser.

927 (c) Notwithstanding Subsection (68)(b)(iii), "prewritten computer software" does not  
928 include a modification or enhancement described in Subsection (68)(b)(iii) if the charges for the  
929 modification or enhancement are:

930 (i) reasonable; and

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

933 (69) (a) "Prosthetic device" means a device that is worn on or in the body to:

934 (i) artificially replace a missing portion of the body;

935 (ii) prevent or correct a physical deformity or physical malfunction; or

936 (iii) support a weak or deformed portion of the body.

937 (b) "Prosthetic device" includes:

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

939 (ii) replacement parts for a prosthetic device; or

940 (iii) a dental prosthesis.

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

942 (i) corrective eyeglasses;

943 (ii) contact lenses; or

944 (iii) hearing aids.

945 (70) (a) "Protective equipment" means an item:

946 (i) for human wear; and

947 (ii) that is:

948 (A) designed as protection:

949 (I) to the wearer against injury or disease; or

950 (II) against damage or injury of other persons or property; and

951 (B) not suitable for general use.

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

954 (i) listing the items that constitute "protective equipment"; and  
955 (ii) that are consistent with the list of items that constitute "protective equipment" under  
956 the agreement.

957 (71) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or  
958 printed matter, other than a photocopy:

- 959 (i) regardless of:
  - 960 (A) characteristics;
  - 961 (B) copyright;
  - 962 (C) form;
  - 963 (D) format;
  - 964 (E) method of reproduction; or
  - 965 (F) source; and
- 966 (ii) made available in printed or electronic format.

967 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
968 commission may by rule define the term "photocopy."

969 (72) (a) "Purchase price" and "sales price" mean the total amount of consideration:

- 970 (i) valued in money; and
- 971 (ii) for which tangible personal property or services are:
  - 972 (A) sold;
  - 973 (B) leased; or
  - 974 (C) rented.

975 (b) "Purchase price" and "sales price" include:

- 976 (i) the seller's cost of the tangible personal property or services sold;
- 977 (ii) expenses of the seller, including:
  - 978 (A) the cost of materials used;
  - 979 (B) a labor cost;
  - 980 (C) a service cost;
  - 981 (D) interest;

- 982 (E) a loss;
- 983 (F) the cost of transportation to the seller; or
- 984 (G) a tax imposed on the seller; or
- 985 (iii) a charge by the seller for any service necessary to complete the sale.
- 986 (c) "Purchase price" and "sales price" do not include:
- 987 (i) a discount:
- 988 (A) in a form including:
- 989 (I) cash;
- 990 (II) term; or
- 991 (III) coupon;
- 992 (B) that is allowed by a seller;
- 993 (C) taken by a purchaser on a sale; and
- 994 (D) that is not reimbursed by a third party; or
- 995 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 996 provided to the purchaser:
- 997 (A) the amount of a trade-in;
- 998 (B) the following from credit extended on the sale of tangible personal property or
- 999 services:
- 1000 (I) interest charges;
- 1001 (II) financing charges; or
- 1002 (III) carrying charges;
- 1003 (C) a tax or fee legally imposed directly on the consumer;
- 1004 (D) a delivery charge; or
- 1005 (E) an installation charge.
- 1006 (73) "Purchaser" means a person to whom:
- 1007 (a) a sale of tangible personal property is made; or
- 1008 (b) a service is furnished.
- 1009 (74) "Regularly rented" means:

- 1010 (a) rented to a guest for value three or more times during a calendar year; or
- 1011 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1012 value.
- 1013 (75) "Renewable energy" means:
- 1014 (a) biomass energy;
- 1015 (b) hydroelectric energy;
- 1016 (c) geothermal energy;
- 1017 (d) solar energy; or
- 1018 (e) wind energy.
- 1019 (76) (a) "Renewable energy production facility" means a facility that:
- 1020 (i) uses renewable energy to produce electricity; and
- 1021 (ii) has a production capacity of 20 kilowatts or greater.
- 1022 (b) A facility is a renewable energy production facility regardless of whether the facility
- 1023 is:
- 1024 (i) connected to an electric grid; or
- 1025 (ii) located on the premises of an electricity consumer.
- 1026 (77) "Rental" is as defined in Subsection (44).
- 1027 (78) "Repairs or renovations of tangible personal property" means:
- 1028 (a) a repair or renovation of tangible personal property that is not permanently attached
- 1029 to real property; or
- 1030 (b) attaching tangible personal property to other tangible personal property if the other
- 1031 tangible personal property to which the tangible personal property is attached is not
- 1032 permanently attached to real property.
- 1033 (79) "Research and development" means the process of inquiry or experimentation
- 1034 aimed at the discovery of facts, devices, technologies, or applications and the process of
- 1035 preparing those devices, technologies, or applications for marketing.
- 1036 (80) "Residential use" means the use in or around a home, apartment building, sleeping
- 1037 quarters, and similar facilities or accommodations.

1038 (81) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
1039 than:

- 1040 (a) resale;
- 1041 (b) sublease; or
- 1042 (c) subrent.

1043 (82) (a) "Retailer" means any person engaged in a regularly organized business in  
1044 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and  
1045 who is selling to the user or consumer and not for resale.

1046 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
1047 engaged in the business of selling to users or consumers within the state.

1048 (83) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise,  
1049 in any manner, of tangible personal property or any other taxable transaction under Subsection  
1050 59-12-103(1), for consideration.

1051 (b) "Sale" includes:

- 1052 (i) installment and credit sales;
- 1053 (ii) any closed transaction constituting a sale;
- 1054 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
1055 chapter;

1056 (iv) any transaction if the possession of property is transferred but the seller retains the  
1057 title as security for the payment of the price; and

1058 (v) any transaction under which right to possession, operation, or use of any article of  
1059 tangible personal property is granted under a lease or contract and the transfer of possession  
1060 would be taxable if an outright sale were made.

1061 (84) "Sale at retail" is as defined in Subsection (81).

1062 (85) "Sale-leaseback transaction" means a transaction by which title to tangible personal  
1063 property that is subject to a tax under this chapter is transferred:

- 1064 (a) by a purchaser-lessee;
- 1065 (b) to a lessor;

- 1066 (c) for consideration; and
- 1067 (d) if:
- 1068 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
- 1069 of the tangible personal property;
- 1070 (ii) the sale of the tangible personal property to the lessor is intended as a form of
- 1071 financing:
- 1072 (A) for the property; and
- 1073 (B) to the purchaser-lessee; and
- 1074 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee is
- 1075 required to:
- 1076 (A) capitalize the property for financial reporting purposes; and
- 1077 (B) account for the lease payments as payments made under a financing arrangement.
- 1078 (86) "Sales price" is as defined in Subsection (72).
- 1079 (87) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
- 1080 amounts charged by a school:
- 1081 (i) sales that are directly related to the school's educational functions or activities
- 1082 including:
- 1083 (A) the sale of:
- 1084 (I) textbooks;
- 1085 (II) textbook fees;
- 1086 (III) laboratory fees;
- 1087 (IV) laboratory supplies; or
- 1088 (V) safety equipment;
- 1089 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 1090 that:
- 1091 (I) a student is specifically required to wear as a condition of participation in a
- 1092 school-related event or school-related activity; and
- 1093 (II) is not readily adaptable to general or continued usage to the extent that it takes the

1094 place of ordinary clothing;

1095 (C) sales of the following if the net or gross revenues generated by the sales are

1096 deposited into a school district fund or school fund dedicated to school meals:

1097 (I) food and food ingredients; or

1098 (II) prepared food; or

1099 (D) transportation charges for official school activities; or

1100 (ii) amounts paid to or amounts charged by a school for admission to a school-related

1101 event or school-related activity.

1102 (b) "Sales relating to schools" does not include:

1103 (i) bookstore sales of items that are not educational materials or supplies;

1104 (ii) except as provided in Subsection (87)(a)(i)(B):

1105 (A) clothing;

1106 (B) clothing accessories or equipment;

1107 (C) protective equipment; or

1108 (D) sports or recreational equipment; or

1109 (iii) amounts paid to or amounts charged by a school for admission to a school-related

1110 event or school-related activity if the amounts paid or charged are passed through to a person:

1111 (A) other than a:

1112 (I) school;

1113 (II) nonprofit organization authorized by a school board or a governing body of a

1114 private school to organize and direct a competitive secondary school activity; or

1115 (III) nonprofit association authorized by a school board or a governing body of a

1116 private school to organize and direct a competitive secondary school activity; and

1117 (B) that is required to collect sales and use taxes under this chapter.

1118 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1119 commission may make rules defining the term "passed through."

1120 (88) For purposes of this section and Section 59-12-104, "school":

1121 (a) means:



- 1122 (i) an elementary school or a secondary school that:
- 1123 (A) is a:
- 1124 (I) public school; or
- 1125 (II) private school; and
- 1126 (B) provides instruction for one or more grades kindergarten through 12; or
- 1127 (ii) a public school district; and
- 1128 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1129 (89) "Seller" means a person that makes a sale, lease, or rental of:
- 1130 (a) tangible personal property; or
- 1131 (b) a service.
- 1132 (90) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1133 means tangible personal property:
- 1134 (i) used primarily in the process of:
- 1135 (A) (I) manufacturing a semiconductor;
- 1136 (II) fabricating a semiconductor; or
- 1137 (III) research or development of a:
- 1138 (Aa) semiconductor; or
- 1139 (Bb) semiconductor manufacturing process; or
- 1140 (B) maintaining an environment suitable for a semiconductor; or
- 1141 (ii) consumed primarily in the process of:
- 1142 (A) (I) manufacturing a semiconductor;
- 1143 (II) fabricating a semiconductor; or
- 1144 (III) research or development of a:
- 1145 (Aa) semiconductor; or
- 1146 (Bb) semiconductor manufacturing process; or
- 1147 (B) maintaining an environment suitable for a semiconductor.
- 1148 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1149 includes:

1150 (i) parts used in the repairs or renovations of tangible personal property described in  
1151 Subsection (90)(a); or

1152 (ii) a chemical, catalyst, or other material used to:

1153 (A) produce or induce in a semiconductor a:

1154 (I) chemical change; or

1155 (II) physical change;

1156 (B) remove impurities from a semiconductor; or

1157 (C) improve the marketable condition of a semiconductor.

1158 (91) "Senior citizen center" means a facility having the primary purpose of providing  
1159 services to the aged as defined in Section 62A-3-101.

1160 (92) "Simplified electronic return" means the electronic return:

1161 (a) described in Section 318(C) of the agreement; and

1162 (b) approved by the governing board of the agreement.

1163 (93) "Solar energy" means the sun used as the sole source of energy for producing  
1164 electricity.

1165 (94) (a) "Sports or recreational equipment" means an item:

1166 (i) designed for human use; and

1167 (ii) that is:

1168 (A) worn in conjunction with:

1169 (I) an athletic activity; or

1170 (II) a recreational activity; and

1171 (B) not suitable for general use.

1172 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1173 commission shall make rules:

1174 (i) listing the items that constitute "sports or recreational equipment"; and

1175 (ii) that are consistent with the list of items that constitute "sports or recreational  
1176 equipment" under the agreement.

1177 (95) "State" means the state of Utah, its departments, and agencies.

1178           (96) "Storage" means any keeping or retention of tangible personal property or any  
1179 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except  
1180 sale in the regular course of business.

1181           (97) (a) "Tangible personal property" means personal property that:

1182           (i) may be:

1183           (A) seen;

1184           (B) weighed;

1185           (C) measured;

1186           (D) felt; or

1187           (E) touched; or

1188           (ii) is in any manner perceptible to the senses.

1189           (b) "Tangible personal property" includes:

1190           (i) electricity;

1191           (ii) water;

1192           (iii) gas;

1193           (iv) steam; or

1194           (v) prewritten computer software.

1195           (98) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon  
1196 and require further processing other than mechanical blending before becoming finished  
1197 petroleum products.

1198           (99) (a) "Telecommunications enabling or facilitating equipment, machinery, or  
1199 software" means an item listed in Subsection (99)(b) if that item is purchased or leased primarily  
1200 to enable or facilitate one or more of the following to function:

1201           (i) telecommunications switching or routing equipment, machinery, or software; or

1202           (ii) telecommunications transmission equipment, machinery, or software.

1203           (b) The following apply to Subsection (99)(a):

1204           (i) a pole;

1205           (ii) software;

- 1206 (iii) a supplementary power supply;
- 1207 (iv) temperature or environmental equipment or machinery;
- 1208 (v) test equipment;
- 1209 (vi) a tower; or
- 1210 (vii) equipment, machinery, or software that functions similarly to an item listed in
- 1211 Subsections (99)(b)(i) through (vi) as determined by the commission by rule made in
- 1212 accordance with Subsection (99)(c).

1213 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1214 commission may by rule define what constitutes equipment, machinery, or software that  
1215 functions similarly to an item listed in Subsections (99)(b)(i) through (vi).

1216 (100) "Telecommunications equipment, machinery, or software required for 911  
1217 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.  
1218 Sec. 20.18.

1219 (101) "Telecommunications maintenance or repair equipment, machinery, or software"  
1220 means equipment, machinery, or software purchased or leased primarily to maintain or repair  
1221 one or more of the following, regardless of whether the equipment, machinery, or software is  
1222 purchased or leased as a spare part or as an upgrade or modification to one or more of the  
1223 following:

- 1224 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1225 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1226 (c) telecommunications transmission equipment, machinery, or software.

1227 (102) (a) "Telecommunications switching or routing equipment, machinery, or  
1228 software" means an item listed in Subsection (102)(b) if that item is purchased or leased  
1229 primarily for switching or routing:

- 1230 (i) voice communications;
- 1231 (ii) data communications; or
- 1232 (iii) telephone service.

1233 (b) The following apply to Subsection (102)(a):

- 1234 (i) a bridge;
- 1235 (ii) a computer;
- 1236 (iii) a cross connect;
- 1237 (iv) a modem;
- 1238 (v) a multiplexer;
- 1239 (vi) plug in circuitry;
- 1240 (vii) a router;
- 1241 (viii) software;
- 1242 (ix) a switch; or
- 1243 (x) equipment, machinery, or software that functions similarly to an item listed in

1244 Subsections (102)(b)(i) through (ix) as determined by the commission by rule made in  
1245 accordance with Subsection (102)(c).

1246 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1247 commission may by rule define what constitutes equipment, machinery, or software that  
1248 functions similarly to an item listed in Subsections (102)(b)(i) through (ix).

1249 (103) (a) "Telecommunications transmission equipment, machinery, or software" means  
1250 an item listed in Subsection (103)(b) if that item is purchased or leased primarily for sending,  
1251 receiving, or transporting:

- 1252 (i) voice communications;
- 1253 (ii) data communications; or
- 1254 (iii) telephone service.

1255 (b) The following apply to Subsection (103)(a):

- 1256 (i) an amplifier;
- 1257 (ii) a cable;
- 1258 (iii) a closure;
- 1259 (iv) a conduit;
- 1260 (v) a controller;
- 1261 (vi) a duplexer;

- 1262 (vii) a filter;
- 1263 (viii) an input device;
- 1264 (ix) an input/output device;
- 1265 (x) an insulator;
- 1266 (xi) microwave machinery or equipment;
- 1267 (xii) an oscillator;
- 1268 (xiii) an output device;
- 1269 (xiv) a pedestal;
- 1270 (xv) a power converter;
- 1271 (xvi) a power supply;
- 1272 (xvii) a radio channel;
- 1273 (xviii) a radio receiver;
- 1274 (xix) a radio transmitter;
- 1275 (xx) a repeater;
- 1276 (xxi) software;
- 1277 (xxii) a terminal;
- 1278 (xxiii) a timing unit;
- 1279 (xxiv) a transformer;
- 1280 (xxv) a wire; or
- 1281 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1282 Subsections (103)(b)(i) through (xxv) as determined by the commission by rule made in
- 1283 accordance with Subsection (103)(c).

1284 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1285 commission may by rule define what constitutes equipment, machinery, or software that  
1286 functions similarly to an item listed in Subsections (103)(b)(i) through (xxv).

