

**Representative David Clark** proposes the following substitute bill:

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

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: David Clark

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ addresses an audit relating to the local sales and use tax to fund tourism, recreation, cultural, convention, and airport facilities;
- ▶ reallocates a portion of the revenue received from the local option highway construction and transportation corridor preservation fee imposed in a county of the first class from the County of the First Class State Highway Projects Fund to the legislative body of a city of the first class located within a county of the first class that has an international airport 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 distributed to certain public transit districts;
- 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



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 ~~[(i)]~~ (A) deposited in the County of the First Class State Highway Projects Fund  
215 created in Section 72-2-121; and  
216 ~~[(ii)]~~ (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:  
219 (I) located in a county of the first class; and  
220 (II) that has:  
221 (Aa) an international airport within its boundaries; and  
222 (Bb) a United States customs office on the premises of the international airport  
223 described in Subsection (2)(b)(ii)(A)(II)(Aa); and  
224 (B) used by the city described in Subsection (2)(b)(ii)(A) for highway construction,  
225 reconstruction, or maintenance projects; and  
226 (iii) 30% of the revenue shall be deposited, credited, and used as provided in  
227 Subsection (2)(a).  
228 (3) To impose or change the amount of a fee under this section, the county legislative  
229 body shall pass an ordinance:  
230 (a) approving the fee;  
231 (b) setting the amount of the fee; and  
232 (c) providing an effective date for the fee as provided in Subsection (4).  
233 (4) (a) If a county legislative body enacts, changes, or repeals a fee under this section,  
234 the enactment, change, or repeal shall take effect on July 1 if the commission receives notice  
235 meeting the requirements of Subsection (4)(b) from the county prior to April 1.  
236 (b) The notice described in Subsection (4)(a) shall:  
237 (i) state that the county will enact, change, or repeal a fee under this part;  
238 (ii) include a copy of the ordinance imposing the fee; and  
239 (iii) if the county enacts or changes the fee under this section, state the amount of the  
240 fee.  
241 Section 4. Section **59-12-102** is amended to read:  
242 **59-12-102. Definitions.**



243 As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

259 (g) Section 59-12-204;

260 (h) Section 59-12-401;

261 (i) Section 59-12-402;

262 (j) Section 59-12-501;

263 (k) Section 59-12-502;

264 (l) Section 59-12-703;

265 (m) Section 59-12-802;

266 (n) Section 59-12-804;

267 (o) Section 59-12-1001;

268 (p) Section 59-12-1102;

269 (q) Section 59-12-1302;

270 (r) Section 59-12-1402;

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

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

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

274 (v) Section 59-12-2003.

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

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

277 (a) is suitable for human consumption; and

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

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

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

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

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

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

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

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

293 (10) "Authorized carrier" means:

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

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

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

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

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

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

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

336 price."

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

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

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

345 (i) on a transaction; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

375 (19) "Component part" includes:

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

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

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

381 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

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

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

394 (i) by a seller of:

395 (A) tangible personal property; or

396 (B) services; and

397 (ii) for preparation and delivery of the tangible personal property or services described

398 in Subsection (24)(a)(i) to a location designated by the purchaser.

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

400 (i) transportation;

401 (ii) shipping;

402 (iii) postage;

403 (iv) handling;

404 (v) crating; or

405 (vi) packing.

406 (25) (a) "Dental prosthesis" means the following if fabricated in a laboratory:

407 (i) a bridge;

408 (ii) a crown if that crown covers at least 75% of a tooth structure;

409 (iii) a denture;

410 (iv) an implant;

411 (v) an orthodontic device designed to:

412 (A) retain the position or spacing of teeth; and

413 (B) replace a missing tooth;

414 (vi) a partial denture; or

415 (vii) a device similar to Subsections (25)(a)(i) through (vi).

416 (b) "Dental prosthesis" does not include an appliance or device, other than a device

417 described in Subsection (25)(a), if that appliance or device is used in orthodontic therapy to

418 apply force to the teeth and their supporting structures to:

419 (i) produce changes in their relationship to each other; and

420 (ii) control their growth and development.

421 (26) "Dietary supplement" means a product, other than tobacco, that:

422 (a) is intended to supplement the diet;

423 (b) contains one or more of the following dietary ingredients:

424 (i) a vitamin;

425 (ii) a mineral;

426 (iii) an herb or other botanical;

427 (iv) an amino acid;

428 (v) a dietary substance for use by humans to supplement the diet by increasing the total

429 dietary intake; or

430 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient  
431 described in Subsections (26)(b)(i) through (v);

432 (c) (i) except as provided in Subsection (26)(c)(ii), is intended for ingestion in:

433 (A) tablet form;

434 (B) capsule form;

435 (C) powder form;

436 (D) softgel form;

437 (E) gelcap form; or

438 (F) liquid form; or

439 (ii) notwithstanding Subsection (26)(c)(i), if the product is not intended for ingestion in  
440 a form described in Subsections (26)(c)(i)(A) through (F), is not represented:

441 (A) as conventional food; and

442 (B) for use as a sole item of:

443 (I) a meal; or

444 (II) the diet; and

445 (d) is required to be labeled as a dietary supplement:

446 (i) identifiable by the "Supplemental Facts" box found on the label; and

447 (ii) as required by 21 C.F.R. Sec. 101.36.

448 (27) (a) "Direct mail" means printed material delivered or distributed by United States  
449 mail or other delivery service:

450 (i) to:

451 (A) a mass audience; or

452 (B) addressees on a mailing list provided by a purchaser of the mailing list; and

453 (ii) if the cost of the printed material is not billed directly to the recipients.

454 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a  
455 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

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

458 (28) (a) "Disposable home medical equipment or supplies" means medical equipment  
459 or supplies that:

- 460 (i) cannot withstand repeated use; and
- 461 (ii) are purchased by, for, or on behalf of a person other than:
  - 462 (A) a health care facility as defined in Section 26-21-2;
  - 463 (B) a health care provider as defined in Section 78-14-3;
  - 464 (C) an office of a health care provider described in Subsection (28)(a)(ii)(B); or
  - 465 (D) a person similar to a person described in Subsections (28)(a)(ii)(A) through (C).
- 466 (b) "Disposable home medical equipment or supplies" does not include:
  - 467 (i) a drug;
  - 468 (ii) durable medical equipment;
  - 469 (iii) a hearing aid;
  - 470 (iv) a hearing aid accessory;
  - 471 (v) mobility enhancing equipment; or
  - 472 (vi) tangible personal property used to correct impaired vision, including:
    - 473 (A) eyeglasses; or
    - 474 (B) contact lenses.
  - 475 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
  - 476 commission may by rule define what constitutes medical equipment or supplies.
- 477 (29) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 478 compound, substance, or preparation that is:
  - 479 (i) recognized in:
    - 480 (A) the official United States Pharmacopoeia;
    - 481 (B) the official Homeopathic Pharmacopoeia of the United States;
    - 482 (C) the official National Formulary; or
    - 483 (D) a supplement to a publication listed in Subsections (29)(a)(i)(A) through (C);
  - 484 (ii) intended for use in the:
    - 485 (A) diagnosis of disease;
    - 486 (B) cure of disease;
    - 487 (C) mitigation of disease;
    - 488 (D) treatment of disease; or
    - 489 (E) prevention of disease; or
    - 490 (iii) intended to affect:



491 (A) the structure of the body; or

492 (B) any function of the body.

493 (b) "Drug" does not include:

494 (i) food and food ingredients;

495 (ii) a dietary supplement;

496 (iii) an alcoholic beverage; or

497 (iv) a prosthetic device.

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

499 equipment that:

500 (i) can withstand repeated use;

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

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

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

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

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

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

507 mobility enhancing equipment.

508 (31) "Electronic" means:

509 (a) relating to technology; and

510 (b) having:

511 (i) electrical capabilities;

512 (ii) digital capabilities;

513 (iii) magnetic capabilities;

514 (iv) wireless capabilities;

515 (v) optical capabilities;

516 (vi) electromagnetic capabilities; or

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

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

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

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

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

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

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

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

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

558 (37) "Governing board of the agreement" means the governing board of the agreement  
559 that is:

560 (a) authorized to administer the agreement; and

561 (b) established in accordance with the agreement.

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

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

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

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

571 (iv) the National Guard;

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

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

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

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

577 (ii) a school;

578 (iii) the State Board of Education;

579 (iv) the State Board of Regents; or

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

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

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

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

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

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

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

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

- 708 (F) plastic;
- 709 (G) textile; or
- 710 (H) rubber; and
- 711 (ii) the new products under Subsection (48)(b)(i) would otherwise be made with
- 712 nonrecycled materials; or
- 713 (c) a cogeneration facility as defined in Section 54-2-1.
- 714 (49) "Member of the immediate family of the producer" means a person who is related
- 715 to a producer described in Subsection 59-12-104(20)(a) as a:
- 716 (a) child or stepchild, regardless of whether the child or stepchild is:
- 717 (i) an adopted child or adopted stepchild; or
- 718 (ii) a foster child or foster stepchild;
- 719 (b) grandchild or stepgrandchild;
- 720 (c) grandparent or stepgrandparent;
- 721 (d) nephew or stepnephew;
- 722 (e) niece or stepniece;
- 723 (f) parent or stepparent;
- 724 (g) sibling or stepsibling;
- 725 (h) spouse;
- 726 (i) person who is the spouse of a person described in Subsections (49)(a) through (g);
- 727 or
- 728 (j) person similar to a person described in Subsections (49)(a) through (i) as
- 729 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah
- 730 Administrative Rulemaking Act.
- 731 (50) "Mobile home" is as defined in Section 58-56-3.
- 732 (51) "Mobile telecommunications service" is as defined in the Mobile
- 733 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 734 (52) (a) Except as provided in Subsection (52)(c), "mobility enhancing equipment"
- 735 means equipment that is:
- 736 (i) primarily and customarily used to provide or increase the ability to move from one
- 737 place to another;
- 738 (ii) appropriate for use in a:



- 739 (A) home; or
- 740 (B) motor vehicle; and
- 741 (iii) not generally used by persons with normal mobility.
- 742 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
- 743 the equipment described in Subsection (52)(a).
- 744 (c) Notwithstanding Subsection (52)(a), "mobility enhancing equipment" does not
- 745 include:
- 746 (i) a motor vehicle;
- 747 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
- 748 vehicle manufacturer;
- 749 (iii) durable medical equipment; or
- 750 (iv) a prosthetic device.
- 751 (53) "Model 1 seller" means a seller that has selected a certified service provider as the
- 752 seller's agent to perform all of the seller's sales and use tax functions for agreement sales and
- 753 use taxes other than the seller's obligation under Section 59-12-107.4 to remit a tax on the
- 754 seller's own purchases.
- 755 (54) "Model 2 seller" means a seller that:
- 756 (a) except as provided in Subsection (54)(b), has selected a certified automated system
- 757 to perform the seller's sales tax functions for agreement sales and use taxes; and
- 758 (b) notwithstanding Subsection (54)(a), retains responsibility for remitting all of the
- 759 sales tax:
- 760 (i) collected by the seller; and
- 761 (ii) to the appropriate local taxing jurisdiction.
- 762 (55) (a) Subject to Subsection (55)(b), "model 3 seller" means a seller that has:
- 763 (i) sales in at least five states that are members of the agreement;
- 764 (ii) total annual sales revenues of at least \$500,000,000;
- 765 (iii) a proprietary system that calculates the amount of tax:
- 766 (A) for an agreement sales and use tax; and
- 767 (B) due to each local taxing jurisdiction; and
- 768 (iv) entered into a performance agreement with the governing board of the agreement.
- 769 (b) For purposes of Subsection (55)(a), "model 3 seller" includes an affiliated group of

770 sellers using the same proprietary system.

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

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

773 (58) "Oil shale" means a group of fine black to dark brown shales containing  
774 bituminous material that yields petroleum upon distillation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

796 (ii) a temporary detachment of tangible personal property from real property for a  
797 repair or renovation if the repair or renovation is performed where the tangible personal

798 property and real property are located; or

799 (iii) an attachment of the following tangible personal property to real property,

800 regardless of whether the attachment to real property is only through a line that supplies water,

801 electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by  
802 rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

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

805 (B) a hot water heater;

806 (C) a water softener system; or

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

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

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

812 (A) convenience;

813 (B) stability; or

814 (C) for an obvious temporary purpose;

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

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

821 (A) a refrigerator;

822 (B) a washer;

823 (C) a dryer;

824 (D) a stove;

825 (E) a television;

826 (F) a computer;

827 (G) a telephone; or

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

831 (63) "Person" includes any individual, firm, partnership, joint venture, association,

832 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,  
833 municipality, district, or other local governmental entity of the state, or any group or  
834 combination acting as a unit.

835 (64) "Place of primary use":

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

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

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

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

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

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

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

846 (i) food:

847 (A) sold in a heated state; or

848 (B) heated by a seller;

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

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

853 (A) plate;

854 (B) knife;

855 (C) fork;

856 (D) spoon;

857 (E) glass;

858 (F) cup;

859 (G) napkin; or

860 (H) straw.

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

862 (i) food that a seller only:

- 863 (A) cuts;
- 864 (B) repackages; or
- 865 (C) pasteurizes; or
- 866 (ii) (A) the following:
  - 867 (I) raw egg;
  - 868 (II) raw fish;
  - 869 (III) raw meat;
  - 870 (IV) raw poultry; or
  - 871 (V) a food containing an item described in Subsections (66)(b)(ii)(A)(I) through (IV);
- 872 and
  - 873 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
  - 874 Food and Drug Administration's Food Code that a consumer cook the items described in
  - 875 Subsection (66)(b)(ii)(A) to prevent food borne illness; or
  - 876 (iii) the following if sold without eating utensils provided by the seller:
    - 877 (A) food and food ingredients sold by a seller if the seller's proper primary
    - 878 classification under the 2002 North American Industry Classification System of the federal
    - 879 Executive Office of the President, Office of Management and Budget, is manufacturing in
    - 880 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
    - 881 Manufacturing;
    - 882 (B) food and food ingredients sold in an unheated state:
      - 883 (I) by weight or volume; and
      - 884 (II) as a single item; or
      - 885 (C) a bakery item, including:
        - 886 (I) a bagel;
        - 887 (II) a bar;
        - 888 (III) a biscuit;
        - 889 (IV) bread;
        - 890 (V) a bun;
        - 891 (VI) a cake;
        - 892 (VII) a cookie;
        - 893 (VIII) a croissant;

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

925 (iii) notwithstanding Subsection (68)(a) and except as provided in Subsection (68)(c),  
926 prewritten computer software or a prewritten portion of prewritten computer software:

927 (A) that is modified or enhanced to any degree; and

928 (B) if the modification or enhancement described in Subsection (68)(b)(iii)(A) is  
929 designed and developed to the specifications of a specific purchaser.

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

933 (i) reasonable; and

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

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

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

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

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

940 (b) "Prosthetic device" includes:

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

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

943 (iii) a dental prosthesis.

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

945 (i) corrective eyeglasses;

946 (ii) contact lenses; or

947 (iii) hearing aids.

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

949 (i) for human wear; and

950 (ii) that is:

951 (A) designed as protection:

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

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

954 (B) not suitable for general use.

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

956 commission shall make rules:

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

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

959 under the agreement.

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

962 (i) regardless of:

963 (A) characteristics;

964 (B) copyright;

965 (C) form;

966 (D) format;

967 (E) method of reproduction; or

968 (F) source; and

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

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

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

973 (i) valued in money; and

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

975 (A) sold;

976 (B) leased; or

977 (C) rented.

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

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

980 (ii) expenses of the seller, including:

981 (A) the cost of materials used;

982 (B) a labor cost;

983 (C) a service cost;

984 (D) interest;

985 (E) a loss;

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



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

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

1049 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
1050 engaged in the business of selling to users or consumers within the state.

1051 (83) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
1052 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
1053 Subsection 59-12-103(1), for consideration.

1054 (b) "Sale" includes:

1055 (i) installment and credit sales;

1056 (ii) any closed transaction constituting a sale;

1057 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
1058 chapter;

1059 (iv) any transaction if the possession of property is transferred but the seller retains the  
1060 title as security for the payment of the price; and

1061 (v) any transaction under which right to possession, operation, or use of any article of  
1062 tangible personal property is granted under a lease or contract and the transfer of possession  
1063 would be taxable if an outright sale were made.

1064 (84) "Sale at retail" is as defined in Subsection (81).

