

Representative David Clark proposes the following substitute bill:

**FUNDING RELATING TO AIRPORTS, HIGHWAYS, PUBLIC
TRANSIT, AND THE GENERAL FUND**

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: David Clark

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 within its boundaries;
- ▶ repeals a purpose statement;



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

52 Monies Appropriated in this Bill:

53 None

54 Other Special Clauses:

55 This bill provides effective dates.

56 This bill coordinates with H.B. 206, Tax Amendments, to make substantive and

57 technical amendments, including enacting Sections 59-12-1904, 59-12-1905, 59-12-1906,
58 59-12-2005, 59-12-2006, and 59-12-2007.

59 **Utah Code Sections Affected:**

60 AMENDS:

61 **11-41-102**, as last amended by Laws of Utah 2007, Chapter 9

62 **17-31-5.5**, as last amended by Laws of Utah 2007, Chapter 3

63 **41-1a-1222**, as last amended by Laws of Utah 2007, Chapters 201 and 274

64 **59-12-102**, as last amended by Laws of Utah 2007, Chapters 9, 214, 224, and 288

65 **59-12-103**, as last amended by Laws of Utah 2007, Chapters 9, 101, 126, 206, and 288

66 **59-12-104.2**, as last amended by Laws of Utah 2003, Chapter 312

67 **59-12-108**, as last amended by Laws of Utah 2007, Chapter 9

68 **59-12-602**, as last amended by Laws of Utah 1995, Chapter 248

69 **59-12-603**, as last amended by Laws of Utah 2007, Chapters 3, 9, and 219

70 **72-2-117.5**, as last amended by Laws of Utah 2007, Chapters 181 and 201

71 **72-2-121**, as last amended by Laws of Utah 2007, Chapter 201

72 **72-10-102**, as last amended by Laws of Utah 2003, Chapter 183

73 ENACTS:

74 **59-12-601.1**, Utah Code Annotated 1953

75 **59-12-1901**, Utah Code Annotated 1953

76 **59-12-1902**, Utah Code Annotated 1953

77 **59-12-1903**, Utah Code Annotated 1953

78 **59-12-2001**, Utah Code Annotated 1953

79 **59-12-2002**, Utah Code Annotated 1953

80 **59-12-2003**, Utah Code Annotated 1953

81 **59-12-2004**, Utah Code Annotated 1953

82 **72-2-121.2**, Utah Code Annotated 1953

83 **72-10-215**, Utah Code Annotated 1953

84 REPEALS:

85 **59-12-601**, as last amended by Laws of Utah 1991, Chapter 265

86

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

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

89 **11-41-102. Definitions.**

90 As used in this chapter:

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

92 (a) (i) county; or

93 (ii) municipality; and

94 (b) person.

95 (2) "Municipality" means a:

96 (a) city; or

97 (b) town.

98 (3) "Payment" includes:

99 (a) a payment;

100 (b) a rebate;

101 (c) a refund; or

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

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

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

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

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

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

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

111 (i) imposed on transactions within a:

112 (A) county; or

113 (B) municipality; and

114 (ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12,
115 Sales and Use Tax Act.

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

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

- 119 (ii) Subsection 59-12-103(2)(b)(i);
- 120 (iii) Subsection 59-12-103(2)(c)(i);
- 121 (iv) Subsection 59-12-103(2)(d)(i)(A);
- 122 (v) Subsection 59-12-103(2)(e)(ii)(A);
- 123 (vi) Subsection 59-12-103(2)(e)(iii)(A);
- 124 (vii) Section 59-12-301;
- 125 (viii) Section 59-12-352;
- 126 (ix) Section 59-12-353;
- 127 (x) Section 59-12-603; or
- 128 (xi) Section 59-12-1201.
- 129 (6) (a) "Sales and use tax incentive payment" means a payment of revenues:
- 130 (i) to a person;
- 131 (ii) by a:
- 132 (A) county; or
- 133 (B) municipality;
- 134 (iii) to induce the person to locate or relocate a regional retail business within the:
- 135 (A) county; or
- 136 (B) municipality; and
- 137 (iv) that are derived from a sales and use tax.
- 138 (b) "Sales and use tax incentive payment" does not include funding for public
- 139 infrastructure.

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

141 **17-31-5.5. Independent audit -- Report to county legislative body -- Content.**

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

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

149 (3) The report required under Subsection (1) shall include a breakdown of expenditures

150 into the following categories:

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

152 (i) establishing and promoting:

153 (A) recreation;

154 (B) tourism;

155 (C) film production; and

156 (D) conventions;

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

158 (A) convention meeting rooms;

159 (B) exhibit halls;

160 (C) visitor information centers;

161 (D) museums; and

162 (E) related facilities;

163 (iii) acquiring or leasing land required for or related to the purposes listed in

164 Subsection (3)(a)(ii);

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

166 (v) making the annual payment of principal, interest, premiums, and necessary reserves

167 for any or the aggregate of bonds issued to pay for costs referred to in Subsections

168 17-31-2(2)(c) and (3)(a); and

169 (b) for the tourism, recreation, cultural, ~~and~~ convention, and airport facilities tax,

170 identification of expenditures for:

171 (i) financing tourism promotion, which means an activity to develop, encourage,

172 solicit, or market tourism that attracts transient guests to the county, including planning,

173 product development, and advertising;

174 (ii) the development, operation, and maintenance of the following facilities as defined

175 in Section 59-12-602:

176 (A) ~~[tourist facilities]~~ an airport facility;

177 (B) ~~[recreation facilities]~~ a convention facility;

178 (C) a cultural ~~[facilities; and]~~ facility;

179 (D) ~~[convention facilities]~~ a recreation facility; and

180 (E) a tourist facility; and

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

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

184 (a) the Governor's Office of Economic Development;

185 (b) its tourism tax advisory board; and

186 (c) the Office of the Legislative Fiscal Analyst.

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

188 **41-1a-1222. Local option highway construction and transportation corridor**

189 **preservation fee -- Exemptions -- Deposit -- County ordinance -- Notice.**

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

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

194 (b) If imposed under Subsection (1)(a), at the time application is made for registration
195 or renewal of registration of a motor vehicle under this chapter, the applicant shall pay the local
196 option highway construction and transportation corridor preservation fee established by the
197 county legislative body.

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

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

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

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

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

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

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

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

211 (b) [~~Seventy percent of the~~] The revenue generated by a fee imposed under this section

212 in a county of the first class shall be~~[-]~~ deposited or transferred as follows:

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

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

216 ~~[(†)]~~ (B) used in accordance with Section 72-2-121~~[-]~~;

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

218 (A) transferred to the legislative body of a city of the first class located in a county of
219 the first class that has an international airport within its boundaries; and

220 (B) used by the city described in Subsection (2)(b)(ii)(A) for highway construction,
221 reconstruction, or maintenance projects; and

222 (iii) 30% of the revenue shall be deposited, credited, and used as provided in
223 Subsection (2)(a).

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

226 (a) approving the fee;

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

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

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

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

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

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

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

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

238 **59-12-102. Definitions.**

239 As used in this chapter:

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

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

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

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

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

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

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

249 (a) Subsection 59-12-103(2)(a)(i)(A);

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

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

252 (d) Subsection 59-12-103(2)(d)(i)(A)(I);

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

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

255 (g) Section 59-12-204;

256 (h) Section 59-12-401;

257 (i) Section 59-12-402;

258 (j) Section 59-12-501;

259 (k) Section 59-12-502;

260 (l) Section 59-12-703;

261 (m) Section 59-12-802;

262 (n) Section 59-12-804;

263 (o) Section 59-12-1001;

264 (p) Section 59-12-1102;

265 (q) Section 59-12-1302;

266 (r) Section 59-12-1402;

267 (s) Section 59-12-1503; [~~or~~]

268 (t) Section 59-12-1703[-];

269 (u) Section 59-12-1903; or

270 (v) Section 59-12-2003.

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

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

273 (a) is suitable for human consumption; and

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

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

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

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

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

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

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

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

289 (10) "Authorized carrier" means:

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

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

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

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

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

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

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

302 (B) animal waste;

303 (C) methane produced:

304 (I) at landfills; or

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

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

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

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

341 (i) on a transaction; and

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

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

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

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

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

348 and

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

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

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

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

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

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

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

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

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

367 passenger's place of employment.

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

371 (19) "Component part" includes:

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

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

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

377 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

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

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

390 (i) by a seller of:

391 (A) tangible personal property; or

392 (B) services; and

393 (ii) for preparation and delivery of the tangible personal property or services described
394 in Subsection (24)(a)(i) to a location designated by the purchaser.

395 (b) "Delivery charge" includes a charge for the following:

396 (i) transportation;

397 (ii) shipping;

- 398 (iii) postage;
- 399 (iv) handling;
- 400 (v) crating; or
- 401 (vi) packing.
- 402 (25) (a) "Dental prosthesis" means the following if fabricated in a laboratory:
- 403 (i) a bridge;
- 404 (ii) a crown if that crown covers at least 75% of a tooth structure;
- 405 (iii) a denture;
- 406 (iv) an implant;
- 407 (v) an orthodontic device designed to:
- 408 (A) retain the position or spacing of teeth; and
- 409 (B) replace a missing tooth;
- 410 (vi) a partial denture; or
- 411 (vii) a device similar to Subsections (25)(a)(i) through (vi).
- 412 (b) "Dental prosthesis" does not include an appliance or device, other than a device
- 413 described in Subsection (25)(a), if that appliance or device is used in orthodontic therapy to
- 414 apply force to the teeth and their supporting structures to:
- 415 (i) produce changes in their relationship to each other; and
- 416 (ii) control their growth and development.
- 417 (26) "Dietary supplement" means a product, other than tobacco, that:
- 418 (a) is intended to supplement the diet;
- 419 (b) contains one or more of the following dietary ingredients:
- 420 (i) a vitamin;
- 421 (ii) a mineral;
- 422 (iii) an herb or other botanical;
- 423 (iv) an amino acid;
- 424 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 425 dietary intake; or
- 426 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 427 described in Subsections (26)(b)(i) through (v);
- 428 (c) (i) except as provided in Subsection (26)(c)(ii), is intended for ingestion in:

- 429 (A) tablet form;
- 430 (B) capsule form;
- 431 (C) powder form;
- 432 (D) softgel form;
- 433 (E) gelcap form; or
- 434 (F) liquid form; or
- 435 (ii) notwithstanding Subsection (26)(c)(i), if the product is not intended for ingestion in
- 436 a form described in Subsections (26)(c)(i)(A) through (F), is not represented:
 - 437 (A) as conventional food; and
 - 438 (B) for use as a sole item of:
 - 439 (I) a meal; or
 - 440 (II) the diet; and
 - 441 (d) is required to be labeled as a dietary supplement:
 - 442 (i) identifiable by the "Supplemental Facts" box found on the label; and
 - 443 (ii) as required by 21 C.F.R. Sec. 101.36.
- 444 (27) (a) "Direct mail" means printed material delivered or distributed by United States
- 445 mail or other delivery service:
 - 446 (i) to:
 - 447 (A) a mass audience; or
 - 448 (B) addressees on a mailing list provided by a purchaser of the mailing list; and
 - 449 (ii) if the cost of the printed material is not billed directly to the recipients.
- 450 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 451 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 452 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 453 single address.
- 454 (28) (a) "Disposable home medical equipment or supplies" means medical equipment
- 455 or supplies that:
 - 456 (i) cannot withstand repeated use; and
 - 457 (ii) are purchased by, for, or on behalf of a person other than:
 - 458 (A) a health care facility as defined in Section 26-21-2;
 - 459 (B) a health care provider as defined in Section 78-14-3;

- 460 (C) an office of a health care provider described in Subsection (28)(a)(ii)(B); or
- 461 (D) a person similar to a person described in Subsections (28)(a)(ii)(A) through (C).
- 462 (b) "Disposable home medical equipment or supplies" does not include:
- 463 (i) a drug;
- 464 (ii) durable medical equipment;
- 465 (iii) a hearing aid;
- 466 (iv) a hearing aid accessory;
- 467 (v) mobility enhancing equipment; or
- 468 (vi) tangible personal property used to correct impaired vision, including:
- 469 (A) eyeglasses; or
- 470 (B) contact lenses.
- 471 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 472 commission may by rule define what constitutes medical equipment or supplies.
- 473 (29) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 474 compound, substance, or preparation that is:
- 475 (i) recognized in:
- 476 (A) the official United States Pharmacopoeia;
- 477 (B) the official Homeopathic Pharmacopoeia of the United States;
- 478 (C) the official National Formulary; or
- 479 (D) a supplement to a publication listed in Subsections (29)(a)(i)(A) through (C);
- 480 (ii) intended for use in the:
- 481 (A) diagnosis of disease;
- 482 (B) cure of disease;
- 483 (C) mitigation of disease;
- 484 (D) treatment of disease; or
- 485 (E) prevention of disease; or
- 486 (iii) intended to affect:
- 487 (A) the structure of the body; or
- 488 (B) any function of the body.
- 489 (b) "Drug" does not include:
- 490 (i) food and food ingredients;

491 (ii) a dietary supplement;

492 (iii) an alcoholic beverage; or

493 (iv) a prosthetic device.

494 (30) (a) Except as provided in Subsection (30)(c), "durable medical equipment" means

495 equipment that:

496 (i) can withstand repeated use;

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

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

499 (iv) is not worn in or on the body.

500 (b) "Durable medical equipment" includes parts used in the repair or replacement of the

501 equipment described in Subsection (30)(a).

502 (c) Notwithstanding Subsection (30)(a), "durable medical equipment" does not include

503 mobility enhancing equipment.

504 (31) "Electronic" means:

505 (a) relating to technology; and

506 (b) having:

507 (i) electrical capabilities;

508 (ii) digital capabilities;

509 (iii) magnetic capabilities;

510 (iv) wireless capabilities;

511 (v) optical capabilities;

512 (vi) electromagnetic capabilities; or

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

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

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

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

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

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

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

520 (A) liquid form;

521 (B) concentrated form;

- 522 (C) solid form;
- 523 (D) frozen form;
- 524 (E) dried form; or
- 525 (F) dehydrated form; and
- 526 (ii) that are:
- 527 (A) sold for:
- 528 (I) ingestion by humans; or
- 529 (II) chewing by humans; and
- 530 (B) consumed for the substance's:
- 531 (I) taste; or
- 532 (II) nutritional value.
- 533 (b) "Food and food ingredients" includes an item described in Subsection (66)(b)(iii).
- 534 (c) "Food and food ingredients" does not include:
- 535 (i) an alcoholic beverage;
- 536 (ii) tobacco; or
- 537 (iii) prepared food.
- 538 (35) (a) "Fundraising sales" means sales:
- 539 (i) (A) made by a school; or
- 540 (B) made by a school student;
- 541 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 542 materials, or provide transportation; and
- 543 (iii) that are part of an officially sanctioned school activity.
- 544 (b) For purposes of Subsection (35)(a)(iii), "officially sanctioned school activity"
- 545 means a school activity:
- 546 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 547 district governing the authorization and supervision of fundraising activities;
- 548 (ii) that does not directly or indirectly compensate an individual teacher or other
- 549 educational personnel by direct payment, commissions, or payment in kind; and
- 550 (iii) the net or gross revenues from which are deposited in a dedicated account
- 551 controlled by the school or school district.
- 552 (36) "Geothermal energy" means energy contained in heat that continuously flows

553 outward from the earth that is used as the sole source of energy to produce electricity.

554 (37) "Governing board of the agreement" means the governing board of the agreement
555 that is:

556 (a) authorized to administer the agreement; and

557 (b) established in accordance with the agreement.