1287 (104) (a) "Telephone service" means a two-way transmission:

- 1288 (i) by:
- 1289 (A) wire;

- 1290 (B) radio;
- 1291 (C) lightwave; or
- 1292 (D) other electromagnetic means; and
- 1293 (ii) of one or more of the following:
- 1294 (A) a sign;
- 1295 (B) a signal;
- 1296 (C) writing;
- 1297 (D) an image;
- 1298 (E) sound;
- 1299 (F) a message;
- 1300 (G) data; or
- 1301 (H) other information of any nature.
- 1302 (b) "Telephone service" includes:
- 1303 (i) mobile telecommunications service;
- 1304 (ii) private communications service; or
- 1305 (iii) automated digital telephone answering service.
- 1306 (c) "Telephone service" does not include a service or a transaction that a state or a
- 1307 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
- 1308 Tax Freedom Act, Pub. L. No. 105-277.
- 1309 (105) Notwithstanding where a call is billed or paid, "telephone service address" means:
- 1310 (a) if the location described in this Subsection (105)(a) is known, the location of the
- 1311 telephone service equipment:
- 1312 (i) to which a call is charged; and
- 1313 (ii) from which the call originates or terminates;
- 1314 (b) if the location described in Subsection (105)(a) is not known but the location
- 1315 described in this Subsection (105)(b) is known, the location of the origination point of the signal
- 1316 of the telephone service first identified by:
- 1317 (i) the telecommunications system of the seller; or

1318 (ii) if the system used to transport the signal is not that of the seller, information  
1319 received by the seller from its service provider; or

1320 (c) if the locations described in Subsection (105)(a) or (b) are not known, the location  
1321 of a purchaser's primary place of use.

1322 (106) (a) "Telephone service provider" means a person that:

1323 (i) owns, controls, operates, or manages a telephone service; and

1324 (ii) engages in an activity described in Subsection (106)(a)(i) for the shared use with or  
1325 resale to any person of the telephone service.

1326 (b) A person described in Subsection (106)(a) is a telephone service provider whether  
1327 or not the Public Service Commission of Utah regulates:

1328 (i) that person; or

1329 (ii) the telephone service that the person owns, controls, operates, or manages.

1330 (107) "Tobacco" means:

1331 (a) a cigarette;

1332 (b) a cigar;

1333 (c) chewing tobacco;

1334 (d) pipe tobacco; or

1335 (e) any other item that contains tobacco.

1336 (108) "Unassisted amusement device" means an amusement device, skill device, or ride  
1337 device that is started and stopped by the purchaser or renter of the right to use or operate the  
1338 amusement device, skill device, or ride device.

1339 (109) (a) "Use" means the exercise of any right or power over tangible personal  
1340 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that  
1341 property, item, or service.

1342 (b) "Use" does not include the sale, display, demonstration, or trial of that property in  
1343 the regular course of business and held for resale.

1344 (110) (a) Subject to Subsection (110)(b), "vehicle" means the following that are  
1345 required to be titled, registered, or titled and registered:



- 1346 (i) an aircraft as defined in Section 72-10-102;
- 1347 (ii) a vehicle as defined in Section 41-1a-102;
- 1348 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1349 (iv) a vessel as defined in Section 41-1a-102.
- 1350 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 1351 (i) a vehicle described in Subsection (110)(a); or
- 1352 (ii) (A) a locomotive;
- 1353 (B) a freight car;
- 1354 (C) railroad work equipment; or
- 1355 (D) other railroad rolling stock.
- 1356 (111) "Vehicle dealer" means a person engaged in the business of buying, selling, or
- 1357 exchanging a vehicle as defined in Subsection (110).
- 1358 (112) (a) Except as provided in Subsection (112)(b), "waste energy facility" means a
- 1359 facility that generates electricity:
- 1360 (i) using as the primary source of energy waste materials that would be placed in a
- 1361 landfill or refuse pit if it were not used to generate electricity, including:
- 1362 (A) tires;
- 1363 (B) waste coal; or
- 1364 (C) oil shale; and
- 1365 (ii) in amounts greater than actually required for the operation of the facility.
- 1366 (b) "Waste energy facility" does not include a facility that incinerates:
- 1367 (i) municipal solid waste;
- 1368 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1369 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 1370 (113) "Watercraft" means a vessel as defined in Section 73-18-2.
- 1371 (114) "Wind energy" means wind used as the sole source of energy to produce
- 1372 electricity.
- 1373 (115) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic

1374 location by the United States Postal Service.

1375 Section 5. Section **59-12-103** is amended to read:

1376 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**  
1377 **tax revenues.**

1378 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or  
1379 charged for the following transactions:

1380 (a) retail sales of tangible personal property made within the state;

1381 (b) amounts paid:

1382 (i) to a:

1383 (A) telephone service provider regardless of whether the telephone service provider is  
1384 municipally or privately owned; or

1385 (B) telegraph corporation:

1386 (I) as defined in Section 54-2-1; and

1387 (II) regardless of whether the telegraph corporation is municipally or privately owned;

1388 and

1389 (ii) for:

1390 (A) telephone service, other than mobile telecommunications service, that originates  
1391 and terminates within the boundaries of this state;

1392 (B) mobile telecommunications service that originates and terminates within the  
1393 boundaries of one state only to the extent permitted by the Mobile Telecommunications  
1394 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

1395 (C) telegraph service;

1396 (c) sales of the following for commercial use:

1397 (i) gas;

1398 (ii) electricity;

1399 (iii) heat;

1400 (iv) coal;

1401 (v) fuel oil; or

- 1402 (vi) other fuels;
- 1403 (d) sales of the following for residential use:
- 1404 (i) gas;
- 1405 (ii) electricity;
- 1406 (iii) heat;
- 1407 (iv) coal;
- 1408 (v) fuel oil; or
- 1409 (vi) other fuels;
- 1410 (e) sales of prepared food;
- 1411 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 1412 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 1413 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs,
- 1414 races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 1415 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 1416 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis
- 1417 courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 1418 horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition,
- 1419 cultural, or athletic activity;
- 1420 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 1421 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 1422 (i) the tangible personal property; and
- 1423 (ii) parts used in the repairs or renovations of the tangible personal property described
- 1424 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
- 1425 of that tangible personal property;
- 1426 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 1427 assisted cleaning or washing of tangible personal property;
- 1428 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 1429 accommodations and services that are regularly rented for less than 30 consecutive days;

- 1430 (j) amounts paid or charged for laundry or dry cleaning services;
- 1431 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 1432 this state the tangible personal property is:
  - 1433 (i) stored;
  - 1434 (ii) used; or
  - 1435 (iii) otherwise consumed;
- 1436 (l) amounts paid or charged for tangible personal property if within this state the
- 1437 tangible personal property is:
  - 1438 (i) stored;
  - 1439 (ii) used; or
  - 1440 (iii) consumed; and
  - 1441 (m) amounts paid or charged for prepaid telephone calling cards.
- 1442 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
- 1443 is imposed on a transaction described in Subsection (1) equal to the sum of:
  - 1444 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
  - 1445 (A) 4.65%; and
  - 1446 (B) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
  - 1447 and Use Tax Act, if the location of the transaction as determined under Section 59-12-207 is in
  - 1448 a city, town, or the unincorporated area of a county in which the state imposes the tax under
  - 1449 Part 20, Supplemental State Sales and Use Tax Act; and
  - 1450 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
  - 1451 transaction under this chapter other than this part.
- 1452 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
- 1453 on a transaction described in Subsection (1)(d) equal to the sum of:
  - 1454 (i) a state tax imposed on the transaction at a tax rate of 2%; and
  - 1455 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
  - 1456 transaction under this chapter other than this part.
- 1457 (c) Except as provided in Subsection (2)(d) or (e), beginning on January 1, 2007, a

1458 state tax and a local tax is imposed on amounts paid or charged for food and food ingredients  
1459 equal to the sum of:

1460 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at  
1461 a tax rate of 1.75%; and

1462 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
1463 amounts paid or charged for food and food ingredients under this chapter other than this part.

1464 (d) Except as provided in Subsection (2)(e), if a seller collects a tax in accordance with  
1465 Subsection 59-12-107(1)(b) on a transaction described in Subsection (1), a state tax and a local  
1466 tax is imposed on the transaction equal to the sum of:

1467 (i) a state tax imposed on the transaction at a tax rate of:

1468 (A) the sum of:

1469 [~~(A)~~] (I) 4.65% for a transaction other than a transaction described in Subsection  
1470 (2)(d)(i)(B) or (2)(d)(i)(C); and

1471 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales  
1472 and Use Tax Act, if the location of the transaction as determined under Section 59-12-207 is in  
1473 a city, town, or the unincorporated area of a county in which the state imposes the tax under  
1474 Part 20, Supplemental State Sales and Use Tax Act;

1475 (B) 2% for a transaction described in Subsection (1)(d); or

1476 (C) beginning on January 1, 2007, 1.75% on the amounts paid or charged for food and  
1477 food ingredients; and

1478 (ii) a local tax imposed on the transaction at a tax rate equal to the sum of the following  
1479 tax rates:

1480 (A) the tax rate authorized by Section 59-12-204, but only if all of the counties, cities,  
1481 and towns in the state impose the tax authorized by Section 59-12-204; and

1482 (B) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the  
1483 state impose the tax authorized by Section 59-12-1102.

1484 (e) (i) A state tax and a local tax is imposed on an entire bundled transaction as  
1485 provided in this Subsection (2)(e) if the bundled transaction is attributable to food and food

1486 ingredients and tangible personal property other than food and food ingredients.

1487 (ii) If the tax on a bundled transaction described in Subsection (2)(e)(i) is collected by a  
1488 seller other than a seller that collects a tax in accordance with Subsection 59-12-107(1)(b),  
1489 beginning on January 1, 2007, a state tax and a local tax is imposed on the entire bundled  
1490 transaction equal to the sum of:

1491 (A) a state tax imposed on the entire bundled transaction [~~at~~] equal to the sum of:

1492 (I) the tax rate described in Subsection (2)(a)(i)(A); and

1493 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales  
1494 and Use Tax Act, if the location of the transaction as determined under Section 59-12-207 is in  
1495 a city, town, or the unincorporated area of a county in which the state imposes the tax under  
1496 Part 20, Supplemental State Sales and Use Tax Act; and

1497 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates  
1498 described in Subsection (2)(a)(ii).

1499 (iii) If the tax on a bundled transaction described in Subsection (2)(e)(i) is collected by a  
1500 seller in accordance with Subsection 59-12-107(1)(b), beginning on January 1, 2007, a state tax  
1501 and a local tax is imposed on the entire bundled transaction equal to the sum of:

1502 (A) a state tax imposed on the entire bundled transaction [~~at~~] equal to the sum of:

1503 (I) the tax rate described in Subsection (2)(d)(i)(A); and

1504 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales  
1505 and Use Tax Act, if the location of the transaction as determined under Section 59-12-207 is in  
1506 a city, town, or the unincorporated area of a county in which the state imposes the tax under  
1507 Part 20, Supplemental State Sales and Use Tax Act; and

1508 (B) a local tax imposed on the entire bundled transaction at a tax rate equal to the sum  
1509 of the following tax rates:

1510 (I) the tax rate authorized by Section 59-12-204, but only if all of the counties, cities,  
1511 and towns in the state impose the tax authorized by Section 59-12-204; and

1512 (II) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the  
1513 state impose the tax authorized by Section 59-12-1102.

1514 (f) Subject to Subsections (2)(g) and (h), a tax rate repeal or tax rate change for a tax  
1515 rate imposed under the following shall take effect on the first day of a calendar quarter:

- 1516 (i) Subsection (2)(a)(i)(A);
- 1517 (ii) Subsection (2)(b)(i);
- 1518 (iii) Subsection (2)(c)(i);
- 1519 (iv) Subsection (2)(d)(i)(A)(I);
- 1520 (v) Subsection (2)(e)(ii)(A)(I); or
- 1521 (vi) Subsection (2)(e)(iii)(A)(I).

1522 (g) (i) For a transaction described in Subsection (2)(g)(iii), a tax rate increase shall take  
1523 effect on the first day of the first billing period that begins after the effective date of the tax rate  
1524 increase if the billing period for the transaction begins before the effective date of a tax rate  
1525 increase imposed under:

- 1526 (A) Subsection (2)(a)(i)(A);
- 1527 (B) Subsection (2)(b)(i);
- 1528 (C) Subsection (2)(c)(i);
- 1529 (D) Subsection (2)(d)(i)(A)(I);
- 1530 (E) Subsection (2)(e)(ii)(A)(I); or
- 1531 (F) Subsection (2)(e)(iii)(A)(I).

1532 (ii) For a transaction described in Subsection (2)(g)(iii), the repeal of a tax or a tax rate  
1533 decrease shall take effect on the first day of the last billing period that began before the effective  
1534 date of the repeal of the tax or the tax rate decrease if the billing period for the transaction  
1535 begins before the effective date of the repeal of the tax or the tax rate decrease imposed under:

- 1536 (A) Subsection (2)(a)(i)(A);
- 1537 (B) Subsection (2)(b)(i);
- 1538 (C) Subsection (2)(c)(i);
- 1539 (D) Subsection (2)(d)(i)(A)(I);
- 1540 (E) Subsection (2)(e)(ii)(A)(I); or
- 1541 (F) Subsection (2)(e)(iii)(A)(I).

- 1542 (iii) Subsections (2)(g)(i) and (ii) apply to transactions subject to a tax under:
- 1543 (A) Subsection (1)(b);
- 1544 (B) Subsection (1)(c);
- 1545 (C) Subsection (1)(d);
- 1546 (D) Subsection (1)(e);
- 1547 (E) Subsection (1)(f);
- 1548 (F) Subsection (1)(g);
- 1549 (G) Subsection (1)(h);
- 1550 (H) Subsection (1)(i);
- 1551 (I) Subsection (1)(j); or
- 1552 (J) Subsection (1)(k).
- 1553 (h) (i) For a tax rate described in Subsection (2)(h)(ii), if a tax due on a catalogue sale is
- 1554 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
- 1555 change in a tax rate takes effect:
- 1556 (A) on the first day of a calendar quarter; and
- 1557 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 1558 (ii) Subsection (2)(h)(i) applies to the tax rates described in the following:
- 1559 (A) Subsection (2)(a)(i)(A);
- 1560 (B) Subsection (2)(b)(i);
- 1561 (C) Subsection (2)(c)(i);
- 1562 (D) Subsection (2)(d)(i)(A)(I);
- 1563 (E) Subsection (2)(e)(ii)(A)(I); or
- 1564 (F) Subsection (2)(e)(iii)(A)(I).
- 1565 (iii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1566 commission may by rule define the term "catalogue sale."
- 1567 (3) (a) Except as provided in Subsections (4) through (10), the following state taxes
- 1568 shall be deposited into the General Fund:
- 1569 (i) the tax imposed by Subsection (2)(a)(i)(A);



- 1570 (ii) the tax imposed by Subsection (2)(b)(i);
- 1571 (iii) the tax imposed by Subsection (2)(c)(i);
- 1572 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I);
- 1573 (v) the tax imposed by Subsection (2)(e)(ii)(A)(I); and
- 1574 (vi) the tax imposed by Subsection (2)(e)(iii)(A)(I).
- 1575 (b) The following local taxes shall be distributed to a county, city, or town as provided
- 1576 in this chapter:
  - 1577 (i) the tax imposed by Subsection (2)(a)(ii);
  - 1578 (ii) the tax imposed by Subsection (2)(b)(ii);
  - 1579 (iii) the tax imposed by Subsection (2)(c)(ii); and
  - 1580 (iv) the tax imposed by Subsection (2)(e)(ii)(B).
- 1581 (c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the
- 1582 state shall receive the county's, city's, or town's proportionate share of the revenues generated
- 1583 by the following local taxes as provided in Subsection (3)(c)(ii):
  - 1584 (A) the local tax described in Subsection (2)(d)(ii); and
  - 1585 (B) the local tax described in Subsection (2)(e)(iii)(B).
- 1586 (ii) For revenues generated by a tax described in Subsection (3)(c)(i), the commission
- 1587 shall determine a county's, city's, or town's proportionate share of the revenues by:
  - 1588 (A) calculating an amount equal to the population of the unincorporated area of the
  - 1589 county, city, or town divided by the total population of the state; and
  - 1590 (B) multiplying the amount determined under Subsection (3)(c)(ii)(A) by the total
  - 1591 amount of revenues generated by the taxes described in Subsection (3)(c)(i) for all counties,
  - 1592 cities, and towns.
- 1593 (iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for purposes
- 1594 of this section shall be derived from the most recent official census or census estimate of the
- 1595 United States Census Bureau.
- 1596 (B) If a needed population estimate is not available from the United States Census
- 1597 Bureau, population figures shall be derived from the estimate from the Utah Population

1598 Estimates Committee created by executive order of the governor.

1599 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
1600 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)  
1601 through (g):

1602 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1603 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

1604 (B) for the fiscal year; or

1605 (ii) \$17,500,000.