1065 (85) "Sale-leaseback transaction" means a transaction by which title to tangible  
1066 personal property that is subject to a tax under this chapter is transferred:

1067 (a) by a purchaser-lessee;

1068 (b) to a lessor;

1069 (c) for consideration; and

1070 (d) if:

1071 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase  
1072 of the tangible personal property;

1073 (ii) the sale of the tangible personal property to the lessor is intended as a form of  
1074 financing:

1075 (A) for the property; and

1076 (B) to the purchaser-lessee; and

1077 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee  
1078 is required to:

1079 (A) capitalize the property for financial reporting purposes; and

1080 (B) account for the lease payments as payments made under a financing arrangement.

1081 (86) "Sales price" is as defined in Subsection (72).

1082 (87) (a) "Sales relating to schools" means the following sales by, amounts paid to, or  
1083 amounts charged by a school:

1084 (i) sales that are directly related to the school's educational functions or activities  
1085 including:

1086 (A) the sale of:

1087 (I) textbooks;

1088 (II) textbook fees;

1089 (III) laboratory fees;

1090 (IV) laboratory supplies; or

1091 (V) safety equipment;

1092 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1093 that:

1094 (I) a student is specifically required to wear as a condition of participation in a  
1095 school-related event or school-related activity; and

1096 (II) is not readily adaptable to general or continued usage to the extent that it takes the  
1097 place of ordinary clothing;

1098 (C) sales of the following if the net or gross revenues generated by the sales are  
1099 deposited into a school district fund or school fund dedicated to school meals:

1100 (I) food and food ingredients; or

1101 (II) prepared food; or

1102 (D) transportation charges for official school activities; or

1103 (ii) amounts paid to or amounts charged by a school for admission to a school-related  
1104 event or school-related activity.

1105 (b) "Sales relating to schools" does not include:

1106 (i) bookstore sales of items that are not educational materials or supplies;

1107 (ii) except as provided in Subsection (87)(a)(i)(B):

1108 (A) clothing;

1109 (B) clothing accessories or equipment;

1110 (C) protective equipment; or

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

- 1142 (Bb) semiconductor manufacturing process; or
- 1143 (B) maintaining an environment suitable for a semiconductor; or
- 1144 (ii) consumed primarily in the process of:
- 1145 (A) (I) manufacturing a semiconductor;
- 1146 (II) fabricating a semiconductor; or
- 1147 (III) research or development of a:
- 1148 (Aa) semiconductor; or
- 1149 (Bb) semiconductor manufacturing process; or
- 1150 (B) maintaining an environment suitable for a semiconductor.
- 1151 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1152 includes:
- 1153 (i) parts used in the repairs or renovations of tangible personal property described in
- 1154 Subsection (90)(a); or
- 1155 (ii) a chemical, catalyst, or other material used to:
- 1156 (A) produce or induce in a semiconductor a:
- 1157 (I) chemical change; or
- 1158 (II) physical change;
- 1159 (B) remove impurities from a semiconductor; or
- 1160 (C) improve the marketable condition of a semiconductor.
- 1161 (91) "Senior citizen center" means a facility having the primary purpose of providing
- 1162 services to the aged as defined in Section 62A-3-101.
- 1163 (92) "Simplified electronic return" means the electronic return:
- 1164 (a) described in Section 318(C) of the agreement; and
- 1165 (b) approved by the governing board of the agreement.
- 1166 (93) "Solar energy" means the sun used as the sole source of energy for producing
- 1167 electricity.
- 1168 (94) (a) "Sports or recreational equipment" means an item:
- 1169 (i) designed for human use; and
- 1170 (ii) that is:
- 1171 (A) worn in conjunction with:
- 1172 (I) an athletic activity; or

- 1173 (II) a recreational activity; and  
1174 (B) not suitable for general use.  
1175 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1176 commission shall make rules:  
1177 (i) listing the items that constitute "sports or recreational equipment"; and  
1178 (ii) that are consistent with the list of items that constitute "sports or recreational  
1179 equipment" under the agreement.  
1180 (95) "State" means the state of Utah, its departments, and agencies.  
1181 (96) "Storage" means any keeping or retention of tangible personal property or any  
1182 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except  
1183 sale in the regular course of business.  
1184 (97) (a) "Tangible personal property" means personal property that:  
1185 (i) may be:  
1186 (A) seen;  
1187 (B) weighed;  
1188 (C) measured;  
1189 (D) felt; or  
1190 (E) touched; or  
1191 (ii) is in any manner perceptible to the senses.  
1192 (b) "Tangible personal property" includes:  
1193 (i) electricity;  
1194 (ii) water;  
1195 (iii) gas;  
1196 (iv) steam; or  
1197 (v) prewritten computer software.  
1198 (98) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon  
1199 and require further processing other than mechanical blending before becoming finished  
1200 petroleum products.  
1201 (99) (a) "Telecommunications enabling or facilitating equipment, machinery, or  
1202 software" means an item listed in Subsection (99)(b) if that item is purchased or leased  
1203 primarily to enable or facilitate one or more of the following to function:

1204 (i) telecommunications switching or routing equipment, machinery, or software; or  
1205 (ii) telecommunications transmission equipment, machinery, or software.

1206 (b) The following apply to Subsection (99)(a):

1207 (i) a pole;

1208 (ii) software;

1209 (iii) a supplementary power supply;

1210 (iv) temperature or environmental equipment or machinery;

1211 (v) test equipment;

1212 (vi) a tower; or

1213 (vii) equipment, machinery, or software that functions similarly to an item listed in

1214 Subsections (99)(b)(i) through (vi) as determined by the commission by rule made in

1215 accordance with Subsection (99)(c).

1216 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1217 commission may by rule define what constitutes equipment, machinery, or software that  
1218 functions similarly to an item listed in Subsections (99)(b)(i) through (vi).

1219 (100) "Telecommunications equipment, machinery, or software required for 911  
1220 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.  
1221 Sec. 20.18.

1222 (101) "Telecommunications maintenance or repair equipment, machinery, or software"  
1223 means equipment, machinery, or software purchased or leased primarily to maintain or repair  
1224 one or more of the following, regardless of whether the equipment, machinery, or software is  
1225 purchased or leased as a spare part or as an upgrade or modification to one or more of the  
1226 following:

1227 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1228 (b) telecommunications switching or routing equipment, machinery, or software; or

1229 (c) telecommunications transmission equipment, machinery, or software.

1230 (102) (a) "Telecommunications switching or routing equipment, machinery, or  
1231 software" means an item listed in Subsection (102)(b) if that item is purchased or leased  
1232 primarily for switching or routing:

1233 (i) voice communications;

1234 (ii) data communications; or



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

- 1266 (viii) an input device;
- 1267 (ix) an input/output device;
- 1268 (x) an insulator;
- 1269 (xi) microwave machinery or equipment;
- 1270 (xii) an oscillator;
- 1271 (xiii) an output device;
- 1272 (xiv) a pedestal;
- 1273 (xv) a power converter;
- 1274 (xvi) a power supply;
- 1275 (xvii) a radio channel;
- 1276 (xviii) a radio receiver;
- 1277 (xix) a radio transmitter;
- 1278 (xx) a repeater;
- 1279 (xxi) software;
- 1280 (xxii) a terminal;
- 1281 (xxiii) a timing unit;
- 1282 (xxiv) a transformer;
- 1283 (xxv) a wire; or
- 1284 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1285 Subsections (103)(b)(i) through (xxv) as determined by the commission by rule made in
- 1286 accordance with Subsection (103)(c).
- 1287 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1288 commission may by rule define what constitutes equipment, machinery, or software that
- 1289 functions similarly to an item listed in Subsections (103)(b)(i) through (xxv).
- 1290 (104) (a) "Telephone service" means a two-way transmission:
- 1291 (i) by:
- 1292 (A) wire;
- 1293 (B) radio;
- 1294 (C) lightwave; or
- 1295 (D) other electromagnetic means; and
- 1296 (ii) of one or more of the following:

- 1297 (A) a sign;
- 1298 (B) a signal;
- 1299 (C) writing;
- 1300 (D) an image;
- 1301 (E) sound;
- 1302 (F) a message;
- 1303 (G) data; or
- 1304 (H) other information of any nature.
- 1305 (b) "Telephone service" includes:
- 1306 (i) mobile telecommunications service;
- 1307 (ii) private communications service; or
- 1308 (iii) automated digital telephone answering service.
- 1309 (c) "Telephone service" does not include a service or a transaction that a state or a
- 1310 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
- 1311 Tax Freedom Act, Pub. L. No. 105-277.
- 1312 (105) Notwithstanding where a call is billed or paid, "telephone service address"
- 1313 means:
- 1314 (a) if the location described in this Subsection (105)(a) is known, the location of the
- 1315 telephone service equipment:
- 1316 (i) to which a call is charged; and
- 1317 (ii) from which the call originates or terminates;
- 1318 (b) if the location described in Subsection (105)(a) is not known but the location
- 1319 described in this Subsection (105)(b) is known, the location of the origination point of the
- 1320 signal of the telephone service first identified by:
- 1321 (i) the telecommunications system of the seller; or
- 1322 (ii) if the system used to transport the signal is not that of the seller, information
- 1323 received by the seller from its service provider; or
- 1324 (c) if the locations described in Subsection (105)(a) or (b) are not known, the location
- 1325 of a purchaser's primary place of use.
- 1326 (106) (a) "Telephone service provider" means a person that:
- 1327 (i) owns, controls, operates, or manages a telephone service; and

1328 (ii) engages in an activity described in Subsection (106)(a)(i) for the shared use with or  
1329 resale to any person of the telephone service.

1330 (b) A person described in Subsection (106)(a) is a telephone service provider whether  
1331 or not the Public Service Commission of Utah regulates:

1332 (i) that person; or

1333 (ii) the telephone service that the person owns, controls, operates, or manages.

1334 (107) "Tobacco" means:

1335 (a) a cigarette;

1336 (b) a cigar;

1337 (c) chewing tobacco;

1338 (d) pipe tobacco; or

1339 (e) any other item that contains tobacco.

1340 (108) "Unassisted amusement device" means an amusement device, skill device, or  
1341 ride device that is started and stopped by the purchaser or renter of the right to use or operate  
1342 the amusement device, skill device, or ride device.

1343 (109) (a) "Use" means the exercise of any right or power over tangible personal  
1344 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that  
1345 property, item, or service.

1346 (b) "Use" does not include the sale, display, demonstration, or trial of that property in  
1347 the regular course of business and held for resale.

1348 (110) (a) Subject to Subsection (110)(b), "vehicle" means the following that are  
1349 required to be titled, registered, or titled and registered:

1350 (i) an aircraft as defined in Section 72-10-102;

1351 (ii) a vehicle as defined in Section 41-1a-102;

1352 (iii) an off-highway vehicle as defined in Section 41-22-2; or

1353 (iv) a vessel as defined in Section 41-1a-102.

1354 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

1355 (i) a vehicle described in Subsection (110)(a); or

1356 (ii) (A) a locomotive;

1357 (B) a freight car;

1358 (C) railroad work equipment; or

1359 (D) other railroad rolling stock.

1360 (111) "Vehicle dealer" means a person engaged in the business of buying, selling, or  
1361 exchanging a vehicle as defined in Subsection (110).

1362 (112) (a) Except as provided in Subsection (112)(b), "waste energy facility" means a  
1363 facility that generates electricity:

1364 (i) using as the primary source of energy waste materials that would be placed in a  
1365 landfill or refuse pit if it were not used to generate electricity, including:

1366 (A) tires;

1367 (B) waste coal; or

1368 (C) oil shale; and

1369 (ii) in amounts greater than actually required for the operation of the facility.

1370 (b) "Waste energy facility" does not include a facility that incinerates:

1371 (i) municipal solid waste;

1372 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or

1373 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1374 (113) "Watercraft" means a vessel as defined in Section 73-18-2.

1375 (114) "Wind energy" means wind used as the sole source of energy to produce  
1376 electricity.

1377 (115) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic  
1378 location by the United States Postal Service.

1379 Section 5. Section **59-12-103** is amended to read:

1380 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**  
1381 **tax revenues.**

1382 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or  
1383 charged for the following transactions:

1384 (a) retail sales of tangible personal property made within the state;

1385 (b) amounts paid:

1386 (i) to a:

1387 (A) telephone service provider regardless of whether the telephone service provider is  
1388 municipally or privately owned; or

1389 (B) telegraph corporation:

1390 (I) as defined in Section 54-2-1; and  
1391 (II) regardless of whether the telegraph corporation is municipally or privately owned;  
1392 and  
1393 (ii) for:  
1394 (A) telephone service, other than mobile telecommunications service, that originates  
1395 and terminates within the boundaries of this state;  
1396 (B) mobile telecommunications service that originates and terminates within the  
1397 boundaries of one state only to the extent permitted by the Mobile Telecommunications  
1398 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or  
1399 (C) telegraph service;  
1400 (c) sales of the following for commercial use:  
1401 (i) gas;  
1402 (ii) electricity;  
1403 (iii) heat;  
1404 (iv) coal;  
1405 (v) fuel oil; or  
1406 (vi) other fuels;  
1407 (d) sales of the following for residential use:  
1408 (i) gas;  
1409 (ii) electricity;  
1410 (iii) heat;  
1411 (iv) coal;  
1412 (v) fuel oil; or  
1413 (vi) other fuels;  
1414 (e) sales of prepared food;  
1415 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or  
1416 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,  
1417 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,  
1418 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit  
1419 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf  
1420 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,

1421 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,  
1422 horseback rides, sports activities, or any other amusement, entertainment, recreation,  
1423 exhibition, cultural, or athletic activity;

1424 (g) amounts paid or charged for services for repairs or renovations of tangible personal  
1425 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

1426 (i) the tangible personal property; and

1427 (ii) parts used in the repairs or renovations of the tangible personal property described  
1428 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations  
1429 of that tangible personal property;

1430 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for  
1431 assisted cleaning or washing of tangible personal property;

1432 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court  
1433 accommodations and services that are regularly rented for less than 30 consecutive days;

1434 (j) amounts paid or charged for laundry or dry cleaning services;

1435 (k) amounts paid or charged for leases or rentals of tangible personal property if within  
1436 this state the tangible personal property is:

1437 (i) stored;

1438 (ii) used; or

1439 (iii) otherwise consumed;

1440 (l) amounts paid or charged for tangible personal property if within this state the  
1441 tangible personal property is:

1442 (i) stored;

1443 (ii) used; or

1444 (iii) consumed; and

1445 (m) amounts paid or charged for prepaid telephone calling cards.

1446 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax  
1447 is imposed on a transaction described in Subsection (1) equal to the sum of:

1448 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

1449 (A) 4.65%; and

1450 (B) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales  
1451 and Use Tax Act, if the location of the transaction as determined under Section 59-12-207 is in

1452 a city, town, or the unincorporated area of a county in which the state imposes the tax under  
1453 Part 20, Supplemental State Sales and Use Tax Act; and

1454 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
1455 transaction under this chapter other than this part.

1456 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed  
1457 on a transaction described in Subsection (1)(d) equal to the sum of:

1458 (i) a state tax imposed on the transaction at a tax rate of 2%; and

1459 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
1460 transaction under this chapter other than this part.

1461 (c) Except as provided in Subsection (2)(d) or (e), beginning on January 1, 2007, a  
1462 state tax and a local tax is imposed on amounts paid or charged for food and food ingredients  
1463 equal to the sum of:

1464 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at  
1465 a tax rate of 1.75%; and

1466 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
1467 amounts paid or charged for food and food ingredients under this chapter other than this part.

1468 (d) Except as provided in Subsection (2)(e), if a seller collects a tax in accordance with  
1469 Subsection 59-12-107(1)(b) on a transaction described in Subsection (1), a state tax and a local  
1470 tax is imposed on the transaction equal to the sum of:

1471 (i) a state tax imposed on the transaction at a tax rate of:

1472 (A) the sum of:

1473 [~~(A)~~] (I) 4.65% for a transaction other than a transaction described in Subsection  
1474 (2)(d)(i)(B) or (2)(d)(i)(C); and

1475 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales  
1476 and Use Tax Act, if the location of the transaction as determined under Section 59-12-207 is in  
1477 a city, town, or the unincorporated area of a county in which the state imposes the tax under  
1478 Part 20, Supplemental State Sales and Use Tax Act;

1479 (B) 2% for a transaction described in Subsection (1)(d); or

1480 (C) beginning on January 1, 2007, 1.75% on the amounts paid or charged for food and  
1481 food ingredients; and

1482 (ii) a local tax imposed on the transaction at a tax rate equal to the sum of the following



1483 tax rates:

1484 (A) the tax rate authorized by Section 59-12-204, but only if all of the counties, cities,  
1485 and towns in the state impose the tax authorized by Section 59-12-204; and

1486 (B) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the  
1487 state impose the tax authorized by Section 59-12-1102.

1488 (e) (i) A state tax and a local tax is imposed on an entire bundled transaction as  
1489 provided in this Subsection (2)(e) if the bundled transaction is attributable to food and food  
1490 ingredients and tangible personal property other than food and food ingredients.