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

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

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

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

567 (iv) the National Guard;

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

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

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

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

573 (ii) a school;

574 (iii) the State Board of Education;

575 (iv) the State Board of Regents; or

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

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

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

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

580 (II) correct impaired human hearing; and

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

582 (II) affixed behind the human ear;

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

- 584 (iii) a telephone amplifying device.
- 585 (b) "Hearing aid" does not include:
- 586 (i) except as provided in Subsection (39)(a)(i)(B) or (39)(a)(ii), an instrument or device
587 having an electronic component that is designed to be worn on the body;
- 588 (ii) except as provided in Subsection (39)(a)(iii), an assistive listening device or system
589 designed to be used by one individual, including:
- 590 (A) a personal amplifying system;
- 591 (B) a personal FM system;
- 592 (C) a television listening system; or
- 593 (D) a device or system similar to a device or system described in Subsections
594 (39)(b)(ii)(A) through (C); or
- 595 (iii) an assistive listening device or system designed to be used by more than one
596 individual, including:
- 597 (A) a device or system installed in:
- 598 (I) an auditorium;
- 599 (II) a church;
- 600 (III) a conference room;
- 601 (IV) a synagogue; or
- 602 (V) a theater; or
- 603 (B) a device or system similar to a device or system described in Subsections
604 (39)(b)(iii)(A)(I) through (V).
- 605 (40) (a) "Hearing aid accessory" means a hearing aid:
- 606 (i) component;
- 607 (ii) attachment; or
- 608 (iii) accessory.
- 609 (b) "Hearing aid accessory" includes:
- 610 (i) a hearing aid neck loop;
- 611 (ii) a hearing aid cord;
- 612 (iii) a hearing aid ear mold;
- 613 (iv) hearing aid tubing;
- 614 (v) a hearing aid ear hook; or

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

- 646 (F) plastic;
- 647 (G) textile; or
- 648 (H) rubber; and
- 649 (ii) the new products under Subsection (42)(d)(i) would otherwise be made with
- 650 nonrecycled materials; or
- 651 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
- 652 cogeneration facility as defined in Section 54-2-1.
- 653 (43) (a) Except as provided in Subsection (43)(b), "installation charge" means a charge
- 654 for installing tangible personal property.
- 655 (b) Notwithstanding Subsection (43)(a), "installation charge" does not include a charge
- 656 for repairs or renovations of tangible personal property.
- 657 (44) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 658 personal property for:
- 659 (i) (A) a fixed term; or
- 660 (B) an indeterminate term; and
- 661 (ii) consideration.
- 662 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
- 663 amount of consideration may be increased or decreased by reference to the amount realized
- 664 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
- 665 Code.
- 666 (c) "Lease" or "rental" does not include:
- 667 (i) a transfer of possession or control of property under a security agreement or
- 668 deferred payment plan that requires the transfer of title upon completion of the required
- 669 payments;
- 670 (ii) a transfer of possession or control of property under an agreement that requires the
- 671 transfer of title:
- 672 (A) upon completion of required payments; and
- 673 (B) if the payment of an option price does not exceed the greater of:
- 674 (I) \$100; or
- 675 (II) 1% of the total required payments; or
- 676 (iii) providing tangible personal property along with an operator for a fixed period of

677 time or an indeterminate period of time if the operator is necessary for equipment to perform as
678 designed.

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

- 681 (i) set-up of tangible personal property;
- 682 (ii) maintenance of tangible personal property; or
- 683 (iii) inspection of tangible personal property.

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

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

- 687 (a) county that is authorized to impose an agreement sales and use tax;
- 688 (b) city that is authorized to impose an agreement sales and use tax; or
- 689 (c) town that is authorized to impose an agreement sales and use tax.

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

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

692 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
693 Industrial Classification Manual of the federal Executive Office of the President, Office of
694 Management and Budget;

695 (b) a scrap recycler if:

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

- 699 (A) iron;
- 700 (B) steel;
- 701 (C) nonferrous metal;
- 702 (D) paper;
- 703 (E) glass;
- 704 (F) plastic;
- 705 (G) textile; or
- 706 (H) rubber; and

707 (ii) the new products under Subsection (48)(b)(i) would otherwise be made with

708 nonrecycled materials; or

709 (c) a cogeneration facility as defined in Section 54-2-1.

710 (49) "Member of the immediate family of the producer" means a person who is related
711 to a producer described in Subsection 59-12-104(20)(a) as a:

712 (a) child or stepchild, regardless of whether the child or stepchild is:

713 (i) an adopted child or adopted stepchild; or

714 (ii) a foster child or foster stepchild;

715 (b) grandchild or stepgrandchild;

716 (c) grandparent or stepgrandparent;

717 (d) nephew or stepnephew;

718 (e) niece or stepniece;

719 (f) parent or stepparent;

720 (g) sibling or stepsibling;

721 (h) spouse;

722 (i) person who is the spouse of a person described in Subsections (49)(a) through (g);

723 or

724 (j) person similar to a person described in Subsections (49)(a) through (i) as

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

726 Administrative Rulemaking Act.

727 (50) "Mobile home" is as defined in Section 58-56-3.

728 (51) "Mobile telecommunications service" is as defined in the Mobile

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

730 (52) (a) Except as provided in Subsection (52)(c), "mobility enhancing equipment"

731 means equipment that is:

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

734 (ii) appropriate for use in a:

735 (A) home; or

736 (B) motor vehicle; and

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

738 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of

739 the equipment described in Subsection (52)(a).

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

742 (i) a motor vehicle;

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

745 (iii) durable medical equipment; or

746 (iv) a prosthetic device.

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

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

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

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

756 (i) collected by the seller; and

757 (ii) to the appropriate local taxing jurisdiction.

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

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

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

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

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

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

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

765 (b) For purposes of Subsection (55)(a), "model 3 seller" includes an affiliated group of
766 sellers using the same proprietary system.

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

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

769 (58) "Oil shale" means a group of fine black to dark brown shales containing

770 bituminous material that yields petroleum upon distillation.

771 (59) (a) "Other fuels" means products that burn independently to produce heat or
772 energy.

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

775 (60) "Pawnbroker" is as defined in Section 13-32a-102.

776 (61) "Pawn transaction" is as defined in Section 13-32a-102.

777 (62) (a) "Permanently attached to real property" means that for tangible personal
778 property attached to real property:

779 (i) the attachment of the tangible personal property to the real property:

780 (A) is essential to the use of the tangible personal property; and

781 (B) suggests that the tangible personal property will remain attached to the real
782 property in the same place over the useful life of the tangible personal property; or

783 (ii) if the tangible personal property is detached from the real property, the detachment
784 would:

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

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

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

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

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

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

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

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

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

801 (B) a hot water heater;
802 (C) a water softener system; or
803 (D) a water filtration system, other than a water filtration system manufactured as part
804 of a refrigerator.

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

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

808 (A) convenience;

809 (B) stability; or

810 (C) for an obvious temporary purpose;

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

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

817 (A) a refrigerator;

818 (B) a washer;

819 (C) a dryer;

820 (D) a stove;

821 (E) a television;

822 (F) a computer;

823 (G) a telephone; or

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

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

831 (64) "Place of primary use":

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

- 835 (i) the residential street address of the purchaser; or
- 836 (ii) the primary business street address of the purchaser; or
- 837 (b) for mobile telecommunications service, is as defined in the Mobile
838 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

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

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

- 842 (i) food:
 - 843 (A) sold in a heated state; or
 - 844 (B) heated by a seller;
- 845 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
846 item; or

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

- 849 (A) plate;
- 850 (B) knife;
- 851 (C) fork;
- 852 (D) spoon;
- 853 (E) glass;
- 854 (F) cup;
- 855 (G) napkin; or
- 856 (H) straw.

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

- 858 (i) food that a seller only:
 - 859 (A) cuts;
 - 860 (B) repackages; or
 - 861 (C) pasteurizes; or
- 862 (ii) (A) the following:

- 863 (I) raw egg;
- 864 (II) raw fish;
- 865 (III) raw meat;
- 866 (IV) raw poultry; or
- 867 (V) a food containing an item described in Subsections (66)(b)(ii)(A)(I) through (IV);

868 and

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

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

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

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

879 (I) by weight or volume; and

880 (II) as a single item; or

881 (C) a bakery item, including:

882 (I) a bagel;

883 (II) a bar;

884 (III) a biscuit;

885 (IV) bread;

886 (V) a bun;

887 (VI) a cake;

888 (VII) a cookie;

889 (VIII) a croissant;

890 (IX) a danish;

891 (X) a donut;

892 (XI) a muffin;

893 (XII) a pastry;

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

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

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

929 (i) reasonable; and

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

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

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

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

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

936 (b) "Prosthetic device" includes:

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

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

939 (iii) a dental prosthesis.

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

941 (i) corrective eyeglasses;

942 (ii) contact lenses; or

943 (iii) hearing aids.

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

945 (i) for human wear; and

946 (ii) that is:

947 (A) designed as protection:

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

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

950 (B) not suitable for general use.

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

953 (i) listing the items that constitute "protective equipment"; and

954 (ii) that are consistent with the list of items that constitute "protective equipment"

955 under the agreement.

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

958 (i) regardless of:

959 (A) characteristics;

960 (B) copyright;

961 (C) form;

962 (D) format;

963 (E) method of reproduction; or

964 (F) source; and

965 (ii) made available in printed or electronic format.

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

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

969 (i) valued in money; and

970 (ii) for which tangible personal property or services are:

971 (A) sold;

972 (B) leased; or

973 (C) rented.

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

975 (i) the seller's cost of the tangible personal property or services sold;

976 (ii) expenses of the seller, including:

977 (A) the cost of materials used;

978 (B) a labor cost;

979 (C) a service cost;

980 (D) interest;

981 (E) a loss;

982 (F) the cost of transportation to the seller; or

983 (G) a tax imposed on the seller; or

984 (iii) a charge by the seller for any service necessary to complete the sale.

985 (c) "Purchase price" and "sales price" do not include:

986 (i) a discount:

- 987 (A) in a form including:
- 988 (I) cash;
- 989 (II) term; or
- 990 (III) coupon;
- 991 (B) that is allowed by a seller;
- 992 (C) taken by a purchaser on a sale; and
- 993 (D) that is not reimbursed by a third party; or
- 994 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 995 provided to the purchaser:
- 996 (A) the amount of a trade-in;
- 997 (B) the following from credit extended on the sale of tangible personal property or
- 998 services:
- 999 (I) interest charges;
- 1000 (II) financing charges; or
- 1001 (III) carrying charges;
- 1002 (C) a tax or fee legally imposed directly on the consumer;
- 1003 (D) a delivery charge; or
- 1004 (E) an installation charge.
- 1005 (73) "Purchaser" means a person to whom:
- 1006 (a) a sale of tangible personal property is made; or
- 1007 (b) a service is furnished.
- 1008 (74) "Regularly rented" means:
- 1009 (a) rented to a guest for value three or more times during a calendar year; or
- 1010 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1011 value.
- 1012 (75) "Renewable energy" means:
- 1013 (a) biomass energy;
- 1014 (b) hydroelectric energy;
- 1015 (c) geothermal energy;
- 1016 (d) solar energy; or
- 1017 (e) wind energy.

- 1018 (76) (a) "Renewable energy production facility" means a facility that:
- 1019 (i) uses renewable energy to produce electricity; and
- 1020 (ii) has a production capacity of 20 kilowatts or greater.
- 1021 (b) A facility is a renewable energy production facility regardless of whether the
- 1022 facility is:
- 1023 (i) connected to an electric grid; or
- 1024 (ii) located on the premises of an electricity consumer.
- 1025 (77) "Rental" is as defined in Subsection (44).
- 1026 (78) "Repairs or renovations of tangible personal property" means:
- 1027 (a) a repair or renovation of tangible personal property that is not permanently attached
- 1028 to real property; or
- 1029 (b) attaching tangible personal property to other tangible personal property if the other
- 1030 tangible personal property to which the tangible personal property is attached is not
- 1031 permanently attached to real property.
- 1032 (79) "Research and development" means the process of inquiry or experimentation
- 1033 aimed at the discovery of facts, devices, technologies, or applications and the process of
- 1034 preparing those devices, technologies, or applications for marketing.
- 1035 (80) "Residential use" means the use in or around a home, apartment building, sleeping
- 1036 quarters, and similar facilities or accommodations.
- 1037 (81) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
- 1038 than:
- 1039 (a) resale;
- 1040 (b) sublease; or
- 1041 (c) subrent.
- 1042 (82) (a) "Retailer" means any person engaged in a regularly organized business in
- 1043 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
- 1044 who is selling to the user or consumer and not for resale.
- 1045 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
- 1046 engaged in the business of selling to users or consumers within the state.
- 1047 (83) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
- 1048 otherwise, in any manner, of tangible personal property or any other taxable transaction under

- 1049 Subsection 59-12-103(1), for consideration.
- 1050 (b) "Sale" includes:
- 1051 (i) installment and credit sales;
- 1052 (ii) any closed transaction constituting a sale;
- 1053 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
- 1054 chapter;
- 1055 (iv) any transaction if the possession of property is transferred but the seller retains the
- 1056 title as security for the payment of the price; and
- 1057 (v) any transaction under which right to possession, operation, or use of any article of
- 1058 tangible personal property is granted under a lease or contract and the transfer of possession
- 1059 would be taxable if an outright sale were made.
- 1060 (84) "Sale at retail" is as defined in Subsection (81).
- 1061 (85) "Sale-leaseback transaction" means a transaction by which title to tangible
- 1062 personal property that is subject to a tax under this chapter is transferred:
- 1063 (a) by a purchaser-lessee;
- 1064 (b) to a lessor;
- 1065 (c) for consideration; and
- 1066 (d) if:
- 1067 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
- 1068 of the tangible personal property;
- 1069 (ii) the sale of the tangible personal property to the lessor is intended as a form of
- 1070 financing:
- 1071 (A) for the property; and
- 1072 (B) to the purchaser-lessee; and
- 1073 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
- 1074 is required to:
- 1075 (A) capitalize the property for financial reporting purposes; and
- 1076 (B) account for the lease payments as payments made under a financing arrangement.
- 1077 (86) "Sales price" is as defined in Subsection (72).
- 1078 (87) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
- 1079 amounts charged by a school:

1080 (i) sales that are directly related to the school's educational functions or activities

1081 including:

1082 (A) the sale of:

1083 (I) textbooks;

1084 (II) textbook fees;

1085 (III) laboratory fees;

1086 (IV) laboratory supplies; or

1087 (V) safety equipment;

1088 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1089 that:

1090 (I) a student is specifically required to wear as a condition of participation in a
1091 school-related event or school-related activity; and

1092 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1093 place of ordinary clothing;

1094 (C) sales of the following if the net or gross revenues generated by the sales are
1095 deposited into a school district fund or school fund dedicated to school meals:

1096 (I) food and food ingredients; or

1097 (II) prepared food; or

1098 (D) transportation charges for official school activities; or

1099 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1100 event or school-related activity.