1606 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described  
1607 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of  
1608 Natural Resources to:

1609 (A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to  
1610 protect sensitive plant and animal species; or

1611 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
1612 act, to political subdivisions of the state to implement the measures described in Subsections  
1613 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

1614 (ii) Money transferred to the Department of Natural Resources under Subsection  
1615 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other  
1616 person to list or attempt to have listed a species as threatened or endangered under the  
1617 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

1618 (iii) At the end of each fiscal year:

1619 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
1620 Conservation and Development Fund created in Section 73-10-24;

1621 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
1622 Program Subaccount created in Section 73-10c-5; and

1623 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
1624 Program Subaccount created in Section 73-10c-5.

1625 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in

1626 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund  
1627 created in Section 4-18-6.

1628 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described  
1629 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water  
1630 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water  
1631 rights.

1632 (ii) At the end of each fiscal year:

1633 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
1634 Conservation and Development Fund created in Section 73-10-24;

1635 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
1636 Program Subaccount created in Section 73-10c-5; and

1637 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
1638 Program Subaccount created in Section 73-10c-5.

1639 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described  
1640 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development  
1641 Fund created in Section 73-10-24 for use by the Division of Water Resources.

1642 (ii) In addition to the uses allowed of the Water Resources Conservation and  
1643 Development Fund under Section 73-10-24, the Water Resources Conservation and  
1644 Development Fund may also be used to:

1645 (A) conduct hydrologic and geotechnical investigations by the Division of Water  
1646 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
1647 quantifying surface and ground water resources and describing the hydrologic systems of an  
1648 area in sufficient detail so as to enable local and state resource managers to plan for and  
1649 accommodate growth in water use without jeopardizing the resource;

1650 (B) fund state required dam safety improvements; and

1651 (C) protect the state's interest in interstate water compact allocations, including the  
1652 hiring of technical and legal staff.

1653 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described

1654 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount  
1655 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1656 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
1657 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount created  
1658 in Section 73-10c-5 for use by the Division of Drinking Water to:

1659 (i) provide for the installation and repair of collection, treatment, storage, and  
1660 distribution facilities for any public water system, as defined in Section 19-4-102;

1661 (ii) develop underground sources of water, including springs and wells; and

1662 (iii) develop surface water sources.

1663 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
1664 2006, the difference between the following amounts shall be expended as provided in this  
1665 Subsection (5), if that difference is greater than \$1:

1666 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the  
1667 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

1668 (ii) \$17,500,000.

1669 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

1670 (A) transferred each fiscal year to the Department of Natural Resources as dedicated  
1671 credits; and

1672 (B) expended by the Department of Natural Resources for watershed rehabilitation or  
1673 restoration.

1674 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
1675 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund  
1676 created in Section 73-10-24.

1677 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the  
1678 remaining difference described in Subsection (5)(a) shall be:

1679 (A) transferred each fiscal year to the Division of Water Resources as dedicated credits;  
1680 and

1681 (B) expended by the Division of Water Resources for cloud-seeding projects authorized

1682 by Title 73, Chapter 15, Modification of Weather.

1683 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
1684 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund  
1685 created in Section 73-10-24.

1686 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the  
1687 remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources  
1688 Conservation and Development Fund created in Section 73-10-24 for use by the Division of  
1689 Water Resources for:

1690 (i) preconstruction costs:

1691 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
1692 26, Bear River Development Act; and

1693 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project  
1694 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

1695 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,  
1696 Chapter 26, Bear River Development Act;

1697 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project  
1698 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

1699 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and  
1700 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

1701 (e) Any unexpended monies described in Subsection (5)(d) that remain in the Water  
1702 Resources Conservation and Development Fund at the end of the fiscal year are nonlapsing.

1703 (f) After making the transfers required by Subsections (5)(b) and (c) and subject to  
1704 Subsection (5)(g), 6% of the remaining difference described in Subsection (5)(a) shall be  
1705 transferred each year as dedicated credits to the Division of Water Rights to cover the costs  
1706 incurred for employing additional technical staff for the administration of water rights.

1707 (g) At the end of each fiscal year, any unexpended dedicated credits described in  
1708 Subsection (5)(f) over \$150,000 lapse to the Water Resources Conservation and Development  
1709 Fund created in Section 73-10-24.

1710 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
1711 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%  
1712 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in  
1713 the Transportation Fund created by Section 72-2-102.

1714 (7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies, beginning  
1715 on January 1, 2000, the Division of Finance shall deposit into the Centennial Highway Fund  
1716 Restricted Account created in Section 72-2-118 a portion of the taxes listed under Subsection  
1717 (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable transactions under  
1718 Subsection (1).

1719 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds have  
1720 been paid off and the highway projects completed that are intended to be paid from revenues  
1721 deposited in the Centennial Highway Fund Restricted Account as determined by the Executive  
1722 Appropriations Committee under Subsection 72-2-118(6)(d), the Division of Finance shall  
1723 deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion  
1724 of the taxes listed under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate  
1725 on the taxable transactions under Subsection (1).

1726 (8) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal  
1727 year 2004-05, the commission shall each year on or before the September 30 immediately  
1728 following the last day of the fiscal year deposit the difference described in Subsection (8)(b) into  
1729 the Remote Sales Restricted Account created in Section 59-12-103.2 if that difference is greater  
1730 than \$0.

1731 (b) The difference described in Subsection (8)(a) is equal to the difference between:

1732 (i) the total amount of the revenues the commission received from sellers collecting the  
1733 taxes described in Subsections (2)(d)(i) and (2)(e)(iii)(A) for the fiscal year immediately  
1734 preceding the September 30 described in Subsection (8)(a); and

1735 (ii) \$7,279,673.

1736 (9) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in  
1737 Subsection (7)(a), and until Subsection (9)(b) applies, for a fiscal year beginning on or after July

1738 1, 2007, the Division of Finance shall deposit into the Centennial Highway Fund Restricted  
1739 Account created by Section 72-2-118 a portion of the taxes listed under Subsection (3)(a) equal  
1740 to 8.3% of the revenues collected from the following taxes, which represents a portion of the  
1741 approximately 17% of sales and use tax revenues generated annually by the sales and use tax on  
1742 vehicles and vehicle-related products:

- 1743 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 1744 (ii) the tax imposed by Subsection (2)(b)(i);
- 1745 (iii) the tax imposed by Subsection (2)(c)(i); and
- 1746 (iv) the tax imposed by Subsection (2)(e)(ii)(A)(I).

1747 (b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under  
1748 Subsection (7)(b), when the highway general obligation bonds have been paid off and the  
1749 highway projects completed that are intended to be paid from revenues deposited in the  
1750 Centennial Highway Fund Restricted Account as determined by the Executive Appropriations  
1751 Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the  
1752 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes  
1753 listed under Subsection (3)(a) equal to 8.3% of the revenues collected from the following taxes,  
1754 which represents a portion of the approximately 17% of sales and use tax revenues generated  
1755 annually by the sales and use tax on vehicles and vehicle-related products:

- 1756 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 1757 (ii) the tax imposed by Subsection (2)(b)(i);
- 1758 (iii) the tax imposed by Subsection (2)(c)(i); and
- 1759 (iv) the tax imposed by Subsection (2)(e)(ii)(A)(I).

1760 (10) (a) Notwithstanding Subsection (3)(a) and until Subsection (10)(b) applies, the  
1761 Division of Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes  
1762 listed under Subsection (3)(a) into the Critical Highway Needs Fund created by Section  
1763 72-2-125.

1764 (b) Notwithstanding Subsection (3)(a) and in addition to any amounts deposited under  
1765 Subsections (7) and (9), when the general obligation bonds authorized by Section 63B-16-101

1766 have been paid off and the highway projects completed that are included in the prioritized  
1767 project list under Subsection 72-2-125(4) as determined in accordance with Subsection  
1768 72-2-125(6), the Division of Finance shall annually deposit \$90,000,000 of the revenues  
1769 generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund  
1770 of 2005 created by Section 72-2-124.

1771 Section 6. Section **59-12-104.2** is amended to read:

1772 **59-12-104.2. Exemption for accommodations and services taxed by the Navajo**  
1773 **Nation.**

1774 (1) As used in this section "tribal taxing area" means the geographical area that:

1775 (a) is subject to the taxing authority of the Navajo Nation; and

1776 (b) consists of:

1777 (i) notwithstanding the issuance of a patent, all land:

1778 (A) within the limits of an Indian reservation under the jurisdiction of the federal  
1779 government; and

1780 (B) including any rights-of-way running through the reservation; and

1781 (ii) all Indian allotments the Indian titles to which have not been extinguished, including  
1782 any rights-of-way running through an Indian allotment.

1783 (2) (a) Beginning July 1, 2001, amounts paid by or charged to a purchaser for  
1784 accommodations and services described in Subsection 59-12-103(1)(i) are exempt from the tax  
1785 imposed by Subsection 59-12-103(2)(a)(i) to the extent permitted under Subsection (2)(b) if:

1786 (i) the accommodations and services described in Subsection 59-12-103(1)(i) are  
1787 provided within:

1788 (A) the state; and

1789 (B) a tribal taxing area;

1790 (ii) the Navajo Nation imposes and collects a tax on the amounts paid by or charged to  
1791 the purchaser for the accommodations and services described in Subsection 59-12-103(1)(i);

1792 (iii) the Navajo Nation imposes the tax described in Subsection (2)(a)(ii) without regard  
1793 to whether or not the purchaser that pays or is charged for the accommodations and services is



1794 an enrolled member of the Navajo Nation; and

1795 (iv) the requirements of Subsection (4) are met.

1796 (b) If but for Subsection (2)(a) the amounts paid by or charged to a purchaser for  
1797 accommodations and services described in Subsection (2)(a) are subject to a tax imposed by  
1798 Subsection 59-12-103(2)(a)(i)(A):

1799 (i) the seller shall collect and pay to the state the difference described in Subsection (3)  
1800 if that difference is greater than \$0; and

1801 (ii) a person may not require the state to provide a refund, a credit, or similar tax relief  
1802 if the difference described in Subsection (3) is equal to or less than \$0.

1803 (3) The difference described in Subsection (2)(b) is equal to the difference between:

1804 (a) the amount of tax imposed by Subsection 59-12-103(2)(a)(i)(A) on the amounts  
1805 paid by or charged to a purchaser for accommodations and services described in Subsection  
1806 59-12-103(1)(i); less

1807 (b) the tax imposed and collected by the Navajo Nation on the amounts paid by or  
1808 charged to a purchaser for the accommodations and services described in Subsection  
1809 59-12-103(1)(i).

1810 (4) (a) If, on or after July 1, 2001, the Navajo Nation changes the tax rate of a tax  
1811 imposed on amounts paid by or charged to a purchaser for accommodations and services  
1812 described in Subsection 59-12-103(1)(i), any change in the amount of the exemption under  
1813 Subsection (2) as a result of the change in the tax rate is not effective until the first day of the  
1814 calendar quarter after a 90-day period beginning on the date the commission receives notice  
1815 meeting the requirements of Subsection (4)(b) from the Navajo Nation.

1816 (b) The notice described in Subsection (4)(a) shall state:

1817 (i) that the Navajo Nation has changed or will change the tax rate of a tax imposed on  
1818 amounts paid by or charged to a purchaser for accommodations and services described in  
1819 Subsection 59-12-103(1)(i);

1820 (ii) the effective date of the rate change on the tax described in Subsection (4)(b)(i); and

1821 (iii) the new rate of the tax described in Subsection (4)(b)(i).

- 1822 (5) Beginning with the 2006 interim, the Revenue and Taxation Interim Committee:  
1823 (a) shall review the exemption provided for in this section one or more times every five  
1824 years;  
1825 (b) shall determine on or before the November interim meeting of the year in which the  
1826 Revenue and Taxation Interim Committee reviews the exemption provided for in this section  
1827 whether the exemption should be:  
1828 (i) continued;  
1829 (ii) modified; or  
1830 (iii) repealed; and  
1831 (c) may review any other issue related to the exemption provided for in this section as  
1832 determined by the Revenue and Taxation Interim Committee.

1833 Section 7. Section **59-12-108** is amended to read:

1834 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**  
1835 **Certain amounts allocated to local taxing jurisdictions.**

1836 (1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this  
1837 chapter of \$50,000 or more for the previous calendar year shall:

1838 (i) file a return with the commission:

1839 (A) monthly on or before the last day of the month immediately following the month for  
1840 which the seller collects a tax under this chapter; and

1841 (B) for the month for which the seller collects a tax under this chapter; and

1842 (ii) remit with the return required by Subsection (1)(a)(i) the amount the person is  
1843 required to remit to the commission for each tax, fee, or charge described in Subsection (1)(b):

1844 (A) if that seller's tax liability under this chapter for the previous calendar year is less  
1845 than \$96,000, by any method permitted by the commission; or

1846 (B) if that seller's tax liability under this chapter for the previous calendar year is  
1847 \$96,000 or more, by electronic funds transfer.

1848 (b) Subsections (1)(a)(i) and (ii) apply to the following taxes, fees, or charges:

1849 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

1850 (ii) a fee under Section 19-6-716;

1851 (iii) a fee under Section 19-6-805;

1852 (iv) a charge under Section 69-2-5.5; or

1853 (v) a tax under this chapter.

1854 (c) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63, Chapter 46a,  
1855 Utah Administrative Rulemaking Act, the commission shall make rules providing for a method  
1856 for making same-day payments other than by electronic funds transfer if making payments by  
1857 electronic funds transfer fails.

1858 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1859 commission shall establish by rule procedures and requirements for determining the amount a  
1860 seller is required to remit to the commission under this Subsection (1).

1861 (2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a  
1862 seller described in Subsection (4) may retain each month the amount allowed by this Subsection  
1863 (2).

1864 (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain  
1865 each month 1.31% of any amounts the seller is required to remit to the commission:

1866 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax  
1867 and a local tax imposed in accordance with the following, for the month for which the seller is  
1868 filing a return in accordance with Subsection (1):

1869 (A) Subsection 59-12-103(2)(a);

1870 (B) Subsection 59-12-103(2)(b);

1871 (C) Subsection 59-12-103(2)(d), except for the state tax and the local tax imposed on  
1872 the amounts paid or charged for food and food ingredients in accordance with Subsections  
1873 59-12-103(2)(d)(i)(C) and (2)(d)(ii); and

1874 (D) Subsection 59-12-103(2)(e); and

1875 (ii) for an agreement sales and use tax.

1876 (c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may  
1877 retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described

1878 in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in  
1879 accordance with Subsection 59-12-103(2)(c).

