

**Representative John Dougall** proposes the following substitute bill:

**AMENDMENTS TO SALES AND USE TAX**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne L. Niederhauser**

House Sponsor: John Dougall

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**LONG TITLE**

**General Description:**

This bill amends the Sales and Use Tax Act and related provisions to address transactions that are subject to taxation or exempt from taxation and to address sales and use tax funding for the Qualified Emergency Food Agencies Fund.

**Highlighted Provisions:**

This bill:

- ▶ modifies the sales and use tax funding sources for the Qualified Emergency Food Agencies Fund;
- ▶ repeals a defined term;
- ▶ reduces the amount of state sales and use tax to be deposited into the Qualified Emergency Food Agencies Fund;
- ▶ provides that the State Tax Commission shall calculate and retain a portion of the following taxes and deposit the amount retained into the Qualified Emergency Food Agencies Fund:
  - the tax under Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act; and
  - the tax under Title 59, Chapter 12, Part 11, County Option Sales and Use Tax;
- ▶ modifies a sales and use tax exemption relating to a commercial airline carrier;
- ▶ provides that the tax under Title 59, Chapter 12, Part 20, Supplemental State Sales



26 and Use Tax Act, is imposed on the same transactions as the state sales and use tax:

- 27           • except for food and food ingredients under certain circumstances; and
- 28           • including sales of gas, electricity, heat, coal, fuel oil, or other fuels for
- 29 residential use; and
- 30           ▶ makes technical changes.

31 **Monies Appropriated in this Bill:**

32           None

33 **Other Special Clauses:**

34           This bill provides effective dates.

35           This bill provides for retrospective operation.

36           This bill coordinates with H.B. 403, Sales and Use Tax and Income Tax Amendments,  
37 by technically merging the amendments.

38 **Utah Code Sections Affected:**

39 AMENDS:

40           **9-4-1409**, as last amended by Laws of Utah 2008, Second Special Session, Chapter 5

41           **59-12-103**, as last amended by Laws of Utah 2008, Second Special Session, Chapter 5

42           **59-12-104**, as last amended by Laws of Utah 2008, Second Special Session, Chapter 2

43           **59-12-204**, as last amended by Laws of Utah 2006, Chapter 253

44           **59-12-1102**, as last amended by Laws of Utah 2008, Chapters 237, 382, and 384

45           **59-12-2003**, as enacted by Laws of Utah 2008, Chapter 286



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

48           Section 1. Section **9-4-1409** is amended to read:

49           **9-4-1409. Qualified Emergency Food Agencies Fund -- Expenditure of revenues.**

50           (1) As used in this section:

51           (a) "Association of governments" means the following created under the authority of  
52 Title 11, Chapter 13, Interlocal Cooperation Act:

53           (i) an association of governments; or

54           (ii) a regional council that acts as an association of governments.

55           ~~[(b) "Consumer price index" is as described in Section 1(f)(4), Internal Revenue Code,~~  
56 ~~and defined in Section 1(f)(5), Internal Revenue Code.]~~

57           ~~[(e)]~~ (b) "Food and food ingredients" is as defined in Section 59-12-102.

58           ~~[(d)]~~ (c) "Pounds of food donated" means the aggregate number of pounds of food and  
59 food ingredients that are donated:

60           (i) to a qualified emergency food agency; and

61           (ii) by a person, other than an organization that as part of its activities operates a  
62 program that has as the program's primary purpose to:

63           (A) warehouse and distribute food to other agencies and organizations providing food  
64 and food ingredients to low-income persons; or

65           (B) provide food and food ingredients directly to low-income persons.

66           ~~[(e)]~~ (d) "Qualified emergency food agency" means an organization that:

67           (i) is:

68           (A) exempt from federal income taxation under Section 501(c)(3), Internal Revenue  
69 Code; or

70           (B) an association of governments;

71           (ii) as part of its activities operates a program that has as the program's primary purpose  
72 to:

73           (A) warehouse and distribute food to other agencies and organizations providing food  
74 and food ingredients to low-income persons; or

75           (B) provide food and food ingredients directly to low-income persons; and

76           (iii) the office determines to be a qualified emergency food agency.

77           (2) There is created a restricted special revenue fund known as the Qualified  
78 Emergency Food Agencies Fund.