1101 (b) "Sales relating to schools" does not include:

1102 (i) bookstore sales of items that are not educational materials or supplies;

1103 (ii) except as provided in Subsection (87)(a)(i)(B):

1104 (A) clothing;

1105 (B) clothing accessories or equipment;

1106 (C) protective equipment; or

1107 (D) sports or recreational equipment; or

1108 (iii) amounts paid to or amounts charged by a school for admission to a school-related
1109 event or school-related activity if the amounts paid or charged are passed through to a person:

1110 (A) other than a:

- 1111 (I) school;
- 1112 (II) nonprofit organization authorized by a school board or a governing body of a
- 1113 private school to organize and direct a competitive secondary school activity; or
- 1114 (III) nonprofit association authorized by a school board or a governing body of a
- 1115 private school to organize and direct a competitive secondary school activity; and
- 1116 (B) that is required to collect sales and use taxes under this chapter.
- 1117 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1118 commission may make rules defining the term "passed through."
- 1119 (88) For purposes of this section and Section 59-12-104, "school":
- 1120 (a) means:
- 1121 (i) an elementary school or a secondary school that:
- 1122 (A) is a:
- 1123 (I) public school; or
- 1124 (II) private school; and
- 1125 (B) provides instruction for one or more grades kindergarten through 12; or
- 1126 (ii) a public school district; and
- 1127 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1128 (89) "Seller" means a person that makes a sale, lease, or rental of:
- 1129 (a) tangible personal property; or
- 1130 (b) a service.
- 1131 (90) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1132 means tangible personal property:
- 1133 (i) used primarily in the process of:
- 1134 (A) (I) manufacturing a semiconductor;
- 1135 (II) fabricating a semiconductor; or
- 1136 (III) research or development of a:
- 1137 (Aa) semiconductor; or
- 1138 (Bb) semiconductor manufacturing process; or
- 1139 (B) maintaining an environment suitable for a semiconductor; or
- 1140 (ii) consumed primarily in the process of:
- 1141 (A) (I) manufacturing a semiconductor;

- 1142 (II) fabricating a semiconductor; or
- 1143 (III) research or development of a:
 - 1144 (Aa) semiconductor; or
 - 1145 (Bb) semiconductor manufacturing process; or
 - 1146 (B) maintaining an environment suitable for a semiconductor.
- 1147 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1148 includes:
 - 1149 (i) parts used in the repairs or renovations of tangible personal property described in
 - 1150 Subsection (90)(a); or
 - 1151 (ii) a chemical, catalyst, or other material used to:
 - 1152 (A) produce or induce in a semiconductor a:
 - 1153 (I) chemical change; or
 - 1154 (II) physical change;
 - 1155 (B) remove impurities from a semiconductor; or
 - 1156 (C) improve the marketable condition of a semiconductor.
 - 1157 (91) "Senior citizen center" means a facility having the primary purpose of providing
 - 1158 services to the aged as defined in Section 62A-3-101.
 - 1159 (92) "Simplified electronic return" means the electronic return:
 - 1160 (a) described in Section 318(C) of the agreement; and
 - 1161 (b) approved by the governing board of the agreement.
 - 1162 (93) "Solar energy" means the sun used as the sole source of energy for producing
 - 1163 electricity.
 - 1164 (94) (a) "Sports or recreational equipment" means an item:
 - 1165 (i) designed for human use; and
 - 1166 (ii) that is:
 - 1167 (A) worn in conjunction with:
 - 1168 (I) an athletic activity; or
 - 1169 (II) a recreational activity; and
 - 1170 (B) not suitable for general use.
 - 1171 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
 - 1172 commission shall make rules:

- 1173 (i) listing the items that constitute "sports or recreational equipment"; and
1174 (ii) that are consistent with the list of items that constitute "sports or recreational
1175 equipment" under the agreement.
- 1176 (95) "State" means the state of Utah, its departments, and agencies.
- 1177 (96) "Storage" means any keeping or retention of tangible personal property or any
1178 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
1179 sale in the regular course of business.
- 1180 (97) (a) "Tangible personal property" means personal property that:
1181 (i) may be:
1182 (A) seen;
1183 (B) weighed;
1184 (C) measured;
1185 (D) felt; or
1186 (E) touched; or
1187 (ii) is in any manner perceptible to the senses.
- 1188 (b) "Tangible personal property" includes:
1189 (i) electricity;
1190 (ii) water;
1191 (iii) gas;
1192 (iv) steam; or
1193 (v) prewritten computer software.
- 1194 (98) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon
1195 and require further processing other than mechanical blending before becoming finished
1196 petroleum products.
- 1197 (99) (a) "Telecommunications enabling or facilitating equipment, machinery, or
1198 software" means an item listed in Subsection (99)(b) if that item is purchased or leased
1199 primarily to enable or facilitate one or more of the following to function:
1200 (i) telecommunications switching or routing equipment, machinery, or software; or
1201 (ii) telecommunications transmission equipment, machinery, or software.
- 1202 (b) The following apply to Subsection (99)(a):
1203 (i) a pole;

- 1204 (ii) software;
- 1205 (iii) a supplementary power supply;
- 1206 (iv) temperature or environmental equipment or machinery;
- 1207 (v) test equipment;
- 1208 (vi) a tower; or
- 1209 (vii) equipment, machinery, or software that functions similarly to an item listed in
- 1210 Subsections (99)(b)(i) through (vi) as determined by the commission by rule made in
- 1211 accordance with Subsection (99)(c).

1212 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1213 commission may by rule define what constitutes equipment, machinery, or software that

1214 functions similarly to an item listed in Subsections (99)(b)(i) through (vi).

1215 (100) "Telecommunications equipment, machinery, or software required for 911

1216 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.

1217 Sec. 20.18.

1218 (101) "Telecommunications maintenance or repair equipment, machinery, or software"

1219 means equipment, machinery, or software purchased or leased primarily to maintain or repair

1220 one or more of the following, regardless of whether the equipment, machinery, or software is

1221 purchased or leased as a spare part or as an upgrade or modification to one or more of the

1222 following:

- 1223 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1224 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1225 (c) telecommunications transmission equipment, machinery, or software.

1226 (102) (a) "Telecommunications switching or routing equipment, machinery, or

1227 software" means an item listed in Subsection (102)(b) if that item is purchased or leased

1228 primarily for switching or routing:

- 1229 (i) voice communications;
- 1230 (ii) data communications; or
- 1231 (iii) telephone service.

1232 (b) The following apply to Subsection (102)(a):

- 1233 (i) a bridge;
- 1234 (ii) a computer;

- 1235 (iii) a cross connect;
- 1236 (iv) a modem;
- 1237 (v) a multiplexer;
- 1238 (vi) plug in circuitry;
- 1239 (vii) a router;
- 1240 (viii) software;
- 1241 (ix) a switch; or
- 1242 (x) equipment, machinery, or software that functions similarly to an item listed in
- 1243 Subsections (102)(b)(i) through (ix) as determined by the commission by rule made in
- 1244 accordance with Subsection (102)(c).
- 1245 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1246 commission may by rule define what constitutes equipment, machinery, or software that
- 1247 functions similarly to an item listed in Subsections (102)(b)(i) through (ix).
- 1248 (103) (a) "Telecommunications transmission equipment, machinery, or software"
- 1249 means an item listed in Subsection (103)(b) if that item is purchased or leased primarily for
- 1250 sending, receiving, or transporting:
- 1251 (i) voice communications;
- 1252 (ii) data communications; or
- 1253 (iii) telephone service.
- 1254 (b) The following apply to Subsection (103)(a):
- 1255 (i) an amplifier;
- 1256 (ii) a cable;
- 1257 (iii) a closure;
- 1258 (iv) a conduit;
- 1259 (v) a controller;
- 1260 (vi) a duplexer;
- 1261 (vii) a filter;
- 1262 (viii) an input device;
- 1263 (ix) an input/output device;
- 1264 (x) an insulator;
- 1265 (xi) microwave machinery or equipment;

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

1283 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1284 commission may by rule define what constitutes equipment, machinery, or software that
1285 functions similarly to an item listed in Subsections (103)(b)(i) through (xxv).

- 1286 (104) (a) "Telephone service" means a two-way transmission:
- 1287 (i) by:
- 1288 (A) wire;
- 1289 (B) radio;
- 1290 (C) lightwave; or
- 1291 (D) other electromagnetic means; and
- 1292 (ii) of one or more of the following:
- 1293 (A) a sign;
- 1294 (B) a signal;
- 1295 (C) writing;
- 1296 (D) an image;

- 1297 (E) sound;
- 1298 (F) a message;
- 1299 (G) data; or
- 1300 (H) other information of any nature.
- 1301 (b) "Telephone service" includes:
- 1302 (i) mobile telecommunications service;
- 1303 (ii) private communications service; or
- 1304 (iii) automated digital telephone answering service.
- 1305 (c) "Telephone service" does not include a service or a transaction that a state or a
- 1306 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
- 1307 Tax Freedom Act, Pub. L. No. 105-277.
- 1308 (105) Notwithstanding where a call is billed or paid, "telephone service address"
- 1309 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
- 1316 signal 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
- 1337 ride device that is started and stopped by the purchaser or renter of the right to use or operate
- 1338 the 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,
1414 fairs, 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,
1417 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
1418 horseback rides, sports activities, or any other amusement, entertainment, recreation,
1419 exhibition, 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
1500 a seller in accordance with Subsection 59-12-107(1)(b), beginning on January 1, 2007, a state
1501 tax 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
1534 effective date of the repeal of the tax or the tax rate decrease if the billing period for the
1535 transaction begins before the effective date of the repeal of the tax or the tax rate decrease
1536 imposed under:

- 1537 (A) Subsection (2)(a)(i)(A);
- 1538 (B) Subsection (2)(b)(i);
- 1539 (C) Subsection (2)(c)(i);
- 1540 (D) Subsection (2)(d)(i)(A)(I);
- 1541 (E) Subsection (2)(e)(ii)(A)(I); or
- 1542 (F) Subsection (2)(e)(iii)(A)(I).

1543 (iii) Subsections (2)(g)(i) and (ii) apply to transactions subject to a tax under:

- 1544 (A) Subsection (1)(b);

- 1545 (B) Subsection (1)(c);
- 1546 (C) Subsection (1)(d);
- 1547 (D) Subsection (1)(e);
- 1548 (E) Subsection (1)(f);
- 1549 (F) Subsection (1)(g);
- 1550 (G) Subsection (1)(h);
- 1551 (H) Subsection (1)(i);
- 1552 (I) Subsection (1)(j); or
- 1553 (J) Subsection (1)(k).
- 1554 (h) (i) For a tax rate described in Subsection (2)(h)(ii), if a tax due on a catalogue sale
- 1555 is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal
- 1556 or change in a tax rate takes effect:
 - 1557 (A) on the first day of a calendar quarter; and
 - 1558 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 1559 (ii) Subsection (2)(h)(i) applies to the tax rates described in the following:
 - 1560 (A) Subsection (2)(a)(i)(A);
 - 1561 (B) Subsection (2)(b)(i);
 - 1562 (C) Subsection (2)(c)(i);
 - 1563 (D) Subsection (2)(d)(i)(A)(I);
 - 1564 (E) Subsection (2)(e)(ii)(A)(I); or
 - 1565 (F) Subsection (2)(e)(iii)(A)(I).
- 1566 (iii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 1567 the commission may by rule define the term "catalogue sale."
- 1568 (3) (a) Except as provided in Subsections (4) through (10), the following state taxes
- 1569 shall be deposited into the General Fund:
 - 1570 (i) the tax imposed by Subsection (2)(a)(i)(A);
 - 1571 (ii) the tax imposed by Subsection (2)(b)(i);
 - 1572 (iii) the tax imposed by Subsection (2)(c)(i);
 - 1573 (iv) the tax imposed by Subsection (2) (d)(i)(A)(I);
 - 1574 (v) the tax imposed by Subsection (2)(e)(ii)(A)(I); and
 - 1575 (vi) the tax imposed by Subsection (2)(e)(iii)(A)(I).

1576 (b) The following local taxes shall be distributed to a county, city, or town as provided
1577 in this chapter:

- 1578 (i) the tax imposed by Subsection (2)(a)(ii);
- 1579 (ii) the tax imposed by Subsection (2)(b)(ii);
- 1580 (iii) the tax imposed by Subsection (2)(c)(ii); and
- 1581 (iv) the tax imposed by Subsection (2)(e)(ii)(B).

1582 (c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the
1583 state shall receive the county's, city's, or town's proportionate share of the revenues generated
1584 by the following local taxes as provided in Subsection (3)(c)(ii):

- 1585 (A) the local tax described in Subsection (2)(d)(ii); and
- 1586 (B) the local tax described in Subsection (2)(e)(iii)(B).

1587 (ii) For revenues generated by a tax described in Subsection (3)(c)(i), the commission
1588 shall determine a county's, city's, or town's proportionate share of the revenues by:

1589 (A) calculating an amount equal to the population of the unincorporated area of the
1590 county, city, or town divided by the total population of the state; and

1591 (B) multiplying the amount determined under Subsection (3)(c)(ii)(A) by the total
1592 amount of revenues generated by the taxes described in Subsection (3)(c)(i) for all counties,
1593 cities, and towns.

1594 (iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for
1595 purposes of this section shall be derived from the most recent official census or census estimate
1596 of the United States Census Bureau.

1597 (B) If a needed population estimate is not available from the United States Census
1598 Bureau, population figures shall be derived from the estimate from the Utah Population
1599 Estimates Committee created by executive order of the governor.

1600 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1601 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
1602 through (g):

- 1603 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
 - 1604 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
 - 1605 (B) for the fiscal year; or
- 1606 (ii) \$17,500,000.

1607 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
1608 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
1609 Department of Natural Resources to:

1610 (A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to
1611 protect sensitive plant and animal species; or

1612 (B) award grants, up to the amount authorized by the Legislature in an appropriations
1613 act, to political subdivisions of the state to implement the measures described in Subsections
1614 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

1615 (ii) Money transferred to the Department of Natural Resources under Subsection
1616 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
1617 person to list or attempt to have listed a species as threatened or endangered under the
1618 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

1619 (iii) At the end of each fiscal year:

1620 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1621 Conservation and Development Fund created in Section 73-10-24;

1622 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1623 Program Subaccount created in Section 73-10c-5; and

1624 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1625 Program Subaccount created in Section 73-10c-5.

1626 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
1627 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
1628 created in Section 4-18-6.

1629 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
1630 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
1631 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
1632 water rights.

1633 (ii) At the end of each fiscal year:

1634 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1635 Conservation and Development Fund created in Section 73-10-24;

1636 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1637 Program Subaccount created in Section 73-10c-5; and

1638 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1639 Program Subaccount created in Section 73-10c-5.

1640 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
1641 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
1642 Fund created in Section 73-10-24 for use by the Division of Water Resources.

1643 (ii) In addition to the uses allowed of the Water Resources Conservation and
1644 Development Fund under Section 73-10-24, the Water Resources Conservation and
1645 Development Fund may also be used to:

1646 (A) conduct hydrologic and geotechnical investigations by the Division of Water
1647 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
1648 quantifying surface and ground water resources and describing the hydrologic systems of an
1649 area in sufficient detail so as to enable local and state resource managers to plan for and
1650 accommodate growth in water use without jeopardizing the resource;

1651 (B) fund state required dam safety improvements; and

1652 (C) protect the state's interest in interstate water compact allocations, including the
1653 hiring of technical and legal staff.

1654 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1655 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
1656 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1657 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1658 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
1659 created in Section 73-10c-5 for use by the Division of Drinking Water to:

1660 (i) provide for the installation and repair of collection, treatment, storage, and
1661 distribution facilities for any public water system, as defined in Section 19-4-102;

1662 (ii) develop underground sources of water, including springs and wells; and

1663 (iii) develop surface water sources.

1664 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1665 2006, the difference between the following amounts shall be expended as provided in this
1666 Subsection (5), if that difference is greater than \$1:

1667 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
1668 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

1669 (ii) \$17,500,000.

1670 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

1671 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
1672 credits; and

1673 (B) expended by the Department of Natural Resources for watershed rehabilitation or
1674 restoration.

1675 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
1676 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
1677 created in Section 73-10-24.

1678 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
1679 remaining difference described in Subsection (5)(a) shall be:

1680 (A) transferred each fiscal year to the Division of Water Resources as dedicated
1681 credits; and

1682 (B) expended by the Division of Water Resources for cloud-seeding projects
1683 authorized by Title 73, Chapter 15, Modification of Weather.

1684 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
1685 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
1686 created in Section 73-10-24.

1687 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
1688 remaining difference described in Subsection (5)(a) shall be deposited into the Water
1689 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
1690 Division of Water Resources for:

1691 (i) preconstruction costs:

1692 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
1693 26, Bear River Development Act; and

1694 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
1695 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

1696 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
1697 Chapter 26, Bear River Development Act;

1698 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
1699 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

1700 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
1701 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

1702 (e) Any unexpended monies described in Subsection (5)(d) that remain in the Water
1703 Resources Conservation and Development Fund at the end of the fiscal year are nonlapsing.

1704 (f) After making the transfers required by Subsections (5)(b) and (c) and subject to
1705 Subsection (5)(g), 6% of the remaining difference described in Subsection (5)(a) shall be
1706 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
1707 incurred for employing additional technical staff for the administration of water rights.

1708 (g) At the end of each fiscal year, any unexpended dedicated credits described in
1709 Subsection (5)(f) over \$150,000 lapse to the Water Resources Conservation and Development
1710 Fund created in Section 73-10-24.

1711 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1712 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
1713 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
1714 the Transportation Fund created by Section 72-2-102.

1715 (7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies,
1716 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial
1717 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed
1718 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable
1719 transactions under Subsection (1).