1491 (ii) If the tax on a bundled transaction described in Subsection (2)(e)(i) is collected by a  
1492 seller other than a seller that collects a tax in accordance with Subsection 59-12-107(1)(b),  
1493 beginning on January 1, 2007, a state tax and a local tax is imposed on the entire bundled  
1494 transaction equal to the sum of:

1495 (A) a state tax imposed on the entire bundled transaction [~~at~~] equal to the sum of:

1496 (I) the tax rate described in Subsection (2)(a)(i)(A); and

1497 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales  
1498 and Use Tax Act, if the location of the transaction as determined under Section 59-12-207 is in  
1499 a city, town, or the unincorporated area of a county in which the state imposes the tax under  
1500 Part 20, Supplemental State Sales and Use Tax Act; and

1501 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates  
1502 described in Subsection (2)(a)(ii).

1503 (iii) If the tax on a bundled transaction described in Subsection (2)(e)(i) is collected by  
1504 a seller in accordance with Subsection 59-12-107(1)(b), beginning on January 1, 2007, a state  
1505 tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

1506 (A) a state tax imposed on the entire bundled transaction [~~at~~] equal to the sum of:

1507 (I) the tax rate described in Subsection (2)(d)(i)(A); and

1508 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales  
1509 and Use Tax Act, if the location of the transaction as determined under Section 59-12-207 is in  
1510 a city, town, or the unincorporated area of a county in which the state imposes the tax under  
1511 Part 20, Supplemental State Sales and Use Tax Act; and

1512 (B) a local tax imposed on the entire bundled transaction at a tax rate equal to the sum  
1513 of the following tax rates:

1514 (I) the tax rate authorized by Section 59-12-204, but only if all of the counties, cities,  
1515 and towns in the state impose the tax authorized by Section 59-12-204; and

1516 (II) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the  
1517 state impose the tax authorized by Section 59-12-1102.

1518 (f) Subject to Subsections (2)(g) and (h), a tax rate repeal or tax rate change for a tax  
1519 rate imposed under the following shall take effect on the first day of a calendar quarter:

1520 (i) Subsection (2)(a)(i)(A);

1521 (ii) Subsection (2)(b)(i);

1522 (iii) Subsection (2)(c)(i);

1523 (iv) Subsection (2)(d)(i)(A)(I);

1524 (v) Subsection (2)(e)(ii)(A)(I); or

1525 (vi) Subsection (2)(e)(iii)(A)(I).

1526 (g) (i) For a transaction described in Subsection (2)(g)(iii), a tax rate increase shall take  
1527 effect on the first day of the first billing period that begins after the effective date of the tax rate  
1528 increase if the billing period for the transaction begins before the effective date of a tax rate  
1529 increase imposed under:

1530 (A) Subsection (2)(a)(i)(A);

1531 (B) Subsection (2)(b)(i);

1532 (C) Subsection (2)(c)(i);

1533 (D) Subsection (2)(d)(i)(A)(I);

1534 (E) Subsection (2)(e)(ii)(A)(I); or

1535 (F) Subsection (2)(e)(iii)(A)(I).

1536 (ii) For a transaction described in Subsection (2)(g)(iii), the repeal of a tax or a tax rate  
1537 decrease shall take effect on the first day of the last billing period that began before the  
1538 effective date of the repeal of the tax or the tax rate decrease if the billing period for the  
1539 transaction begins before the effective date of the repeal of the tax or the tax rate decrease  
1540 imposed under:

1541 (A) Subsection (2)(a)(i)(A);

1542 (B) Subsection (2)(b)(i);

1543 (C) Subsection (2)(c)(i);

1544 (D) Subsection (2)(d)(i)(A)(I);

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

1576 (iii) the tax imposed by Subsection (2)(c)(i);  
1577 (iv) the tax imposed by Subsection (2) (d)(i)(A)(I);  
1578 (v) the tax imposed by Subsection (2)(e)(ii)(A)(I); and  
1579 (vi) the tax imposed by Subsection (2)(e)(iii)(A)(I).  
1580 (b) The following local taxes shall be distributed to a county, city, or town as provided  
1581 in this chapter:  
1582 (i) the tax imposed by Subsection (2)(a)(ii);  
1583 (ii) the tax imposed by Subsection (2)(b)(ii);  
1584 (iii) the tax imposed by Subsection (2)(c)(ii); and  
1585 (iv) the tax imposed by Subsection (2)(e)(ii)(B).  
1586 (c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the  
1587 state shall receive the county's, city's, or town's proportionate share of the revenues generated  
1588 by the following local taxes as provided in Subsection (3)(c)(ii):  
1589 (A) the local tax described in Subsection (2)(d)(ii); and  
1590 (B) the local tax described in Subsection (2)(e)(iii)(B).  
1591 (ii) For revenues generated by a tax described in Subsection (3)(c)(i), the commission  
1592 shall determine a county's, city's, or town's proportionate share of the revenues by:  
1593 (A) calculating an amount equal to the population of the unincorporated area of the  
1594 county, city, or town divided by the total population of the state; and  
1595 (B) multiplying the amount determined under Subsection (3)(c)(ii)(A) by the total  
1596 amount of revenues generated by the taxes described in Subsection (3)(c)(i) for all counties,  
1597 cities, and towns.  
1598 (iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for  
1599 purposes of this section shall be derived from the most recent official census or census estimate  
1600 of the United States Census Bureau.  
1601 (B) If a needed population estimate is not available from the United States Census  
1602 Bureau, population figures shall be derived from the estimate from the Utah Population  
1603 Estimates Committee created by executive order of the governor.  
1604 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
1605 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)  
1606 through (g):

1607 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1608 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

1609 (B) for the fiscal year; or

1610 (ii) \$17,500,000.

1611 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount

1612 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the

1613 Department of Natural Resources to:

1614 (A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to

1615 protect sensitive plant and animal species; or

1616 (B) award grants, up to the amount authorized by the Legislature in an appropriations

1617 act, to political subdivisions of the state to implement the measures described in Subsections

1618 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

1619 (ii) Money transferred to the Department of Natural Resources under Subsection

1620 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other

1621 person to list or attempt to have listed a species as threatened or endangered under the

1622 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

1623 (iii) At the end of each fiscal year:

1624 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources

1625 Conservation and Development Fund created in Section 73-10-24;

1626 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

1627 Program Subaccount created in Section 73-10c-5; and

1628 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

1629 Program Subaccount created in Section 73-10c-5.

1630 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in

1631 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund

1632 created in Section 4-18-6.

1633 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described

1634 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water

1635 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of

1636 water rights.

1637 (ii) At the end of each fiscal year:

- 1638 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
1639 Conservation and Development Fund created in Section 73-10-24;
- 1640 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
1641 Program Subaccount created in Section 73-10c-5; and
- 1642 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
1643 Program Subaccount created in Section 73-10c-5.
- 1644 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described  
1645 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development  
1646 Fund created in Section 73-10-24 for use by the Division of Water Resources.
- 1647 (ii) In addition to the uses allowed of the Water Resources Conservation and  
1648 Development Fund under Section 73-10-24, the Water Resources Conservation and  
1649 Development Fund may also be used to:
- 1650 (A) conduct hydrologic and geotechnical investigations by the Division of Water  
1651 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
1652 quantifying surface and ground water resources and describing the hydrologic systems of an  
1653 area in sufficient detail so as to enable local and state resource managers to plan for and  
1654 accommodate growth in water use without jeopardizing the resource;
- 1655 (B) fund state required dam safety improvements; and
- 1656 (C) protect the state's interest in interstate water compact allocations, including the  
1657 hiring of technical and legal staff.
- 1658 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
1659 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount  
1660 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.
- 1661 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
1662 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount  
1663 created in Section 73-10c-5 for use by the Division of Drinking Water to:
- 1664 (i) provide for the installation and repair of collection, treatment, storage, and  
1665 distribution facilities for any public water system, as defined in Section 19-4-102;
- 1666 (ii) develop underground sources of water, including springs and wells; and  
1667 (iii) develop surface water sources.
- 1668 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,

1669 2006, the difference between the following amounts shall be expended as provided in this  
1670 Subsection (5), if that difference is greater than \$1:

1671 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the  
1672 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

1673 (ii) \$17,500,000.

1674 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

1675 (A) transferred each fiscal year to the Department of Natural Resources as dedicated  
1676 credits; and

1677 (B) expended by the Department of Natural Resources for watershed rehabilitation or  
1678 restoration.

1679 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
1680 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund  
1681 created in Section 73-10-24.

1682 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the  
1683 remaining difference described in Subsection (5)(a) shall be:

1684 (A) transferred each fiscal year to the Division of Water Resources as dedicated  
1685 credits; and

1686 (B) expended by the Division of Water Resources for cloud-seeding projects  
1687 authorized by Title 73, Chapter 15, Modification of Weather.

1688 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
1689 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund  
1690 created in Section 73-10-24.

1691 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the  
1692 remaining difference described in Subsection (5)(a) shall be deposited into the Water  
1693 Resources Conservation and Development Fund created in Section 73-10-24 for use by the  
1694 Division of Water Resources for:

1695 (i) preconstruction costs:

1696 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
1697 26, Bear River Development Act; and

1698 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project  
1699 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

1700 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,  
1701 Chapter 26, Bear River Development Act;

1702 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project  
1703 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

1704 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and  
1705 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

1706 (e) Any unexpended monies described in Subsection (5)(d) that remain in the Water  
1707 Resources Conservation and Development Fund at the end of the fiscal year are nonlapsing.

1708 (f) After making the transfers required by Subsections (5)(b) and (c) and subject to  
1709 Subsection (5)(g), 6% of the remaining difference described in Subsection (5)(a) shall be  
1710 transferred each year as dedicated credits to the Division of Water Rights to cover the costs  
1711 incurred for employing additional technical staff for the administration of water rights.

1712 (g) At the end of each fiscal year, any unexpended dedicated credits described in  
1713 Subsection (5)(f) over \$150,000 lapse to the Water Resources Conservation and Development  
1714 Fund created in Section 73-10-24.

1715 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
1716 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%  
1717 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in  
1718 the Transportation Fund created by Section 72-2-102.

1719 (7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies,  
1720 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial  
1721 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed  
1722 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable  
1723 transactions under Subsection (1).

1724 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds  
1725 have been paid off and the highway projects completed that are intended to be paid from  
1726 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the  
1727 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of  
1728 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section  
1729 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated  
1730 by a 1/64% tax rate on the taxable transactions under Subsection (1).



1731 (8) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal  
1732 year 2004-05, the commission shall each year on or before the September 30 immediately  
1733 following the last day of the fiscal year deposit the difference described in Subsection (8)(b)  
1734 into the Remote Sales Restricted Account created in Section 59-12-103.2 if that difference is  
1735 greater than \$0.

1736 (b) The difference described in Subsection (8)(a) is equal to the difference between:

1737 (i) the total amount of the revenues the commission received from sellers collecting the  
1738 taxes described in Subsections (2)(d)(i) and (2)(e)(iii)(A) for the fiscal year immediately  
1739 preceding the September 30 described in Subsection (8)(a); and

1740 (ii) \$7,279,673.

1741 (9) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in  
1742 Subsection (7)(a), and until Subsection (9)(b) applies, for a fiscal year beginning on or after  
1743 July 1, 2007, the Division of Finance shall deposit into the Centennial Highway Fund  
1744 Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection  
1745 (3)(a) equal to 8.3% of the revenues collected from the following taxes, which represents a  
1746 portion of the approximately 17% of sales and use tax revenues generated annually by the sales  
1747 and use tax on vehicles and vehicle-related products:

1748 (i) the tax imposed by Subsection (2)(a)(i)(A);

1749 (ii) the tax imposed by Subsection (2)(b)(i);

1750 (iii) the tax imposed by Subsection (2)(c)(i); and

1751 (iv) the tax imposed by Subsection (2)(e)(ii)(A)(I).

1752 (b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under  
1753 Subsection (7)(b), when the highway general obligation bonds have been paid off and the  
1754 highway projects completed that are intended to be paid from revenues deposited in the  
1755 Centennial Highway Fund Restricted Account as determined by the Executive Appropriations  
1756 Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the  
1757 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes  
1758 listed under Subsection (3)(a) equal to 8.3% of the revenues collected from the following taxes,  
1759 which represents a portion of the approximately 17% of sales and use tax revenues generated  
1760 annually by the sales and use tax on vehicles and vehicle-related products:

1761 (i) the tax imposed by Subsection (2)(a)(i)(A);

- 1762 (ii) the tax imposed by Subsection (2)(b)(i);
- 1763 (iii) the tax imposed by Subsection (2)(c)(i); and
- 1764 (iv) the tax imposed by Subsection (2)(e)(ii)(A)(I).

1765 (10) (a) Notwithstanding Subsection (3)(a) and until Subsection (10)(b) applies, the  
1766 Division of Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes  
1767 listed under Subsection (3)(a) into the Critical Highway Needs Fund created by Section  
1768 72-2-125.

1769 (b) Notwithstanding Subsection (3)(a) and in addition to any amounts deposited under  
1770 Subsections (7) and (9), when the general obligation bonds authorized by Section 63B-16-101  
1771 have been paid off and the highway projects completed that are included in the prioritized  
1772 project list under Subsection 72-2-125(4) as determined in accordance with Subsection  
1773 72-2-125(6), the Division of Finance shall annually deposit \$90,000,000 of the revenues  
1774 generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund  
1775 of 2005 created by Section 72-2-124.

1776 Section 6. Section **59-12-104.2** is amended to read:

1777 **59-12-104.2. Exemption for accommodations and services taxed by the Navajo**  
1778 **Nation.**

1779 (1) As used in this section "tribal taxing area" means the geographical area that:

- 1780 (a) is subject to the taxing authority of the Navajo Nation; and
- 1781 (b) consists of:

1782 (i) notwithstanding the issuance of a patent, all land:

1783 (A) within the limits of an Indian reservation under the jurisdiction of the federal  
1784 government; and

1785 (B) including any rights-of-way running through the reservation; and

1786 (ii) all Indian allotments the Indian titles to which have not been extinguished,  
1787 including any rights-of-way running through an Indian allotment.

1788 (2) (a) Beginning July 1, 2001, amounts paid by or charged to a purchaser for  
1789 accommodations and services described in Subsection 59-12-103(1)(i) are exempt from the tax  
1790 imposed by Subsection 59-12-103(2)(a)(i) to the extent permitted under Subsection (2)(b) if:

1791 (i) the accommodations and services described in Subsection 59-12-103(1)(i) are  
1792 provided within:

1793 (A) the state; and  
1794 (B) a tribal taxing area;  
1795 (ii) the Navajo Nation imposes and collects a tax on the amounts paid by or charged to  
1796 the purchaser for the accommodations and services described in Subsection 59-12-103(1)(i);  
1797 (iii) the Navajo Nation imposes the tax described in Subsection (2)(a)(ii) without  
1798 regard to whether or not the purchaser that pays or is charged for the accommodations and  
1799 services is an enrolled member of the Navajo Nation; and  
1800 (iv) the requirements of Subsection (4) are met.  
1801 (b) If but for Subsection (2)(a) the amounts paid by or charged to a purchaser for  
1802 accommodations and services described in Subsection (2)(a) are subject to a tax imposed by  
1803 Subsection 59-12-103(2)(a)(i)(A):  
1804 (i) the seller shall collect and pay to the state the difference described in Subsection (3)  
1805 if that difference is greater than \$0; and  
1806 (ii) a person may not require the state to provide a refund, a credit, or similar tax relief  
1807 if the difference described in Subsection (3) is equal to or less than \$0.  
1808 (3) The difference described in Subsection (2)(b) is equal to the difference between:  
1809 (a) the amount of tax imposed by Subsection 59-12-103(2)(a)(i)(A) on the amounts  
1810 paid by or charged to a purchaser for accommodations and services described in Subsection  
1811 59-12-103(1)(i); less  
1812 (b) the tax imposed and collected by the Navajo Nation on the amounts paid by or  
1813 charged to a purchaser for the accommodations and services described in Subsection  
1814 59-12-103(1)(i).  
1815 (4) (a) If, on or after July 1, 2001, the Navajo Nation changes the tax rate of a tax  
1816 imposed on amounts paid by or charged to a purchaser for accommodations and services  
1817 described in Subsection 59-12-103(1)(i), any change in the amount of the exemption under  
1818 Subsection (2) as a result of the change in the tax rate is not effective until the first day of the  
1819 calendar quarter after a 90-day period beginning on the date the commission receives notice  
1820 meeting the requirements of Subsection (4)(b) from the Navajo Nation.  
1821 (b) The notice described in Subsection (4)(a) shall state:  
1822 (i) that the Navajo Nation has changed or will change the tax rate of a tax imposed on  
1823 amounts paid by or charged to a purchaser for accommodations and services described in

1824 Subsection 59-12-103(1)(i);  
1825 (ii) the effective date of the rate change on the tax described in Subsection (4)(b)(i);  
1826 and  
1827 (iii) the new rate of the tax described in Subsection (4)(b)(i).  
1828 (5) Beginning with the 2006 interim, the Revenue and Taxation Interim Committee:  
1829 (a) shall review the exemption provided for in this section one or more times every five  
1830 years;  
1831 (b) shall determine on or before the November interim meeting of the year in which the  
1832 Revenue and Taxation Interim Committee reviews the exemption provided for in this section  
1833 whether the exemption should be:  
1834 (i) continued;  
1835 (ii) modified; or  
1836 (iii) repealed; and  
1837 (c) may review any other issue related to the exemption provided for in this section as  
1838 determined by the Revenue and Taxation Interim Committee.  
1839 Section 7. Section **59-12-108** is amended to read:  
1840 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**  
1841 **Certain amounts allocated to local taxing jurisdictions.**  
1842 (1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this  
1843 chapter of \$50,000 or more for the previous calendar year shall:  
1844 (i) file a return with the commission:  
1845 (A) monthly on or before the last day of the month immediately following the month  
1846 for which the seller collects a tax under this chapter; and  
1847 (B) for the month for which the seller collects a tax under this chapter; and  
1848 (ii) remit with the return required by Subsection (1)(a)(i) the amount the person is  
1849 required to remit to the commission for each tax, fee, or charge described in Subsection (1)(b):  
1850 (A) if that seller's tax liability under this chapter for the previous calendar year is less  
1851 than \$96,000, by any method permitted by the commission; or  
1852 (B) if that seller's tax liability under this chapter for the previous calendar year is  
1853 \$96,000 or more, by electronic funds transfer.  
1854 (b) Subsections (1)(a)(i) and (ii) apply to the following taxes, fees, or charges:

1855 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

1856 (ii) a fee under Section 19-6-716;

1857 (iii) a fee under Section 19-6-805;

1858 (iv) a charge under Section 69-2-5.5; or

1859 (v) a tax under this chapter.