79           (3) (a) The Qualified Emergency Food Agencies Fund shall be funded by the ~~[state]~~  
80 sales and use tax revenues described in:

81           (i) Section 59-12-103[-];

82           (ii) Section 59-12-204; and

83           (iii) Section 59-12-1102.

84           (b) Any interest earned on the Qualified Emergency Food Agencies Fund shall be  
85 deposited into the General Fund.

86           (4) The office shall for a fiscal year distribute monies deposited into the Qualified  
87 Emergency Food Agencies Fund to qualified emergency food agencies within the state as

88 provided in this section.

89 (5) A qualified emergency food agency shall file an application with the office before  
90 the qualified emergency food agency may receive a distribution under this section.

91 (6) Except as provided in Subsection (7), the office shall for a fiscal year distribute to a  
92 qualified emergency food agency an amount equal to the product of:

93 (a) the pounds of food donated to the qualified emergency food agency during that  
94 fiscal year; and

95 (b) \$.12.

96 (7) If the monies deposited into the Qualified Emergency Food Agencies Fund are  
97 insufficient to make the distributions required by Subsection (6), the office shall make  
98 distributions to qualified emergency food agencies in the order that the office receives  
99 applications from the qualified emergency food agencies until all of the monies deposited into  
100 the Qualified Emergency Food Agencies Fund for the fiscal year are expended.

101 (8) A qualified emergency food agency may expend a distribution received in  
102 accordance with this section only for a purpose related to:

103 (a) warehousing and distributing food and food ingredients to other agencies and  
104 organizations providing food and food ingredients to low-income persons; or

105 (b) providing food and food ingredients directly to low-income persons.

106 (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
107 Division of Housing and Community Development may make rules providing procedures for  
108 implementing the distributions required by this section, including:

109 (a) standards for determining and verifying the amount of a distribution that a qualified  
110 emergency food agency may receive;

111 (b) procedures for a qualified emergency food agency to apply for a distribution,  
112 including the frequency with which a qualified emergency food agency may apply for a  
113 distribution; and

114 (c) consistent with Subsection (1)(e), determining whether an entity is a qualified  
115 emergency food agency.

116 Section 2. Section **59-12-103** is amended to read:

117 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**  
118 **tax revenues.**

119 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or  
120 charged for the following transactions:  
121 (a) retail sales of tangible personal property made within the state;  
122 (b) amounts paid for:  
123 (i) telecommunications service, other than mobile telecommunications service, that  
124 originates and terminates within the boundaries of this state;  
125 (ii) mobile telecommunications service that originates and terminates within the  
126 boundaries of one state only to the extent permitted by the Mobile Telecommunications  
127 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or  
128 (iii) an ancillary service associated with a:  
129 (A) telecommunications service described in Subsection (1)(b)(i); or  
130 (B) mobile telecommunications service described in Subsection (1)(b)(ii);  
131 (c) sales of the following for commercial use:  
132 (i) gas;  
133 (ii) electricity;  
134 (iii) heat;  
135 (iv) coal;  
136 (v) fuel oil; or  
137 (vi) other fuels;  
138 (d) sales of the following for residential use:  
139 (i) gas;  
140 (ii) electricity;  
141 (iii) heat;  
142 (iv) coal;  
143 (v) fuel oil; or  
144 (vi) other fuels;  
145 (e) sales of prepared food;  
146 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or  
147 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,  
148 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,  
149 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit

150 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf  
151 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,  
152 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,  
153 horseback rides, sports activities, or any other amusement, entertainment, recreation,  
154 exhibition, cultural, or athletic activity;

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

157 (i) the tangible personal property; and

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

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

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

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

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

168 (i) stored;

169 (ii) used; or

170 (iii) otherwise consumed;

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

173 (i) stored;

174 (ii) used; or

175 (iii) consumed;

176 (m) amounts paid or charged for prepaid telephone calling cards; and

177 (n) amounts paid or charged for a sale:

178 (i) (A) of a product that:

179 (I) is transferred electronically; and

180 (II) would be subject to a tax under this chapter if the product was transferred in a

181 manner other than electronically; or

182 (B) of a repair or renovation of a product that:

183 (I) is transferred electronically; and

184 (II) would be subject to a tax under this chapter if the product was transferred in a

185 manner other than electronically; and

186 (ii) regardless of whether the sale provides:

187 (A) a right of permanent use of the product; or

188 (B) a right to use the product that is less than a permanent use, including a right:

189 (I) for a definite or specified length of time; and

190 (II) that terminates upon the occurrence of a condition.