1720 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds
1721 have been paid off and the highway projects completed that are intended to be paid from
1722 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the
1723 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of
1724 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section
1725 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
1726 by a 1/64% tax rate on the taxable transactions under Subsection (1).

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

1731 greater than \$0.

1732 (b) The difference described in Subsection (8)(a) is equal to the difference between:

1733 (i) the total amount of the revenues the commission received from sellers collecting the
1734 taxes described in Subsections (2)(d)(i) and (2)(e)(iii)(A) for the fiscal year immediately
1735 preceding the September 30 described in Subsection (8)(a); and

1736 (ii) \$7,279,673.

1737 (9) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in
1738 Subsection (7)(a), and until Subsection (9)(b) applies, for a fiscal year beginning on or after
1739 July 1, 2007, the Division of Finance shall deposit into the Centennial Highway Fund
1740 Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection
1741 (3)(a) equal to 8.3% of the revenues collected from the following taxes, which represents a
1742 portion of the approximately 17% of sales and use tax revenues generated annually by the sales
1743 and use tax on vehicles and vehicle-related products:

1744 (i) the tax imposed by Subsection (2)(a)(i)(A);

1745 (ii) the tax imposed by Subsection (2)(b)(i);

1746 (iii) the tax imposed by Subsection (2)(c)(i); and

1747 (iv) the tax imposed by Subsection (2)(e)(ii)(A)(I).

1748 (b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under
1749 Subsection (7)(b), when the highway general obligation bonds have been paid off and the
1750 highway projects completed that are intended to be paid from revenues deposited in the
1751 Centennial Highway Fund Restricted Account as determined by the Executive Appropriations
1752 Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the
1753 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes
1754 listed under Subsection (3)(a) equal to 8.3% of the revenues collected from the following taxes,
1755 which represents a portion of the approximately 17% of sales and use tax revenues generated
1756 annually by the sales and use tax on vehicles and vehicle-related products:

1757 (i) the tax imposed by Subsection (2)(a)(i)(A);

1758 (ii) the tax imposed by Subsection (2)(b)(i);

1759 (iii) the tax imposed by Subsection (2)(c)(i); and

1760 (iv) the tax imposed by Subsection (2)(e)(ii)(A)(I).

1761 (10) (a) Notwithstanding Subsection (3)(a) and until Subsection (10)(b) applies, the

1762 Division of Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes
1763 listed under Subsection (3)(a) into the Critical Highway Needs Fund created by Section
1764 72-2-125.

1765 (b) Notwithstanding Subsection (3)(a) and in addition to any amounts deposited under
1766 Subsections (7) and (9), when the general obligation bonds authorized by Section 63B-16-101
1767 have been paid off and the highway projects completed that are included in the prioritized
1768 project list under Subsection 72-2-125(4) as determined in accordance with Subsection
1769 72-2-125(6), the Division of Finance shall annually deposit \$90,000,000 of the revenues
1770 generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund
1771 of 2005 created by Section 72-2-124.

1772 Section 6. Section **59-12-104.2** is amended to read:

1773 **59-12-104.2. Exemption for accommodations and services taxed by the Navajo**
1774 **Nation.**

1775 (1) As used in this section "tribal taxing area" means the geographical area that:

1776 (a) is subject to the taxing authority of the Navajo Nation; and

1777 (b) consists of:

1778 (i) notwithstanding the issuance of a patent, all land:

1779 (A) within the limits of an Indian reservation under the jurisdiction of the federal
1780 government; and

1781 (B) including any rights-of-way running through the reservation; and

1782 (ii) all Indian allotments the Indian titles to which have not been extinguished,
1783 including any rights-of-way running through an Indian allotment.

1784 (2) (a) Beginning July 1, 2001, amounts paid by or charged to a purchaser for
1785 accommodations and services described in Subsection 59-12-103(1)(i) are exempt from the tax
1786 imposed by Subsection 59-12-103(2)(a)(i) to the extent permitted under Subsection (2)(b) if:

1787 (i) the accommodations and services described in Subsection 59-12-103(1)(i) are
1788 provided within:

1789 (A) the state; and

1790 (B) a tribal taxing area;

1791 (ii) the Navajo Nation imposes and collects a tax on the amounts paid by or charged to
1792 the purchaser for the accommodations and services described in Subsection 59-12-103(1)(i);

1793 (iii) the Navajo Nation imposes the tax described in Subsection (2)(a)(ii) without
1794 regard to whether or not the purchaser that pays or is charged for the accommodations and
1795 services is an enrolled member of the Navajo Nation; and

1796 (iv) the requirements of Subsection (4) are met.

1797 (b) If but for Subsection (2)(a) the amounts paid by or charged to a purchaser for
1798 accommodations and services described in Subsection (2)(a) are subject to a tax imposed by
1799 Subsection 59-12-103(2)(a)(i)(A):

1800 (i) the seller shall collect and pay to the state the difference described in Subsection (3)
1801 if that difference is greater than \$0; and

1802 (ii) a person may not require the state to provide a refund, a credit, or similar tax relief
1803 if the difference described in Subsection (3) is equal to or less than \$0.

1804 (3) The difference described in Subsection (2)(b) is equal to the difference between:

1805 (a) the amount of tax imposed by Subsection 59-12-103(2)(a)(i)(A) on the amounts
1806 paid by or charged to a purchaser for accommodations and services described in Subsection
1807 59-12-103(1)(i); less

1808 (b) the tax imposed and collected by the Navajo Nation on the amounts paid by or
1809 charged to a purchaser for the accommodations and services described in Subsection
1810 59-12-103(1)(i).

1811 (4) (a) If, on or after July 1, 2001, the Navajo Nation changes the tax rate of a tax
1812 imposed on amounts paid by or charged to a purchaser for accommodations and services
1813 described in Subsection 59-12-103(1)(i), any change in the amount of the exemption under
1814 Subsection (2) as a result of the change in the tax rate is not effective until the first day of the
1815 calendar quarter after a 90-day period beginning on the date the commission receives notice
1816 meeting the requirements of Subsection (4)(b) from the Navajo Nation.

1817 (b) The notice described in Subsection (4)(a) shall state:

1818 (i) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
1819 amounts paid by or charged to a purchaser for accommodations and services described in
1820 Subsection 59-12-103(1)(i);

1821 (ii) the effective date of the rate change on the tax described in Subsection (4)(b)(i);
1822 and

1823 (iii) the new rate of the tax described in Subsection (4)(b)(i).

1824 (5) Beginning with the 2006 interim, the Revenue and Taxation Interim Committee:
1825 (a) shall review the exemption provided for in this section one or more times every five
1826 years;

1827 (b) shall determine on or before the November interim meeting of the year in which the
1828 Revenue and Taxation Interim Committee reviews the exemption provided for in this section
1829 whether the exemption should be:

1830 (i) continued;

1831 (ii) modified; or

1832 (iii) repealed; and

1833 (c) may review any other issue related to the exemption provided for in this section as
1834 determined by the Revenue and Taxation Interim Committee.

1835 Section 7. Section **59-12-108** is amended to read:

1836 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**
1837 **Certain amounts allocated to local taxing jurisdictions.**

1838 (1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this
1839 chapter of \$50,000 or more for the previous calendar year shall:

1840 (i) file a return with the commission:

1841 (A) monthly on or before the last day of the month immediately following the month
1842 for which the seller collects a tax under this chapter; and

1843 (B) for the month for which the seller collects a tax under this chapter; and

1844 (ii) remit with the return required by Subsection (1)(a)(i) the amount the person is
1845 required to remit to the commission for each tax, fee, or charge described in Subsection (1)(b):

1846 (A) if that seller's tax liability under this chapter for the previous calendar year is less
1847 than \$96,000, by any method permitted by the commission; or

1848 (B) if that seller's tax liability under this chapter for the previous calendar year is
1849 \$96,000 or more, by electronic funds transfer.

1850 (b) Subsections (1)(a)(i) and (ii) apply to the following taxes, fees, or charges:

1851 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

1852 (ii) a fee under Section 19-6-716;

1853 (iii) a fee under Section 19-6-805;

1854 (iv) a charge under Section 69-2-5.5; or

1855 (v) a tax under this chapter.

1856 (c) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63, Chapter 46a,
1857 Utah Administrative Rulemaking Act, the commission shall make rules providing for a method
1858 for making same-day payments other than by electronic funds transfer if making payments by
1859 electronic funds transfer fails.

1860 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1861 commission shall establish by rule procedures and requirements for determining the amount a
1862 seller is required to remit to the commission under this Subsection (1).

1863 (2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a
1864 seller described in Subsection (4) may retain each month the amount allowed by this
1865 Subsection (2).

1866 (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
1867 each month 1.31% of any amounts the seller is required to remit to the commission:

1868 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax
1869 and a local tax imposed in accordance with the following, for the month for which the seller is
1870 filing a return in accordance with Subsection (1):

1871 (A) Subsection 59-12-103(2)(a);

1872 (B) Subsection 59-12-103(2)(b);

1873 (C) Subsection 59-12-103(2)(d), except for the state tax and the local tax imposed on
1874 the amounts paid or charged for food and food ingredients in accordance with Subsections
1875 59-12-103(2)(d)(i)(C) and (2)(d)(ii); and

1876 (D) Subsection 59-12-103(2)(e); and

1877 (ii) for an agreement sales and use tax.

1878 (c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may
1879 retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described
1880 in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in
1881 accordance with Subsection 59-12-103(2)(c).

1882 (ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount
1883 equal to the sum of:

1884 (A) 1.31% of any amounts the seller is required to remit to the commission for:

1885 (I) the state tax and the local tax imposed in accordance with Subsection

1886 59-12-103(2)(c);
1887 (II) the month for which the seller is filing a return in accordance with Subsection (1);
1888 and
1889 (III) an agreement sales and use tax; and
1890 (B) 1.31% of the difference between:
1891 (I) the amounts the seller would have been required to remit to the commission:
1892 (Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject
1893 to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(a);
1894 (Bb) for the month for which the seller is filing a return in accordance with Subsection
1895 (1); and
1896 (Cc) for an agreement sales and use tax; and
1897 (II) the amounts the seller is required to remit to the commission for:
1898 (Aa) the state tax and the local tax imposed in accordance with Subsection
1899 59-12-103(2)(c);
1900 (Bb) the month for which the seller is filing a return in accordance with Subsection (1);
1901 and
1902 (Cc) an agreement sales and use tax.
1903 (d) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may
1904 retain each month the amount calculated under Subsection (2)(d)(ii) for a transaction described
1905 in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed on the
1906 amounts paid or charged for food and food ingredients in accordance with Subsections
1907 59-12-103(2)(d)(i)(C) and (2)(d)(ii).
1908 (ii) For purposes of Subsection (2)(d)(i), the amount a seller may retain is an amount
1909 equal to the sum of:
1910 (A) 1.31% of any amounts the seller is required to remit to the commission for:
1911 (I) the state tax and the local tax imposed on the amounts paid or charged for food and
1912 food ingredients in accordance with Subsections 59-12-103(2)(d)(i)(C) and (2)(d)(ii);
1913 (II) the month for which the seller is filing a return in accordance with Subsection (1);
1914 and
1915 (III) an agreement sales and use tax; and
1916 (B) 1.31% of the difference between:

1917 (I) the amounts the seller would have been required to remit to the commission:
1918 (Aa) in accordance with Subsections 59-12-103(2)(d)(i)(A)(I) and (2)(d)(ii) if the
1919 transaction had been subject to the state tax and the local tax imposed in accordance with
1920 Subsections 59-12-103(2)(d)(i)(A)(I) and (2)(d)(ii);
1921 (Bb) for the month for which the seller is filing a return in accordance with Subsection
1922 (1); and
1923 (Cc) for an agreement sales and use tax; and
1924 (II) the amounts the seller is required to remit to the commission for:
1925 (Aa) the state tax and the local tax imposed in accordance with Subsections
1926 59-12-103(2)(d)(i)(C) and (2)(d)(ii);
1927 (Bb) the month for which the seller is filing a return in accordance with Subsection (1);
1928 and
1929 (Cc) an agreement sales and use tax.
1930 (e) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
1931 each month 1% of any amounts the seller is required to remit to the commission:
1932 (i) for the month for which the seller is filing a return in accordance with Subsection
1933 (1); and
1934 (ii) under:
1935 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
1936 (B) Subsection 59-12-603(1)(a)(i)(A); or
1937 (C) Subsection 59-12-603(1)(a)(i)(B).
1938 (3) A state government entity that is required to remit taxes monthly in accordance
1939 with Subsection (1) may not retain any amount under Subsection (2).
1940 (4) A seller that has a tax liability under this chapter for the previous calendar year of
1941 less than \$50,000 may:
1942 (a) voluntarily meet the requirements of Subsection (1); and
1943 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the
1944 amounts allowed by Subsection (2).
1945 (5) Penalties for late payment shall be as provided in Section 59-1-401.
1946 (6) (a) [~~For~~] Except as provided in Subsection (6)(c), for any amounts required to be
1947 remitted to the commission under this part, the commission shall each month calculate an

1948 amount equal to the difference between:

1949 (i) the total amount retained for that month by all sellers had the percentages listed
1950 under Subsections (2)(b), (2)(c)(ii), and (2)(d)(ii) been 1.5%; and

1951 (ii) the total amount retained for that month by all sellers at the percentages listed
1952 under Subsections (2)(b), (2)(c)(ii), and (2)(d)(ii).

1953 (b) The commission shall each month allocate the amount calculated under Subsection
1954 (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and use
1955 tax that the commission distributes to each county, city, and town for that month compared to
1956 the total agreement sales and use tax that the commission distributes for that month to all
1957 counties, cities, and towns.

1958 (c) The amount the commission calculates under Subsection (6)(a) may not include an
1959 amount collected from a tax that:

1960 (i) the state imposes within a county, city, or town; and

1961 (ii) is not imposed within the entire state.

1962 Section 8. Section **59-12-601.1** is enacted to read:

1963 **Part 6. Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act**

1964 **59-12-601.1. Title.**

1965 This part is known as the "Tourism, Recreation, Cultural, Convention, and Airport
1966 Facilities Tax Act."

1967 Section 9. Section **59-12-602** is amended to read:

1968 **59-12-602. Definitions.**

1969 As used in this part:

1970 (1) (a) Subject to Subsection (1)(b), "airport facility" means an airport of regional
1971 significance, as defined by the Transportation Commission by rule made in accordance with

1972 Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

1973 (b) "Airport facility" includes:

1974 (i) an appurtenance to an airport, including a fixed guideway as defined in Section
1975 59-12-1702 that provides transportation service to or from the airport;

1976 (ii) a control tower, including a radar system;

1977 (iii) a public area of an airport; or

1978 (iv) a terminal facility.

1979 [~~(1)~~] (2) "Convention facility" means any publicly owned or operated convention
1980 center, sports arena, or other facility at which conventions, conferences, and other gatherings
1981 are held and whose primary business or function is to host such conventions, conferences, and
1982 other gatherings.

1983 [~~(2)~~] (3) "Cultural facility" means any publicly owned or operated museum, theater, art
1984 center, music hall, or other cultural or arts facility.

1985 [~~(3)~~] (4) "Recreation facility" or "tourist facility" means any publicly owned or
1986 operated park, campground, marina, dock, golf course, water park, historic park, monument,
1987 planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.

1988 [~~(4)~~] (5) (a) "Restaurant" includes any coffee shop, cafeteria, luncheonette, soda
1989 fountain, or fast-food service where food is prepared for immediate consumption.

1990 (b) "Restaurant" does not include:

1991 (i) any retail establishment whose primary business or function is the sale of fuel or
1992 food items for off-premise, but not immediate, consumption; and

1993 (ii) a theater that sells food items, but not a dinner theater.