1860 (c) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63, Chapter 46a,

1861 Utah Administrative Rulemaking Act, the commission shall make rules providing for a method

1862 for making same-day payments other than by electronic funds transfer if making payments by

1863 electronic funds transfer fails.

1864 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1865 commission shall establish by rule procedures and requirements for determining the amount a

1866 seller is required to remit to the commission under this Subsection (1).

1867 (2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a

1868 seller described in Subsection (4) may retain each month the amount allowed by this

1869 Subsection (2).

1870 (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain

1871 each month 1.31% of any amounts the seller is required to remit to the commission:

1872 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax

1873 and a local tax imposed in accordance with the following, for the month for which the seller is

1874 filing a return in accordance with Subsection (1):

1875 (A) Subsection 59-12-103(2)(a);

1876 (B) Subsection 59-12-103(2)(b);

1877 (C) Subsection 59-12-103(2)(d), except for the state tax and the local tax imposed on

1878 the amounts paid or charged for food and food ingredients in accordance with Subsections

1879 59-12-103(2)(d)(i)(C) and (2)(d)(ii); and

1880 (D) Subsection 59-12-103(2)(e); and

1881 (ii) for an agreement sales and use tax.

1882 (c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may

1883 retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described

1884 in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in

1885 accordance with Subsection 59-12-103(2)(c).

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

1917 (II) the month for which the seller is filing a return in accordance with Subsection (1);  
1918 and  
1919 (III) an agreement sales and use tax; and  
1920 (B) 1.31% of the difference between:  
1921 (I) the amounts the seller would have been required to remit to the commission:  
1922 (Aa) in accordance with Subsections 59-12-103(2)(d)(i)(A)(I) and (2)(d)(ii) if the  
1923 transaction had been subject to the state tax and the local tax imposed in accordance with  
1924 Subsections 59-12-103(2)(d)(i)(A)(I) and (2)(d)(ii);  
1925 (Bb) for the month for which the seller is filing a return in accordance with Subsection  
1926 (1); and  
1927 (Cc) for an agreement sales and use tax; and  
1928 (II) the amounts the seller is required to remit to the commission for:  
1929 (Aa) the state tax and the local tax imposed in accordance with Subsections  
1930 59-12-103(2)(d)(i)(C) and (2)(d)(ii);  
1931 (Bb) the month for which the seller is filing a return in accordance with Subsection (1);  
1932 and  
1933 (Cc) an agreement sales and use tax.  
1934 (e) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain  
1935 each month 1% of any amounts the seller is required to remit to the commission:  
1936 (i) for the month for which the seller is filing a return in accordance with Subsection  
1937 (1); and  
1938 (ii) under:  
1939 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;  
1940 (B) Subsection 59-12-603(1)(a)(i)(A); or  
1941 (C) Subsection 59-12-603(1)(a)(i)(B).  
1942 (3) A state government entity that is required to remit taxes monthly in accordance  
1943 with Subsection (1) may not retain any amount under Subsection (2).  
1944 (4) A seller that has a tax liability under this chapter for the previous calendar year of  
1945 less than \$50,000 may:  
1946 (a) voluntarily meet the requirements of Subsection (1); and  
1947 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the

1948 amounts allowed by Subsection (2).

1949 (5) Penalties for late payment shall be as provided in Section 59-1-401.

1950 (6) (a) ~~For~~ Except as provided in Subsection (6)(c), for any amounts required to be  
1951 remitted to the commission under this part, the commission shall each month calculate an  
1952 amount equal to the difference between:

1953 (i) the total amount retained for that month by all sellers had the percentages listed  
1954 under Subsections (2)(b), (2)(c)(ii), and (2)(d)(ii) been 1.5%; and

1955 (ii) the total amount retained for that month by all sellers at the percentages listed  
1956 under Subsections (2)(b), (2)(c)(ii), and (2)(d)(ii).

1957 (b) The commission shall each month allocate the amount calculated under Subsection  
1958 (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and use  
1959 tax that the commission distributes to each county, city, and town for that month compared to  
1960 the total agreement sales and use tax that the commission distributes for that month to all  
1961 counties, cities, and towns.

1962 (c) The amount the commission calculates under Subsection (6)(a) may not include an  
1963 amount collected from a tax that:

1964 (i) the state imposes within a county, city, or town, including the unincorporated area  
1965 of a county; and

1966 (ii) is not imposed within the entire state.

1967 Section 8. Section **59-12-601.1** is enacted to read:

1968 **Part 6. Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act**  
1969 **59-12-601.1. Title.**

1970 This part is known as the "Tourism, Recreation, Cultural, Convention, and Airport  
1971 Facilities Tax Act."

1972 Section 9. Section **59-12-602** is amended to read:

1973 **59-12-602. Definitions.**

1974 As used in this part:

1975 (1) (a) Subject to Subsection (1)(b), "airport facility" means an airport of regional  
1976 significance, as defined by the Transportation Commission by rule made in accordance with  
1977 Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

1978 (b) "Airport facility" includes:



1979 (i) an appurtenance to an airport, including a fixed guideway as defined in Section  
1980 59-12-1702 that provides transportation service to or from the airport;

1981 (ii) a control tower, including a radar system;

1982 (iii) a public area of an airport; or

1983 (iv) a terminal facility.

1984 [~~1~~] (2) "Convention facility" means any publicly owned or operated convention  
1985 center, sports arena, or other facility at which conventions, conferences, and other gatherings  
1986 are held and whose primary business or function is to host such conventions, conferences, and  
1987 other gatherings.

1988 [~~2~~] (3) "Cultural facility" means any publicly owned or operated museum, theater, art  
1989 center, music hall, or other cultural or arts facility.

1990 [~~3~~] (4) "Recreation facility" or "tourist facility" means any publicly owned or  
1991 operated park, campground, marina, dock, golf course, water park, historic park, monument,  
1992 planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.

1993 [~~4~~] (5) (a) "Restaurant" includes any coffee shop, cafeteria, luncheonette, soda  
1994 fountain, or fast-food service where food is prepared for immediate consumption.

1995 (b) "Restaurant" does not include:

1996 (i) any retail establishment whose primary business or function is the sale of fuel or  
1997 food items for off-premise, but not immediate, consumption; and

1998 (ii) a theater that sells food items, but not a dinner theater.

1999 Section 10. Section **59-12-603** is amended to read:

2000 **59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Adoption of**  
2001 **ordinance required -- Advisory board -- Administration -- Collection -- Distribution --**  
2002 **Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.**

2003 (1) (a) In addition to any other taxes, a county legislative body may, as provided in this  
2004 part, impose a tax as follows:

2005 (i) (A) a county legislative body of any county may impose a tax of not to exceed 3%  
2006 on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases  
2007 and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor  
2008 vehicle that is being repaired pursuant to a repair or an insurance agreement; and

2009 (B) beginning on or after January 1, 1999, a county legislative body of any county

2010 imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under  
2011 Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term leases and rentals  
2012 of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made  
2013 for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant  
2014 to a repair or an insurance agreement;

2015 (ii) a county legislative body of any county may impose a tax of not to exceed 1% of all  
2016 sales of the following that are sold by a restaurant:

2017 (A) prepared food; or

2018 (B) food and food ingredients; and

2019 (iii) a county legislative body of a county of the first class may impose a tax of not to  
2020 exceed .5% on charges for the accommodations and services described in Subsection  
2021 59-12-103(1)(i).

2022 (b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section  
2023 17-31-5.5.

2024 (2) (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided  
2025 for in Subsections (1)(a)(i) through (iii) may be used for ~~[the purposes of]:~~

2026 (i) financing tourism promotion; and

2027 (ii) the development, operation, and maintenance of ~~[tourist, recreation, cultural, and  
2028 convention facilities as defined in Section 59-12-602.];~~

2029 (A) an airport facility;

2030 (B) a convention facility;

2031 (C) a cultural facility;

2032 (D) a recreation facility; or

2033 (E) a tourist facility.

2034 (b) A county of the first class shall expend at least \$450,000 each year of the revenues  
2035 from the imposition of a tax authorized by Subsection (1)(a)(iii) within the county to fund a  
2036 marketing and ticketing system designed to:

2037 (i) promote tourism in ski areas within the county by persons that do not reside within  
2038 the state; and

2039 (ii) combine the sale of:

2040 (A) ski lift tickets; and

2041 (B) accommodations and services described in Subsection 59-12-103(1)(i).

2042 (3) A tax imposed under this part may be pledged as security for bonds, notes, or other  
2043 evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local  
2044 Government Bonding Act, or a community development and renewal agency under Title 17C,  
2045 Chapter 1, Part 5, Agency Bonds, to finance [~~tourism, recreation, cultural, and convention~~  
2046 ~~facilities~~];

2047 (a) an airport facility;

2048 (b) a convention facility;

2049 (c) a cultural facility;

2050 (d) a recreation facility; or

2051 (e) a tourist facility.

2052 (4) (a) In order to impose the tax under Subsection (1), each county legislative body  
2053 shall [~~annually~~] adopt an ordinance imposing the tax.

2054 (b) The ordinance under Subsection (4)(a) shall include provisions substantially the  
2055 same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on  
2056 those items and sales described in Subsection (1).

2057 (c) The name of the county as the taxing agency shall be substituted for that of the state  
2058 where necessary, and an additional license is not required if one has been or is issued under  
2059 Section 59-12-106.

2060 (5) In order to maintain in effect its tax ordinance adopted under this part, each county  
2061 legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1,  
2062 Tax Collection, adopt amendments to its tax ordinance to conform with the applicable  
2063 amendments to Part 1, Tax Collection.

2064 (6) (a) Regardless of whether a county of the first class creates a tourism tax advisory  
2065 board in accordance with Section 17-31-8, the county legislative body of the county of the first  
2066 class shall create a tax advisory board in accordance with this Subsection (6).

2067 (b) The tax advisory board shall be composed of nine members appointed as follows:

2068 (i) four members shall be appointed by the county legislative body of the county of the  
2069 first class as follows:

2070 (A) one member shall be a resident of the unincorporated area of the county;

2071 (B) two members shall be residents of the incorporated area of the county; and

2072 (C) one member shall be a resident of the unincorporated or incorporated area of the  
2073 county; and

2074 (ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or  
2075 towns within the county of the first class appointed by an organization representing all mayors  
2076 of cities and towns within the county of the first class.

2077 (c) Five members of the tax advisory board constitute a quorum.

2078 (d) The county legislative body of the county of the first class shall determine:

2079 (i) terms of the members of the tax advisory board;

2080 (ii) procedures and requirements for removing a member of the tax advisory board;

2081 (iii) voting requirements, except that action of the tax advisory board shall be by at  
2082 least a majority vote of a quorum of the tax advisory board;

2083 (iv) chairs or other officers of the tax advisory board;

2084 (v) how meetings are to be called and the frequency of meetings; and

2085 (vi) the compensation, if any, of members of the tax advisory board.

2086 (e) The tax advisory board under this Subsection (6) shall advise the county legislative  
2087 body of the county of the first class on the expenditure of revenues collected within the county  
2088 of the first class from the taxes described in Subsection (1)(a).

2089 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part  
2090 shall be administered, collected, and enforced in accordance with:

2091 (A) the same procedures used to administer, collect, and enforce the tax under:

2092 (I) Part 1, Tax Collection; or

2093 (II) Part 2, Local Sales and Use Tax Act; and

2094 (B) Chapter 1, General Taxation Policies.

2095 (ii) A tax under this part is not subject to Section 59-12-107.1 or Subsections  
2096 59-12-205(2) through (7).

2097 (b) Except as provided in Subsection (7)(c):

2098 (i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the  
2099 commission shall distribute the revenues to the county imposing the tax; and

2100 (ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenues  
2101 according to the distribution formula provided in Subsection (8).

2102 (c) The commission shall deduct from the distributions under Subsection (7)(b) an

2103 administrative charge for collecting the tax as provided in Section 59-12-206.

2104 (8) The commission shall distribute the revenues generated by the tax under Subsection  
2105 (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the  
2106 following formula:

2107 (a) the commission shall distribute 70% of the revenues based on the percentages  
2108 generated by dividing the revenues collected by each county under Subsection (1)(a)(i)(B) by  
2109 the total revenues collected by all counties under Subsection (1)(a)(i)(B); and

2110 (b) the commission shall distribute 30% of the revenues based on the percentages  
2111 generated by dividing the population of each county collecting a tax under Subsection  
2112 (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

2113 (9) (a) For purposes of this Subsection (9):

2114 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,  
2115 Annexation to County.

2116 (ii) "Annexing area" means an area that is annexed into a county.

2117 (b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county  
2118 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or  
2119 change shall take effect:

2120 (A) on the first day of a calendar quarter; and

2121 (B) after a 90-day period beginning on the date the commission receives notice meeting  
2122 the requirements of Subsection (9)(b)(ii) from the county.

2123 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:

2124 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

2125 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

2126 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

2127 (D) if the county enacts the tax or changes the rate of the tax described in Subsection  
2128 (9)(b)(ii)(A), the rate of the tax.

2129 (c) (i) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection  
2130 (9)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the  
2131 first billing period:

2132 (A) that begins after the effective date of the enactment of the tax or the tax rate  
2133 increase; and

2134 (B) if the billing period for the transaction begins before the effective date of the  
2135 enactment of the tax or the tax rate increase imposed under Subsection (1).

2136 (ii) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection  
2137 (9)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last  
2138 billing period:

2139 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
2140 and

2141 (B) if the billing period for the transaction begins before the effective date of the repeal  
2142 of the tax or the tax rate decrease imposed under Subsection (1).

2143 (iii) Subsections (9)(c)(i) and (ii) apply to transactions subject to a tax under:

2144 (A) Subsection 59-12-103(1)(e);

2145 (B) Subsection 59-12-103(1)(i); or

2146 (C) Subsection 59-12-103(1)(k).

2147 (d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or  
2148 after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a  
2149 tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

2150 (A) on the first day of a calendar quarter; and

2151 (B) after a 90-day period beginning on the date the commission receives notice meeting  
2152 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

2153 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

2154 (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,  
2155 repeal, or change in the rate of a tax under this part for the annexing area;

2156 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

2157 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

2158 (D) if the county enacts the tax or changes the rate of the tax described in Subsection  
2159 (9)(d)(ii)(A), the rate of the tax.

2160 (e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection  
2161 (9)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the  
2162 first billing period:

2163 (A) that begins after the effective date of the enactment of the tax or the tax rate  
2164 increase; and

2165 (B) if the billing period for the transaction begins before the effective date of the  
2166 enactment of the tax or the tax rate increase imposed under Subsection (1).