191 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax

192 is imposed on a transaction described in Subsection (1) equal to the sum of:

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

194 (A) 4.70%; and

195 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales

196 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

197 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional

198 State Sales and Use Tax Act; and

199 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales

200 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

201 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state

202 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

203 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

204 transaction under this chapter other than this part.

205 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed

206 on a transaction described in Subsection (1)(d) equal to the sum of:

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

208 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

209 transaction under this chapter other than this part.

210 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed

211 on amounts paid or charged for food and food ingredients equal to the sum of:

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

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

216 (d) (i) For a bundled transaction that is attributable to food and food ingredients and  
217 tangible personal property other than food and food ingredients, a state tax and a local tax is  
218 imposed on the entire bundled transaction equal to the sum of:

219 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

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

221 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State  
222 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
223 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,  
224 Additional State Sales and Use Tax Act; and

225 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State  
226 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
227 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which  
228 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

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

231 (ii) Subject to Subsection (2)(d)(iii), for a bundled transaction other than a bundled  
232 transaction described in Subsection (2)(d)(i):

233 (A) if the sales price of the bundled transaction is attributable to tangible personal  
234 property, a product, or a service that is subject to taxation under this chapter and tangible  
235 personal property, a product, or service that is not subject to taxation under this chapter, the  
236 entire bundled transaction is subject to taxation under this chapter unless:

237 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
238 personal property, product, or service that is not subject to taxation under this chapter from the  
239 books and records the seller keeps in the seller's regular course of business; or

240 (II) state or federal law provides otherwise; or

241 (B) if the sales price of a bundled transaction is attributable to two or more items of  
242 tangible personal property, products, or services that are subject to taxation under this chapter



243 at different rates, the entire bundled transaction is subject to taxation under this chapter at the  
244 higher tax rate unless:

245 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
246 personal property, product, or service that is subject to taxation under this chapter at the lower  
247 tax rate from the books and records the seller keeps in the seller's regular course of business; or

248 (II) state or federal law provides otherwise.

249 (iii) For purposes of Subsection (2)(d)(ii), books and records that a seller keeps in the  
250 seller's regular course of business includes books and records the seller keeps in the regular  
251 course of business for nontax purposes.

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

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

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

256 (iii) Subsection (2)(c)(i); or

257 (iv) Subsection (2)(d)(i)(A)(I).

258 (f) (i) A tax rate increase shall take effect on the first day of the first billing period that  
259 begins after the effective date of the tax rate increase if the billing period for the transaction  
260 begins before the effective date of a tax rate increase imposed under:

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

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

263 (C) Subsection (2)(c)(i); or

264 (D) Subsection (2)(d)(i)(A)(I).

265 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last  
266 billing period that began before the effective date of the repeal of the tax or the tax rate  
267 decrease if the billing period for the transaction begins before the effective date of the repeal of  
268 the tax or the tax rate decrease imposed under:

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

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

271 (C) Subsection (2)(c)(i); or

272 (D) Subsection (2)(d)(i)(A)(I).

273 (g) (i) For a tax rate described in Subsection (2) (g)(ii), if a tax due on a catalogue sale

274 is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal  
275 or change in a tax rate takes effect:

- 276 (A) on the first day of a calendar quarter; and
- 277 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

278 (ii) Subsection (2) (g)(i) applies to the tax rates described in the following:

- 279 (A) Subsection (2)(a)(i)(A);
- 280 (B) Subsection (2)(b)(i);
- 281 (C) Subsection (2)(c)(i); or
- 282 (D) Subsection (2)(d)(i)(A)(I).

283 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
284 the commission may by rule define the term "catalogue sale."

285 (3) (a) The following state taxes shall be deposited into the General Fund:

- 286 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 287 (ii) the tax imposed by Subsection (2)(b)(i);
- 288 (iii) the tax imposed by Subsection (2)(c)(i); or
- 289 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

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

- 292 (i) the tax imposed by Subsection (2)(a)(ii);
- 293 (ii) the tax imposed by Subsection (2)(b)(ii);
- 294 (iii) the tax imposed by Subsection (2)(c)(ii); and
- 295 (iv) the tax imposed by Subsection (2)(d)(i)(B).

296 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
297 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)  
298 through (g):

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

- 300 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- 301 (B) for the fiscal year; or
- 302 (ii) \$17,500,000.