1994 Section 10. Section **59-12-603** is amended to read:

1995 **59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Adoption of**
1996 **ordinance required -- Advisory board -- Administration -- Collection -- Distribution --**
1997 **Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.**

1998 (1) (a) In addition to any other taxes, a county legislative body may, as provided in this
1999 part, impose a tax as follows:

2000 (i) (A) a county legislative body of any county may impose a tax of not to exceed 3%
2001 on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases
2002 and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor
2003 vehicle that is being repaired pursuant to a repair or an insurance agreement; and

2004 (B) beginning on or after January 1, 1999, a county legislative body of any county
2005 imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under
2006 Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term leases and rentals
2007 of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made
2008 for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant
2009 to a repair or an insurance agreement;

2010 (ii) a county legislative body of any county may impose a tax of not to exceed 1% of all
2011 sales of the following that are sold by a restaurant:

2012 (A) prepared food; or

2013 (B) food and food ingredients; and

2014 (iii) a county legislative body of a county of the first class may impose a tax of not to
2015 exceed .5% on charges for the accommodations and services described in Subsection
2016 59-12-103(1)(i).

2017 (b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section
2018 17-31-5.5.

2019 (2) (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided
2020 for in Subsections (1)(a)(i) through (iii) may be used for ~~[the purposes of]:~~

2021 (i) financing tourism promotion; and

2022 (ii) the development, operation, and maintenance of ~~[tourist, recreation, cultural, and~~
2023 ~~convention facilities as defined in Section 59-12-602.]:~~

2024 (A) an airport facility;

2025 (B) a convention facility;

2026 (C) a cultural facility;

2027 (D) a recreation facility; or

2028 (E) a tourist facility.

2029 (b) A county of the first class shall expend at least \$450,000 each year of the revenues
2030 from the imposition of a tax authorized by Subsection (1)(a)(iii) within the county to fund a
2031 marketing and ticketing system designed to:

2032 (i) promote tourism in ski areas within the county by persons that do not reside within
2033 the state; and

2034 (ii) combine the sale of:

2035 (A) ski lift tickets; and

2036 (B) accommodations and services described in Subsection 59-12-103(1)(i).

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

2041 facilities.];

2042 (a) an airport facility;

2043 (b) a convention facility;

2044 (c) a cultural facility;

2045 (d) a recreation facility; or

2046 (e) a tourist facility.

2047 (4) (a) In order to impose the tax under Subsection (1), each county legislative body
2048 shall [~~annually~~] adopt an ordinance imposing the tax.

2049 (b) The ordinance under Subsection (4)(a) shall include provisions substantially the
2050 same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on
2051 those items and sales described in Subsection (1).

2052 (c) The name of the county as the taxing agency shall be substituted for that of the state
2053 where necessary, and an additional license is not required if one has been or is issued under
2054 Section 59-12-106.

2055 (5) In order to maintain in effect its tax ordinance adopted under this part, each county
2056 legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1,
2057 Tax Collection, adopt amendments to its tax ordinance to conform with the applicable
2058 amendments to Part 1, Tax Collection.

2059 (6) (a) Regardless of whether a county of the first class creates a tourism tax advisory
2060 board in accordance with Section 17-31-8, the county legislative body of the county of the first
2061 class shall create a tax advisory board in accordance with this Subsection (6).

2062 (b) The tax advisory board shall be composed of nine members appointed as follows:

2063 (i) four members shall be appointed by the county legislative body of the county of the
2064 first class as follows:

2065 (A) one member shall be a resident of the unincorporated area of the county;

2066 (B) two members shall be residents of the incorporated area of the county; and

2067 (C) one member shall be a resident of the unincorporated or incorporated area of the
2068 county; and

2069 (ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or
2070 towns within the county of the first class appointed by an organization representing all mayors
2071 of cities and towns within the county of the first class.

2072 (c) Five members of the tax advisory board constitute a quorum.
2073 (d) The county legislative body of the county of the first class shall determine:
2074 (i) terms of the members of the tax advisory board;
2075 (ii) procedures and requirements for removing a member of the tax advisory board;
2076 (iii) voting requirements, except that action of the tax advisory board shall be by at
2077 least a majority vote of a quorum of the tax advisory board;
2078 (iv) chairs or other officers of the tax advisory board;
2079 (v) how meetings are to be called and the frequency of meetings; and
2080 (vi) the compensation, if any, of members of the tax advisory board.
2081 (e) The tax advisory board under this Subsection (6) shall advise the county legislative
2082 body of the county of the first class on the expenditure of revenues collected within the county
2083 of the first class from the taxes described in Subsection (1)(a).
2084 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part
2085 shall be administered, collected, and enforced in accordance with:
2086 (A) the same procedures used to administer, collect, and enforce the tax under:
2087 (I) Part 1, Tax Collection; or
2088 (II) Part 2, Local Sales and Use Tax Act; and
2089 (B) Chapter 1, General Taxation Policies.
2090 (ii) A tax under this part is not subject to Section 59-12-107.1 or Subsections
2091 59-12-205(2) through (7).
2092 (b) Except as provided in Subsection (7)(c):
2093 (i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the
2094 commission shall distribute the revenues to the county imposing the tax; and
2095 (ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenues
2096 according to the distribution formula provided in Subsection (8).
2097 (c) The commission shall deduct from the distributions under Subsection (7)(b) an
2098 administrative charge for collecting the tax as provided in Section 59-12-206.
2099 (8) The commission shall distribute the revenues generated by the tax under Subsection
2100 (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the
2101 following formula:
2102 (a) the commission shall distribute 70% of the revenues based on the percentages

2103 generated by dividing the revenues collected by each county under Subsection (1)(a)(i)(B) by
2104 the total revenues collected by all counties under Subsection (1)(a)(i)(B); and

2105 (b) the commission shall distribute 30% of the revenues based on the percentages
2106 generated by dividing the population of each county collecting a tax under Subsection
2107 (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

2108 (9) (a) For purposes of this Subsection (9):

2109 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
2110 Annexation to County.

2111 (ii) "Annexing area" means an area that is annexed into a county.

2112 (b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county
2113 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or
2114 change shall take effect:

2115 (A) on the first day of a calendar quarter; and

2116 (B) after a 90-day period beginning on the date the commission receives notice meeting
2117 the requirements of Subsection (9)(b)(ii) from the county.

2118 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:

2119 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

2120 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

2121 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

2122 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
2123 (9)(b)(ii)(A), the rate of the tax.

2124 (c) (i) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection
2125 (9)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
2126 first billing period:

2127 (A) that begins after the effective date of the enactment of the tax or the tax rate
2128 increase; and

2129 (B) if the billing period for the transaction begins before the effective date of the
2130 enactment of the tax or the tax rate increase imposed under Subsection (1).

2131 (ii) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection
2132 (9)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
2133 billing period:

2134 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
2135 and

2136 (B) if the billing period for the transaction begins before the effective date of the repeal
2137 of the tax or the tax rate decrease imposed under Subsection (1).

2138 (iii) Subsections (9)(c)(i) and (ii) apply to transactions subject to a tax under:

2139 (A) Subsection 59-12-103(1)(e);

2140 (B) Subsection 59-12-103(1)(i); or

2141 (C) Subsection 59-12-103(1)(k).

2142 (d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or
2143 after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a
2144 tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

2145 (A) on the first day of a calendar quarter; and

2146 (B) after a 90-day period beginning on the date the commission receives notice meeting
2147 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

2148 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

2149 (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,
2150 repeal, or change in the rate of a tax under this part for the annexing area;

2151 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

2152 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

2153 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
2154 (9)(d)(ii)(A), the rate of the tax.

2155 (e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
2156 (9)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
2157 first billing period:

2158 (A) that begins after the effective date of the enactment of the tax or the tax rate
2159 increase; and

2160 (B) if the billing period for the transaction begins before the effective date of the
2161 enactment of the tax or the tax rate increase imposed under Subsection (1).

2162 (ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
2163 (9)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
2164 billing period:

2165 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
2166 and

2167 (B) if the billing period for the transaction begins before the effective date of the repeal
2168 of the tax or the tax rate decrease imposed under Subsection (1).

2169 (iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:

2170 (A) Subsection 59-12-103(1)(e);

2171 (B) Subsection 59-12-103(1)(i); or

2172 (C) Subsection 59-12-103(1)(k).

2173 Section 11. Section **59-12-1901** is enacted to read:

2174 **Part 19. County of the Second Class Airport, Highway, and Public**

2175 **Transit Sales and Use Tax Act**

2176 **59-12-1901. Title.**

2177 This part is known as the "County of the Second Class Airport, Highway, and Public
2178 Transit Sales and Use Tax Act."

2179 Section 12. Section **59-12-1902** is enacted to read:

2180 **59-12-1902. Definitions.**

2181 As used in this part:

2182 (1) "Airport facility" is as defined in Section 59-12-602.

2183 (2) "Annexation" means an annexation to a county under Title 17, Chapter 2,
2184 Annexation to County.

2185 (3) "Annexing area" means an area that is annexed into a county.

2186 (4) "Fixed guideway" is as defined in Section 59-12-1702.

2187 (5) "Local highway of regional significance" means a local highway that is a:

2188 (a) principal arterial highway as defined in Section 72-4-102.5;

2189 (b) minor arterial highway as defined in Section 72-4-102.5;

2190 (c) major collector highway as defined in Section 72-4-102.5; or

2191 (d) minor collector road as defined in Section 72-4-102.5.

2192 (6) "Public transit" is as defined in Section 59-12-1502.

2193 Section 13. Section **59-12-1903** is enacted to read:

2194 **59-12-1903. Imposition of tax -- Base -- Rate -- Expenditure of revenues collected**
2195 **from the tax -- Administration, collection, and enforcement of tax by commission --**

2196 **Administrative fee -- Enactment or repeal of tax -- Annexation -- 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
2244 body may not impose a tax under Part 17, County Option Sales and Use Tax for Transportation
2245 Act.
2246 (d) For purposes of this Subsection (1), the location of a transaction shall be
2247 determined in accordance with Section 59-12-207.
2248 (2) (a) A county legislative body may not impose a tax under this part on:
2249 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
2250 are exempt from taxation under Section 59-12-104;
2251 (ii) any amounts paid or charged by a seller that collects a tax under Subsection
2252 59-12-107(1)(b); or
2253 (iii) except as provided in Subsection (2)(b), amounts paid or charged for food and
2254 food ingredients.
2255 (b) A county legislative body imposing a tax under this part shall impose the tax on
2256 amounts paid or charged for food and food ingredients if:
2257 (i) the food and food ingredients are sold as part of a bundled transaction attributable to

2258 food and food ingredients and tangible personal property other than food and food ingredients;
2259 and

2260 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
2261 accordance with Subsection 59-12-107(1)(b).

2262 (3) To impose a tax under this part, a county legislative body shall obtain approval
2263 from a majority of the members of the county legislative body.

2264 (4) (a) Except as provided in Subsection (4)(b) or (c) or (6), the commission shall
2265 transmit revenues collected within a county from a tax under this part that are required to be
2266 expended for a purpose described in Subsection (1)(b)(ii)(C):

2267 (i) to the county legislative body;

2268 (ii) monthly; and

2269 (iii) by electronic funds transfer.

2270 (b) Except as provided in Subsection (6), the commission shall transfer the revenues
2271 described in Subsection (4)(a) directly to a public transit district organized under Title 17B,
2272 Chapter 2a, Part 8, Public Transit District Act, if the county legislative body:

2273 (i) provides written notice to the commission requesting the transfer; and

2274 (ii) designates the public transit district to which the county legislative body requests
2275 the commission to transfer the revenues described in Subsection (4)(a).

2276 (c) Except as provided in Subsection (6), the commission shall deposit revenues
2277 collected within a county from a tax under this part that:

2278 (i) are required to be expended for a purpose described in Subsection (1)(b)(ii)(A) into
2279 the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2;

2280 (ii) are required to be expended for a purpose described in Subsection (1)(b)(ii)(B) into
2281 the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or

2282 (iii) a county legislative body determines to expend for a purpose described in
2283 Subsection (1)(b)(i)(A) or (1)(b)(ii)(C)(I) into the County of the Second Class State Highway
2284 Projects Fund created by Section 72-2-121.2 if the county legislative body provides written
2285 notice to the commission requesting the deposit.

2286 (5) (a) Except as provided in Subsection (5)(b), the commission shall administer,
2287 collect, and enforce a tax under this part in accordance with:

2288 (i) the same procedures used to administer, collect, and enforce the tax under:

2289 (A) Part 1, Tax Collection; or
2290 (B) Part 2, Local Sales and Use Tax Act; and
2291 (ii) Chapter 1, General Taxation Policies.
2292 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).
2293 (6) (a) The commission may retain an amount of tax collected under this part of not to
2294 exceed the lesser of:
2295 (i) 1.5%; or
2296 (ii) an amount equal to the cost to the commission of administering this part.
2297 (b) Any amount the commission retains under Subsection (6)(a) shall be:
2298 (i) deposited into the Sales and Use Tax Administrative Fees Account; and
2299 (ii) used as provided in Subsection 59-12-206(2).
2300 (7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009,
2301 a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment,
2302 repeal, or change shall take effect:
2303 (A) on the first day of a calendar quarter; and
2304 (B) after a 90-day period beginning on the date the commission receives notice meeting
2305 the requirements of Subsection (7)(a)(ii) from the county.
2306 (ii) The notice described in Subsection (7)(a)(i)(B) shall state:
2307 (A) that the county will enact, repeal, or change the rate of a tax under this part;
2308 (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);
2309 (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and
2310 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
2311 (7)(a)(ii)(A), the rate of the tax.
2312 (b) (i) For a transaction described in Subsection (7)(b)(iii), if the billing period for the
2313 transaction begins before the effective date of the enactment of the tax or the tax rate increase
2314 under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on the first
2315 day of the first billing period that begins after the effective date of the enactment of the tax or
2316 the tax rate increase.
2317 (ii) For a transaction described in Subsection (7)(b)(iii), if the billing period for the
2318 transaction begins before the effective date of the repeal of the tax or the tax rate decrease
2319 imposed under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the

2320 first day of the last billing period that began before the effective date of the repeal of the tax or
2321 the tax rate decrease.

2322 (iii) Subsections (7)(b)(i) and (ii) apply to transactions subject to a tax under:

2323 (A) Subsection 59-12-103(1)(b);

2324 (B) Subsection 59-12-103(1)(c);

2325 (C) Subsection 59-12-103(1)(d);

2326 (D) Subsection 59-12-103(1)(e);

2327 (E) Subsection 59-12-103(1)(f);

2328 (F) Subsection 59-12-103(1)(g);

2329 (G) Subsection 59-12-103(1)(h);

2330 (H) Subsection 59-12-103(1)(i);

2331 (I) Subsection 59-12-103(1)(j); or

2332 (J) Subsection 59-12-103(1)(k).

2333 (c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
2334 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
2335 described in Subsection (7)(a)(i) takes effect:

2336 (A) on the first day of a calendar quarter; and

2337 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
2338 rate of the tax under Subsection (7)(a)(i).

2339 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
2340 the commission may by rule define the term "catalogue sale."

2341 (d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs
2342 on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the
2343 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
2344 effect:

2345 (A) on the first day of a calendar quarter; and

2346 (B) after a 90-day period beginning on the date the commission receives notice meeting
2347 the requirements of Subsection (7)(d)(ii) from the county that annexes the annexing area.

2348 (ii) The notice described in Subsection (7)(d)(i)(B) shall state:

2349 (A) that the annexation described in Subsection (7)(d)(i)(B) will result in an enactment,
2350 repeal, or change in the rate of a tax under this part for the annexing area;

- 2351 (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);
2352 (C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and
2353 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
2354 (7)(d)(ii)(A), the rate of the tax.
- 2355 (e) (i) For a transaction described in Subsection (7)(e)(iii), if the billing period for the
2356 transaction begins before the effective date of the enactment of the tax or a tax rate increase
2357 under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on the first
2358 day of the first billing period that begins after the effective date of the enactment of the tax or
2359 the tax rate increase.
- 2360 (ii) For a transaction described in Subsection (7)(e)(iii), if the billing period for the
2361 transaction begins before the effective date of the repeal of the tax or the tax rate decrease
2362 imposed under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the
2363 first day of the last billing period that began before the effective date of the repeal of the tax or
2364 the tax rate decrease.
- 2365 (iii) Subsections (7)(e)(i) and (ii) apply to transactions subject to a tax under:
- 2366 (A) Subsection 59-12-103(1)(b);
2367 (B) Subsection 59-12-103(1)(c);
2368 (C) Subsection 59-12-103(1)(d);
2369 (D) Subsection 59-12-103(1)(e);
2370 (E) Subsection 59-12-103(1)(f);
2371 (F) Subsection 59-12-103(1)(g);
2372 (G) Subsection 59-12-103(1)(h);
2373 (H) Subsection 59-12-103(1)(i);
2374 (I) Subsection 59-12-103(1)(j); or
2375 (J) Subsection 59-12-103(1)(k).
- 2376 (f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
2377 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
2378 described in Subsection (7)(d)(i) takes effect:
- 2379 (A) on the first day of a calendar quarter; and
2380 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
2381 rate under Subsection (7)(d)(i).