1880 (ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount  
1881 equal to the sum of:

1882 (A) 1.31% of any amounts the seller is required to remit to the commission for:

1883 (I) the state tax and the local tax imposed in accordance with Subsection  
1884 59-12-103(2)(c);

1885 (II) the month for which the seller is filing a return in accordance with Subsection (1);  
1886 and

1887 (III) an agreement sales and use tax; and

1888 (B) 1.31% of the difference between:

1889 (I) the amounts the seller would have been required to remit to the commission:

1890 (Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject  
1891 to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(a);

1892 (Bb) for the month for which the seller is filing a return in accordance with Subsection  
1893 (1); and

1894 (Cc) for an agreement sales and use tax; and

1895 (II) the amounts the seller is required to remit to the commission for:

1896 (Aa) the state tax and the local tax imposed in accordance with Subsection  
1897 59-12-103(2)(c);

1898 (Bb) the month for which the seller is filing a return in accordance with Subsection (1);  
1899 and

1900 (Cc) an agreement sales and use tax.

1901 (d) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may  
1902 retain each month the amount calculated under Subsection (2)(d)(ii) for a transaction described  
1903 in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed on the  
1904 amounts paid or charged for food and food ingredients in accordance with Subsections  
1905 59-12-103(2)(d)(i)(C) and (2)(d)(ii).

1906           (ii) For purposes of Subsection (2)(d)(i), the amount a seller may retain is an amount  
1907 equal to the sum of:

1908           (A) 1.31% of any amounts the seller is required to remit to the commission for:

1909           (I) the state tax and the local tax imposed on the amounts paid or charged for food and  
1910 food ingredients in accordance with Subsections 59-12-103(2)(d)(i)(C) and (2)(d)(ii);

1911           (II) the month for which the seller is filing a return in accordance with Subsection (1);  
1912 and

1913           (III) an agreement sales and use tax; and

1914           (B) 1.31% of the difference between:

1915           (I) the amounts the seller would have been required to remit to the commission:

1916           (Aa) in accordance with Subsections 59-12-103(2)(d)(i)(A)(I) and (2)(d)(ii) if the  
1917 transaction had been subject to the state tax and the local tax imposed in accordance with  
1918 Subsections 59-12-103(2)(d)(i)(A)(I) and (2)(d)(ii);

1919           (Bb) for the month for which the seller is filing a return in accordance with Subsection  
1920 (1); and

1921           (Cc) for an agreement sales and use tax; and

1922           (II) the amounts the seller is required to remit to the commission for:

1923           (Aa) the state tax and the local tax imposed in accordance with Subsections  
1924 59-12-103(2)(d)(i)(C) and (2)(d)(ii);

1925           (Bb) the month for which the seller is filing a return in accordance with Subsection (1);  
1926 and

1927           (Cc) an agreement sales and use tax.

1928           (e) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain  
1929 each month 1% of any amounts the seller is required to remit to the commission:

1930           (i) for the month for which the seller is filing a return in accordance with Subsection  
1931 (1); and

1932           (ii) under:

1933           (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

1934 (B) Subsection 59-12-603(1)(a)(i)(A); or

1935 (C) Subsection 59-12-603(1)(a)(i)(B).

1936 (3) A state government entity that is required to remit taxes monthly in accordance with  
1937 Subsection (1) may not retain any amount under Subsection (2).

1938 (4) A seller that has a tax liability under this chapter for the previous calendar year of  
1939 less than \$50,000 may:

1940 (a) voluntarily meet the requirements of Subsection (1); and

1941 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the amounts  
1942 allowed by Subsection (2).

1943 (5) Penalties for late payment shall be as provided in Section 59-1-401.

1944 (6) (a) ~~For~~ Except as provided in Subsection (6)(c), for any amounts required to be  
1945 remitted to the commission under this part, the commission shall each month calculate an  
1946 amount equal to the difference between:

1947 (i) the total amount retained for that month by all sellers had the percentages listed  
1948 under Subsections (2)(b), (2)(c)(ii), and (2)(d)(ii) been 1.5%; and

1949 (ii) the total amount retained for that month by all sellers at the percentages listed under  
1950 Subsections (2)(b), (2)(c)(ii), and (2)(d)(ii).

1951 (b) The commission shall each month allocate the amount calculated under Subsection  
1952 (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and use  
1953 tax that the commission distributes to each county, city, and town for that month compared to  
1954 the total agreement sales and use tax that the commission distributes for that month to all  
1955 counties, cities, and towns.

1956 (c) The amount the commission calculates under Subsection (6)(a) may not include an  
1957 amount collected from a tax that:

1958 (i) the state imposes within a county, city, or town, including the unincorporated area of  
1959 a county; and

1960 (ii) is not imposed within the entire state.

1961 Section 8. Section **59-12-601.1** is enacted to read:

1962 **Part 6. Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act**

1963 **59-12-601.1. Title.**

1964 This part is known as the "Tourism, Recreation, Cultural, Convention, and Airport  
1965 Facilities Tax Act."

1966 Section 9. Section **59-12-602** is amended to read:

1967 **59-12-602. Definitions.**

1968 As used in this part:

1969 (1) (a) Subject to Subsection (1)(b), "airport facility" means an airport of regional  
1970 significance, as defined by the Transportation Commission by rule made in accordance with  
1971 Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

1972 (b) "Airport facility" includes:

1973 (i) an appurtenance to an airport, including a fixed guideway as defined in Section  
1974 59-12-1702 that provides transportation service to or from the airport;

1975 (ii) a control tower, including a radar system;

1976 (iii) a public area of an airport; or

1977 (iv) a terminal facility.

1978 [~~1~~] (2) "Convention facility" means any publicly owned or operated convention  
1979 center, sports arena, or other facility at which conventions, conferences, and other gatherings  
1980 are held and whose primary business or function is to host such conventions, conferences, and  
1981 other gatherings.

1982 [~~2~~] (3) "Cultural facility" means any publicly owned or operated museum, theater, art  
1983 center, music hall, or other cultural or arts facility.

1984 [~~3~~] (4) "Recreation facility" or "tourist facility" means any publicly owned or operated  
1985 park, campground, marina, dock, golf course, water park, historic park, monument,  
1986 planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.

1987 [~~4~~] (5) (a) "Restaurant" includes any coffee shop, cafeteria, luncheonette, soda  
1988 fountain, or fast-food service where food is prepared for immediate consumption.

1989 (b) "Restaurant" does not include:

1990 (i) any retail establishment whose primary business or function is the sale of fuel or  
1991 food items for off-premise, but not immediate, consumption; and

1992 (ii) a theater that sells food items, but not a dinner theater.

1993 Section 10. Section **59-12-603** is amended to read:

1994 **59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Adoption of**  
1995 **ordinance required -- Advisory board -- Administration -- Collection -- Distribution --**  
1996 **Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.**

1997 (1) (a) In addition to any other taxes, a county legislative body may, as provided in this  
1998 part, impose a tax as follows:

1999 (i) (A) a county legislative body of any county may impose a tax of not to exceed 3%  
2000 on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases  
2001 and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor  
2002 vehicle that is being repaired pursuant to a repair or an insurance agreement; and

2003 (B) beginning on or after January 1, 1999, a county legislative body of any county  
2004 imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under  
2005 Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term leases and rentals of  
2006 motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for  
2007 the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to  
2008 a repair or an insurance agreement;

2009 (ii) a county legislative body of any county may impose a tax of not to exceed 1% of all  
2010 sales of the following that are sold by a restaurant:

2011 (A) prepared food; or

2012 (B) food and food ingredients; and

2013 (iii) a county legislative body of a county of the first class may impose a tax of not to  
2014 exceed .5% on charges for the accommodations and services described in Subsection  
2015 59-12-103(1)(i).

2016 (b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section  
2017 17-31-5.5.



2018 (2) (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided  
2019 for in Subsections (1)(a)(i) through (iii) may be used for ~~[the purposes of]:~~

2020 (i) financing tourism promotion; and

2021 (ii) the development, operation, and maintenance of ~~[tourist, recreation, cultural, and  
2022 convention facilities as defined in Section 59-12-602.]:~~

2023 (A) an airport facility;

2024 (B) a convention facility;

2025 (C) a cultural facility;

2026 (D) a recreation facility; or

2027 (E) a tourist facility.

2028 (b) A county of the first class shall expend at least \$450,000 each year of the revenues  
2029 from the imposition of a tax authorized by Subsection (1)(a)(iii) within the county to fund a  
2030 marketing and ticketing system designed to:

2031 (i) promote tourism in ski areas within the county by persons that do not reside within  
2032 the state; and

2033 (ii) combine the sale of:

2034 (A) ski lift tickets; and

2035 (B) accommodations and services described in Subsection 59-12-103(1)(i).

2036 (3) A tax imposed under this part may be pledged as security for bonds, notes, or other  
2037 evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local  
2038 Government Bonding Act, or a community development and renewal agency under Title 17C,  
2039 Chapter 1, Part 5, Agency Bonds, to finance ~~[tourism, recreation, cultural, and convention  
2040 facilities.]:~~

2041 (a) an airport facility;

2042 (b) a convention facility;

2043 (c) a cultural facility;

2044 (d) a recreation facility; or

2045 (e) a tourist facility.

2046 (4) (a) In order to impose the tax under Subsection (1), each county legislative body  
2047 shall [~~annually~~] adopt an ordinance imposing the tax.

2048 (b) The ordinance under Subsection (4)(a) shall include provisions substantially the  
2049 same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on  
2050 those items and sales described in Subsection (1).

2051 (c) The name of the county as the taxing agency shall be substituted for that of the state  
2052 where necessary, and an additional license is not required if one has been or is issued under  
2053 Section 59-12-106.

2054 (5) In order to maintain in effect its tax ordinance adopted under this part, each county  
2055 legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1,  
2056 Tax Collection, adopt amendments to its tax ordinance to conform with the applicable  
2057 amendments to Part 1, Tax Collection.

2058 (6) (a) Regardless of whether a county of the first class creates a tourism tax advisory  
2059 board in accordance with Section 17-31-8, the county legislative body of the county of the first  
2060 class shall create a tax advisory board in accordance with this Subsection (6).

2061 (b) The tax advisory board shall be composed of nine members appointed as follows:

2062 (i) four members shall be appointed by the county legislative body of the county of the  
2063 first class as follows:

2064 (A) one member shall be a resident of the unincorporated area of the county;

2065 (B) two members shall be residents of the incorporated area of the county; and

2066 (C) one member shall be a resident of the unincorporated or incorporated area of the  
2067 county; and

2068 (ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or  
2069 towns within the county of the first class appointed by an organization representing all mayors  
2070 of cities and towns within the county of the first class.

2071 (c) Five members of the tax advisory board constitute a quorum.

2072 (d) The county legislative body of the county of the first class shall determine:

2073 (i) terms of the members of the tax advisory board;

2074 (ii) procedures and requirements for removing a member of the tax advisory board;  
2075 (iii) voting requirements, except that action of the tax advisory board shall be by at least  
2076 a majority vote of a quorum of the tax advisory board;  
2077 (iv) chairs or other officers of the tax advisory board;  
2078 (v) how meetings are to be called and the frequency of meetings; and  
2079 (vi) the compensation, if any, of members of the tax advisory board.  
2080 (e) The tax advisory board under this Subsection (6) shall advise the county legislative  
2081 body of the county of the first class on the expenditure of revenues collected within the county  
2082 of the first class from the taxes described in Subsection (1)(a).  
2083 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part  
2084 shall be administered, collected, and enforced in accordance with:  
2085 (A) the same procedures used to administer, collect, and enforce the tax under:  
2086 (I) Part 1, Tax Collection; or  
2087 (II) Part 2, Local Sales and Use Tax Act; and  
2088 (B) Chapter 1, General Taxation Policies.  
2089 (ii) A tax under this part is not subject to Section 59-12-107.1 or Subsections  
2090 59-12-205(2) through (7).  
2091 (b) Except as provided in Subsection (7)(c):  
2092 (i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the  
2093 commission shall distribute the revenues to the county imposing the tax; and  
2094 (ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenues  
2095 according to the distribution formula provided in Subsection (8).  
2096 (c) The commission shall deduct from the distributions under Subsection (7)(b) an  
2097 administrative charge for collecting the tax as provided in Section 59-12-206.  
2098 (8) The commission shall distribute the revenues generated by the tax under Subsection  
2099 (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the  
2100 following formula:  
2101 (a) the commission shall distribute 70% of the revenues based on the percentages

2102 generated by dividing the revenues collected by each county under Subsection (1)(a)(i)(B) by  
2103 the total revenues collected by all counties under Subsection (1)(a)(i)(B); and

2104 (b) the commission shall distribute 30% of the revenues based on the percentages  
2105 generated by dividing the population of each county collecting a tax under Subsection  
2106 (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

2107 (9) (a) For purposes of this Subsection (9):

2108 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,  
2109 Annexation to County.

2110 (ii) "Annexing area" means an area that is annexed into a county.

2111 (b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county  
2112 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or  
2113 change shall take effect:

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

2115 (B) after a 90-day period beginning on the date the commission receives notice meeting  
2116 the requirements of Subsection (9)(b)(ii) from the county.

2117 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:

2118 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

2119 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

2120 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

2121 (D) if the county enacts the tax or changes the rate of the tax described in Subsection  
2122 (9)(b)(ii)(A), the rate of the tax.

2123 (c) (i) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection  
2124 (9)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the  
2125 first billing period:

2126 (A) that begins after the effective date of the enactment of the tax or the tax rate  
2127 increase; and

2128 (B) if the billing period for the transaction begins before the effective date of the  
2129 enactment of the tax or the tax rate increase imposed under Subsection (1).

2130           (ii) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection  
2131 (9)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last  
2132 billing period:

2133           (A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
2134 and

2135           (B) if the billing period for the transaction begins before the effective date of the repeal  
2136 of the tax or the tax rate decrease imposed under Subsection (1).

2137           (iii) Subsections (9)(c)(i) and (ii) apply to transactions subject to a tax under:

2138           (A) Subsection 59-12-103(1)(e);  
2139           (B) Subsection 59-12-103(1)(i); or  
2140           (C) Subsection 59-12-103(1)(k).

2141           (d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or  
2142 after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a  
2143 tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

2144           (A) on the first day of a calendar quarter; and  
2145           (B) after a 90-day period beginning on the date the commission receives notice meeting  
2146 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

2147           (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

2148           (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,  
2149 repeal, or change in the rate of a tax under this part for the annexing area;

2150           (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);  
2151           (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and  
2152           (D) if the county enacts the tax or changes the rate of the tax described in Subsection  
2153 (9)(d)(ii)(A), the rate of the tax.

2154           (e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection  
2155 (9)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the  
2156 first billing period:

2157           (A) that begins after the effective date of the enactment of the tax or the tax rate

2158 increase; and

2159 (B) if the billing period for the transaction begins before the effective date of the  
2160 enactment of the tax or the tax rate increase imposed under Subsection (1).

2161 (ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection  
2162 (9)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last  
2163 billing period:

2164 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
2165 and

2166 (B) if the billing period for the transaction begins before the effective date of the repeal  
2167 of the tax or the tax rate decrease imposed under Subsection (1).

2168 (iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:

2169 (A) Subsection 59-12-103(1)(e);

2170 (B) Subsection 59-12-103(1)(i); or

2171 (C) Subsection 59-12-103(1)(k).

2172 Section 11. Section **59-12-1901** is enacted to read:

2173 **Part 19. County of the Second Class Airport, Highway, and Public**

2174 **Transit Sales and Use Tax Act**

2175 **59-12-1901. Title.**

2176 This part is known as the "County of the Second Class Airport, Highway, and Public  
2177 Transit Sales and Use Tax Act."

2178 Section 12. Section **59-12-1902** is enacted to read:

2179 **59-12-1902. Definitions.**

2180 As used in this part:

2181 (1) "Airport facility" is as defined in Section 59-12-602.

2182 (2) "Annexation" means an annexation to a county under Title 17, Chapter 2,

2183 Annexation to County.

2184 (3) "Annexing area" means an area that is annexed into a county.

2185 (4) "Fixed guideway" is as defined in Section 59-12-1702.