303 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount  
304 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the

305 Department of Natural Resources to:

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

308 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
309 act, to political subdivisions of the state to implement the measures described in Subsections  
310 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

359 (iii) develop surface water sources.

360 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
361 2006, the difference between the following amounts shall be expended as provided in this  
362 Subsection (5), if that difference is greater than \$1:

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

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

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

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

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

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

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

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

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

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

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

387 (i) preconstruction costs:

388 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
389 26, Bear River Development Act; and

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

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

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

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

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

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

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

407 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
408 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%  
409 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in  
410 the Transportation Fund created by Section 72-2-102.

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

416 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds  
417 have been paid off and the highway projects completed that are intended to be paid from  
418 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the  
419 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of  
420 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section  
421 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated  
422 by a 1/64% tax rate on the taxable transactions under Subsection (1).

423 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in  
424 Subsection (7)(a), and until Subsection (8)(b) applies, for a fiscal year beginning on or after  
425 July 1, 2007, the Division of Finance shall deposit into the Centennial Highway Fund  
426 Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection  
427 (3)(a) equal to 8.3% of the revenues collected from the following taxes, which represents a  
428 portion of the approximately 17% of sales and use tax revenues generated annually by the sales

429 and use tax on vehicles and vehicle-related products:

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

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

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

433 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

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

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

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

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

446 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

447 (9) (a) Notwithstanding Subsection (3)(a) and for the fiscal year 2008-09 only, the  
448 Division of Finance shall deposit \$55,000,000 of the revenues generated by the taxes listed  
449 under Subsection (3)(a) into the Critical Highway Needs Fund created by Section 72-2-125.

450 (b) Notwithstanding Subsection (3)(a) and until Subsection (9)(c) applies, for a fiscal  
451 year beginning on or after July 1, 2009, the Division of Finance shall annually deposit  
452 \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the  
453 Critical Highway Needs Fund created by Section 72-2-125.

454 (c) Notwithstanding Subsection (3)(a) and in addition to any amounts deposited under  
455 Subsections (7) and (8), when the general obligation bonds authorized by Section 63B-16-101  
456 have been paid off and the highway projects completed that are included in the prioritized  
457 project list under Subsection 72-2-125(4) as determined in accordance with Subsection  
458 72-2-125(6), the Division of Finance shall annually deposit \$90,000,000 of the revenues  
459 generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund

460 of 2005 created by Section 72-2-124.

461 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
462 [~~2008-09, \$915,000~~] 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food  
463 Agencies Fund created by Section 9-4-1409 and expended as provided in Section 9-4-1409.

464 (11) (a) (i) Notwithstanding Subsection (3)(a), except as provided in Subsection  
465 (11)(a)(ii), and until Subsection (11)(b) applies, beginning on January 1, 2009, the Division of  
466 Finance shall deposit into the Critical Highway Needs Fund created by Section 72-2-125 the  
467 amount of tax revenue generated by a .025% tax rate on the transactions described in  
468 Subsection (1).

469 (ii) For purposes of Subsection (11)(a)(i), the Division of Finance may not deposit into  
470 the Critical Highway Needs Fund any tax revenue generated by amounts paid or charged for  
471 food and food ingredients, except for tax revenue generated by a bundled transaction  
472 attributable to food and food ingredients and tangible personal property other than food and  
473 food ingredients described in Subsection (2)(e).

474 (b) (i) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b)(ii),  
475 and in addition to any amounts deposited under Subsections (7), (9), and (10), when the general  
476 obligation bonds authorized by Section 63B-16-101 have been paid off and the highway  
477 projects completed that are included in the prioritized project list under Subsection 72-2-125(4)  
478 as determined in accordance with Subsection 72-2-125(6), the Division of Finance shall  
479 deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the  
480 amount of tax revenue generated by a .025% tax rate on the transactions described in  
481 Subsection (1).

482 (ii) For purposes of Subsection (11)(b)(i), the Division of Finance may not deposit into  
483 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or  
484 charged for food and food ingredients, except for tax revenue generated by a bundled  
485 transaction attributable to food and food ingredients and tangible personal property other than  
486 food and food ingredients described in Subsection (2)(e).

487 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection  
488 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the  
489 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a  
490 .025% tax rate on the transactions described in Subsection (1) to be expended to address



491 chokepoints in construction management.