2382 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
2383 the commission may by rule define the term "catalogue sale."

2384 Section 14. Section **59-12-2001** is enacted to read:

2385 **Part 20. Supplemental State Sales and Use Tax Act**

2386 **59-12-2001. Title.**

2387 This part is known as the "Supplemental State Sales and Use Tax Act."

2388 Section 15. Section **59-12-2002** is enacted to read:

2389 **59-12-2002. Definitions.**

2390 As used in this part, "public transit district" means a public transit district organized
2391 under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

2392 Section 16. Section **59-12-2003** is enacted to read:

2393 **59-12-2003. Imposition -- Base -- Rate -- Revenues deposited into General Fund.**

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
2435 and 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) Revenues collected from the sales and use tax under this part, after subtracting
2443 amounts a seller retains in accordance with Section 59-12-108, shall be deposited into the

2444 General Fund.

2445 Section 17. Section **59-12-2004** is enacted to read:

2446 **59-12-2004. Enactment or repeal of tax -- Effective date -- Administration,**
2447 **collection, and enforcement of tax.**

2448 (1) Subject to Subsections (2) and (3), a tax rate repeal or a tax rate change for a tax
2449 imposed under this part shall take effect on the first day of a calendar quarter.

2450 (2) (a) For a transaction described in Subsection (2)(c), the enactment of a tax or a tax
2451 rate increase shall take effect on the first day of the first billing period that begins after the
2452 effective date of the enactment of the tax or the tax rate increase if the billing period for the
2453 transaction begins before the effective date of the enactment of the tax or the tax rate increase
2454 under this part.

2455 (b) For a transaction described in Subsection (2)(c), the repeal of a tax or a tax rate
2456 decrease shall take effect on the first day of the last billing period that began before the
2457 effective date of the repeal of the tax or the tax rate decrease if the billing period for the
2458 transaction begins before the effective date of the repeal of the tax or the tax rate decrease
2459 imposed under this part.

2460 (c) Subsections (2)(a) and (b) apply to transactions subject to a tax under:

- 2461 (i) Subsection 59-12-103(1)(b);
- 2462 (ii) Subsection 59-12-103(1)(c);
- 2463 (iii) Subsection 59-12-103(1)(d);
- 2464 (iv) Subsection 59-12-103(1)(e);
- 2465 (v) Subsection 59-12-103(1)(f);
- 2466 (vi) Subsection 59-12-103(1)(g);
- 2467 (vii) Subsection 59-12-103(1)(h);
- 2468 (viii) Subsection 59-12-103(1)(i);
- 2469 (ix) Subsection 59-12-103(1)(j); or
- 2470 (x) Subsection 59-12-103(1)(k).

2471 (3) (a) If a tax due under this part on a catalogue sale is computed on the basis of sales
2472 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
2473 under this part takes effect:

- 2474 (i) on the first day of a calendar quarter; and

2475 (ii) beginning 60 days after the effective date of the enactment, repeal, or change in the
2476 rate of the tax under this part.

2477 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2478 commission may by rule define the term "catalogue sale."

2479 (4) The commission shall administer, collect, and enforce a tax under this part in
2480 accordance with:

2481 (a) the same procedures used to administer, collect, and enforce the tax under Part 1,
2482 Tax Collection; and

2483 (b) Chapter 1, General Taxation Policies.

2484 Section 18. Section **72-2-117.5** is amended to read:

2485 **72-2-117.5. Local Transportation Corridor Preservation Fund -- Distribution.**

2486 (1) As used in this section:

2487 (a) "Council of governments" means a decision-making body in each county composed
2488 of the county governing body and the mayors of each municipality in the county.

2489 (b) "Metropolitan planning organization" has the same meaning as defined in Section
2490 72-1-208.5.

2491 (2) There is created the Local Transportation Corridor Preservation Fund within the
2492 Transportation Fund.

2493 (3) The fund shall be funded from the following sources:

2494 (a) a local option highway construction and transportation corridor preservation fee
2495 imposed under Section 41-1a-1222;

2496 (b) appropriations made to the fund by the Legislature;

2497 (c) contributions from other public and private sources for deposit into the fund;

2498 (d) interest earnings on cash balances;

2499 (e) all monies collected from rents and sales of real property acquired with fund
2500 monies;

2501 (f) proceeds from general obligation bonds, revenue bonds, or other obligations issued
2502 as authorized by Title 63B, Bonds; ~~and~~

2503 (g) the portion of the sales and use tax described in Subsection 59-12-1703(4)(a)(ii)
2504 and required by Subsection 59-12-1703(7)(b)(i) to be deposited into the fund~~[-]; and~~

2505 (h) sales and use tax revenues required by Section 59-12-1903 to be deposited into the

2506 fund.

2507 (4) (a) All monies appropriated to the Local Transportation Corridor Preservation Fund
2508 are nonlapsing.

2509 (b) The State Tax Commission shall provide the department with sufficient data for the
2510 department to allocate the revenues:

2511 (i) provided under Subsection (3)(a) to each county imposing a local option highway
2512 construction and transportation corridor preservation fee under Section 41-1a-1222; [~~and~~]

2513 (ii) provided under Subsection 59-12-1703(4)(a)(ii) to each county imposing a county
2514 option sales and use tax for transportation[~~;~~]; and

2515 (iii) provided under Subsection (3)(h) to each county of the second class imposing the
2516 sales and use tax authorized by Section 59-12-1903.

2517 (c) The monies allocated under Subsection (4)(b):

2518 (i) shall be used for the purposes provided in this section for each county; and

2519 (ii) are allocated to each county as provided in this section:

2520 (A) with the condition that the state will not be charged for any asset purchased with
2521 the monies allocated under Subsection (4)(b); and

2522 (B) are considered a local matching contribution for the purposes described under
2523 Section 72-2-123 if used on a state highway.

2524 (d) Administrative costs of the department to implement this section shall be paid from
2525 the fund.

2526 (5) (a) The department shall authorize the expenditure of fund monies to allow a
2527 highway authority to acquire real property or any interests in real property for state, county, and
2528 municipal highway corridors subject to:

2529 (i) monies available in the fund to each county under Subsection (4)(b); and

2530 (ii) the provisions of this section.

2531 (b) Fund monies may be used to pay interest on debts incurred in accordance with this
2532 section.

2533 (c) (i) (A) Fund monies may be used to pay maintenance costs of properties acquired
2534 under this section but limited to a total of 5% of the purchase price of the property.

2535 (B) Any additional maintenance cost shall be paid from funds other than under this
2536 section.

2537 (C) Revenue generated by any property acquired under this section is excluded from
2538 the limitations under this Subsection (5)(c)(i).

2539 (ii) Fund monies may be used to pay direct costs of acquisition of properties acquired
2540 under this section.

2541 (d) Fund monies allocated under Subsection (4)(b) may be used by a county highway
2542 authority for countywide transportation planning if:

2543 (i) the county is not included in a metropolitan planning organization;

2544 (ii) the transportation planning is part of the county's continuing, cooperative, and
2545 comprehensive process for transportation planning, corridor preservation, right-of-way
2546 acquisition, and project programming;

2547 (iii) no more than four years allocation every 20 years to each county is used for
2548 transportation planning under this Subsection (5)(d); and

2549 (iv) the county otherwise qualifies to use the fund monies as provided under this
2550 section.

2551 (e) (i) Fund monies allocated under Subsection (4)(b) may be used by a county
2552 highway authority for transportation corridor planning that is part of the corridor elements of an
2553 ongoing work program of transportation projects.

2554 (ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the
2555 direction of:

2556 (A) the metropolitan planning organization if the county is within the boundaries of a
2557 metropolitan planning organization; or

2558 (B) the department if the county is not within the boundaries of a metropolitan
2559 planning organization.

2560 (6) (a) (i) The Local Transportation Corridor Preservation Fund shall be used to
2561 preserve highway corridors, promote long-term statewide transportation planning, save on
2562 acquisition costs, and promote the best interests of the state in a manner which minimizes
2563 impact on prime agricultural land.

2564 (ii) The Local Transportation Corridor Preservation Fund shall only be used to preserve
2565 a highway corridor that is right-of-way:

2566 (A) in a county of the first or second class for a:

2567 (I) state highway;

- 2568 (II) a principal arterial highway as defined in Section 72-4-102.5;
- 2569 (III) a minor arterial highway as defined in Section 72-4-102.5; or
- 2570 (IV) a collector highway in an urban area as defined in Section 72-4-102.5; or
- 2571 (B) in a county of the third, fourth, fifth, or sixth class for a:
- 2572 (I) state highway;
- 2573 (II) a principal arterial highway as defined in Section 72-4-102.5;
- 2574 (III) a minor arterial highway as defined in Section 72-4-102.5;
- 2575 (IV) a major collector highway as defined in Section 72-4-102.5; or
- 2576 (V) a minor collector road as defined in Section 72-4-102.5.
- 2577 (iii) The Local Transportation Corridor Preservation Fund may not be used for a
- 2578 highway corridor that is primarily a recreational trail as defined under Section 63-11a-101.
- 2579 (b) (i) The department shall develop and implement a program to educate highway
- 2580 authorities on the objectives, application process, use, and responsibilities of the Local
- 2581 Transportation Corridor Preservation Fund as provided under this section to promote the most
- 2582 efficient and effective use of fund monies including priority use on designated high priority
- 2583 corridor preservation projects.
- 2584 (ii) The department shall develop a model transportation corridor property acquisition
- 2585 policy or ordinance that meets federal requirements for the benefit of a highway authority to
- 2586 acquire real property or any interests in real property under this section.
- 2587 (c) The department shall authorize the expenditure of fund monies after determining
- 2588 that the expenditure is being made in accordance with this section from applications that are:
- 2589 (i) made by a highway authority;
- 2590 (ii) endorsed by the council of governments; and
- 2591 (iii) for a right-of-way purchase for a highway authorized under Subsection (6)(a)(ii).
- 2592 (7) (a) (i) A council of governments shall establish a council of governments
- 2593 endorsement process which includes prioritization and application procedures for use of the
- 2594 monies allocated to each county under this section.
- 2595 (ii) The endorsement process under Subsection (7)(a)(i) may include review or
- 2596 endorsement of the preservation project by the:
- 2597 (A) metropolitan planning organization if the county is within the boundaries of a
- 2598 metropolitan planning organization; or

2599 (B) the department if the county is not within the boundaries of a metropolitan
2600 planning organization.

2601 (b) All fund monies shall be prioritized by each highway authority and council of
2602 governments based on considerations, including:

2603 (i) areas with rapidly expanding population;

2604 (ii) the willingness of local governments to complete studies and impact statements
2605 that meet department standards;

2606 (iii) the preservation of corridors by the use of local planning and zoning processes;

2607 (iv) the availability of other public and private matching funds for a project;

2608 (v) the cost-effectiveness of the preservation projects;

2609 (vi) long and short-term maintenance costs for property acquired; and

2610 (vii) whether the transportation corridor is included as part of:

2611 (A) the county and municipal master plan; and

2612 (B) (I) the statewide long range plan; or

2613 (II) the regional transportation plan of the area metropolitan planning organization if
2614 one exists for the area.

2615 (c) The council of governments shall:

2616 (i) establish a priority list of highway corridor preservation projects within the county;

2617 (ii) submit the list described in Subsection (7)(c)(i) to the county's legislative body for
2618 approval; and

2619 (iii) obtain approval of the list described in Subsection (7)(c)(i) from a majority of the
2620 members of the county legislative body.

2621 (d) A county's council of governments may only submit one priority list described in
2622 Subsection (7)(c)(i) per calendar year.

2623 (e) A county legislative body may only consider and approve one priority list described
2624 in Subsection (7)(c)(i) per calendar year.

2625 (8) (a) Unless otherwise provided by written agreement with another highway
2626 authority, the highway authority that holds the deed to the property is responsible for
2627 maintenance of the property.

2628 (b) The transfer of ownership for property acquired under this section from one
2629 highway authority to another shall include a recorded deed for the property and a written

2630 agreement between the highway authorities.

2631 (9) (a) The proceeds from any bonds or other obligations secured by revenues of the
2632 Local Transportation Corridor Preservation Fund shall be used for the purposes authorized for
2633 funds under this section.

2634 (b) The highway authority shall pledge the necessary part of the revenues of the Local
2635 Transportation Corridor Preservation Fund to the payment of principal and interest on the
2636 bonds or other obligations.

2637 (10) (a) A highway authority may not apply for monies under this section to purchase a
2638 right-of-way for a state highway unless the highway authority has:

2639 (i) a transportation corridor property acquisition policy or ordinance in effect that
2640 meets federal requirements for the acquisition of real property or any interests in real property
2641 under this section; and

2642 (ii) an access management policy or ordinance in effect that meets the requirements
2643 under Subsection 72-2-117(9).

2644 (b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a
2645 written agreement with the department for the acquisition of real property or any interests in
2646 real property under this section.

2647 Section 19. Section **72-2-121** is amended to read:

2648 **72-2-121. County of the First Class State Highway Projects Fund.**

2649 (1) There is created a special revenue fund entitled the County of the First Class State
2650 Highway Projects Fund.

2651 (2) The fund consists of monies generated from the following revenue sources:

2652 (a) any voluntary contributions received for new construction, major renovations, and
2653 improvements to state highways within a county of the first class;

2654 (b) the portion of the sales and use tax described in Subsection 59-12-502(5)(a)(ii)
2655 deposited in or transferred to the fund;

2656 (c) the portion of the sales and use tax described in Subsection 59-12-1703(4)(a)(ii)
2657 and required by Subsection 59-12-1703(7)(b)(ii) to be deposited in or transferred to the fund;
2658 and

2659 (d) a portion of the local option highway construction and transportation corridor
2660 preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited in or

2661 transferred to the fund.

2662 (3) (a) The fund shall earn interest.

2663 (b) All interest earned on fund monies shall be deposited into the fund.

2664 (4) The executive director may use fund monies only:

2665 (a) to pay debt service and bond issuance costs for bonds issued under Section
2666 63B-16-102; and

2667 (b) for right-of-way acquisition, new construction, major renovations, and
2668 improvements to state highways within a county of the first class and to pay any debt service
2669 and bond issuance costs related to those projects.

2670 (5) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the
2671 fund and bond proceeds from bonds issued under Section 63B-16-102 are considered a local
2672 matching contribution for the purposes described under Section 72-2-123.

2673 (6) The additional administrative costs of the department to administer this fund shall
2674 be paid from the monies in the fund.

2675 Section 20. Section **72-2-121.2** is enacted to read:

2676 **72-2-121.2. County of the Second Class State Highway Projects Fund.**

2677 (1) As used in this section, "fund" means the County of the Second Class State
2678 Highway Projects Fund created by this section.

2679 (2) There is created within the Transportation Fund a special revenue fund known as
2680 the County of the Second Class State Highway Projects Fund.

2681 (3) The fund shall be funded by monies collected from:

2682 (a) any voluntary contributions the department receives for new construction, major
2683 renovations, and improvements to state highways within a county of the second class; and

2684 (b) the sales and use tax described in:

2685 (i) Subsection 59-12-1903(1)(b)(i);

2686 (ii) Subsection 59-12-1903(1)(b)(ii)(A); or

2687 (iii) Subsection 59-12-1903(1)(b)(ii)(C)(I) as determined by the county legislative body
2688 of the county of the second class.

2689 (4) The department shall make a separate accounting for:

2690 (a) the revenues described in Subsection (3); and

2691 (b) each county of the second class for which revenues are deposited into the fund.