- 2186 (5) "Local highway of regional significance" means a local highway that is a:
- 2187 (a) principal arterial highway as defined in Section 72-4-102.5;
- 2188 (b) minor arterial highway as defined in Section 72-4-102.5;
- 2189 (c) major collector highway as defined in Section 72-4-102.5; or
- 2190 (d) minor collector road as defined in Section 72-4-102.5.
- 2191 (6) "Public transit" is as defined in Section 59-12-1502.

2192 Section 13. Section **59-12-1903** is enacted to read:

2193 **59-12-1903. Imposition of tax -- Base -- Rate -- Expenditure of revenues collected**  
 2194 **from the tax -- Administration, collection, and enforcement of tax by commission --**  
 2195 **Administrative fee -- Enactment or repeal of tax or tax rate change -- Annexation --**  
 2196 **Notice.**

2197 (1) (a) Subject to the other provisions of this section and except as provided in  
 2198 Subsection (2), beginning on January 1, 2009, a county legislative body of a county of the  
 2199 second class may impose a sales and use tax on the transactions:

- 2200 (i) described in Subsection 59-12-103(1); and
- 2201 (ii) within the county, including the cities and towns within the county.
- 2202 (b) For purposes of Subsection (1)(a), a county legislative body may impose a tax at a  
 2203 rate of:

- 2204 (i) .10%, to be:
- 2205 (A) as determined by the county legislative body, deposited as provided in Subsection  
 2206 (4)(c)(i) into the County of the Second Class State Highway Projects Fund created by Section  
 2207 72-2-121.2 and expended as provided in Section 72-2-121.2;

2208 (B) as determined by the county legislative body, expended for a project or service  
 2209 relating to an airport facility:

- 2210 (I) if that airport facility is part of the regional transportation plan of the area  
 2211 metropolitan planning organization if a metropolitan planning organization exists for the area;  
 2212 and

2213 (II) for the portion of the project or service that is performed within the county; or

2214 (C) as determined by the county legislative body, deposited or expended for a  
2215 combination of Subsections (1)(b)(i)(A) and (B); or  
2216 (ii) .25%, to be expended as follows:  
2217 (A) .10% to be deposited as provided in Subsection (4)(c)(i) into the County of the  
2218 Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as  
2219 provided in Section 72-2-121.2;  
2220 (B) .05%, to be deposited as provided in Subsection (4)(c)(ii) into the Local  
2221 Transportation Corridor Preservation Fund created by Section 72-2-117.5 and expended and  
2222 distributed in accordance with Section 72-2-117.5; and  
2223 (C) as determined by the county legislative body, .10% to be:  
2224 (I) deposited as provided in Subsection (4)(c)(i) into the County of the Second Class  
2225 State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in  
2226 Section 72-2-121.2;  
2227 (II) expended for:  
2228 (Aa) a state highway designated under Title 72, Chapter 4, Part 1, Designation of State  
2229 Highways Act;  
2230 (Bb) a local highway of regional significance; or  
2231 (Cc) a combination of Subsections (1)(b)(ii)(C)(II)(Aa) and (Bb);  
2232 (III) expended for a project or service relating to a system for public transit for the  
2233 portion of the project or service that is performed within the county;  
2234 (IV) expended for a project or service relating to a fixed guideway for the portion of  
2235 the project or service that is performed within the county;  
2236 (V) expended for a project or service relating to an airport facility:  
2237 (Aa) if that airport facility is part of the regional transportation plan of the area  
2238 metropolitan planning organization if a metropolitan planning organization exists for the area;  
2239 and  
2240 (Bb) for the portion of the project or service that is performed within the county; or  
2241 (VI) deposited or expended for a combination of Subsections (1)(b)(ii)(C)(I) through



2242 (V).

2243 (c) If a county legislative body imposes a tax under this part, the county legislative body  
2244 may not impose a tax under Part 17, County Option Sales and Use Tax for Transportation Act.

2245 (d) For purposes of this Subsection (1), the location of a transaction shall be determined  
2246 in accordance with Section 59-12-207.

2247 (2) (a) A county legislative body may not impose a tax under this part on:

2248 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are  
2249 exempt from taxation under Section 59-12-104;

2250 (ii) any amounts paid or charged by a seller that collects a tax under Subsection  
2251 59-12-107(1)(b); or

2252 (iii) except as provided in Subsection (2)(b), amounts paid or charged for food and food  
2253 ingredients.

2254 (b) A county legislative body imposing a tax under this part shall impose the tax on  
2255 amounts paid or charged for food and food ingredients if:

2256 (i) the food and food ingredients are sold as part of a bundled transaction attributable to  
2257 food and food ingredients and tangible personal property other than food and food ingredients;  
2258 and

2259 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in  
2260 accordance with Subsection 59-12-107(1)(b).

2261 (3) To impose a tax under this part, a county legislative body shall obtain approval from  
2262 a majority of the members of the county legislative body.

2263 (4) (a) Except as provided in Subsection (4)(b) or (c) or (6), the commission shall  
2264 transmit revenues collected within a county from a tax under this part that are required to be  
2265 expended for a purpose described in Subsection (1)(b)(ii)(C):

2266 (i) to the county legislative body;

2267 (ii) monthly; and

2268 (iii) by electronic funds transfer.

2269 (b) Except as provided in Subsection (6), the commission shall transfer the revenues

2270 described in Subsection (4)(a) directly to a public transit district organized under Title 17B,  
2271 Chapter 2a, Part 8, Public Transit District Act, if the county legislative body:

2272 (i) provides written notice to the commission requesting the transfer; and  
2273 (ii) designates the public transit district to which the county legislative body requests  
2274 the commission to transfer the revenues described in Subsection (4)(a).

2275 (c) Except as provided in Subsection (6), the commission shall deposit revenues  
2276 collected within a county from a tax under this part that:

2277 (i) are required to be expended for a purpose described in Subsection (1)(b)(ii)(A) into  
2278 the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2;

2279 (ii) are required to be expended for a purpose described in Subsection (1)(b)(ii)(B) into  
2280 the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or

2281 (iii) a county legislative body determines to expend for a purpose described in  
2282 Subsection (1)(b)(i)(A) or (1)(b)(ii)(C)(I) into the County of the Second Class State Highway  
2283 Projects Fund created by Section 72-2-121.2 if the county legislative body provides written  
2284 notice to the commission requesting the deposit.

2285 (5) (a) Except as provided in Subsection (5)(b), the commission shall administer,  
2286 collect, and enforce a tax under this part in accordance with:

2287 (i) the same procedures used to administer, collect, and enforce the tax under:

2288 (A) Part 1, Tax Collection; or

2289 (B) Part 2, Local Sales and Use Tax Act; and

2290 (ii) Chapter 1, General Taxation Policies.

2291 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).

2292 (6) (a) The commission may retain an amount of tax collected under this part of not to  
2293 exceed the lesser of:

2294 (i) 1.5%; or

2295 (ii) an amount equal to the cost to the commission of administering this part.

2296 (b) Any amount the commission retains under Subsection (6)(a) shall be:

2297 (i) deposited into the Sales and Use Tax Administrative Fees Account; and

2298           (ii) used as provided in Subsection 59-12-206(2).  
2299           (7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009,  
2300 a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment,  
2301 repeal, or change shall take effect:  
2302           (A) on the first day of a calendar quarter; and  
2303           (B) after a 90-day period beginning on the date the commission receives notice meeting  
2304 the requirements of Subsection (7)(a)(ii) from the county.  
2305           (ii) The notice described in Subsection (7)(a)(i)(B) shall state:  
2306           (A) that the county will enact, repeal, or change the rate of a tax under this part;  
2307           (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);  
2308           (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and  
2309           (D) if the county enacts the tax or changes the rate of the tax described in Subsection  
2310 (7)(a)(ii)(A), the rate of the tax.  
2311           (b) (i) For a transaction described in Subsection (7)(b)(iii), if the billing period for the  
2312 transaction begins before the effective date of the enactment of the tax or the tax rate increase  
2313 under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on the first  
2314 day of the first billing period that begins after the effective date of the enactment of the tax or  
2315 the tax rate increase.  
2316           (ii) For a transaction described in Subsection (7)(b)(iii), if the billing period for the  
2317 transaction begins before the effective date of the repeal of the tax or the tax rate decrease  
2318 imposed under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the  
2319 first day of the last billing period that began before the effective date of the repeal of the tax or  
2320 the tax rate decrease.  
2321           (iii) Subsections (7)(b)(i) and (ii) apply to transactions subject to a tax under:  
2322           (A) Subsection 59-12-103(1)(b);  
2323           (B) Subsection 59-12-103(1)(c);  
2324           (C) Subsection 59-12-103(1)(d);  
2325           (D) Subsection 59-12-103(1)(e);

2326 (E) Subsection 59-12-103(1)(f);

2327 (F) Subsection 59-12-103(1)(g);

2328 (G) Subsection 59-12-103(1)(h);

2329 (H) Subsection 59-12-103(1)(i);

2330 (I) Subsection 59-12-103(1)(j); or

2331 (J) Subsection 59-12-103(1)(k).

2332 (c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales  
2333 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax  
2334 described in Subsection (7)(a)(i) takes effect:

2335 (A) on the first day of a calendar quarter; and

2336 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the  
2337 rate of the tax under Subsection (7)(a)(i).

2338 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
2339 commission may by rule define the term "catalogue sale."

2340 (d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs  
2341 on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the  
2342 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take  
2343 effect:

2344 (A) on the first day of a calendar quarter; and

2345 (B) after a 90-day period beginning on the date the commission receives notice meeting  
2346 the requirements of Subsection (7)(d)(ii) from the county that annexes the annexing area.

2347 (ii) The notice described in Subsection (7)(d)(i)(B) shall state:

2348 (A) that the annexation described in Subsection (7)(d)(i)(B) will result in an enactment,  
2349 repeal, or change in the rate of a tax under this part for the annexing area;

2350 (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

2351 (C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

2352 (D) if the county enacts the tax or changes the rate of the tax described in Subsection  
2353 (7)(d)(ii)(A), the rate of the tax.

2354           (e) (i) For a transaction described in Subsection (7)(e)(iii), if the billing period for the  
2355 transaction begins before the effective date of the enactment of the tax or a tax rate increase  
2356 under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on the first  
2357 day of the first billing period that begins after the effective date of the enactment of the tax or  
2358 the tax rate increase.

2359           (ii) For a transaction described in Subsection (7)(e)(iii), if the billing period for the  
2360 transaction begins before the effective date of the repeal of the tax or the tax rate decrease  
2361 imposed under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the  
2362 first day of the last billing period that began before the effective date of the repeal of the tax or  
2363 the tax rate decrease.

2364           (iii) Subsections (7)(e)(i) and (ii) apply to transactions subject to a tax under:

2365           (A) Subsection 59-12-103(1)(b);

2366           (B) Subsection 59-12-103(1)(c);

2367           (C) Subsection 59-12-103(1)(d);

2368           (D) Subsection 59-12-103(1)(e);

2369           (E) Subsection 59-12-103(1)(f);

2370           (F) Subsection 59-12-103(1)(g);

2371           (G) Subsection 59-12-103(1)(h);

2372           (H) Subsection 59-12-103(1)(i);

2373           (I) Subsection 59-12-103(1)(j); or

2374           (J) Subsection 59-12-103(1)(k).

2375           (f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales  
2376 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax  
2377 described in Subsection (7)(d)(i) takes effect:

2378           (A) on the first day of a calendar quarter; and

2379           (B) beginning 60 days after the effective date of the enactment, repeal, or change in the  
2380 rate under Subsection (7)(d)(i).

2381           (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

2382 commission may by rule define the term "catalogue sale."

2383 Section 14. Section **59-12-2001** is enacted to read:

2384 **Part 20. Supplemental State Sales and Use Tax Act**

2385 **59-12-2001. Title.**

2386 This part is known as the "Supplemental State Sales and Use Tax Act."

2387 Section 15. Section **59-12-2002** is enacted to read:

2388 **59-12-2002. Definitions.**

2389 As used in this part, "public transit district" means a public transit district organized  
2390 under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

2391 Section 16. Section **59-12-2003** is enacted to read:

2392 **59-12-2003. Imposition -- Base -- Rate -- Revenues distributed to certain public**  
2393 **transit districts.**

2394 (1) Subject to the other provisions of this section and except as provided in Subsection  
2395 (2) or (4), beginning on July 1, 2008, the state shall impose a tax under this part within a city,  
2396 town, or the unincorporated area of a county of the first or second class if, on January 1, 2008,  
2397 there is a public transit district within any portion of that county of the first or second class.

2398 (2) The state may not impose a tax under this part within a county of the first or second  
2399 class if within all of the cities, towns, and the unincorporated area of the county of the first or  
2400 second class there is imposed a sales and use tax of:

2401 (a) .30% under Section 59-12-501;

2402 (b) .30% under Section 59-12-1001; or

2403 (c) .30% under Section 59-12-1503.

2404 (3) (a) Subject to Subsection (3)(b), if the state imposes a tax under this part, the tax  
2405 rate imposed within a city, town, or the unincorporated area of a county of the first or second  
2406 class is a percentage equal to the difference between:

2407 (i) .30%; and

2408 (ii) (A) for a city within the county of the first or second class, the highest tax rate  
2409 imposed within that city under:

2410           (I) Section 59-12-501;  
2411           (II) Section 59-12-1001; or  
2412           (III) Section 59-12-1503;  
2413           (B) for a town within the county of the first or second class, the highest tax rate  
2414 imposed within that town under:  
2415           (I) Section 59-12-501;  
2416           (II) Section 59-12-1001; or  
2417           (III) Section 59-12-1503; or  
2418           (C) for the unincorporated area of the county of the first or second class, the highest tax  
2419 rate imposed within that unincorporated area under:  
2420           (I) Section 59-12-501;  
2421           (II) Section 59-12-1001; or  
2422           (III) Section 59-12-1503.  
2423           (b) For purposes of Subsection (3)(a), if for a city, town, or the unincorporated area of  
2424 a county of the first or second class, the highest tax rate imposed under Section 59-12-501,  
2425 59-12-1001, or 59-12-1503 within that city, town, or unincorporated area of the county of the  
2426 first or second class is .30%, the state may not impose a tax under this part within that city,  
2427 town, or unincorporated area.  
2428           (4) (a) The state may not impose a tax under this part on:  
2429           (i) a transaction described in Subsection 59-12-103(1)(d);  
2430           (ii) except as provided in Subsection (4)(b), a transaction described in Subsection  
2431 59-12-103(2)(c); or  
2432           (iii) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
2433 are exempt from taxation under Section 59-12-104.  
2434           (b) The state shall impose a tax under this part on amounts paid or charged for food and  
2435 food ingredients if:  
2436           (i) the food and food ingredients are sold as part of a bundled transaction attributable to  
2437 food and ingredients and tangible personal property other than food and food ingredients; and

2438 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in  
2439 accordance with Subsection 59-12-107(1)(b).

2440 (5) For purposes of Subsection (1), the location of a transaction shall be determined in  
2441 accordance with Section 59-12-207.

2442 (6) The commission shall distribute the revenues the state collects from the sales and  
2443 use tax under this part, after subtracting amounts a seller retains in accordance with Section  
2444 59-12-108, to the public transit districts within the cities, towns, and unincorporated areas:

2445 (a) within which the state imposes a tax under this part; and

2446 (b) in proportion to the revenues collected from the sales and use tax under this part  
2447 within each city, town, and unincorporated area within which the state imposes a tax under this  
2448 part.

2449 Section 17. Section **59-12-2004** is enacted to read:

2450 **59-12-2004. Enactment or repeal of tax -- Effective date -- Administration,**  
2451 **collection, and enforcement of tax.**

2452 (1) Subject to Subsections (2) and (3), a tax rate repeal or a tax rate change for a tax  
2453 imposed under this part shall take effect on the first day of a calendar quarter.

2454 (2) (a) For a transaction described in Subsection (2)(c), the enactment of a tax or a tax  
2455 rate increase shall take effect on the first day of the first billing period that begins after the  
2456 effective date of the enactment of the tax or the tax rate increase if the billing period for the  
2457 transaction begins before the effective date of the enactment of the tax or the tax rate increase  
2458 under this part.