2167 (ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection  
2168 (9)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last  
2169 billing period:

2170 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
2171 and

2172 (B) if the billing period for the transaction begins before the effective date of the repeal  
2173 of the tax or the tax rate decrease imposed under Subsection (1).

2174 (iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:

2175 (A) Subsection 59-12-103(1)(e);

2176 (B) Subsection 59-12-103(1)(i); or

2177 (C) Subsection 59-12-103(1)(k).

2178 Section 11. Section **59-12-1901** is enacted to read:

2179 **Part 19. County of the Second Class Airport, Highway, and Public**  
2180 **Transit Sales and Use Tax Act**

2181 **59-12-1901. Title.**

2182 This part is known as the "County of the Second Class Airport, Highway, and Public  
2183 Transit Sales and Use Tax Act."

2184 Section 12. Section **59-12-1902** is enacted to read:

2185 **59-12-1902. Definitions.**

2186 As used in this part:

2187 (1) "Airport facility" is as defined in Section 59-12-602.

2188 (2) "Annexation" means an annexation to a county under Title 17, Chapter 2,  
2189 Annexation to County.

2190 (3) "Annexing area" means an area that is annexed into a county.

2191 (4) "Fixed guideway" is as defined in Section 59-12-1702.

2192 (5) "Local highway of regional significance" means a local highway that is a:

2193 (a) principal arterial highway as defined in Section 72-4-102.5;

2194 (b) minor arterial highway as defined in Section 72-4-102.5;

2195 (c) major collector highway as defined in Section 72-4-102.5; or

2196 (d) minor collector road as defined in Section 72-4-102.5.

2197 (6) "Public transit" is as defined in Section 59-12-1502.

2198 Section 13. Section **59-12-1903** is enacted to read:

2199 **59-12-1903. Imposition of tax -- Base -- Rate -- Expenditure of revenues collected**  
2200 **from the tax -- Administration, collection, and enforcement of tax by commission --**  
2201 **Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**

2202 (1) (a) Subject to the other provisions of this section and except as provided in  
2203 Subsection (2), beginning on January 1, 2009, a county legislative body of a county of the  
2204 second class may impose a sales and use tax on the transactions:

2205 (i) described in Subsection 59-12-103(1); and

2206 (ii) within the county, including the cities and towns within the county.

2207 (b) For purposes of Subsection (1)(a), a county legislative body may impose a tax at a  
2208 rate of:

2209 (i) .10%, to be:

2210 (A) as determined by the county legislative body, deposited as provided in Subsection  
2211 (4)(c)(i) into the County of the Second Class State Highway Projects Fund created by Section  
2212 72-2-121.2 and expended as provided in Section 72-2-121.2;

2213 (B) as determined by the county legislative body, expended for a project or service  
2214 relating to an airport facility:

2215 (I) if that airport facility is part of the regional transportation plan of the area  
2216 metropolitan planning organization if a metropolitan planning organization exists for the area;  
2217 and

2218 (II) for the portion of the project or service that is performed within the county; or

2219 (C) as determined by the county legislative body, deposited or expended for a  
2220 combination of Subsections (1)(b)(i)(A) and (B); or

2221 (ii) .25%, to be expended as follows:

2222 (A) .10% to be deposited as provided in Subsection (4)(c)(i) into the County of the  
2223 Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as  
2224 provided in Section 72-2-121.2;

2225 (B) .05%, to be deposited as provided in Subsection (4)(c)(ii) into the Local  
2226 Transportation Corridor Preservation Fund created by Section 72-2-117.5 and expended and



2227 distributed in accordance with Section 72-2-117.5; and  
2228 (C) as determined by the county legislative body, .10% to be:  
2229 (I) deposited as provided in Subsection (4)(c)(i) into the County of the Second Class  
2230 State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in  
2231 Section 72-2-121.2;  
2232 (II) expended for:  
2233 (Aa) a state highway designated under Title 72, Chapter 4, Part 1, Designation of State  
2234 Highways Act;  
2235 (Bb) a local highway of regional significance; or  
2236 (Cc) a combination of Subsections (1)(b)(ii)(C)(II)(Aa) and (Bb);  
2237 (III) expended for a project or service relating to a system for public transit for the  
2238 portion of the project or service that is performed within the county;  
2239 (IV) expended for a project or service relating to a fixed guideway for the portion of  
2240 the project or service that is performed within the county;  
2241 (V) expended for a project or service relating to an airport facility:  
2242 (Aa) if that airport facility is part of the regional transportation plan of the area  
2243 metropolitan planning organization if a metropolitan planning organization exists for the area;  
2244 and  
2245 (Bb) for the portion of the project or service that is performed within the county; or  
2246 (VI) deposited or expended for a combination of Subsections (1)(b)(ii)(C)(I) through  
2247 (V).  
2248 (c) If a county legislative body imposes a tax under this part, the county legislative  
2249 body may not impose a tax under Part 17, County Option Sales and Use Tax for Transportation  
2250 Act.  
2251 (d) For purposes of this Subsection (1), the location of a transaction shall be  
2252 determined in accordance with Section 59-12-207.  
2253 (2) (a) A county legislative body may not impose a tax under this part on:  
2254 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
2255 are exempt from taxation under Section 59-12-104;  
2256 (ii) any amounts paid or charged by a seller that collects a tax under Subsection  
2257 59-12-107(1)(b); or

2258 (iii) except as provided in Subsection (2)(b), amounts paid or charged for food and  
2259 food ingredients.

2260 (b) A county legislative body imposing a tax under this part shall impose the tax on  
2261 amounts paid or charged for food and food ingredients if:

2262 (i) the food and food ingredients are sold as part of a bundled transaction attributable to  
2263 food and food ingredients and tangible personal property other than food and food ingredients;  
2264 and

2265 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in  
2266 accordance with Subsection 59-12-107(1)(b).

2267 (3) To impose a tax under this part, a county legislative body shall obtain approval  
2268 from a majority of the members of the county legislative body.

2269 (4) (a) Except as provided in Subsection (4)(b) or (c) or (6), the commission shall  
2270 transmit revenues collected within a county from a tax under this part that are required to be  
2271 expended for a purpose described in Subsection (1)(b)(ii)(C):

2272 (i) to the county legislative body;

2273 (ii) monthly; and

2274 (iii) by electronic funds transfer.

2275 (b) Except as provided in Subsection (6), the commission shall transfer the revenues  
2276 described in Subsection (4)(a) directly to a public transit district organized under Title 17B,  
2277 Chapter 2a, Part 8, Public Transit District Act, if the county legislative body:

2278 (i) provides written notice to the commission requesting the transfer; and

2279 (ii) designates the public transit district to which the county legislative body requests  
2280 the commission to transfer the revenues described in Subsection (4)(a).

2281 (c) Except as provided in Subsection (6), the commission shall deposit revenues  
2282 collected within a county from a tax under this part that:

2283 (i) are required to be expended for a purpose described in Subsection (1)(b)(ii)(A) into  
2284 the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2;

2285 (ii) are required to be expended for a purpose described in Subsection (1)(b)(ii)(B) into  
2286 the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or

2287 (iii) a county legislative body determines to expend for a purpose described in  
2288 Subsection (1)(b)(i)(A) or (1)(b)(ii)(C)(I) into the County of the Second Class State Highway

2289 Projects Fund created by Section 72-2-121.2 if the county legislative body provides written  
2290 notice to the commission requesting the deposit.

2291 (5) (a) Except as provided in Subsection (5)(b), the commission shall administer,  
2292 collect, and enforce a tax under this part in accordance with:

2293 (i) the same procedures used to administer, collect, and enforce the tax under:

2294 (A) Part 1, Tax Collection; or

2295 (B) Part 2, Local Sales and Use Tax Act; and

2296 (ii) Chapter 1, General Taxation Policies.

2297 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).

2298 (6) (a) The commission may retain an amount of tax collected under this part of not to  
2299 exceed the lesser of:

2300 (i) 1.5%; or

2301 (ii) an amount equal to the cost to the commission of administering this part.

2302 (b) Any amount the commission retains under Subsection (6)(a) shall be:

2303 (i) deposited into the Sales and Use Tax Administrative Fees Account; and

2304 (ii) used as provided in Subsection 59-12-206(2).

2305 (7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009,  
2306 a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment,  
2307 repeal, or change shall take effect:

2308 (A) on the first day of a calendar quarter; and

2309 (B) after a 90-day period beginning on the date the commission receives notice meeting  
2310 the requirements of Subsection (7)(a)(ii) from the county.

2311 (ii) The notice described in Subsection (7)(a)(i)(B) shall state:

2312 (A) that the county will enact, repeal, or change the rate of a tax under this part;

2313 (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);

2314 (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and

2315 (D) if the county enacts the tax or changes the rate of the tax described in Subsection  
2316 (7)(a)(ii)(A), the rate of the tax.

2317 (b) (i) For a transaction described in Subsection (7)(b)(iii), if the billing period for the  
2318 transaction begins before the effective date of the enactment of the tax or the tax rate increase  
2319 under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on the first

2320 day of the first billing period that begins after the effective date of the enactment of the tax or  
2321 the tax rate increase.

2322 (ii) For a transaction described in Subsection (7)(b)(iii), if the billing period for the  
2323 transaction begins before the effective date of the repeal of the tax or the tax rate decrease  
2324 imposed under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the  
2325 first day of the last billing period that began before the effective date of the repeal of the tax or  
2326 the tax rate decrease.

2327 (iii) Subsections (7)(b)(i) and (ii) apply to transactions subject to a tax under:

2328 (A) Subsection 59-12-103(1)(b);

2329 (B) Subsection 59-12-103(1)(c);

2330 (C) Subsection 59-12-103(1)(d);

2331 (D) Subsection 59-12-103(1)(e);

2332 (E) Subsection 59-12-103(1)(f);

2333 (F) Subsection 59-12-103(1)(g);

2334 (G) Subsection 59-12-103(1)(h);

2335 (H) Subsection 59-12-103(1)(i);

2336 (I) Subsection 59-12-103(1)(j); or

2337 (J) Subsection 59-12-103(1)(k).

2338 (c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales  
2339 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax  
2340 described in Subsection (7)(a)(i) takes effect:

2341 (A) on the first day of a calendar quarter; and

2342 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the  
2343 rate of the tax under Subsection (7)(a)(i).

2344 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
2345 the commission may by rule define the term "catalogue sale."

2346 (d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs  
2347 on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the  
2348 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take  
2349 effect:

2350 (A) on the first day of a calendar quarter; and

2351 (B) after a 90-day period beginning on the date the commission receives notice meeting  
2352 the requirements of Subsection (7)(d)(ii) from the county that annexes the annexing area.

2353 (ii) The notice described in Subsection (7)(d)(i)(B) shall state:

2354 (A) that the annexation described in Subsection (7)(d)(i)(B) will result in an enactment,  
2355 repeal, or change in the rate of a tax under this part for the annexing area;

2356 (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

2357 (C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

2358 (D) if the county enacts the tax or changes the rate of the tax described in Subsection  
2359 (7)(d)(ii)(A), the rate of the tax.

2360 (e) (i) For a transaction described in Subsection (7)(e)(iii), if the billing period for the  
2361 transaction begins before the effective date of the enactment of the tax or a tax rate increase  
2362 under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on the first  
2363 day of the first billing period that begins after the effective date of the enactment of the tax or  
2364 the tax rate increase.

2365 (ii) For a transaction described in Subsection (7)(e)(iii), if the billing period for the  
2366 transaction begins before the effective date of the repeal of the tax or the tax rate decrease  
2367 imposed under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the  
2368 first day of the last billing period that began before the effective date of the repeal of the tax or  
2369 the tax rate decrease.

2370 (iii) Subsections (7)(e)(i) and (ii) apply to transactions subject to a tax under:

2371 (A) Subsection 59-12-103(1)(b);

2372 (B) Subsection 59-12-103(1)(c);

2373 (C) Subsection 59-12-103(1)(d);

2374 (D) Subsection 59-12-103(1)(e);

2375 (E) Subsection 59-12-103(1)(f);

2376 (F) Subsection 59-12-103(1)(g);

2377 (G) Subsection 59-12-103(1)(h);

2378 (H) Subsection 59-12-103(1)(i);

2379 (I) Subsection 59-12-103(1)(j); or

2380 (J) Subsection 59-12-103(1)(k).

2381 (f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales

2382 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax  
2383 described in Subsection (7)(d)(i) takes effect:

2384 (A) on the first day of a calendar quarter; and

2385 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the  
2386 rate under Subsection (7)(d)(i).

2387 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
2388 the commission may by rule define the term "catalogue sale."

2389 Section 14. Section **59-12-2001** is enacted to read:

2390 **Part 20. Supplemental State Sales and Use Tax Act**

2391 **59-12-2001. Title.**

2392 This part is known as the "Supplemental State Sales and Use Tax Act."

2393 Section 15. Section **59-12-2002** is enacted to read:

2394 **59-12-2002. Definitions.**

2395 As used in this part, "public transit district" means a public transit district organized  
2396 under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

2397 Section 16. Section **59-12-2003** is enacted to read:

2398 **59-12-2003. Imposition -- Base -- Rate -- Revenues distributed to certain public**  
2399 **transit districts.**

2400 (1) Subject to the other provisions of this section and except as provided in Subsection  
2401 (2) or (4), beginning on July 1, 2008, the state shall impose a tax under this part within a city,  
2402 town, or the unincorporated area of a county of the first or second class if, on January 1, 2008,  
2403 there is a public transit district within any portion of that county of the first or second class.

2404 (2) The state may not impose a tax under this part within a county of the first or second  
2405 class if within all of the cities, towns, and the unincorporated area of the county of the first or  
2406 second class there is imposed a sales and use tax of:

2407 (a) .30% under Section 59-12-501;

2408 (b) .30% under Section 59-12-1001; or

2409 (c) .30% under Section 59-12-1503.

2410 (3) (a) Subject to Subsection (3)(b), if the state imposes a tax under this part, the tax  
2411 rate imposed within a city, town, or the unincorporated area of a county of the first or second  
2412 class is a percentage equal to the difference between:

- 2413 (i) .30%; and  
2414 (ii) (A) for a city within the county of the first or second class, the highest tax rate  
2415 imposed within that city under:  
2416 (I) Section 59-12-501;  
2417 (II) Section 59-12-1001; or  
2418 (III) Section 59-12-1503;  
2419 (B) for a town within the county of the first or second class, the highest tax rate  
2420 imposed within that town under:  
2421 (I) Section 59-12-501;  
2422 (II) Section 59-12-1001; or  
2423 (III) Section 59-12-1503; or  
2424 (C) for the unincorporated area of the county of the first or second class, the highest tax  
2425 rate imposed within that unincorporated area under:  
2426 (I) Section 59-12-501;  
2427 (II) Section 59-12-1001; or  
2428 (III) Section 59-12-1503.  
2429 (b) For purposes of Subsection (3)(a), if for a city, town, or the unincorporated area of  
2430 a county of the first or second class, the highest tax rate imposed under Section 59-12-501,  
2431 59-12-1001, or 59-12-1503 within that city, town, or unincorporated area of the county of the  
2432 first or second class is .30%, the state may not impose a tax under this part within that city,  
2433 town, or unincorporated area.  
2434 (4) (a) The state may not impose a tax under this part on:  
2435 (i) a transaction described in Subsection 59-12-103(1)(d);  
2436 (ii) except as provided in Subsection (4)(b), a transaction described in Subsection  
2437 59-12-103(2)(c); or  
2438 (iii) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
2439 are exempt from taxation under Section 59-12-104.  
2440 (b) The state shall impose a tax under this part on amounts paid or charged for food  
2441 and food ingredients if:  
2442 (i) the food and food ingredients are sold as part of a bundled transaction attributable to  
2443 food and ingredients and tangible personal property other than food and food ingredients; and

2444 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in  
2445 accordance with Subsection 59-12-107(1)(b).

2446 (5) For purposes of Subsection (1), the location of a transaction shall be determined in  
2447 accordance with Section 59-12-207.

2448 (6) The commission shall distribute the revenues the state collects from the sales and  
2449 use tax under this part, after subtracting amounts a seller retains in accordance with Section  
2450 59-12-108, to the public transit districts within the cities, towns, and unincorporated areas:

2451 (a) within which the state imposes a tax under this part; and

2452 (b) in proportion to the revenues collected from the sales and use tax under this part  
2453 within each city, town, and unincorporated area within which the state imposes a tax under this  
2454 part.

2455 Section 17. Section **59-12-2004** is enacted to read:

2456 **59-12-2004. Enactment or repeal of tax -- Effective date -- Administration,**  
2457 **collection, and enforcement of tax.**

2458 (1) Subject to Subsections (2) and (3), a tax rate repeal or a tax rate change for a tax  
2459 imposed under this part shall take effect on the first day of a calendar quarter.