2692 (5) (a) The fund shall earn interest.
2693 (b) Interest earned on fund monies shall be deposited into the fund.
2694 (6) The executive director may use fund monies only:
2695 (a) for right-of-way acquisition, new construction, major renovations, and
2696 improvements to state highways within a county of the second class in an amount that does not
2697 exceed the amounts deposited for or allocated to that county of the second class in accordance
2698 with this section;
2699 (b) to pay any debt service and bond issuance costs related to a purpose described in
2700 Subsection (6)(a) in an amount that does not exceed the amounts deposited for or allocated to
2701 that county of the second class described in Subsection (6)(a) in accordance with this section;
2702 and
2703 (c) to pay the costs of the department to administer the fund in an amount not to exceed
2704 interest earned by the fund monies.
2705 (7) If interest remains in the fund after the executive director pays the costs of the
2706 department to administer the fund, the interest shall be:
2707 (a) allocated to each county of the second class for which revenues are deposited into
2708 the fund in proportion to the deposits made into the fund for that county of the second class;
2709 and
2710 (b) expended for the purposes described in Subsection (6).
2711 (8) Revenues described in Subsection (3)(b) that are deposited into the fund are
2712 considered to be a local matching contribution for the purposes described in Section 72-2-123.
2713 Section 21. Section **72-10-102** is amended to read:
2714 **72-10-102. Definitions.**
2715 As used in this chapter:
2716 (1) "Acrobatics" means the intentional maneuvers of an aircraft not necessary to air
2717 navigation.
2718 (2) "Aeronautics" means transportation by aircraft, air instruction, the operation, repair,
2719 or maintenance of aircraft, and the design, operation, repair, or maintenance of airports, or
2720 other air navigation facilities.
2721 (3) "Aeronautics instructor" means any individual engaged in giving or offering to give
2722 instruction in aeronautics, flying, or ground subjects, either with or without:

- 2723 (a) compensation or other reward;
- 2724 (b) advertising the occupation;
- 2725 (c) calling his facilities an air school, or any equivalent term; or
- 2726 (d) employing or using other instructors.
- 2727 (4) "Aircraft" means any contrivance now known or in the future invented, used, or
- 2728 designed for navigation of or flight in the air.
- 2729 (5) "Air instruction" means the imparting of aeronautical information by any aviation
- 2730 instructor or in any air school or flying club.
- 2731 (6) "Airport" means any area of land, water, or both, that:
- 2732 (a) is used or is made available for landing and takeoff;
- 2733 (b) provides facilities for the shelter, supply, and repair of aircraft, and handling of
- 2734 passengers and cargo; ~~and~~
- 2735 (c) meets the minimum requirements established by the division as to size and design,
- 2736 surface, marking, equipment, and operation; and
- 2737 (d) includes all areas shown as part of the airport in the current airport layout plan as
- 2738 approved by the Federal Aviation Administration.
- 2739 (7) "Airport authority" means a political subdivision of the state, other than a county or
- 2740 municipality, that is authorized by statute to operate an airport.
- 2741 (8) "Airport operator" means a municipality, county, or airport authority that owns or
- 2742 operates a commercial airport.
- 2743 (9) (a) "Airport revenue" means:
- 2744 (i) all fees, charges, rents, or other payments received by or accruing to an airport
- 2745 operator for any of the following reasons:
- 2746 (A) revenue from air carriers, tenants, lessees, purchasers of airport properties, airport
- 2747 permittees making use of airport property and services, and other parties;
- 2748 (B) revenue received from the activities of others or the transfer of rights to others
- 2749 relating to the airport, including revenue received:
- 2750 (I) for the right to conduct an activity on the airport or to use or occupy airport
- 2751 property;
- 2752 (II) for the sale, transfer, or disposition of airport real or personal property, or any
- 2753 interest in that property, including transfer through a condemnation proceeding;

2754 (III) for the sale of, or the sale or lease of rights in, mineral, natural, or agricultural
2755 products or water owned by the airport operator to be taken from the airport; and
2756 (IV) for the right to conduct an activity on, or for the use or disposition of, real or
2757 personal property or any interest in real or personal property owned or controlled by the airport
2758 operator and used for an airport-related purpose but not located on the airport; or
2759 (C) revenue received from activities conducted by the airport operator whether on or
2760 off the airport, which is directly connected to the airport operator's ownership or operation of
2761 the airport; and
2762 (ii) state and local taxes on aviation fuel.
2763 (b) "Airport revenue" does not include amounts received by an airport operator as
2764 passenger facility fees pursuant to 49 U.S.C. Sec. 40117.
2765 ~~[(8)]~~ (10) "Air school" means any person engaged in giving, offering to give, or
2766 advertising, representing, or holding himself out as giving, with or without compensation or
2767 other reward, instruction in aeronautics, flying, or ground subjects, or in more than one of these
2768 subjects.
2769 ~~[(9)]~~ (11) "Airworthiness" means conformity with requirements prescribed by the
2770 Federal Aviation Administration regarding the structure or functioning of aircraft, engine,
2771 parts, or accessories.
2772 ~~[(10)]~~ (12) "Antique aircraft" means a civil aircraft that is:
2773 (a) 30 years old or older, calculated as to include the current year;
2774 (b) primarily a collector's item and used solely for recreational or display purposes;
2775 (c) not used for daily or regular transportation; and
2776 (d) not used for commercial operations.
2777 ~~[(11)]~~ (13) "Civil aircraft" means any aircraft other than a public aircraft.
2778 ~~[(12)]~~ (14) "Commercial aircraft" means aircraft used for commercial purposes.
2779 ~~[(13)]~~ (15) "Commercial airport" means a landing area, landing strip, or airport that
2780 may be used for commercial operations.
2781 ~~[(14)]~~ (16) "Commercial flight operator" means a person who conducts commercial
2782 operations.
2783 ~~[(15)]~~ (17) "Commercial operations" means:
2784 (a) any operations of an aircraft for compensation or hire or any services performed

2785 incidental to the operation of any aircraft for which a fee is charged or compensation is
2786 received, including the servicing, maintaining, and repairing of aircraft, the rental or charter of
2787 aircraft, the operation of flight or ground schools, the operation of aircraft for the application or
2788 distribution of chemicals or other substances, and the operation of aircraft for hunting and
2789 fishing; or

2790 (b) the brokering or selling of any of these services; but

2791 (c) does not include any operations of aircraft as common carriers certificated by the
2792 federal government or the services incidental to those operations.

2793 [~~(16)~~] (18) "Dealer" means any person who is actively engaged in the business of flying
2794 for demonstration purposes, or selling or exchanging aircraft, and who has an established place
2795 of business.

2796 [~~(17)~~] (19) "Division" means the Operations Division in the Department of
2797 Transportation, created in Section 72-1-204.

2798 [~~(18)~~] (20) "Experimental aircraft" means:

2799 (a) any aircraft designated by the Federal Aviation Administration or the military as
2800 experimental and used solely for the purpose of experiments, or tests regarding the structure or
2801 functioning of aircraft, engines, or their accessories; and

2802 (b) any aircraft designated by the Federal Aviation Administration as:

2803 (i) being custom or amateur built; and

2804 (ii) used for recreational, educational, or display purposes.

2805 [~~(19)~~] (21) "Flight" means any kind of locomotion by aircraft while in the air.

2806 [~~(20)~~] (22) "Flying club" means five or more persons who for neither profit nor reward
2807 own, lease, or use one or more aircraft for the purpose of instruction, pleasure, or both.

2808 [~~(21)~~] (23) "Glider" means an aircraft heavier than air, similar to an airplane, but
2809 without a power plant.

2810 [~~(22)~~] (24) "Mechanic" means a person who constructs, repairs, adjusts, inspects, or
2811 overhauls aircraft, engines, or accessories.

2812 [~~(23)~~] (25) "Parachute jumper" means any person who has passed the required test for
2813 jumping with a parachute from an aircraft, and has passed an examination showing that he
2814 possesses the required physical and mental qualifications for the jumping.

2815 [~~(24)~~] (26) "Parachute rigger" means any person who has passed the required test for

2816 packing, repairing, and maintaining parachutes.

2817 ~~[(25)]~~ (27) "Passenger aircraft" means aircraft used for transporting persons, in
2818 addition to the pilot or crew, with or without their necessary personal belongings.

2819 ~~[(26)]~~ (28) "Person" means any individual, corporation, limited liability company, or
2820 association of individuals.

2821 ~~[(27)]~~ (29) "Pilot" means any person who operates the controls of an aircraft while
2822 in-flight.

2823 ~~[(28)]~~ (30) "Primary glider" means any glider that has a gliding angle of less than ten to
2824 one.

2825 ~~[(29)]~~ (31) "Public aircraft" means an aircraft used exclusively in the service of any
2826 government or of any political subdivision, including the government of the United States, of
2827 the District of Columbia, and of any state, territory, or insular possession of the United States,
2828 but not including any government-owned aircraft engaged in carrying persons or goods for
2829 commercial purposes.

2830 ~~[(30)]~~ (32) "Reckless flying" means the operation or piloting of any aircraft recklessly,
2831 or in a manner as to endanger the property, life, or body of any person, due regard being given
2832 to the prevailing weather conditions, field conditions, and to the territory being flown over.

2833 ~~[(31)]~~ (33) "Registration number" means the number assigned by the Federal Aviation
2834 Administration to any aircraft, whether or not the number includes a letter or letters.

2835 ~~[(32)]~~ (34) "Secondary glider" means any glider that has a gliding angle between ten to
2836 one and 16 to one, inclusive.

2837 ~~[(33)]~~ (35) "Soaring glider" means any glider that has a gliding angle of more than 16
2838 to one.

2839 Section 22. Section **72-10-215** is enacted to read:

2840 **72-10-215. Restrictions on use of airport revenue to finance a fixed guideway.**

2841 An airport operator may not use airport revenue to contribute to the cost of
2842 constructing, equipping, maintaining, or operating any portion of a fixed guideway as defined
2843 in Section 59-12-1702.

2844 Section 23. **Repealer.**

2845 This bill repeals:

2846 Section **59-12-601, Purpose statement.**

2847 Section 24. **Effective dates.**

2848 (1) Except as provided in Subsection (2), this bill takes effect on May 5, 2008.

2849 (2) The amendments to the following sections take effect on July 1, 2008:

2850 (a) Section 41-1a-1222;

2851 (b) Section 72-2-117.5; and

2852 (c) Section 72-2-121.

2853 Section 25. **Coordinating S.B. 245 with H.B. 206 -- Substantive and technical**
2854 **amendments.**

2855 If this S.B. 245 and H.B. 206, Tax Amendments, both pass, it is the intent of the
2856 Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah
2857 Code database for publication:

2858 (1) modify Section 59-12-1903 to read:

2859 "59-12-1903. Imposition of tax -- Base -- Rate -- Expenditure of revenues collected
2860 from the tax -- Administration, collection, and enforcement of tax by commission --

2861 Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.

2862 (1) (a) Subject to the other provisions of this section and except as provided in
2863 Subsection (2), beginning on January 1, 2009, a county legislative body of a county of the
2864 second class may impose a sales and use tax on the transactions:

2865 (i) described in Subsection 59-12-103(1); and

2866 (ii) within the county, including the cities and towns within the county.

2867 (b) For purposes of Subsection (1)(a), a county legislative body may impose a tax at a
2868 rate of:

2869 (i) .10%, to be:

2870 (A) as determined by the county legislative body, deposited as provided in Subsection
2871 (4)(c)(i) into the County of the Second Class State Highway Projects Fund created by Section
2872 72-2-121.2 and expended as provided in Section 72-2-121.2;

2873 (B) as determined by the county legislative body, expended for a project or service
2874 relating to an airport facility:

2875 (I) if that airport facility is part of the regional transportation plan of the area
2876 metropolitan planning organization if a metropolitan planning organization exists for the area;
2877 and

2878 (II) for the portion of the project or service that is performed within the county; or
2879 (C) as determined by the county legislative body, deposited or expended for a
2880 combination of Subsections (1)(b)(i)(A) and (B); or
2881 (ii) .25%, to be expended as follows:
2882 (A) .10% to be deposited as provided in Subsection (4)(c)(i) into the County of the
2883 Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as
2884 provided in Section 72-2-121.2;
2885 (B) .05%, to be deposited as provided in Subsection (4)(c)(ii) into the Local
2886 Transportation Corridor Preservation Fund created by Section 72-2-117.5 and expended and
2887 distributed in accordance with Section 72-2-117.5; and
2888 (C) as determined by the county legislative body, .10% to be:
2889 (I) deposited as provided in Subsection (4)(c)(i) into the County of the Second Class
2890 State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in
2891 Section 72-2-121.2;
2892 (II) expended for:
2893 (Aa) a state highway designated under Title 72, Chapter 4, Part 1, Designation of State
2894 Highways Act;
2895 (Bb) a local highway of regional significance; or
2896 (Cc) a combination of Subsections (1)(b)(ii)(C)(II)(Aa) and (Bb);
2897 (III) expended for a project or service relating to a system for public transit for the
2898 portion of the project or service that is performed within the county;
2899 (IV) expended for a project or service relating to a fixed guideway for the portion of
2900 the project or service that is performed within the county;
2901 (V) expended for a project or service relating to an airport facility:
2902 (Aa) if that airport facility is part of the regional transportation plan of the area
2903 metropolitan planning organization if a metropolitan planning organization exists for the area;
2904 and
2905 (Bb) for the portion of the project or service that is performed within the county; or
2906 (VI) deposited or expended for a combination of Subsections (1)(b)(ii)(C)(I) through
2907 (V).
2908 (c) If a county legislative body imposes a tax under this part, the county legislative

2909 body may not impose a tax under Part 17, County Option Sales and Use Tax for Transportation
2910 Act.

2911 (d) For purposes of this Subsection (1), the location of a transaction shall be
2912 determined in accordance with Sections 59-12-211 through 59-12-215.

2913 (2) (a) A county legislative body may not impose a tax under this part on:

2914 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
2915 are exempt from taxation under Section 59-12-104; or

2916 (ii) except as provided in Subsection (2)(b), amounts paid or charged for food and food
2917 ingredients.

2918 (b) A county legislative body imposing a tax under this part shall impose the tax on
2919 amounts paid or charged for food and food ingredients if the food and food ingredients are sold
2920 as part of a bundled transaction attributable to food and food ingredients and tangible personal
2921 property other than food and food ingredients.

2922 (3) To impose a tax under this part, a county legislative body shall obtain approval
2923 from a majority of the members of the county legislative body.

2924 (4) (a) Except as provided in Subsection (4)(b) or (c) or (6), the commission shall
2925 transmit revenues collected within a county from a tax under this part that are required to be
2926 expended for a purpose described in Subsection (1)(b)(ii)(C):

2927 (i) to the county legislative body;

2928 (ii) monthly; and

2929 (iii) by electronic funds transfer.

2930 (b) Except as provided in Subsection (6), the commission shall transfer the revenues
2931 described in Subsection (4)(a) directly to a public transit district organized under Title 17B,
2932 Chapter 2a, Part 8, Public Transit District Act, if the county legislative body:

2933 (i) provides written notice to the commission requesting the transfer; and

2934 (ii) designates the public transit district to which the county legislative body requests
2935 the commission to transfer the revenues described in Subsection (4)(a).

2936 (c) Except as provided in Subsection (6), the commission shall deposit revenues
2937 collected within a county from a tax under this part that:

2938 (i) are required to be expended for a purpose described in Subsection (1)(b)(ii)(A) into
2939 the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2;

2940 (ii) are required to be expended for a purpose described in Subsection (1)(b)(ii)(B) into
2941 the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or

2942 (iii) a county legislative body determines to expend for a purpose described in
2943 Subsection (1)(b)(i)(A) or (1)(b)(ii)(C)(I) into the County of the Second Class State Highway
2944 Projects Fund created by Section 72-2-121.2 if the county legislative body provides written
2945 notice to the commission requesting the deposit.

2946 (5) (a) Except as provided in Subsection (5)(b), the commission shall administer,
2947 collect, and enforce a tax under this part in accordance with:

2948 (i) the same procedures used to administer, collect, and enforce the tax under:

2949 (A) Part 1, Tax Collection; or

2950 (B) Part 2, Local Sales and Use Tax Act; and

2951 (ii) Chapter 1, General Taxation Policies.