2459 (b) For a transaction described in Subsection (2)(c), the repeal of a tax or a tax rate  
2460 decrease shall take effect on the first day of the last billing period that began before the effective  
2461 date of the repeal of the tax or the tax rate decrease if the billing period for the transaction  
2462 begins before the effective date of the repeal of the tax or the tax rate decrease imposed under  
2463 this part.

2464 (c) Subsections (2)(a) and (b) apply to transactions subject to a tax under:

2465 (i) Subsection 59-12-103(1)(b);



2466 (ii) Subsection 59-12-103(1)(c);

2467 (iii) Subsection 59-12-103(1)(d);

2468 (iv) Subsection 59-12-103(1)(e);

2469 (v) Subsection 59-12-103(1)(f);

2470 (vi) Subsection 59-12-103(1)(g);

2471 (vii) Subsection 59-12-103(1)(h);

2472 (viii) Subsection 59-12-103(1)(i);

2473 (ix) Subsection 59-12-103(1)(j); or

2474 (x) Subsection 59-12-103(1)(k).

2475 (3) (a) If a tax due under this part on a catalogue sale is computed on the basis of sales  
2476 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax  
2477 under this part takes effect:

2478 (i) on the first day of a calendar quarter; and

2479 (ii) beginning 60 days after the effective date of the enactment, repeal, or change in the  
2480 rate of the tax under this part.

2481 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
2482 commission may by rule define the term "catalogue sale."

2483 (4) The commission shall administer, collect, and enforce a tax under this part in  
2484 accordance with:

2485 (a) the same procedures used to administer, collect, and enforce the tax under Part 1,  
2486 Tax Collection; and

2487 (b) Chapter 1, General Taxation Policies.

2488 Section 18. Section **72-2-117.5** is amended to read:

2489 **72-2-117.5. Local Transportation Corridor Preservation Fund -- Distribution.**

2490 (1) As used in this section:

2491 (a) "Council of governments" means a decision-making body in each county composed  
2492 of the county governing body and the mayors of each municipality in the county.

2493 (b) "Metropolitan planning organization" has the same meaning as defined in Section

2494 72-1-208.5.

2495 (2) There is created the Local Transportation Corridor Preservation Fund within the  
2496 Transportation Fund.

2497 (3) The fund shall be funded from the following sources:

2498 (a) a local option highway construction and transportation corridor preservation fee  
2499 imposed under Section 41-1a-1222;

2500 (b) appropriations made to the fund by the Legislature;

2501 (c) contributions from other public and private sources for deposit into the fund;

2502 (d) interest earnings on cash balances;

2503 (e) all monies collected from rents and sales of real property acquired with fund monies;

2504 (f) proceeds from general obligation bonds, revenue bonds, or other obligations issued  
2505 as authorized by Title 63B, Bonds; [~~and~~]

2506 (g) the portion of the sales and use tax described in Subsection 59-12-1703(4)(a)(ii) and  
2507 required by Subsection 59-12-1703(7)(b)(i) to be deposited into the fund[-]; and

2508 (h) sales and use tax revenues required by Section 59-12-1903 to be deposited into the  
2509 fund.

2510 (4) (a) All monies appropriated to the Local Transportation Corridor Preservation Fund  
2511 are nonlapsing.

2512 (b) The State Tax Commission shall provide the department with sufficient data for the  
2513 department to allocate the revenues:

2514 (i) provided under Subsection (3)(a) to each county imposing a local option highway  
2515 construction and transportation corridor preservation fee under Section 41-1a-1222; [~~and~~]

2516 (ii) provided under Subsection 59-12-1703(4)(a)(ii) to each county imposing a county  
2517 option sales and use tax for transportation[-]; and

2518 (iii) provided under Subsection (3)(h) to each county of the second class imposing the  
2519 sales and use tax authorized by Section 59-12-1903.

2520 (c) The monies allocated under Subsection (4)(b):

2521 (i) shall be used for the purposes provided in this section for each county; and

2522 (ii) are allocated to each county as provided in this section:  
2523 (A) with the condition that the state will not be charged for any asset purchased with  
2524 the monies allocated under Subsection (4)(b); and  
2525 (B) are considered a local matching contribution for the purposes described under  
2526 Section 72-2-123 if used on a state highway.  
2527 (d) Administrative costs of the department to implement this section shall be paid from  
2528 the fund.  
2529 (5) (a) The department shall authorize the expenditure of fund monies to allow a  
2530 highway authority to acquire real property or any interests in real property for state, county, and  
2531 municipal highway corridors subject to:  
2532 (i) monies available in the fund to each county under Subsection (4)(b); and  
2533 (ii) the provisions of this section.  
2534 (b) Fund monies may be used to pay interest on debts incurred in accordance with this  
2535 section.  
2536 (c) (i) (A) Fund monies may be used to pay maintenance costs of properties acquired  
2537 under this section but limited to a total of 5% of the purchase price of the property.  
2538 (B) Any additional maintenance cost shall be paid from funds other than under this  
2539 section.  
2540 (C) Revenue generated by any property acquired under this section is excluded from the  
2541 limitations under this Subsection (5)(c)(i).  
2542 (ii) Fund monies may be used to pay direct costs of acquisition of properties acquired  
2543 under this section.  
2544 (d) Fund monies allocated under Subsection (4)(b) may be used by a county highway  
2545 authority for countywide transportation planning if:  
2546 (i) the county is not included in a metropolitan planning organization;  
2547 (ii) the transportation planning is part of the county's continuing, cooperative, and  
2548 comprehensive process for transportation planning, corridor preservation, right-of-way  
2549 acquisition, and project programming;

2550 (iii) no more than four years allocation every 20 years to each county is used for  
2551 transportation planning under this Subsection (5)(d); and

2552 (iv) the county otherwise qualifies to use the fund monies as provided under this  
2553 section.

2554 (e) (i) Fund monies allocated under Subsection (4)(b) may be used by a county highway  
2555 authority for transportation corridor planning that is part of the corridor elements of an ongoing  
2556 work program of transportation projects.

2557 (ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the  
2558 direction of:

2559 (A) the metropolitan planning organization if the county is within the boundaries of a  
2560 metropolitan planning organization; or

2561 (B) the department if the county is not within the boundaries of a metropolitan planning  
2562 organization.

2563 (6) (a) (i) The Local Transportation Corridor Preservation Fund shall be used to  
2564 preserve highway corridors, promote long-term statewide transportation planning, save on  
2565 acquisition costs, and promote the best interests of the state in a manner which minimizes  
2566 impact on prime agricultural land.

2567 (ii) The Local Transportation Corridor Preservation Fund shall only be used to preserve  
2568 a highway corridor that is right-of-way:

2569 (A) in a county of the first or second class for a:

2570 (I) state highway;

2571 (II) a principal arterial highway as defined in Section 72-4-102.5;

2572 (III) a minor arterial highway as defined in Section 72-4-102.5; or

2573 (IV) a collector highway in an urban area as defined in Section 72-4-102.5; or

2574 (B) in a county of the third, fourth, fifth, or sixth class for a:

2575 (I) state highway;

2576 (II) a principal arterial highway as defined in Section 72-4-102.5;

2577 (III) a minor arterial highway as defined in Section 72-4-102.5;

2578 (IV) a major collector highway as defined in Section 72-4-102.5; or  
2579 (V) a minor collector road as defined in Section 72-4-102.5.  
2580 (iii) The Local Transportation Corridor Preservation Fund may not be used for a  
2581 highway corridor that is primarily a recreational trail as defined under Section 63-11a-101.  
2582 (b) (i) The department shall develop and implement a program to educate highway  
2583 authorities on the objectives, application process, use, and responsibilities of the Local  
2584 Transportation Corridor Preservation Fund as provided under this section to promote the most  
2585 efficient and effective use of fund monies including priority use on designated high priority  
2586 corridor preservation projects.  
2587 (ii) The department shall develop a model transportation corridor property acquisition  
2588 policy or ordinance that meets federal requirements for the benefit of a highway authority to  
2589 acquire real property or any interests in real property under this section.  
2590 (c) The department shall authorize the expenditure of fund monies after determining  
2591 that the expenditure is being made in accordance with this section from applications that are:  
2592 (i) made by a highway authority;  
2593 (ii) endorsed by the council of governments; and  
2594 (iii) for a right-of-way purchase for a highway authorized under Subsection (6)(a)(ii).  
2595 (7) (a) (i) A council of governments shall establish a council of governments  
2596 endorsement process which includes prioritization and application procedures for use of the  
2597 monies allocated to each county under this section.  
2598 (ii) The endorsement process under Subsection (7)(a)(i) may include review or  
2599 endorsement of the preservation project by the:  
2600 (A) metropolitan planning organization if the county is within the boundaries of a  
2601 metropolitan planning organization; or  
2602 (B) the department if the county is not within the boundaries of a metropolitan planning  
2603 organization.  
2604 (b) All fund monies shall be prioritized by each highway authority and council of  
2605 governments based on considerations, including:

- 2606 (i) areas with rapidly expanding population;
- 2607 (ii) the willingness of local governments to complete studies and impact statements that  
2608 meet department standards;
- 2609 (iii) the preservation of corridors by the use of local planning and zoning processes;
- 2610 (iv) the availability of other public and private matching funds for a project;
- 2611 (v) the cost-effectiveness of the preservation projects;
- 2612 (vi) long and short-term maintenance costs for property acquired; and
- 2613 (vii) whether the transportation corridor is included as part of:
- 2614 (A) the county and municipal master plan; and
- 2615 (B) (I) the statewide long range plan; or
- 2616 (II) the regional transportation plan of the area metropolitan planning organization if  
2617 one exists for the area.
- 2618 (c) The council of governments shall:
- 2619 (i) establish a priority list of highway corridor preservation projects within the county;
- 2620 (ii) submit the list described in Subsection (7)(c)(i) to the county's legislative body for  
2621 approval; and
- 2622 (iii) obtain approval of the list described in Subsection (7)(c)(i) from a majority of the  
2623 members of the county legislative body.
- 2624 (d) A county's council of governments may only submit one priority list described in  
2625 Subsection (7)(c)(i) per calendar year.
- 2626 (e) A county legislative body may only consider and approve one priority list described  
2627 in Subsection (7)(c)(i) per calendar year.
- 2628 (8) (a) Unless otherwise provided by written agreement with another highway authority,  
2629 the highway authority that holds the deed to the property is responsible for maintenance of the  
2630 property.
- 2631 (b) The transfer of ownership for property acquired under this section from one  
2632 highway authority to another shall include a recorded deed for the property and a written  
2633 agreement between the highway authorities.

2634 (9) (a) The proceeds from any bonds or other obligations secured by revenues of the  
2635 Local Transportation Corridor Preservation Fund shall be used for the purposes authorized for  
2636 funds under this section.

2637 (b) The highway authority shall pledge the necessary part of the revenues of the Local  
2638 Transportation Corridor Preservation Fund to the payment of principal and interest on the  
2639 bonds or other obligations.

2640 (10) (a) A highway authority may not apply for monies under this section to purchase a  
2641 right-of-way for a state highway unless the highway authority has:

2642 (i) a transportation corridor property acquisition policy or ordinance in effect that meets  
2643 federal requirements for the acquisition of real property or any interests in real property under  
2644 this section; and

2645 (ii) an access management policy or ordinance in effect that meets the requirements  
2646 under Subsection 72-2-117(9).

2647 (b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a  
2648 written agreement with the department for the acquisition of real property or any interests in  
2649 real property under this section.

2650 Section 19. Section **72-2-121** is amended to read:

2651 **72-2-121. County of the First Class State Highway Projects Fund.**

2652 (1) There is created a special revenue fund entitled the County of the First Class State  
2653 Highway Projects Fund.

2654 (2) The fund consists of monies generated from the following revenue sources:

2655 (a) any voluntary contributions received for new construction, major renovations, and  
2656 improvements to state highways within a county of the first class;

2657 (b) the portion of the sales and use tax described in Subsection 59-12-502(5)(a)(ii)  
2658 deposited in or transferred to the fund;

2659 (c) the portion of the sales and use tax described in Subsection 59-12-1703(4)(a)(ii) and  
2660 required by Subsection 59-12-1703(7)(b)(ii) to be deposited in or transferred to the fund; and

2661 (d) a portion of the local option highway construction and transportation corridor

2662 preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited in or  
2663 transferred to the fund.

2664 (3) (a) The fund shall earn interest.

2665 (b) All interest earned on fund monies shall be deposited into the fund.

2666 (4) The executive director may use fund monies only:

2667 (a) to pay debt service and bond issuance costs for bonds issued under Section  
2668 63B-16-102; and

2669 (b) for right-of-way acquisition, new construction, major renovations, and  
2670 improvements to state highways within a county of the first class and to pay any debt service  
2671 and bond issuance costs related to those projects.

2672 (5) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the  
2673 fund and bond proceeds from bonds issued under Section 63B-16-102 are considered a local  
2674 matching contribution for the purposes described under Section 72-2-123.

2675 (6) The additional administrative costs of the department to administer this fund shall be  
2676 paid from the monies in the fund.

2677 Section 20. Section **72-2-121.2** is enacted to read:

2678 **72-2-121.2. County of the Second Class State Highway Projects Fund.**

2679 (1) As used in this section, "fund" means the County of the Second Class State  
2680 Highway Projects Fund created by this section.

2681 (2) There is created within the Transportation Fund a special revenue fund known as  
2682 the County of the Second Class State Highway Projects Fund.

2683 (3) The fund shall be funded by monies collected from:

2684 (a) any voluntary contributions the department receives for new construction, major  
2685 renovations, and improvements to state highways within a county of the second class; and

2686 (b) the sales and use tax described in:

2687 (i) Subsection 59-12-1903(1)(b)(i);

2688 (ii) Subsection 59-12-1903(1)(b)(ii)(A); or

2689 (iii) Subsection 59-12-1903(1)(b)(ii)(C)(I) as determined by the county legislative body



2690 of the county of the second class.

2691 (4) The department shall make a separate accounting for:

2692 (a) the revenues described in Subsection (3); and

2693 (b) each county of the second class for which revenues are deposited into the fund.

2694 (5) (a) The fund shall earn interest.

2695 (b) Interest earned on fund monies shall be deposited into the fund.

2696 (6) The executive director may use fund monies only:

2697 (a) for right-of-way acquisition, new construction, major renovations, and

2698 improvements to state highways within a county of the second class in an amount that does not

2699 exceed the amounts deposited for or allocated to that county of the second class in accordance

2700 with this section;

2701 (b) to pay any debt service and bond issuance costs related to a purpose described in

2702 Subsection (6)(a) in an amount that does not exceed the amounts deposited for or allocated to

2703 that county of the second class described in Subsection (6)(a) in accordance with this section;

2704 and

2705 (c) to pay the costs of the department to administer the fund in an amount not to exceed

2706 interest earned by the fund monies.

2707 (7) If interest remains in the fund after the executive director pays the costs of the

2708 department to administer the fund, the interest shall be:

2709 (a) allocated to each county of the second class for which revenues are deposited into

2710 the fund in proportion to the deposits made into the fund for that county of the second class;

2711 and

2712 (b) expended for the purposes described in Subsection (6).

2713 (8) Revenues described in Subsection (3)(b) that are deposited into the fund are

2714 considered to be a local matching contribution for the purposes described in Section 72-2-123.

2715 Section 21. Section **72-10-102** is amended to read:

2716 **72-10-102. Definitions.**

2717 As used in this chapter:

2718 (1) "Acrobatics" means the intentional maneuvers of an aircraft not necessary to air  
2719 navigation.

2720 (2) "Aeronautics" means transportation by aircraft, air instruction, the operation, repair,  
2721 or maintenance of aircraft, and the design, operation, repair, or maintenance of airports, or  
2722 other air navigation facilities.