2460 (2) (a) For a transaction described in Subsection (2)(c), the enactment of a tax or a tax  
2461 rate increase shall take effect on the first day of the first billing period that begins after the  
2462 effective date of the enactment of the tax or the tax rate increase if the billing period for the  
2463 transaction begins before the effective date of the enactment of the tax or the tax rate increase  
2464 under this part.

2465 (b) For a transaction described in Subsection (2)(c), the repeal of a tax or a tax rate  
2466 decrease shall take effect on the first day of the last billing period that began before the  
2467 effective date of the repeal of the tax or the tax rate decrease if the billing period for the  
2468 transaction begins before the effective date of the repeal of the tax or the tax rate decrease  
2469 imposed under this part.

2470 (c) Subsections (2)(a) and (b) apply to transactions subject to a tax under:

2471 (i) Subsection 59-12-103(1)(b);

2472 (ii) Subsection 59-12-103(1)(c);

2473 (iii) Subsection 59-12-103(1)(d);

2474 (iv) Subsection 59-12-103(1)(e);



2475 (v) Subsection 59-12-103(1)(f);

2476 (vi) Subsection 59-12-103(1)(g);

2477 (vii) Subsection 59-12-103(1)(h);

2478 (viii) Subsection 59-12-103(1)(i);

2479 (ix) Subsection 59-12-103(1)(j); or

2480 (x) Subsection 59-12-103(1)(k).

2481 (3) (a) If a tax due under this part on a catalogue sale is computed on the basis of sales  
2482 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax  
2483 under this part takes effect:

2484 (i) on the first day of a calendar quarter; and

2485 (ii) beginning 60 days after the effective date of the enactment, repeal, or change in the  
2486 rate of the tax under this part.

2487 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
2488 commission may by rule define the term "catalogue sale."

2489 (4) The commission shall administer, collect, and enforce a tax under this part in  
2490 accordance with:

2491 (a) the same procedures used to administer, collect, and enforce the tax under Part 1,  
2492 Tax Collection; and

2493 (b) Chapter 1, General Taxation Policies.

2494 Section 18. Section **72-2-117.5** is amended to read:

2495 **72-2-117.5. Local Transportation Corridor Preservation Fund -- Distribution.**

2496 (1) As used in this section:

2497 (a) "Council of governments" means a decision-making body in each county composed  
2498 of the county governing body and the mayors of each municipality in the county.

2499 (b) "Metropolitan planning organization" has the same meaning as defined in Section  
2500 72-1-208.5.

2501 (2) There is created the Local Transportation Corridor Preservation Fund within the  
2502 Transportation Fund.

2503 (3) The fund shall be funded from the following sources:

2504 (a) a local option highway construction and transportation corridor preservation fee  
2505 imposed under Section 41-1a-1222;

- 2506 (b) appropriations made to the fund by the Legislature;
- 2507 (c) contributions from other public and private sources for deposit into the fund;
- 2508 (d) interest earnings on cash balances;
- 2509 (e) all monies collected from rents and sales of real property acquired with fund
- 2510 monies;
- 2511 (f) proceeds from general obligation bonds, revenue bonds, or other obligations issued
- 2512 as authorized by Title 63B, Bonds; ~~and~~
- 2513 (g) the portion of the sales and use tax described in Subsection 59-12-1703(4)(a)(ii)
- 2514 and required by Subsection 59-12-1703(7)(b)(i) to be deposited into the fund[-]; and
- 2515 (h) sales and use tax revenues required by Section 59-12-1903 to be deposited into the
- 2516 fund.
- 2517 (4) (a) All monies appropriated to the Local Transportation Corridor Preservation Fund
- 2518 are nonlapsing.
- 2519 (b) The State Tax Commission shall provide the department with sufficient data for the
- 2520 department to allocate the revenues:
- 2521 (i) provided under Subsection (3)(a) to each county imposing a local option highway
- 2522 construction and transportation corridor preservation fee under Section 41-1a-1222; ~~and~~
- 2523 (ii) provided under Subsection 59-12-1703(4)(a)(ii) to each county imposing a county
- 2524 option sales and use tax for transportation[-]; and
- 2525 (iii) provided under Subsection (3)(h) to each county of the second class imposing the
- 2526 sales and use tax authorized by Section 59-12-1903.
- 2527 (c) The monies allocated under Subsection (4)(b):
- 2528 (i) shall be used for the purposes provided in this section for each county; and
- 2529 (ii) are allocated to each county as provided in this section:
- 2530 (A) with the condition that the state will not be charged for any asset purchased with
- 2531 the monies allocated under Subsection (4)(b); and
- 2532 (B) are considered a local matching contribution for the purposes described under
- 2533 Section 72-2-123 if used on a state highway.
- 2534 (d) Administrative costs of the department to implement this section shall be paid from
- 2535 the fund.
- 2536 (5) (a) The department shall authorize the expenditure of fund monies to allow a

2537 highway authority to acquire real property or any interests in real property for state, county, and  
2538 municipal highway corridors subject to:

- 2539 (i) monies available in the fund to each county under Subsection (4)(b); and
- 2540 (ii) the provisions of this section.

2541 (b) Fund monies may be used to pay interest on debts incurred in accordance with this  
2542 section.

2543 (c) (i) (A) Fund monies may be used to pay maintenance costs of properties acquired  
2544 under this section but limited to a total of 5% of the purchase price of the property.

2545 (B) Any additional maintenance cost shall be paid from funds other than under this  
2546 section.

2547 (C) Revenue generated by any property acquired under this section is excluded from  
2548 the limitations under this Subsection (5)(c)(i).

2549 (ii) Fund monies may be used to pay direct costs of acquisition of properties acquired  
2550 under this section.

2551 (d) Fund monies allocated under Subsection (4)(b) may be used by a county highway  
2552 authority for countywide transportation planning if:

- 2553 (i) the county is not included in a metropolitan planning organization;
- 2554 (ii) the transportation planning is part of the county's continuing, cooperative, and  
2555 comprehensive process for transportation planning, corridor preservation, right-of-way  
2556 acquisition, and project programming;

2557 (iii) no more than four years allocation every 20 years to each county is used for  
2558 transportation planning under this Subsection (5)(d); and

2559 (iv) the county otherwise qualifies to use the fund monies as provided under this  
2560 section.

2561 (e) (i) Fund monies allocated under Subsection (4)(b) may be used by a county  
2562 highway authority for transportation corridor planning that is part of the corridor elements of an  
2563 ongoing work program of transportation projects.

2564 (ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the  
2565 direction of:

2566 (A) the metropolitan planning organization if the county is within the boundaries of a  
2567 metropolitan planning organization; or

2568 (B) the department if the county is not within the boundaries of a metropolitan  
2569 planning organization.

2570 (6) (a) (i) The Local Transportation Corridor Preservation Fund shall be used to  
2571 preserve highway corridors, promote long-term statewide transportation planning, save on  
2572 acquisition costs, and promote the best interests of the state in a manner which minimizes  
2573 impact on prime agricultural land.

2574 (ii) The Local Transportation Corridor Preservation Fund shall only be used to preserve  
2575 a highway corridor that is right-of-way:

2576 (A) in a county of the first or second class for a:

2577 (I) state highway;

2578 (II) a principal arterial highway as defined in Section 72-4-102.5;

2579 (III) a minor arterial highway as defined in Section 72-4-102.5; or

2580 (IV) a collector highway in an urban area as defined in Section 72-4-102.5; or

2581 (B) in a county of the third, fourth, fifth, or sixth class for a:

2582 (I) state highway;

2583 (II) a principal arterial highway as defined in Section 72-4-102.5;

2584 (III) a minor arterial highway as defined in Section 72-4-102.5;

2585 (IV) a major collector highway as defined in Section 72-4-102.5; or

2586 (V) a minor collector road as defined in Section 72-4-102.5.

2587 (iii) The Local Transportation Corridor Preservation Fund may not be used for a  
2588 highway corridor that is primarily a recreational trail as defined under Section 63-11a-101.

2589 (b) (i) The department shall develop and implement a program to educate highway  
2590 authorities on the objectives, application process, use, and responsibilities of the Local  
2591 Transportation Corridor Preservation Fund as provided under this section to promote the most  
2592 efficient and effective use of fund monies including priority use on designated high priority  
2593 corridor preservation projects.

2594 (ii) The department shall develop a model transportation corridor property acquisition  
2595 policy or ordinance that meets federal requirements for the benefit of a highway authority to  
2596 acquire real property or any interests in real property under this section.

2597 (c) The department shall authorize the expenditure of fund monies after determining  
2598 that the expenditure is being made in accordance with this section from applications that are:

- 2599 (i) made by a highway authority;
- 2600 (ii) endorsed by the council of governments; and
- 2601 (iii) for a right-of-way purchase for a highway authorized under Subsection (6)(a)(ii).
- 2602 (7) (a) (i) A council of governments shall establish a council of governments
- 2603 endorsement process which includes prioritization and application procedures for use of the
- 2604 monies allocated to each county under this section.
- 2605 (ii) The endorsement process under Subsection (7)(a)(i) may include review or
- 2606 endorsement of the preservation project by the:
  - 2607 (A) metropolitan planning organization if the county is within the boundaries of a
  - 2608 metropolitan planning organization; or
  - 2609 (B) the department if the county is not within the boundaries of a metropolitan
  - 2610 planning organization.
- 2611 (b) All fund monies shall be prioritized by each highway authority and council of
- 2612 governments based on considerations, including:
  - 2613 (i) areas with rapidly expanding population;
  - 2614 (ii) the willingness of local governments to complete studies and impact statements
  - 2615 that meet department standards;
  - 2616 (iii) the preservation of corridors by the use of local planning and zoning processes;
  - 2617 (iv) the availability of other public and private matching funds for a project;
  - 2618 (v) the cost-effectiveness of the preservation projects;
  - 2619 (vi) long and short-term maintenance costs for property acquired; and
  - 2620 (vii) whether the transportation corridor is included as part of:
    - 2621 (A) the county and municipal master plan; and
    - 2622 (B) (I) the statewide long range plan; or
    - 2623 (II) the regional transportation plan of the area metropolitan planning organization if
    - 2624 one exists for the area.
- 2625 (c) The council of governments shall:
  - 2626 (i) establish a priority list of highway corridor preservation projects within the county;
  - 2627 (ii) submit the list described in Subsection (7)(c)(i) to the county's legislative body for
  - 2628 approval; and
  - 2629 (iii) obtain approval of the list described in Subsection (7)(c)(i) from a majority of the

2630 members of the county legislative body.

2631 (d) A county's council of governments may only submit one priority list described in  
2632 Subsection (7)(c)(i) per calendar year.

2633 (e) A county legislative body may only consider and approve one priority list described  
2634 in Subsection (7)(c)(i) per calendar year.

2635 (8) (a) Unless otherwise provided by written agreement with another highway  
2636 authority, the highway authority that holds the deed to the property is responsible for  
2637 maintenance of the property.

2638 (b) The transfer of ownership for property acquired under this section from one  
2639 highway authority to another shall include a recorded deed for the property and a written  
2640 agreement between the highway authorities.

2641 (9) (a) The proceeds from any bonds or other obligations secured by revenues of the  
2642 Local Transportation Corridor Preservation Fund shall be used for the purposes authorized for  
2643 funds under this section.

2644 (b) The highway authority shall pledge the necessary part of the revenues of the Local  
2645 Transportation Corridor Preservation Fund to the payment of principal and interest on the  
2646 bonds or other obligations.

2647 (10) (a) A highway authority may not apply for monies under this section to purchase a  
2648 right-of-way for a state highway unless the highway authority has:

2649 (i) a transportation corridor property acquisition policy or ordinance in effect that  
2650 meets federal requirements for the acquisition of real property or any interests in real property  
2651 under this section; and

2652 (ii) an access management policy or ordinance in effect that meets the requirements  
2653 under Subsection 72-2-117(9).

2654 (b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a  
2655 written agreement with the department for the acquisition of real property or any interests in  
2656 real property under this section.

2657 Section 19. Section **72-2-121** is amended to read:

2658 **72-2-121. County of the First Class State Highway Projects Fund.**

2659 (1) There is created a special revenue fund entitled the County of the First Class State  
2660 Highway Projects Fund.

- 2661 (2) The fund consists of monies generated from the following revenue sources:
- 2662 (a) any voluntary contributions received for new construction, major renovations, and
- 2663 improvements to state highways within a county of the first class;
- 2664 (b) the portion of the sales and use tax described in Subsection 59-12-502(5)(a)(ii)
- 2665 deposited in or transferred to the fund;
- 2666 (c) the portion of the sales and use tax described in Subsection 59-12-1703(4)(a)(ii)
- 2667 and required by Subsection 59-12-1703(7)(b)(ii) to be deposited in or transferred to the fund;
- 2668 and
- 2669 (d) a portion of the local option highway construction and transportation corridor
- 2670 preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited in or
- 2671 transferred to the fund.
- 2672 (3) (a) The fund shall earn interest.
- 2673 (b) All interest earned on fund monies shall be deposited into the fund.
- 2674 (4) The executive director may use fund monies only:
- 2675 (a) to pay debt service and bond issuance costs for bonds issued under Section
- 2676 63B-16-102; and
- 2677 (b) for right-of-way acquisition, new construction, major renovations, and
- 2678 improvements to state highways within a county of the first class and to pay any debt service
- 2679 and bond issuance costs related to those projects.
- 2680 (5) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the
- 2681 fund and bond proceeds from bonds issued under Section 63B-16-102 are considered a local
- 2682 matching contribution for the purposes described under Section 72-2-123.
- 2683 (6) The additional administrative costs of the department to administer this fund shall
- 2684 be paid from the monies in the fund.
- 2685 Section 20. Section **72-2-121.2** is enacted to read:
- 2686 **72-2-121.2. County of the Second Class State Highway Projects Fund.**
- 2687 (1) As used in this section, "fund" means the County of the Second Class State
- 2688 Highway Projects Fund created by this section.
- 2689 (2) There is created within the Transportation Fund a special revenue fund known as
- 2690 the County of the Second Class State Highway Projects Fund.
- 2691 (3) The fund shall be funded by monies collected from:

2692           (a) any voluntary contributions the department receives for new construction, major  
2693 renovations, and improvements to state highways within a county of the second class; and  
2694           (b) the sales and use tax described in:  
2695           (i) Subsection 59-12-1903(1)(b)(i);  
2696           (ii) Subsection 59-12-1903(1)(b)(ii)(A); or  
2697           (iii) Subsection 59-12-1903(1)(b)(ii)(C)(I) as determined by the county legislative body  
2698 of the county of the second class.  
2699           (4) The department shall make a separate accounting for:  
2700           (a) the revenues described in Subsection (3); and  
2701           (b) each county of the second class for which revenues are deposited into the fund.  
2702           (5) (a) The fund shall earn interest.  
2703           (b) Interest earned on fund monies shall be deposited into the fund.  
2704           (6) The executive director may use fund monies only:  
2705           (a) for right-of-way acquisition, new construction, major renovations, and  
2706 improvements to state highways within a county of the second class in an amount that does not  
2707 exceed the amounts deposited for or allocated to that county of the second class in accordance  
2708 with this section;  
2709           (b) to pay any debt service and bond issuance costs related to a purpose described in  
2710 Subsection (6)(a) in an amount that does not exceed the amounts deposited for or allocated to  
2711 that county of the second class described in Subsection (6)(a) in accordance with this section;  
2712 and  
2713           (c) to pay the costs of the department to administer the fund in an amount not to exceed  
2714 interest earned by the fund monies.  
2715           (7) If interest remains in the fund after the executive director pays the costs of the  
2716 department to administer the fund, the interest shall be:  
2717           (a) allocated to each county of the second class for which revenues are deposited into  
2718 the fund in proportion to the deposits made into the fund for that county of the second class;  
2719 and  
2720           (b) expended for the purposes described in Subsection (6).  
2721           (8) Revenues described in Subsection (3)(b) that are deposited into the fund are  
2722 considered to be a local matching contribution for the purposes described in Section 72-2-123.



2723 Section 21. Section **72-10-102** is amended to read:

2724 **72-10-102. Definitions.**

2725 As used in this chapter:

2726 (1) "Acrobatics" means the intentional maneuvers of an aircraft not necessary to air  
2727 navigation.

2728 (2) "Aeronautics" means transportation by aircraft, air instruction, the operation, repair,  
2729 or maintenance of aircraft, and the design, operation, repair, or maintenance of airports, or  
2730 other air navigation facilities.