2952 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).

2953 (6) (a) The commission may retain an amount of tax collected under this part of not to
2954 exceed the lesser of:

2955 (i) 1.5%; or

2956 (ii) an amount equal to the cost to the commission of administering this part.

2957 (b) Any amount the commission retains under Subsection (6)(a) shall be:

2958 (i) deposited into the Sales and Use Tax Administrative Fees Account; and

2959 (ii) used as provided in Subsection 59-12-206(2).

2960 (7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009,
2961 a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment,
2962 repeal, or change shall take effect:

2963 (A) on the first day of a calendar quarter; and

2964 (B) after a 90-day period beginning on the date the commission receives notice meeting
2965 the requirements of Subsection (7)(a)(ii) from the county.

2966 (ii) The notice described in Subsection (7)(a)(i)(B) shall state:

2967 (A) that the county will enact, repeal, or change the rate of a tax under this part;

2968 (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);

2969 (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and

2970 (D) if the county enacts the tax or changes the rate of the tax described in Subsection

2971 (7)(a)(ii)(A), the rate of the tax.

2972 (b) (i) If the billing period for a transaction begins before the effective date of the
2973 enactment of the tax or the tax rate increase under Subsection (1), the enactment of a tax or a
2974 tax rate increase shall take effect on the first day of the first billing period that begins after the
2975 effective date of the enactment of the tax or the tax rate increase.

2976 (ii) If the billing period for a transaction begins before the effective date of the repeal
2977 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate
2978 decrease shall take effect on the first day of the last billing period that began before the
2979 effective date of the repeal of the tax or the tax rate decrease.

2980 (c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
2981 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
2982 described in Subsection (7)(a)(i) takes effect:

2983 (A) on the first day of a calendar quarter; and

2984 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
2985 rate of the tax under Subsection (7)(a)(i).

2986 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
2987 the commission may by rule define the term "catalogue sale."

2988 (d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs
2989 on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the
2990 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
2991 effect:

2992 (A) on the first day of a calendar quarter; and

2993 (B) after a 90-day period beginning on the date the commission receives notice meeting
2994 the requirements of Subsection (7)(d)(ii) from the county that annexes the annexing area.

2995 (ii) The notice described in Subsection (7)(d)(i)(B) shall state:

2996 (A) that the annexation described in Subsection (7)(d)(i)(B) will result in an enactment,
2997 repeal, or change in the rate of a tax under this part for the annexing area;

2998 (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

2999 (C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

3000 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
3001 (7)(d)(ii)(A), the rate of the tax.

3002 (e) (i) If the billing period for a transaction begins before the effective date of the
3003 enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax
3004 rate increase shall take effect on the first day of the first billing period that begins after the
3005 effective date of the enactment of the tax or the tax rate increase.

3006 (ii) If the billing period for a transaction begins before the effective date of the repeal
3007 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate
3008 decrease shall take effect on the first day of the last billing period that began before the
3009 effective date of the repeal of the tax or the tax rate decrease.

3010 (f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
3011 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
3012 described in Subsection (7)(d)(i) takes effect:

3013 (A) on the first day of a calendar quarter; and

3014 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
3015 rate under Subsection (7)(d)(i).

3016 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
3017 the commission may by rule define the term "catalogue sale."";

3018 (2) insert as newly enacted provisions into the Utah Code database, the following
3019 sections:

3020 "59-12-1904. Seller or certified service provider reliance on commission information
3021 or certain systems.

3022 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
3023 imposed under this part if:

3024 (1) the tax rate at which the seller or certified service provider collects the tax is
3025 derived from a database created by the commission containing tax rates; and

3026 (2) the seller's or certified service provider's failure to collect the tax is as a result of the
3027 seller's or certified service provider's reliance on incorrect data provided by the commission in
3028 the database created by the commission containing tax rates."

3029 "59-12-1905. Certified service provider or model 2 seller reliance on commission
3030 certified software.

3031 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified
3032 service provider or model 2 seller is not liable for failing to collect a tax required under this

3033 part if:

3034 (a) the certified service provider or model 2 seller relies on software the commission
3035 certifies; and

3036 (b) the certified service provider's or model 2 seller's failure to collect a tax required
3037 under this part is as a result of the seller's or certified service provider's reliance on incorrect
3038 data:

3039 (i) provided by the commission; or

3040 (ii) in the software the commission certifies.

3041 (2) The relief from liability described in Subsection (1) does not apply if a certified
3042 service provider or model 2 seller incorrectly classifies an item or transaction into a product
3043 category the commission certifies.

3044 (3) If the taxability of a product category is incorrectly classified in software the
3045 commission certifies, the commission shall:

3046 (a) notify a certified service provider or model 2 seller of the incorrect classification of
3047 the taxability of a product category in software the commission certifies; and

3048 (b) state in the notice required by Subsection (3)(a) that the certified service provider or
3049 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
3050 incorrectly classified product category if the certified service provider or model 2 seller fails to
3051 correct the taxability of the item or transaction within ten days after the day on which the
3052 certified service provider or model 2 seller receives the notice.

3053 (4) If a certified service provider or model 2 seller fails to correct the taxability of an
3054 item or transaction within ten days after the day on which the certified service provider or
3055 model 2 seller receives the notice described in Subsection (3), the certified service provider or
3056 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
3057 item or transaction."

3058 "59-12-1906. Purchaser relief from liability.

3059 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
3060 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

3061 (i) the purchaser's seller or certified service provider relies on incorrect data provided
3062 by the commission:

3063 (A) on a tax rate;

3064 (B) on a boundary;
3065 (C) on a taxing jurisdiction; or
3066 (D) in the taxability matrix the commission provides in accordance with the agreement;
3067 or
3068 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
3069 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:
3070 (A) on a tax rate;
3071 (B) on a boundary;
3072 (C) on a taxing jurisdiction; or
3073 (D) in the taxability matrix the commission provides in accordance with the agreement.
3074 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
3075 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
3076 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
3077 incorrect data provided by the commission is as a result of conduct that is:
3078 (i) fraudulent;
3079 (ii) intentional; or
3080 (iii) willful.
3081 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
3082 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
3083 or an underpayment if:
3084 (a) the purchaser's seller or certified service provider relies on:
3085 (i) incorrect data provided by the commission:
3086 (A) on a tax rate;
3087 (B) on a boundary; or
3088 (C) on a taxing jurisdiction; or
3089 (ii) an erroneous classification by the commission:
3090 (A) in the taxability matrix the commission provides in accordance with the agreement;
3091 and
3092 (B) with respect to a term:
3093 (I) in the library of definitions; and
3094 (II) that is:

- 3095 (Aa) listed as taxable or exempt;
3096 (Bb) included or excluded from "sales price"; or
3097 (Cc) included in or excluded from a definition; or
3098 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
3099 accordance with Section 59-12-107.1, relies on:
3100 (i) incorrect data provided by the commission:
3101 (A) on a tax rate;
3102 (B) on a boundary; or
3103 (C) on a taxing jurisdiction; or
3104 (ii) an erroneous classification by the commission:
3105 (A) in the taxability matrix the commission provides in accordance with the agreement;
3106 and
3107 (B) with respect to a term:
3108 (I) in the library of definitions; and
3109 (II) that is:
3110 (Aa) listed as taxable or exempt;
3111 (Bb) included or excluded from "sales price"; or
3112 (Cc) included in or excluded from a definition.";
3113 (3) modify Section 59-12-2003 to read:
3114 "59-12-2003. Imposition -- Base -- Rate -- Revenues deposited into General Fund.
3115 (1) Subject to the other provisions of this section and except as provided in Subsection
3116 (2) or (4), beginning on July 1, 2008, the state shall impose a tax under this part within a city,
3117 town, or the unincorporated area of a county of the first or second class if, on January 1, 2008,
3118 there is a public transit district within any portion of that county of the first or second class.
3119 (2) The state may not impose a tax under this part within a county of the first or second
3120 class if within all of the cities, towns, and the unincorporated area of the county of the first or
3121 second class there is imposed a sales and use tax of:
3122 (a) .30% under Section 59-12-501;
3123 (b) .30% under Section 59-12-1001; or
3124 (c) .30% under Section 59-12-1503.
3125 (3) (a) Subject to Subsection (3)(b), if the state imposes a tax under this part, the tax

3126 rate imposed within a city, town, or the unincorporated area of a county of the first or second
3127 class is a percentage equal to the difference between:

3128 (i) .30%; and

3129 (ii) (A) for a city within the county of the first or second class, the highest tax rate
3130 imposed within that city under:

3131 (I) Section 59-12-501;

3132 (II) Section 59-12-1001; or

3133 (III) Section 59-12-1503;

3134 (B) for a town within the county of the first or second class, the highest tax rate
3135 imposed within that town under:

3136 (I) Section 59-12-501;

3137 (II) Section 59-12-1001; or

3138 (III) Section 59-12-1503; or

3139 (C) for the unincorporated area of the county of the first or second class, the highest tax
3140 rate imposed within that unincorporated area under:

3141 (I) Section 59-12-501;

3142 (II) Section 59-12-1001; or

3143 (III) Section 59-12-1503.

3144 (b) For purposes of Subsection (3)(a), if for a city, town, or the unincorporated area of
3145 a county of the first or second class, the highest tax rate imposed under Section 59-12-501,
3146 59-12-1001, or 59-12-1503 within that city, town, or unincorporated area of the county of the
3147 first or second class is .30%, the state may not impose a tax under this part within that city,
3148 town, or unincorporated area.

3149 (4) (a) The state may not impose a tax under this part on:

3150 (i) a transaction described in Subsection 59-12-103(1)(d);

3151 (ii) except as provided in Subsection (4)(b), a transaction described in Subsection
3152 59-12-103(2)(c); or

3153 (iii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3154 are exempt from taxation under Section 59-12-104.

3155 (b) The state shall impose a tax under this part on amounts paid or charged for food
3156 and food ingredients if the food and food ingredients are sold as part of a bundled transaction

3157 attributable to food and ingredients and tangible personal property other than food and food
3158 ingredients.

3159 (5) For purposes of Subsection (1), the location of a transaction shall be determined in
3160 accordance with Sections 59-12-211 through 59-12-215.

3161 (6) Revenues collected from the sales and use tax under this part, after subtracting
3162 amounts a seller retains in accordance with Section 59-12-108, shall be deposited into the
3163 General Fund.";

3164 (4) modify Section 59-12-2004 to read:

3165 "59-12-2004. Enactment or repeal of tax -- Effective date -- Administration, collection,
3166 and enforcement of tax.

3167 (1) Subject to Subsections (2) and (3), a tax rate repeal or a tax rate change for a tax
3168 imposed under this part shall take effect on the first day of a calendar quarter.

3169 (2) (a) The enactment of a tax or a tax rate increase shall take effect on the first day of
3170 the first billing period that begins after the effective date of the enactment of the tax or the tax
3171 rate increase if the billing period for the transaction begins before the effective date of the
3172 enactment of the tax or the tax rate increase under this part.

3173 (b) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last
3174 billing period that began before the effective date of the repeal of the tax or the tax rate
3175 decrease if the billing period for the transaction begins before the effective date of the repeal of
3176 the tax or the tax rate decrease imposed under this part.

3177 (3) (a) If a tax due under this part on a catalogue sale is computed on the basis of sales
3178 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
3179 under this part takes effect:

3180 (i) on the first day of a calendar quarter; and

3181 (ii) beginning 60 days after the effective date of the enactment, repeal, or change in the
3182 rate of the tax under this part.

3183 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
3184 commission may by rule define the term "catalogue sale."

3185 (4) The commission shall administer, collect, and enforce a tax under this part in
3186 accordance with:

3187 (a) the same procedures used to administer, collect, and enforce the tax under Part 1,

3188 Tax Collection; and

3189 (b) Chapter 1, General Taxation Policies.";

3190 (5) insert as newly enacted provisions into the Utah Code database, the following
3191 sections:

3192 "59-12-2005. Seller or certified service provider reliance on commission information
3193 or certain systems.

3194 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
3195 imposed under this part if:

3196 (1) the tax rate at which the seller or certified service provider collects the tax is
3197 derived from a database created by the commission containing tax rates; and

3198 (2) the seller's or certified service provider's failure to collect the tax is as a result of the
3199 seller's or certified service provider's reliance on incorrect data provided by the commission in
3200 the database created by the commission containing tax rates."

3201 "59-12-2006. Certified service provider or model 2 seller reliance on commission
3202 certified software.

3203 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified
3204 service provider or model 2 seller is not liable for failing to collect a tax required under this
3205 part if:

3206 (a) the certified service provider or model 2 seller relies on software the commission
3207 certifies; and

3208 (b) the certified service provider's or model 2 seller's failure to collect a tax required
3209 under this part is as a result of the seller's or certified service provider's reliance on incorrect
3210 data:

3211 (i) provided by the commission; or

3212 (ii) in the software the commission certifies.

3213 (2) The relief from liability described in Subsection (1) does not apply if a certified
3214 service provider or model 2 seller incorrectly classifies an item or transaction into a product
3215 category the commission certifies.

3216 (3) If the taxability of a product category is incorrectly classified in software the
3217 commission certifies, the commission shall:

3218 (a) notify a certified service provider or model 2 seller of the incorrect classification of

3219 the taxability of a product category in software the commission certifies; and

3220 (b) state in the notice required by Subsection (3)(a) that the certified service provider or
3221 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
3222 incorrectly classified product category if the certified service provider or model 2 seller fails to
3223 correct the taxability of the item or transaction within ten days after the day on which the
3224 certified service provider or model 2 seller receives the notice.

3225 (4) If a certified service provider or model 2 seller fails to correct the taxability of an
3226 item or transaction within ten days after the day on which the certified service provider or
3227 model 2 seller receives the notice described in Subsection (3), the certified service provider or
3228 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
3229 item or transaction."

3230 "59-12-2007. Purchaser relief from liability.

3231 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
3232 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

3233 (i) the purchaser's seller or certified service provider relies on incorrect data provided
3234 by the commission:

3235 (A) on a tax rate;

3236 (B) on a boundary;

3237 (C) on a taxing jurisdiction; or

3238 (D) in the taxability matrix the commission provides in accordance with the agreement;

3239 or

3240 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
3241 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

3242 (A) on a tax rate;

3243 (B) on a boundary;

3244 (C) on a taxing jurisdiction; or

3245 (D) in the taxability matrix the commission provides in accordance with the agreement.

3246 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
3247 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
3248 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
3249 incorrect data provided by the commission is as a result of conduct that is:

3250 (i) fraudulent;
3251 (ii) intentional; or
3252 (iii) willful.
3253 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
3254 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
3255 or an underpayment if:
3256 (a) the purchaser's seller or certified service provider relies on:
3257 (i) incorrect data provided by the commission:
3258 (A) on a tax rate;
3259 (B) on a boundary; or
3260 (C) on a taxing jurisdiction; or
3261 (ii) an erroneous classification by the commission:
3262 (A) in the taxability matrix the commission provides in accordance with the agreement;
3263 and
3264 (B) with respect to a term:
3265 (I) in the library of definitions; and
3266 (II) that is:
3267 (Aa) listed as taxable or exempt;
3268 (Bb) included or excluded from "sales price"; or
3269 (Cc) included in or excluded from a definition; or
3270 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
3271 accordance with Section 59-12-107.1, relies on:
3272 (i) incorrect data provided by the commission:
3273 (A) on a tax rate;
3274 (B) on a boundary; or
3275 (C) on a taxing jurisdiction; or
3276 (ii) an erroneous classification by the commission:
3277 (A) in the taxability matrix the commission provides in accordance with the agreement;
3278 and
3279 (B) with respect to a term:
3280 (I) in the library of definitions; and

3281 (II) that is:
3282 (Aa) listed as taxable or exempt;
3283 (Bb) included or excluded from "sales price"; or
3284 (Cc) included in or excluded from a definition."; and
3285 (6) replace the references to Section 59-12-207 in Section 59-12-103 in this S.B. 245
3286 with "Sections 59-12-211 through 59-12-215"."