2723 (3) "Aeronautics instructor" means any individual engaged in giving or offering to give  
2724 instruction in aeronautics, flying, or ground subjects, either with or without:

2725 (a) compensation or other reward;

2726 (b) advertising the occupation;

2727 (c) calling his facilities an air school, or any equivalent term; or

2728 (d) employing or using other instructors.

2729 (4) "Aircraft" means any contrivance now known or in the future invented, used, or  
2730 designed for navigation of or flight in the air.

2731 (5) "Air instruction" means the imparting of aeronautical information by any aviation  
2732 instructor or in any air school or flying club.

2733 (6) "Airport" means any area of land, water, or both, that:

2734 (a) is used or is made available for landing and takeoff;

2735 (b) provides facilities for the shelter, supply, and repair of aircraft, and handling of  
2736 passengers and cargo; ~~and~~

2737 (c) meets the minimum requirements established by the division as to size and design,  
2738 surface, marking, equipment, and operation; and

2739 (d) includes all areas shown as part of the airport in the current airport layout plan as  
2740 approved by the Federal Aviation Administration.

2741 (7) "Airport authority" means a political subdivision of the state, other than a county or  
2742 municipality, that is authorized by statute to operate an airport.

2743 (8) "Airport operator" means a municipality, county, or airport authority that owns or  
2744 operates a commercial airport.

2745 (9) (a) "Airport revenue" means:

2746 (i) all fees, charges, rents, or other payments received by or accruing to an airport  
2747 operator for any of the following reasons:

2748 (A) revenue from air carriers, tenants, lessees, purchasers of airport properties, airport  
2749 permittees making use of airport property and services, and other parties;

2750 (B) revenue received from the activities of others or the transfer of rights to others  
2751 relating to the airport, including revenue received:

2752 (I) for the right to conduct an activity on the airport or to use or occupy airport  
2753 property;

2754 (II) for the sale, transfer, or disposition of airport real or personal property, or any  
2755 interest in that property, including transfer through a condemnation proceeding;

2756 (III) for the sale of, or the sale or lease of rights in, mineral, natural, or agricultural  
2757 products or water owned by the airport operator to be taken from the airport; and

2758 (IV) for the right to conduct an activity on, or for the use or disposition of, real or  
2759 personal property or any interest in real or personal property owned or controlled by the airport  
2760 operator and used for an airport-related purpose but not located on the airport; or

2761 (C) revenue received from activities conducted by the airport operator whether on or  
2762 off the airport, which is directly connected to the airport operator's ownership or operation of  
2763 the airport; and

2764 (ii) state and local taxes on aviation fuel.

2765 (b) "Airport revenue" does not include amounts received by an airport operator as  
2766 passenger facility fees pursuant to 49 U.S.C. Sec. 40117.

2767 ~~[(8)]~~ (10) "Air school" means any person engaged in giving, offering to give, or  
2768 advertising, representing, or holding himself out as giving, with or without compensation or  
2769 other reward, instruction in aeronautics, flying, or ground subjects, or in more than one of these  
2770 subjects.

2771 ~~[(9)]~~ (11) "Airworthiness" means conformity with requirements prescribed by the  
2772 Federal Aviation Administration regarding the structure or functioning of aircraft, engine, parts,  
2773 or accessories.

- 2774            [~~(10)~~] (12) "Antique aircraft" means a civil aircraft that is:
- 2775            (a) 30 years old or older, calculated as to include the current year;
- 2776            (b) primarily a collector's item and used solely for recreational or display purposes;
- 2777            (c) not used for daily or regular transportation; and
- 2778            (d) not used for commercial operations.
- 2779            [~~(11)~~] (13) "Civil aircraft" means any aircraft other than a public aircraft.
- 2780            [~~(12)~~] (14) "Commercial aircraft" means aircraft used for commercial purposes.
- 2781            [~~(13)~~] (15) "Commercial airport" means a landing area, landing strip, or airport that
- 2782 may be used for commercial operations.
- 2783            [~~(14)~~] (16) "Commercial flight operator" means a person who conducts commercial
- 2784 operations.
- 2785            [~~(15)~~] (17) "Commercial operations" means:
- 2786            (a) any operations of an aircraft for compensation or hire or any services performed
- 2787 incidental to the operation of any aircraft for which a fee is charged or compensation is
- 2788 received, including the servicing, maintaining, and repairing of aircraft, the rental or charter of
- 2789 aircraft, the operation of flight or ground schools, the operation of aircraft for the application or
- 2790 distribution of chemicals or other substances, and the operation of aircraft for hunting and
- 2791 fishing; or
- 2792            (b) the brokering or selling of any of these services; but
- 2793            (c) does not include any operations of aircraft as common carriers certificated by the
- 2794 federal government or the services incidental to those operations.
- 2795            [~~(16)~~] (18) "Dealer" means any person who is actively engaged in the business of flying
- 2796 for demonstration purposes, or selling or exchanging aircraft, and who has an established place
- 2797 of business.
- 2798            [~~(17)~~] (19) "Division" means the Operations Division in the Department of
- 2799 Transportation, created in Section 72-1-204.
- 2800            [~~(18)~~] (20) "Experimental aircraft" means:
- 2801            (a) any aircraft designated by the Federal Aviation Administration or the military as

2802 experimental and used solely for the purpose of experiments, or tests regarding the structure or  
2803 functioning of aircraft, engines, or their accessories; and

2804 (b) any aircraft designated by the Federal Aviation Administration as:

2805 (i) being custom or amateur built; and

2806 (ii) used for recreational, educational, or display purposes.

2807 [~~19~~] (21) "Flight" means any kind of locomotion by aircraft while in the air.

2808 [~~20~~] (22) "Flying club" means five or more persons who for neither profit nor reward  
2809 own, lease, or use one or more aircraft for the purpose of instruction, pleasure, or both.

2810 [~~21~~] (23) "Glider" means an aircraft heavier than air, similar to an airplane, but  
2811 without a power plant.

2812 [~~22~~] (24) "Mechanic" means a person who constructs, repairs, adjusts, inspects, or  
2813 overhauls aircraft, engines, or accessories.

2814 [~~23~~] (25) "Parachute jumper" means any person who has passed the required test for  
2815 jumping with a parachute from an aircraft, and has passed an examination showing that he  
2816 possesses the required physical and mental qualifications for the jumping.

2817 [~~24~~] (26) "Parachute rigger" means any person who has passed the required test for  
2818 packing, repairing, and maintaining parachutes.

2819 [~~25~~] (27) "Passenger aircraft" means aircraft used for transporting persons, in addition  
2820 to the pilot or crew, with or without their necessary personal belongings.

2821 [~~26~~] (28) "Person" means any individual, corporation, limited liability company, or  
2822 association of individuals.

2823 [~~27~~] (29) "Pilot" means any person who operates the controls of an aircraft while  
2824 in-flight.

2825 [~~28~~] (30) "Primary glider" means any glider that has a gliding angle of less than ten to  
2826 one.

2827 [~~29~~] (31) "Public aircraft" means an aircraft used exclusively in the service of any  
2828 government or of any political subdivision, including the government of the United States, of  
2829 the District of Columbia, and of any state, territory, or insular possession of the United States,

2830 but not including any government-owned aircraft engaged in carrying persons or goods for  
2831 commercial purposes.

2832 ~~[(30)]~~ (32) "Reckless flying" means the operation or piloting of any aircraft recklessly,  
2833 or in a manner as to endanger the property, life, or body of any person, due regard being given  
2834 to the prevailing weather conditions, field conditions, and to the territory being flown over.

2835 ~~[(31)]~~ (33) "Registration number" means the number assigned by the Federal Aviation  
2836 Administration to any aircraft, whether or not the number includes a letter or letters.

2837 ~~[(32)]~~ (34) "Secondary glider" means any glider that has a gliding angle between ten to  
2838 one and 16 to one, inclusive.

2839 ~~[(33)]~~ (35) "Soaring glider" means any glider that has a gliding angle of more than 16 to  
2840 one.

2841 Section 22. Section **72-10-215** is enacted to read:

2842 **72-10-215. Restrictions on use of airport revenue to finance a fixed guideway.**

2843 An airport operator may not use airport revenue to contribute to the cost of  
2844 constructing, equipping, maintaining, or operating any portion of a fixed guideway as defined in  
2845 Section 59-12-1702.

2846 Section 23. **Repealer.**

2847 This bill repeals:

2848 Section **59-12-601, Purpose statement.**

2849 Section 24. **Effective dates.**

2850 (1) Except as provided in Subsection (2), this bill takes effect on May 5, 2008.

2851 (2) The amendments to the following sections take effect on July 1, 2008:

2852 (a) Section 41-1a-1222;

2853 (b) Section 72-2-117.5; and

2854 (c) Section 72-2-121.

2855 Section 25. **Coordinating S.B. 245 with H.B. 206 -- Substantive and technical**  
2856 **amendments.**

2857 If this S.B. 245 and H.B. 206, Tax Amendments, both pass, it is the intent of the

2858 Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah  
2859 Code database for publication:  
2860 (1) modify Section 59-12-1903 to read:  
2861 "59-12-1903. Imposition of tax -- Base -- Rate -- Expenditure of revenues collected  
2862 from the tax -- Administration, collection, and enforcement of tax by commission --  
2863 Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.  
2864 (1) (a) Subject to the other provisions of this section and except as provided in  
2865 Subsection (2), beginning on January 1, 2009, a county legislative body of a county of the  
2866 second class may impose a sales and use tax on the transactions:  
2867 (i) described in Subsection 59-12-103(1); and  
2868 (ii) within the county, including the cities and towns within the county.  
2869 (b) For purposes of Subsection (1)(a), a county legislative body may impose a tax at a  
2870 rate of:  
2871 (i) .10%, to be:  
2872 (A) as determined by the county legislative body, deposited as provided in Subsection  
2873 (4)(c)(i) into the County of the Second Class State Highway Projects Fund created by Section  
2874 72-2-121.2 and expended as provided in Section 72-2-121.2;  
2875 (B) as determined by the county legislative body, expended for a project or service  
2876 relating to an airport facility:  
2877 (I) if that airport facility is part of the regional transportation plan of the area  
2878 metropolitan planning organization if a metropolitan planning organization exists for the area;  
2879 and  
2880 (II) for the portion of the project or service that is performed within the county; or  
2881 (C) as determined by the county legislative body, deposited or expended for a  
2882 combination of Subsections (1)(b)(i)(A) and (B); or  
2883 (ii) .25%, to be expended as follows:  
2884 (A) .10% to be deposited as provided in Subsection (4)(c)(i) into the County of the  
2885 Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as

2886 provided in Section 72-2-121.2;  
2887 (B) .05%, to be deposited as provided in Subsection (4)(c)(ii) into the Local  
2888 Transportation Corridor Preservation Fund created by Section 72-2-117.5 and expended and  
2889 distributed in accordance with Section 72-2-117.5; and  
2890 (C) as determined by the county legislative body, .10% to be:  
2891 (I) deposited as provided in Subsection (4)(c)(i) into the County of the Second Class  
2892 State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in  
2893 Section 72-2-121.2;  
2894 (II) expended for:  
2895 (Aa) a state highway designated under Title 72, Chapter 4, Part 1, Designation of State  
2896 Highways Act;  
2897 (Bb) a local highway of regional significance; or  
2898 (Cc) a combination of Subsections (1)(b)(ii)(C)(II)(Aa) and (Bb);  
2899 (III) expended for a project or service relating to a system for public transit for the  
2900 portion of the project or service that is performed within the county;  
2901 (IV) expended for a project or service relating to a fixed guideway for the portion of  
2902 the project or service that is performed within the county;  
2903 (V) expended for a project or service relating to an airport facility:  
2904 (Aa) if that airport facility is part of the regional transportation plan of the area  
2905 metropolitan planning organization if a metropolitan planning organization exists for the area;  
2906 and  
2907 (Bb) for the portion of the project or service that is performed within the county; or  
2908 (VI) deposited or expended for a combination of Subsections (1)(b)(ii)(C)(I) through  
2909 (V).  
2910 (c) If a county legislative body imposes a tax under this part, the county legislative body  
2911 may not impose a tax under Part 17, County Option Sales and Use Tax for Transportation Act.  
2912 (d) For purposes of this Subsection (1), the location of a transaction shall be determined  
2913 in accordance with Sections 59-12-211 through 59-12-215.



2914 (2) (a) A county legislative body may not impose a tax under this part on:  
2915 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are  
2916 exempt from taxation under Section 59-12-104; or  
2917 (ii) except as provided in Subsection (2)(b), amounts paid or charged for food and food  
2918 ingredients.

2919 (b) A county legislative body imposing a tax under this part shall impose the tax on  
2920 amounts paid or charged for food and food ingredients if the food and food ingredients are sold  
2921 as part of a bundled transaction attributable to food and food ingredients and tangible personal  
2922 property other than food and food ingredients.

2923 (3) To impose a tax under this part, a county legislative body shall obtain approval from  
2924 a majority of the members of the county legislative body.

2925 (4) (a) Except as provided in Subsection (4)(b) or (c) or (6), the commission shall  
2926 transmit revenues collected within a county from a tax under this part that are required to be  
2927 expended for a purpose described in Subsection (1)(b)(ii)(C):

2928 (i) to the county legislative body;  
2929 (ii) monthly; and  
2930 (iii) by electronic funds transfer.

2931 (b) Except as provided in Subsection (6), the commission shall transfer the revenues  
2932 described in Subsection (4)(a) directly to a public transit district organized under Title 17B,  
2933 Chapter 2a, Part 8, Public Transit District Act, if the county legislative body:

2934 (i) provides written notice to the commission requesting the transfer; and  
2935 (ii) designates the public transit district to which the county legislative body requests  
2936 the commission to transfer the revenues described in Subsection (4)(a).

2937 (c) Except as provided in Subsection (6), the commission shall deposit revenues  
2938 collected within a county from a tax under this part that:

2939 (i) are required to be expended for a purpose described in Subsection (1)(b)(ii)(A) into  
2940 the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2;  
2941 (ii) are required to be expended for a purpose described in Subsection (1)(b)(ii)(B) into

2942 the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or  
2943 (iii) a county legislative body determines to expend for a purpose described in  
2944 Subsection (1)(b)(i)(A) or (1)(b)(ii)(C)(I) into the County of the Second Class State Highway  
2945 Projects Fund created by Section 72-2-121.2 if the county legislative body provides written  
2946 notice to the commission requesting the deposit.

2947 (5) (a) Except as provided in Subsection (5)(b), the commission shall administer,  
2948 collect, and enforce a tax under this part in accordance with:

2949 (i) the same procedures used to administer, collect, and enforce the tax under:

2950 (A) Part 1, Tax Collection; or

2951 (B) Part 2, Local Sales and Use Tax Act; and

2952 (ii) Chapter 1, General Taxation Policies.

2953 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).

2954 (6) (a) The commission may retain an amount of tax collected under this part of not to  
2955 exceed the lesser of:

2956 (i) 1.50%; or

2957 (ii) an amount equal to the cost to the commission of administering this part.

2958 (b) Any amount the commission retains under Subsection (6)(a) shall be:

2959 (i) deposited into the Sales and Use Tax Administrative Fees Account; and

2960 (ii) used as provided in Subsection 59-12-206(2).

2961 (7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009,  
2962 a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment,  
2963 repeal, or change shall take effect:

2964 (A) on the first day of a calendar quarter; and

2965 (B) after a 90-day period beginning on the date the commission receives notice meeting  
2966 the requirements of Subsection (7)(a)(ii) from the county.