2731 (3) "Aeronautics instructor" means any individual engaged in giving or offering to give  
2732 instruction in aeronautics, flying, or ground subjects, either with or without:

2733 (a) compensation or other reward;

2734 (b) advertising the occupation;

2735 (c) calling his facilities an air school, or any equivalent term; or

2736 (d) employing or using other instructors.

2737 (4) "Aircraft" means any contrivance now known or in the future invented, used, or  
2738 designed for navigation of or flight in the air.

2739 (5) "Air instruction" means the imparting of aeronautical information by any aviation  
2740 instructor or in any air school or flying club.

2741 (6) "Airport" means any area of land, water, or both, that:

2742 (a) is used or is made available for landing and takeoff;

2743 (b) provides facilities for the shelter, supply, and repair of aircraft, and handling of  
2744 passengers and cargo; ~~and~~

2745 (c) meets the minimum requirements established by the division as to size and design,  
2746 surface, marking, equipment, and operation; and

2747 (d) includes all areas shown as part of the airport in the current airport layout plan as  
2748 approved by the Federal Aviation Administration.

2749 (7) "Airport authority" means a political subdivision of the state, other than a county or  
2750 municipality, that is authorized by statute to operate an airport.

2751 (8) "Airport operator" means a municipality, county, or airport authority that owns or  
2752 operates a commercial airport.

2753 (9) (a) "Airport revenue" means:

2754 (i) all fees, charges, rents, or other payments received by or accruing to an airport  
2755 operator for any of the following reasons:

2756 (A) revenue from air carriers, tenants, lessees, purchasers of airport properties, airport  
2757 permittees making use of airport property and services, and other parties;

2758 (B) revenue received from the activities of others or the transfer of rights to others  
2759 relating to the airport, including revenue received:

2760 (I) for the right to conduct an activity on the airport or to use or occupy airport  
2761 property;

2762 (II) for the sale, transfer, or disposition of airport real or personal property, or any  
2763 interest in that property, including transfer through a condemnation proceeding;

2764 (III) for the sale of, or the sale or lease of rights in, mineral, natural, or agricultural  
2765 products or water owned by the airport operator to be taken from the airport; and

2766 (IV) for the right to conduct an activity on, or for the use or disposition of, real or  
2767 personal property or any interest in real or personal property owned or controlled by the airport  
2768 operator and used for an airport-related purpose but not located on the airport; or

2769 (C) revenue received from activities conducted by the airport operator whether on or  
2770 off the airport, which is directly connected to the airport operator's ownership or operation of  
2771 the airport; and

2772 (ii) state and local taxes on aviation fuel.

2773 (b) "Airport revenue" does not include amounts received by an airport operator as  
2774 passenger facility fees pursuant to 49 U.S.C. Sec. 40117.

2775 ~~[(8)]~~ (10) "Air school" means any person engaged in giving, offering to give, or  
2776 advertising, representing, or holding himself out as giving, with or without compensation or  
2777 other reward, instruction in aeronautics, flying, or ground subjects, or in more than one of these  
2778 subjects.

2779 ~~[(9)]~~ (11) "Airworthiness" means conformity with requirements prescribed by the  
2780 Federal Aviation Administration regarding the structure or functioning of aircraft, engine,  
2781 parts, or accessories.

2782 ~~[(10)]~~ (12) "Antique aircraft" means a civil aircraft that is:

2783 (a) 30 years old or older, calculated as to include the current year;

2784 (b) primarily a collector's item and used solely for recreational or display purposes;

2785 (c) not used for daily or regular transportation; and

2786 (d) not used for commercial operations.

2787 [~~(11)~~] (13) "Civil aircraft" means any aircraft other than a public aircraft.

2788 [~~(12)~~] (14) "Commercial aircraft" means aircraft used for commercial purposes.

2789 [~~(13)~~] (15) "Commercial airport" means a landing area, landing strip, or airport that  
2790 may be used for commercial operations.

2791 [~~(14)~~] (16) "Commercial flight operator" means a person who conducts commercial  
2792 operations.

2793 [~~(15)~~] (17) "Commercial operations" means:

2794 (a) any operations of an aircraft for compensation or hire or any services performed  
2795 incidental to the operation of any aircraft for which a fee is charged or compensation is  
2796 received, including the servicing, maintaining, and repairing of aircraft, the rental or charter of  
2797 aircraft, the operation of flight or ground schools, the operation of aircraft for the application or  
2798 distribution of chemicals or other substances, and the operation of aircraft for hunting and  
2799 fishing; or

2800 (b) the brokering or selling of any of these services; but

2801 (c) does not include any operations of aircraft as common carriers certificated by the  
2802 federal government or the services incidental to those operations.

2803 [~~(16)~~] (18) "Dealer" means any person who is actively engaged in the business of flying  
2804 for demonstration purposes, or selling or exchanging aircraft, and who has an established place  
2805 of business.

2806 [~~(17)~~] (19) "Division" means the Operations Division in the Department of  
2807 Transportation, created in Section 72-1-204.

2808 [~~(18)~~] (20) "Experimental aircraft" means:

2809 (a) any aircraft designated by the Federal Aviation Administration or the military as  
2810 experimental and used solely for the purpose of experiments, or tests regarding the structure or  
2811 functioning of aircraft, engines, or their accessories; and

2812 (b) any aircraft designated by the Federal Aviation Administration as:

2813 (i) being custom or amateur built; and

2814 (ii) used for recreational, educational, or display purposes.

2815 [~~(19)~~] (21) "Flight" means any kind of locomotion by aircraft while in the air.

2816            [~~(20)~~] (22) "Flying club" means five or more persons who for neither profit nor reward  
2817 own, lease, or use one or more aircraft for the purpose of instruction, pleasure, or both.

2818            [~~(21)~~] (23) "Glider" means an aircraft heavier than air, similar to an airplane, but  
2819 without a power plant.

2820            [~~(22)~~] (24) "Mechanic" means a person who constructs, repairs, adjusts, inspects, or  
2821 overhauls aircraft, engines, or accessories.

2822            [~~(23)~~] (25) "Parachute jumper" means any person who has passed the required test for  
2823 jumping with a parachute from an aircraft, and has passed an examination showing that he  
2824 possesses the required physical and mental qualifications for the jumping.

2825            [~~(24)~~] (26) "Parachute rigger" means any person who has passed the required test for  
2826 packing, repairing, and maintaining parachutes.

2827            [~~(25)~~] (27) "Passenger aircraft" means aircraft used for transporting persons, in  
2828 addition to the pilot or crew, with or without their necessary personal belongings.

2829            [~~(26)~~] (28) "Person" means any individual, corporation, limited liability company, or  
2830 association of individuals.

2831            [~~(27)~~] (29) "Pilot" means any person who operates the controls of an aircraft while  
2832 in-flight.

2833            [~~(28)~~] (30) "Primary glider" means any glider that has a gliding angle of less than ten to  
2834 one.

2835            [~~(29)~~] (31) "Public aircraft" means an aircraft used exclusively in the service of any  
2836 government or of any political subdivision, including the government of the United States, of  
2837 the District of Columbia, and of any state, territory, or insular possession of the United States,  
2838 but not including any government-owned aircraft engaged in carrying persons or goods for  
2839 commercial purposes.

2840            [~~(30)~~] (32) "Reckless flying" means the operation or piloting of any aircraft recklessly,  
2841 or in a manner as to endanger the property, life, or body of any person, due regard being given  
2842 to the prevailing weather conditions, field conditions, and to the territory being flown over.

2843            [~~(31)~~] (33) "Registration number" means the number assigned by the Federal Aviation  
2844 Administration to any aircraft, whether or not the number includes a letter or letters.

2845            [~~(32)~~] (34) "Secondary glider" means any glider that has a gliding angle between ten to  
2846 one and 16 to one, inclusive.

2847 ~~[(33)]~~ (35) "Soaring glider" means any glider that has a gliding angle of more than 16  
2848 to one.

2849 Section 22. Section **72-10-215** is enacted to read:

2850 **72-10-215. Restrictions on use of airport revenue to finance a fixed guideway.**

2851 An airport operator may not use airport revenue to contribute to the cost of  
2852 constructing, equipping, maintaining, or operating any portion of a fixed guideway as defined  
2853 in Section 59-12-1702.

2854 Section 23. **Repealer.**

2855 This bill repeals:

2856 Section **59-12-601, Purpose statement.**

2857 Section 24. **Effective dates.**

2858 (1) Except as provided in Subsection (2), this bill takes effect on May 5, 2008.

2859 (2) The amendments to the following sections take effect on July 1, 2008:

2860 (a) Section 41-1a-1222;

2861 (b) Section 72-2-117.5; and

2862 (c) Section 72-2-121.

2863 Section 25. **Coordinating S.B. 245 with H.B. 206 -- Substantive and technical**  
2864 **amendments.**

2865 If this S.B. 245 and H.B. 206, Tax Amendments, both pass, it is the intent of the  
2866 Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah  
2867 Code database for publication:

2868 (1) modify Section 59-12-1903 to read:

2869 "59-12-1903. Imposition of tax -- Base -- Rate -- Expenditure of revenues collected  
2870 from the tax -- Administration, collection, and enforcement of tax by commission --

2871 Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.

2872 (1) (a) Subject to the other provisions of this section and except as provided in  
2873 Subsection (2), beginning on January 1, 2009, a county legislative body of a county of the  
2874 second class may impose a sales and use tax on the transactions:

2875 (i) described in Subsection 59-12-103(1); and

2876 (ii) within the county, including the cities and towns within the county.

2877 (b) For purposes of Subsection (1)(a), a county legislative body may impose a tax at a

2878 rate of:

2879 (i) .10%, to be:

2880 (A) as determined by the county legislative body, deposited as provided in Subsection  
2881 (4)(c)(i) into the County of the Second Class State Highway Projects Fund created by Section  
2882 72-2-121.2 and expended as provided in Section 72-2-121.2;

2883 (B) as determined by the county legislative body, expended for a project or service  
2884 relating to an airport facility:

2885 (I) if that airport facility is part of the regional transportation plan of the area  
2886 metropolitan planning organization if a metropolitan planning organization exists for the area;  
2887 and

2888 (II) for the portion of the project or service that is performed within the county; or

2889 (C) as determined by the county legislative body, deposited or expended for a  
2890 combination of Subsections (1)(b)(i)(A) and (B); or

2891 (ii) .25%, to be expended as follows:

2892 (A) .10% to be deposited as provided in Subsection (4)(c)(i) into the County of the  
2893 Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as  
2894 provided in Section 72-2-121.2;

2895 (B) .05%, to be deposited as provided in Subsection (4)(c)(ii) into the Local  
2896 Transportation Corridor Preservation Fund created by Section 72-2-117.5 and expended and  
2897 distributed in accordance with Section 72-2-117.5; and

2898 (C) as determined by the county legislative body, .10% to be:

2899 (I) deposited as provided in Subsection (4)(c)(i) into the County of the Second Class  
2900 State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in  
2901 Section 72-2-121.2;

2902 (II) expended for:

2903 (Aa) a state highway designated under Title 72, Chapter 4, Part 1, Designation of State  
2904 Highways Act;

2905 (Bb) a local highway of regional significance; or

2906 (Cc) a combination of Subsections (1)(b)(ii)(C)(II)(Aa) and (Bb);

2907 (III) expended for a project or service relating to a system for public transit for the  
2908 portion of the project or service that is performed within the county;

2909 (IV) expended for a project or service relating to a fixed guideway for the portion of  
2910 the project or service that is performed within the county;

2911 (V) expended for a project or service relating to an airport facility;

2912 (Aa) if that airport facility is part of the regional transportation plan of the area  
2913 metropolitan planning organization if a metropolitan planning organization exists for the area;  
2914 and

2915 (Bb) for the portion of the project or service that is performed within the county; or

2916 (VI) deposited or expended for a combination of Subsections (1)(b)(ii)(C)(I) through

2917 (V).

2918 (c) If a county legislative body imposes a tax under this part, the county legislative  
2919 body may not impose a tax under Part 17, County Option Sales and Use Tax for Transportation  
2920 Act.

2921 (d) For purposes of this Subsection (1), the location of a transaction shall be  
2922 determined in accordance with Sections 59-12-211 through 59-12-215.

2923 (2) (a) A county legislative body may not impose a tax under this part on:

2924 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
2925 are exempt from taxation under Section 59-12-104; or

2926 (ii) except as provided in Subsection (2)(b), amounts paid or charged for food and food  
2927 ingredients.

2928 (b) A county legislative body imposing a tax under this part shall impose the tax on  
2929 amounts paid or charged for food and food ingredients if the food and food ingredients are sold  
2930 as part of a bundled transaction attributable to food and food ingredients and tangible personal  
2931 property other than food and food ingredients.

2932 (3) To impose a tax under this part, a county legislative body shall obtain approval  
2933 from a majority of the members of the county legislative body.

2934 (4) (a) Except as provided in Subsection (4)(b) or (c) or (6), the commission shall  
2935 transmit revenues collected within a county from a tax under this part that are required to be  
2936 expended for a purpose described in Subsection (1)(b)(ii)(C):

2937 (i) to the county legislative body;

2938 (ii) monthly; and

2939 (iii) by electronic funds transfer.

2940 (b) Except as provided in Subsection (6), the commission shall transfer the revenues  
2941 described in Subsection (4)(a) directly to a public transit district organized under Title 17B,  
2942 Chapter 2a, Part 8, Public Transit District Act, if the county legislative body:

2943 (i) provides written notice to the commission requesting the transfer; and  
2944 (ii) designates the public transit district to which the county legislative body requests  
2945 the commission to transfer the revenues described in Subsection (4)(a).

2946 (c) Except as provided in Subsection (6), the commission shall deposit revenues  
2947 collected within a county from a tax under this part that:

2948 (i) are required to be expended for a purpose described in Subsection (1)(b)(ii)(A) into  
2949 the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2;

2950 (ii) are required to be expended for a purpose described in Subsection (1)(b)(ii)(B) into  
2951 the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or

2952 (iii) a county legislative body determines to expend for a purpose described in  
2953 Subsection (1)(b)(i)(A) or (1)(b)(ii)(C)(I) into the County of the Second Class State Highway  
2954 Projects Fund created by Section 72-2-121.2 if the county legislative body provides written  
2955 notice to the commission requesting the deposit.

2956 (5) (a) Except as provided in Subsection (5)(b), the commission shall administer,  
2957 collect, and enforce a tax under this part in accordance with:

2958 (i) the same procedures used to administer, collect, and enforce the tax under:

2959 (A) Part 1, Tax Collection; or

2960 (B) Part 2, Local Sales and Use Tax Act; and

2961 (ii) Chapter 1, General Taxation Policies.

2962 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).

2963 (6) (a) The commission may retain an amount of tax collected under this part of not to  
2964 exceed the lesser of:

2965 (i) 1.5%; or

2966 (ii) an amount equal to the cost to the commission of administering this part.

2967 (b) Any amount the commission retains under Subsection (6)(a) shall be:

2968 (i) deposited into the Sales and Use Tax Administrative Fees Account; and

2969 (ii) used as provided in Subsection 59-12-206(2).

2970 (7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009,



2971 a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment,  
2972 repeal, or change shall take effect:

2973 (A) on the first day of a calendar quarter; and

2974 (B) after a 90-day period beginning on the date the commission receives notice meeting  
2975 the requirements of Subsection (7)(a)(ii) from the county.

2976 (ii) The notice described in Subsection (7)(a)(i)(B) shall state:

2977 (A) that the county will enact, repeal, or change the rate of a tax under this part;

2978 (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);

2979 (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and

2980 (D) if the county enacts the tax or changes the rate of the tax described in Subsection  
2981 (7)(a)(ii)(A), the rate of the tax.

2982 (b) (i) If the billing period for a transaction begins before the effective date of the  
2983 enactment of the tax or the tax rate increase under Subsection (1), the enactment of a tax or a  
2984 tax rate increase shall take effect on the first day of the first billing period that begins after the  
2985 effective date of the enactment of the tax or the tax rate increase.

2986 (ii) If the billing period for a transaction begins before the effective date of the repeal  
2987 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate  
2988 decrease shall take effect on the first day of the last billing period that began before the  
2989 effective date of the repeal of the tax or the tax rate decrease.

2990 (c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales  
2991 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax  
2992 described in Subsection (7)(a)(i) takes effect:

2993 (A) on the first day of a calendar quarter; and

2994 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the  
2995 rate of the tax under Subsection (7)(a)(i).

2996 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
2997 the commission may by rule define the term "catalogue sale."