2967 (ii) The notice described in Subsection (7)(a)(i)(B) shall state:

2968 (A) that the county will enact, repeal, or change the rate of a tax under this part;

2969 (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);

- 2970 (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and  
2971 (D) if the county enacts the tax or changes the rate of the tax described in Subsection  
2972 (7)(a)(ii)(A), the rate of the tax.
- 2973 (b) (i) If the billing period for a transaction begins before the effective date of the  
2974 enactment of the tax or the tax rate increase under Subsection (1), the enactment of a tax or a  
2975 tax rate increase shall take effect on the first day of the first billing period that begins after the  
2976 effective date of the enactment of the tax or the tax rate increase.
- 2977 (ii) If the billing period for a transaction begins before the effective date of the repeal of  
2978 the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate  
2979 decrease shall take effect on the first day of the last billing period that began before the effective  
2980 date of the repeal of the tax or the tax rate decrease.
- 2981 (c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales  
2982 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax  
2983 described in Subsection (7)(a)(i) takes effect:
- 2984 (A) on the first day of a calendar quarter; and  
2985 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the  
2986 rate of the tax under Subsection (7)(a)(i).
- 2987 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
2988 commission may by rule define the term "catalogue sale."
- 2989 (d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs  
2990 on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the  
2991 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take  
2992 effect:
- 2993 (A) on the first day of a calendar quarter; and  
2994 (B) after a 90-day period beginning on the date the commission receives notice meeting  
2995 the requirements of Subsection (7)(d)(ii) from the county that annexes the annexing area.
- 2996 (ii) The notice described in Subsection (7)(d)(i)(B) shall state:  
2997 (A) that the annexation described in Subsection (7)(d)(i)(B) will result in an enactment,

2998 repeal, or change in the rate of a tax under this part for the annexing area;

2999 (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

3000 (C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

3001 (D) if the county enacts the tax or changes the rate of the tax described in Subsection

3002 (7)(d)(ii)(A), the rate of the tax.

3003 (e) (i) If the billing period for a transaction begins before the effective date of the

3004 enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax

3005 rate increase shall take effect on the first day of the first billing period that begins after the

3006 effective date of the enactment of the tax or the tax rate increase.

3007 (ii) If the billing period for a transaction begins before the effective date of the repeal of

3008 the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate

3009 decrease shall take effect on the first day of the last billing period that began before the effective

3010 date of the repeal of the tax or the tax rate decrease.

3011 (f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales

3012 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax

3013 described in Subsection (7)(d)(i) takes effect:

3014 (A) on the first day of a calendar quarter; and

3015 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the

3016 rate under Subsection (7)(d)(i).

3017 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

3018 commission may by rule define the term "catalogue sale".";

3019 (2) insert as newly enacted provisions into the Utah Code database, the following

3020 sections:

3021 "59-12-1904. Seller or certified service provider reliance on commission information or

3022 certain systems.

3023 A seller or certified service provider is not liable for failing to collect a tax at a tax rate

3024 imposed under this part if:

3025 (1) the tax rate at which the seller or certified service provider collects the tax is derived

3026 from a database created by the commission containing tax rates; and

3027 (2) the seller's or certified service provider's failure to collect the tax is as a result of the  
3028 seller's or certified service provider's reliance on incorrect data provided by the commission in  
3029 the database created by the commission containing tax rates."

3030 "59-12-1905. Certified service provider or model 2 seller reliance on commission  
3031 certified software.

3032 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified  
3033 service provider or model 2 seller is not liable for failing to collect a tax required under this part  
3034 if:

3035 (a) the certified service provider or model 2 seller relies on software the commission  
3036 certifies; and

3037 (b) the certified service provider's or model 2 seller's failure to collect a tax required  
3038 under this part is as a result of the seller's or certified service provider's reliance on incorrect  
3039 data:

3040 (i) provided by the commission; or

3041 (ii) in the software the commission certifies.

3042 (2) The relief from liability described in Subsection (1) does not apply if a certified  
3043 service provider or model 2 seller incorrectly classifies an item or transaction into a product  
3044 category the commission certifies.

3045 (3) If the taxability of a product category is incorrectly classified in software the  
3046 commission certifies, the commission shall:

3047 (a) notify a certified service provider or model 2 seller of the incorrect classification of  
3048 the taxability of a product category in software the commission certifies; and

3049 (b) state in the notice required by Subsection (3)(a) that the certified service provider or  
3050 model 2 seller is liable for failing to collect the correct amount of tax under this part on the  
3051 incorrectly classified product category if the certified service provider or model 2 seller fails to  
3052 correct the taxability of the item or transaction within ten days after the day on which the  
3053 certified service provider or model 2 seller receives the notice.

3054 (4) If a certified service provider or model 2 seller fails to correct the taxability of an  
3055 item or transaction within ten days after the day on which the certified service provider or  
3056 model 2 seller receives the notice described in Subsection (3), the certified service provider or  
3057 model 2 seller is liable for failing to collect the correct amount of tax under this part on the item  
3058 or transaction."

3059 "59-12-1906. Purchaser relief from liability.

3060 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty  
3061 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

3062 (i) the purchaser's seller or certified service provider relies on incorrect data provided  
3063 by the commission:

3064 (A) on a tax rate;

3065 (B) on a boundary;

3066 (C) on a taxing jurisdiction; or

3067 (D) in the taxability matrix the commission provides in accordance with the agreement;

3068 or

3069 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in  
3070 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

3071 (A) on a tax rate;

3072 (B) on a boundary;

3073 (C) on a taxing jurisdiction; or

3074 (D) in the taxability matrix the commission provides in accordance with the agreement.

3075 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under  
3076 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the  
3077 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on  
3078 incorrect data provided by the commission is as a result of conduct that is:

3079 (i) fraudulent;

3080 (ii) intentional; or

3081 (iii) willful.

3082 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is  
3083 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part  
3084 or an underpayment if:

3085 (a) the purchaser's seller or certified service provider relies on:

3086 (i) incorrect data provided by the commission:

3087 (A) on a tax rate;

3088 (B) on a boundary; or

3089 (C) on a taxing jurisdiction; or

3090 (ii) an erroneous classification by the commission:

3091 (A) in the taxability matrix the commission provides in accordance with the agreement;

3092 and

3093 (B) with respect to a term:

3094 (I) in the library of definitions; and

3095 (II) that is:

3096 (Aa) listed as taxable or exempt;

3097 (Bb) included in or excluded from "sales price"; or

3098 (Cc) included in or excluded from a definition; or

3099 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in

3100 accordance with Section 59-12-107.1, relies on:

3101 (i) incorrect data provided by the commission:

3102 (A) on a tax rate;

3103 (B) on a boundary; or

3104 (C) on a taxing jurisdiction; or

3105 (ii) an erroneous classification by the commission:

3106 (A) in the taxability matrix the commission provides in accordance with the agreement;

3107 and

3108 (B) with respect to a term:

3109 (I) in the library of definitions; and

3110 (II) that is:  
3111 (Aa) listed as taxable or exempt;  
3112 (Bb) included in or excluded from "sales price"; or  
3113 (Cc) included in or excluded from a definition.";  
3114 (3) modify Section 59-12-2003 to read:  
3115 "59-12-2003. Imposition -- Base -- Rate -- Revenues distributed to certain public transit  
3116 districts.  
3117 (1) Subject to the other provisions of this section and except as provided in Subsection  
3118 (2) or (4), beginning on July 1, 2008, the state shall impose a tax under this part within a city,  
3119 town, or the unincorporated area of a county of the first or second class if, on January 1, 2008,  
3120 there is a public transit district within any portion of that county of the first or second class.  
3121 (2) The state may not impose a tax under this part within a county of the first or second  
3122 class if within all of the cities, towns, and the unincorporated area of the county of the first or  
3123 second class there is imposed a sales and use tax of:  
3124 (a) .30% under Section 59-12-501;  
3125 (b) .30% under Section 59-12-1001; or  
3126 (c) .30% under Section 59-12-1503.  
3127 (3) (a) Subject to Subsection (3)(b), if the state imposes a tax under this part, the tax  
3128 rate imposed within a city, town, or the unincorporated area of a county of the first or second  
3129 class is a percentage equal to the difference between:  
3130 (i) .30%; and  
3131 (ii) (A) for a city within the county of the first or second class, the highest tax rate  
3132 imposed within that city under:  
3133 (I) Section 59-12-501;  
3134 (II) Section 59-12-1001; or  
3135 (III) Section 59-12-1503;  
3136 (B) for a town within the county of the first or second class, the highest tax rate  
3137 imposed within that town under:



3138 (I) Section 59-12-501;  
3139 (II) Section 59-12-1001; or  
3140 (III) Section 59-12-1503; or  
3141 (C) for the unincorporated area of the county of the first or second class, the highest tax  
3142 rate imposed within that unincorporated area under:

3143 (I) Section 59-12-501;  
3144 (II) Section 59-12-1001; or  
3145 (III) Section 59-12-1503.

3146 (b) For purposes of Subsection (3)(a), if for a city, town, or the unincorporated area of  
3147 a county of the first or second class, the highest tax rate imposed under Section 59-12-501,  
3148 59-12-1001, or 59-12-1503 within that city, town, or unincorporated area of the county of the  
3149 first or second class is .30%, the state may not impose a tax under this part within that city,  
3150 town, or unincorporated area.

3151 (4) (a) The state may not impose a tax under this part on:  
3152 (i) a transaction described in Subsection 59-12-103(1)(d);  
3153 (ii) except as provided in Subsection (4)(b), a transaction described in Subsection  
3154 59-12-103(2)(c); or

3155 (iii) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
3156 are exempt from taxation under Section 59-12-104.

3157 (b) The state shall impose a tax under this part on amounts paid or charged for food and  
3158 food ingredients if the food and food ingredients are sold as part of a bundled transaction  
3159 attributable to food and ingredients and tangible personal property other than food and food  
3160 ingredients.

3161 (5) For purposes of Subsection (1), the location of a transaction shall be determined in  
3162 accordance with Sections 59-12-211 through 59-12-215.

3163 (6) The commission shall distribute the revenues the state collects from the sales and  
3164 use tax under this part, after subtracting amounts a seller retains in accordance with Section  
3165 59-12-108, to the public transit districts within the cities, towns, and unincorporated areas:

3166 (a) within which the state imposes a tax under this part; and  
3167 (b) in proportion to the revenues collected from the sales and use tax under this part  
3168 within each city, town, and unincorporated area within which the state imposes a tax under this  
3169 part.";

3170 (4) modify Section 59-12-2004 to read:  
3171 "59-12-2004. Enactment or repeal of tax -- Effective date -- Administration, collection,  
3172 and enforcement of tax.

3173 (1) Subject to Subsections (2) and (3), a tax rate repeal or a tax rate change for a tax  
3174 imposed under this part shall take effect on the first day of a calendar quarter.

3175 (2) (a) The enactment of a tax or a tax rate increase shall take effect on the first day of  
3176 the first billing period that begins after the effective date of the enactment of the tax or the tax  
3177 rate increase if the billing period for the transaction begins before the effective date of the  
3178 enactment of the tax or the tax rate increase under this part.

3179 (b) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last  
3180 billing period that began before the effective date of the repeal of the tax or the tax rate  
3181 decrease if the billing period for the transaction begins before the effective date of the repeal of  
3182 the tax or the tax rate decrease imposed under this part.

3183 (3) (a) If a tax due under this part on a catalogue sale is computed on the basis of sales  
3184 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax  
3185 under this part takes effect:

3186 (i) on the first day of a calendar quarter; and  
3187 (ii) beginning 60 days after the effective date of the enactment, repeal, or change in the  
3188 rate of the tax under this part.

3189 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
3190 commission may by rule define the term "catalogue sale."

3191 (4) The commission shall administer, collect, and enforce a tax under this part in  
3192 accordance with:

3193 (a) the same procedures used to administer, collect, and enforce the tax under Part 1,

3194 Tax Collection; and

3195 (b) Chapter 1, General Taxation Policies.";

3196 (5) insert as newly enacted provisions into the Utah Code database, the following

3197 sections:

3198 "59-12-2005. Seller or certified service provider reliance on commission information or

3199 certain systems.

3200 A seller or certified service provider is not liable for failing to collect a tax at a tax rate

3201 imposed under this part if:

3202 (1) the tax rate at which the seller or certified service provider collects the tax is derived

3203 from a database created by the commission containing tax rates; and

3204 (2) the seller's or certified service provider's failure to collect the tax is as a result of the

3205 seller's or certified service provider's reliance on incorrect data provided by the commission in

3206 the database created by the commission containing tax rates."

3207 "59-12-2006. Certified service provider or model 2 seller reliance on commission

3208 certified software.

3209 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified

3210 service provider or model 2 seller is not liable for failing to collect a tax required under this part

3211 if:

3212 (a) the certified service provider or model 2 seller relies on software the commission

3213 certifies; and

3214 (b) the certified service provider's or model 2 seller's failure to collect a tax required

3215 under this part is as a result of the seller's or certified service provider's reliance on incorrect

3216 data:

3217 (i) provided by the commission; or

3218 (ii) in the software the commission certifies.

3219 (2) The relief from liability described in Subsection (1) does not apply if a certified

3220 service provider or model 2 seller incorrectly classifies an item or transaction into a product

3221 category the commission certifies.

3222 (3) If the taxability of a product category is incorrectly classified in software the  
3223 commission certifies, the commission shall:

3224 (a) notify a certified service provider or model 2 seller of the incorrect classification of  
3225 the taxability of a product category in software the commission certifies; and

3226 (b) state in the notice required by Subsection (3)(a) that the certified service provider or  
3227 model 2 seller is liable for failing to collect the correct amount of tax under this part on the  
3228 incorrectly classified product category if the certified service provider or model 2 seller fails to  
3229 correct the taxability of the item or transaction within ten days after the day on which the  
3230 certified service provider or model 2 seller receives the notice.

3231 (4) If a certified service provider or model 2 seller fails to correct the taxability of an  
3232 item or transaction within ten days after the day on which the certified service provider or  
3233 model 2 seller receives the notice described in Subsection (3), the certified service provider or  
3234 model 2 seller is liable for failing to collect the correct amount of tax under this part on the item  
3235 or transaction."

3236 "59-12-2007. Purchaser relief from liability.

3237 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty  
3238 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

3239 (i) the purchaser's seller or certified service provider relies on incorrect data provided  
3240 by the commission:

3241 (A) on a tax rate;

3242 (B) on a boundary;

3243 (C) on a taxing jurisdiction; or

3244 (D) in the taxability matrix the commission provides in accordance with the agreement;

3245 or

3246 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in  
3247 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

3248 (A) on a tax rate;

3249 (B) on a boundary;

3250           (C) on a taxing jurisdiction; or  
3251           (D) in the taxability matrix the commission provides in accordance with the agreement.  
3252           (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under  
3253 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the  
3254 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on  
3255 incorrect data provided by the commission is as a result of conduct that is:  
3256           (i) fraudulent;  
3257           (ii) intentional; or  
3258           (iii) willful.  
3259           (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is  
3260 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part  
3261 or an underpayment if:  
3262           (a) the purchaser's seller or certified service provider relies on:  
3263           (i) incorrect data provided by the commission:  
3264           (A) on a tax rate;  
3265           (B) on a boundary; or  
3266           (C) on a taxing jurisdiction; or  
3267           (ii) an erroneous classification by the commission:  
3268           (A) in the taxability matrix the commission provides in accordance with the agreement;  
3269 and  
3270           (B) with respect to a term:  
3271           (I) in the library of definitions; and  
3272           (II) that is:  
3273           (Aa) listed as taxable or exempt;  
3274           (Bb) included in or excluded from "sales price"; or  
3275           (Cc) included in or excluded from a definition; or  
3276           (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in  
3277 accordance with Section 59-12-107.1, relies on:

3278            (i) incorrect data provided by the commission:  
3279            (A) on a tax rate;  
3280            (B) on a boundary; or  
3281            (C) on a taxing jurisdiction; or  
3282            (ii) an erroneous classification by the commission:  
3283            (A) in the taxability matrix the commission provides in accordance with the agreement;  
3284    and  
3285            (B) with respect to a term:  
3286            (I) in the library of definitions; and  
3287            (II) that is:  
3288            (Aa) listed as taxable or exempt;  
3289            (Bb) included in or excluded from "sales price"; or  
3290            (Cc) included in or excluded from a definition."; and  
3291            (6) replace the references to Section 59-12-207 in Section 59-12-103 in this S.B. 245  
3292    with "Sections 59-12-211 through 59-12-215"."