2998 (d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs  
2999 on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the  
3000 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take  
3001 effect:

3002           (A) on the first day of a calendar quarter; and  
3003           (B) after a 90-day period beginning on the date the commission receives notice meeting  
3004 the requirements of Subsection (7)(d)(ii) from the county that annexes the annexing area.  
3005           (ii) The notice described in Subsection (7)(d)(i)(B) shall state:  
3006           (A) that the annexation described in Subsection (7)(d)(i)(B) will result in an enactment,  
3007 repeal, or change in the rate of a tax under this part for the annexing area;  
3008           (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);  
3009           (C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and  
3010           (D) if the county enacts the tax or changes the rate of the tax described in Subsection  
3011 (7)(d)(ii)(A), the rate of the tax.  
3012           (e) (i) If the billing period for a transaction begins before the effective date of the  
3013 enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax  
3014 rate increase shall take effect on the first day of the first billing period that begins after the  
3015 effective date of the enactment of the tax or the tax rate increase.  
3016           (ii) If the billing period for a transaction begins before the effective date of the repeal  
3017 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate  
3018 decrease shall take effect on the first day of the last billing period that began before the  
3019 effective date of the repeal of the tax or the tax rate decrease.  
3020           (f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales  
3021 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax  
3022 described in Subsection (7)(d)(i) takes effect:  
3023           (A) on the first day of a calendar quarter; and  
3024           (B) beginning 60 days after the effective date of the enactment, repeal, or change in the  
3025 rate under Subsection (7)(d)(i).  
3026           (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
3027 the commission may by rule define the term "catalogue sale."";  
3028           (2) insert as newly enacted provisions into the Utah Code database, the following  
3029 sections:  
3030           "59-12-1904. Seller or certified service provider reliance on commission information  
3031 or certain systems.  
3032           A seller or certified service provider is not liable for failing to collect a tax at a tax rate

3033 imposed under this part if:

3034 (1) the tax rate at which the seller or certified service provider collects the tax is  
3035 derived from a database created by the commission containing tax rates; and

3036 (2) the seller's or certified service provider's failure to collect the tax is as a result of the  
3037 seller's or certified service provider's reliance on incorrect data provided by the commission in  
3038 the database created by the commission containing tax rates."

3039 "59-12-1905. Certified service provider or model 2 seller reliance on commission  
3040 certified software.

3041 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified  
3042 service provider or model 2 seller is not liable for failing to collect a tax required under this  
3043 part if:

3044 (a) the certified service provider or model 2 seller relies on software the commission  
3045 certifies; and

3046 (b) the certified service provider's or model 2 seller's failure to collect a tax required  
3047 under this part is as a result of the seller's or certified service provider's reliance on incorrect  
3048 data:

3049 (i) provided by the commission; or

3050 (ii) in the software the commission certifies.

3051 (2) The relief from liability described in Subsection (1) does not apply if a certified  
3052 service provider or model 2 seller incorrectly classifies an item or transaction into a product  
3053 category the commission certifies.

3054 (3) If the taxability of a product category is incorrectly classified in software the  
3055 commission certifies, the commission shall:

3056 (a) notify a certified service provider or model 2 seller of the incorrect classification of  
3057 the taxability of a product category in software the commission certifies; and

3058 (b) state in the notice required by Subsection (3)(a) that the certified service provider or  
3059 model 2 seller is liable for failing to collect the correct amount of tax under this part on the  
3060 incorrectly classified product category if the certified service provider or model 2 seller fails to  
3061 correct the taxability of the item or transaction within ten days after the day on which the  
3062 certified service provider or model 2 seller receives the notice.

3063 (4) If a certified service provider or model 2 seller fails to correct the taxability of an

3064 item or transaction within ten days after the day on which the certified service provider or  
3065 model 2 seller receives the notice described in Subsection (3), the certified service provider or  
3066 model 2 seller is liable for failing to collect the correct amount of tax under this part on the  
3067 item or transaction."

3068 "59-12-1906. Purchaser relief from liability.

3069 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty  
3070 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

3071 (i) the purchaser's seller or certified service provider relies on incorrect data provided  
3072 by the commission:

3073 (A) on a tax rate;

3074 (B) on a boundary;

3075 (C) on a taxing jurisdiction; or

3076 (D) in the taxability matrix the commission provides in accordance with the agreement;

3077 or

3078 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in  
3079 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

3080 (A) on a tax rate;

3081 (B) on a boundary;

3082 (C) on a taxing jurisdiction; or

3083 (D) in the taxability matrix the commission provides in accordance with the agreement.

3084 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under  
3085 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the  
3086 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on  
3087 incorrect data provided by the commission is as a result of conduct that is:

3088 (i) fraudulent;

3089 (ii) intentional; or

3090 (iii) willful.

3091 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is  
3092 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part  
3093 or an underpayment if:

3094 (a) the purchaser's seller or certified service provider relies on:

- 3095 (i) incorrect data provided by the commission:
- 3096 (A) on a tax rate;
- 3097 (B) on a boundary; or
- 3098 (C) on a taxing jurisdiction; or
- 3099 (ii) an erroneous classification by the commission:
- 3100 (A) in the taxability matrix the commission provides in accordance with the agreement;
- 3101 and
- 3102 (B) with respect to a term:
- 3103 (I) in the library of definitions; and
- 3104 (II) that is:
- 3105 (Aa) listed as taxable or exempt;
- 3106 (Bb) included or excluded from "sales price"; or
- 3107 (Cc) included in or excluded from a definition; or
- 3108 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
- 3109 accordance with Section 59-12-107.1, relies on:
- 3110 (i) incorrect data provided by the commission:
- 3111 (A) on a tax rate;
- 3112 (B) on a boundary; or
- 3113 (C) on a taxing jurisdiction; or
- 3114 (ii) an erroneous classification by the commission:
- 3115 (A) in the taxability matrix the commission provides in accordance with the agreement;
- 3116 and
- 3117 (B) with respect to a term:
- 3118 (I) in the library of definitions; and
- 3119 (II) that is:
- 3120 (Aa) listed as taxable or exempt;
- 3121 (Bb) included or excluded from "sales price"; or
- 3122 (Cc) included in or excluded from a definition.";
- 3123 (3) modify Section 59-12-2003 to read:
- 3124 "59-12-2003. Imposition -- Base -- Rate -- Revenues deposited into General Fund.
- 3125 (1) Subject to the other provisions of this section and except as provided in Subsection

3126 (2) or (4), beginning on July 1, 2008, the state shall impose a tax under this part within a city,  
3127 town, or the unincorporated area of a county of the first or second class if, on January 1, 2008,  
3128 there is a public transit district within any portion of that county of the first or second class.

3129 (2) The state may not impose a tax under this part within a county of the first or second  
3130 class if within all of the cities, towns, and the unincorporated area of the county of the first or  
3131 second class there is imposed a sales and use tax of:

3132 (a) .30% under Section 59-12-501;

3133 (b) .30% under Section 59-12-1001; or

3134 (c) .30% under Section 59-12-1503.

3135 (3) (a) Subject to Subsection (3)(b), if the state imposes a tax under this part, the tax  
3136 rate imposed within a city, town, or the unincorporated area of a county of the first or second  
3137 class is a percentage equal to the difference between:

3138 (i) .30%; and

3139 (ii) (A) for a city within the county of the first or second class, the highest tax rate  
3140 imposed within that city under:

3141 (I) Section 59-12-501;

3142 (II) Section 59-12-1001; or

3143 (III) Section 59-12-1503;

3144 (B) for a town within the county of the first or second class, the highest tax rate  
3145 imposed within that town under:

3146 (I) Section 59-12-501;

3147 (II) Section 59-12-1001; or

3148 (III) Section 59-12-1503; or

3149 (C) for the unincorporated area of the county of the first or second class, the highest tax  
3150 rate imposed within that unincorporated area under:

3151 (I) Section 59-12-501;

3152 (II) Section 59-12-1001; or

3153 (III) Section 59-12-1503.

3154 (b) For purposes of Subsection (3)(a), if for a city, town, or the unincorporated area of  
3155 a county of the first or second class, the highest tax rate imposed under Section 59-12-501,  
3156 59-12-1001, or 59-12-1503 within that city, town, or unincorporated area of the county of the

3157 first or second class is .30%, the state may not impose a tax under this part within that city,  
3158 town, or unincorporated area.

3159 (4) (a) The state may not impose a tax under this part on:

3160 (i) a transaction described in Subsection 59-12-103(1)(d);

3161 (ii) except as provided in Subsection (4)(b), a transaction described in Subsection  
3162 59-12-103(2)(c); or

3163 (iii) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
3164 are exempt from taxation under Section 59-12-104.

3165 (b) The state shall impose a tax under this part on amounts paid or charged for food  
3166 and food ingredients if the food and food ingredients are sold as part of a bundled transaction  
3167 attributable to food and ingredients and tangible personal property other than food and food  
3168 ingredients.

3169 (5) For purposes of Subsection (1), the location of a transaction shall be determined in  
3170 accordance with Sections 59-12-211 through 59-12-215.

3171 (6) The commission shall distribute the revenues the state collects from the sales and  
3172 use tax under this part, after subtracting amounts a seller retains in accordance with Section  
3173 59-12-108, to the public transit districts within the cities, towns, and unincorporated areas:

3174 (a) within which the state imposes a tax under this part; and

3175 (b) in proportion to the revenues collected from the sales and use tax under this part  
3176 within each city, town, and unincorporated area within which the state imposes a tax under this  
3177 part.";

3178 (4) modify Section 59-12-2004 to read:

3179 "59-12-2004. Enactment or repeal of tax -- Effective date -- Administration, collection,  
3180 and enforcement of tax.

3181 (1) Subject to Subsections (2) and (3), a tax rate repeal or a tax rate change for a tax  
3182 imposed under this part shall take effect on the first day of a calendar quarter.

3183 (2) (a) The enactment of a tax or a tax rate increase shall take effect on the first day of  
3184 the first billing period that begins after the effective date of the enactment of the tax or the tax  
3185 rate increase if the billing period for the transaction begins before the effective date of the  
3186 enactment of the tax or the tax rate increase under this part.

3187 (b) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last

3188 billing period that began before the effective date of the repeal of the tax or the tax rate  
3189 decrease if the billing period for the transaction begins before the effective date of the repeal of  
3190 the tax or the tax rate decrease imposed under this part.

3191 (3) (a) If a tax due under this part on a catalogue sale is computed on the basis of sales  
3192 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax  
3193 under this part takes effect:

3194 (i) on the first day of a calendar quarter; and

3195 (ii) beginning 60 days after the effective date of the enactment, repeal, or change in the  
3196 rate of the tax under this part.

3197 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
3198 commission may by rule define the term "catalogue sale."

3199 (4) The commission shall administer, collect, and enforce a tax under this part in  
3200 accordance with:

3201 (a) the same procedures used to administer, collect, and enforce the tax under Part 1,  
3202 Tax Collection; and

3203 (b) Chapter 1, General Taxation Policies.";

3204 (5) insert as newly enacted provisions into the Utah Code database, the following  
3205 sections:

3206 "59-12-2005. Seller or certified service provider reliance on commission information  
3207 or certain systems.

3208 A seller or certified service provider is not liable for failing to collect a tax at a tax rate  
3209 imposed under this part if:

3210 (1) the tax rate at which the seller or certified service provider collects the tax is  
3211 derived from a database created by the commission containing tax rates; and

3212 (2) the seller's or certified service provider's failure to collect the tax is as a result of the  
3213 seller's or certified service provider's reliance on incorrect data provided by the commission in  
3214 the database created by the commission containing tax rates."

3215 "59-12-2006. Certified service provider or model 2 seller reliance on commission  
3216 certified software.

3217 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified  
3218 service provider or model 2 seller is not liable for failing to collect a tax required under this



3219 part if:

3220 (a) the certified service provider or model 2 seller relies on software the commission  
3221 certifies; and

3222 (b) the certified service provider's or model 2 seller's failure to collect a tax required  
3223 under this part is as a result of the seller's or certified service provider's reliance on incorrect  
3224 data:

3225 (i) provided by the commission; or

3226 (ii) in the software the commission certifies.

3227 (2) The relief from liability described in Subsection (1) does not apply if a certified  
3228 service provider or model 2 seller incorrectly classifies an item or transaction into a product  
3229 category the commission certifies.

3230 (3) If the taxability of a product category is incorrectly classified in software the  
3231 commission certifies, the commission shall:

3232 (a) notify a certified service provider or model 2 seller of the incorrect classification of  
3233 the taxability of a product category in software the commission certifies; and

3234 (b) state in the notice required by Subsection (3)(a) that the certified service provider or  
3235 model 2 seller is liable for failing to collect the correct amount of tax under this part on the  
3236 incorrectly classified product category if the certified service provider or model 2 seller fails to  
3237 correct the taxability of the item or transaction within ten days after the day on which the  
3238 certified service provider or model 2 seller receives the notice.

3239 (4) If a certified service provider or model 2 seller fails to correct the taxability of an  
3240 item or transaction within ten days after the day on which the certified service provider or  
3241 model 2 seller receives the notice described in Subsection (3), the certified service provider or  
3242 model 2 seller is liable for failing to collect the correct amount of tax under this part on the  
3243 item or transaction."

3244 "59-12-2007. Purchaser relief from liability.

3245 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty  
3246 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

3247 (i) the purchaser's seller or certified service provider relies on incorrect data provided  
3248 by the commission:

3249 (A) on a tax rate;

3250 (B) on a boundary;  
3251 (C) on a taxing jurisdiction; or  
3252 (D) in the taxability matrix the commission provides in accordance with the agreement;  
3253 or  
3254 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in  
3255 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:  
3256 (A) on a tax rate;  
3257 (B) on a boundary;  
3258 (C) on a taxing jurisdiction; or  
3259 (D) in the taxability matrix the commission provides in accordance with the agreement.  
3260 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under  
3261 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the  
3262 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on  
3263 incorrect data provided by the commission is as a result of conduct that is:  
3264 (i) fraudulent;  
3265 (ii) intentional; or  
3266 (iii) willful.  
3267 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is  
3268 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part  
3269 or an underpayment if:  
3270 (a) the purchaser's seller or certified service provider relies on:  
3271 (i) incorrect data provided by the commission:  
3272 (A) on a tax rate;  
3273 (B) on a boundary; or  
3274 (C) on a taxing jurisdiction; or  
3275 (ii) an erroneous classification by the commission:  
3276 (A) in the taxability matrix the commission provides in accordance with the agreement;  
3277 and  
3278 (B) with respect to a term:  
3279 (I) in the library of definitions; and  
3280 (II) that is:

3281 (Aa) listed as taxable or exempt;  
3282 (Bb) included or excluded from "sales price"; or  
3283 (Cc) included in or excluded from a definition; or  
3284 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in  
3285 accordance with Section 59-12-107.1, relies on:  
3286 (i) incorrect data provided by the commission:  
3287 (A) on a tax rate;  
3288 (B) on a boundary; or  
3289 (C) on a taxing jurisdiction; or  
3290 (ii) an erroneous classification by the commission:  
3291 (A) in the taxability matrix the commission provides in accordance with the agreement;  
3292 and  
3293 (B) with respect to a term:  
3294 (I) in the library of definitions; and  
3295 (II) that is:  
3296 (Aa) listed as taxable or exempt;  
3297 (Bb) included or excluded from "sales price"; or  
3298 (Cc) included in or excluded from a definition."; and  
3299 (6) replace the references to Section 59-12-207 in Section 59-12-103 in this S.B. 245  
3300 with "Sections 59-12-211 through 59-12-215"."

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**Fiscal Note****S.B. 245 5th Sub. (Gray) - Funding Relating to Airports, Highways, and  
Public Transit**

2008 General Session

State of Utah

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**State Impact**

Due to the changes in this bill, the County of the First Class State Highway Projects Fund would experience a decrease in revenue of \$1,592,800 in FY 2009 and \$1,651,100 in FY 2010. Cities with an international airport located within a county of the first class would see an increase in revenue of \$1,592,800 in FY 2009 and \$1,651,100 in FY 2010. In addition, enactment of this bill would increase the sales tax rate in certain counties; this revenue would accumulate to the General Fund. The sales tax revenue would be appropriated to transit districts proportionately.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
General Fund Restricted	\$0	\$0	\$0	\$0	\$3,500,000	\$3,600,000
<b>Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$3,500,000</b>	<b>\$3,600,000</b>

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**Individual, Business and/or Local Impact**

Enactment of this bill will allow counties to use sales tax revenue for airport facilities. Counties of the second class may impose a sales and use tax on certain transactions to fund a County of the Second Class State Highway Projects Fund and/or projects related to public transit. Depending upon decisions made by the respective county legislative body, sales tax revenue may increase. Some counties of the second class will be required to decrease the county option transportation tax in order to raise the revenue discussed in the bill. Should all four counties of the second class choose to impose the entire sales tax rate, revenue in FY 2010 would be \$39 million. Due to the inclusion of airports, counties may experience an increase in costs for the annual independent audit.