492 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into  
493 the Transportation Fund any tax revenue generated by amounts paid or charged for food and  
494 food ingredients, except for tax revenue generated by a bundled transaction attributable to food  
495 and food ingredients and tangible personal property other than food and food ingredients  
496 described in Subsection (2)(e).

497 Section 3. Section **59-12-104** is amended to read:

498 **59-12-104. Exemptions.**

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

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

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

504 (a) construction materials except:

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

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

512 (b) tangible personal property in connection with the construction, operation,  
513 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities  
514 providing additional project capacity, as defined in Section 11-13-103;

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

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

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

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

520 (i) food and food ingredients; or

521 (ii) prepared food;

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

523 (i) alcoholic beverages;

524 [~~(a)~~] (ii) food and food ingredients; or

525 [~~(b)~~] (iii) prepared food; [or]

526 (b) sales of tangible personal property or a product transferred electronically:

527 (i) to a passenger;

528 (ii) by a commercial airline carrier; and

529 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or

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

531 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts

532 and equipment:

533 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002

534 North American Industry Classification System of the federal Executive Office of the

535 President, Office of Management and Budget; and

536 (II) for:

537 (Aa) installation in an aircraft, including services relating to the installation of parts or

538 equipment in the aircraft;

539 (Bb) renovation of an aircraft; or

540 (Cc) repair of an aircraft; or

541 (B) for installation in an aircraft operated by a common carrier in interstate or foreign

542 commerce; or

543 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an

544 aircraft operated by a common carrier in interstate or foreign commerce; and

545 (b) notwithstanding the time period of Subsection 59-12-110(2) for filing for a refund,

546 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a

547 refund:

548 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

549 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

550 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for

551 the sale prior to filing for the refund;

552 (iv) for sales and use taxes paid under this chapter on the sale;

- 553 (v) in accordance with Section 59-12-110; and
- 554 (vi) subject to any extension allowed for filing for a refund under Section 59-12-110, if
- 555 the person files for the refund on or before September 30, 2011;
- 556 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
- 557 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
- 558 exhibitor, distributor, or commercial television or radio broadcaster;
- 559 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
- 560 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
- 561 washing of tangible personal property;
- 562 (b) if a seller that sells at the same business location assisted cleaning or washing of
- 563 tangible personal property and cleaning or washing of tangible personal property that is not
- 564 assisted cleaning or washing of tangible personal property, the exemption described in
- 565 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
- 566 or washing of the tangible personal property; and
- 567 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
- 568 Utah Administrative Rulemaking Act, the commission may make rules:
- 569 (i) governing the circumstances under which sales are at the same business location;
- 570 and
- 571 (ii) establishing the procedures and requirements for a seller to separately account for
- 572 sales of assisted cleaning or washing of tangible personal property;
- 573 (8) sales made to or by religious or charitable institutions in the conduct of their regular
- 574 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
- 575 fulfilled;
- 576 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
- 577 this state if the vehicle is:
- 578 (a) not registered in this state; and
- 579 (b) (i) not used in this state; or
- 580 (ii) used in this state:
- 581 (A) if the vehicle is not used to conduct business, for a time period that does not
- 582 exceed the longer of:
- 583 (I) 30 days in any calendar year; or

584 (II) the time period necessary to transport the vehicle to the borders of this state; or  
585 (B) if the vehicle is used to conduct business, for the time period necessary to transport  
586 the vehicle to the borders of this state;

587 (10) (a) amounts paid for an item described in Subsection (10)(b) if:  
588 (i) the item is intended for human use; and  
589 (ii) (A) a prescription was issued for the item; or  
590 (B) the item was purchased by a hospital or other medical facility; and  
591 (b) (i) Subsection (10)(a) applies to:  
592 (A) a drug;  
593 (B) a syringe; or  
594 (C) a stoma supply; and  
595 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
596 commission may by rule define the terms:  
597 (A) "syringe"; or  
598 (B) "stoma supply";

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

601 (12) (a) sales of an item described in Subsection (12)(c) served by:  
602 (i) the following if the item described in Subsection (12)(c) is not available to the  
603 general public:  
604 (A) a church; or  
605 (B) a charitable institution;  
606 (ii) an institution of higher education if:  
607 (A) the item described in Subsection (12)(c) is not available to the general public; or  
608 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan  
609 offered by the institution of higher education; or  
610 (b) sales of an item described in Subsection (12)(c) provided for a patient by:  
611 (i) a medical facility; or  
612 (ii) a nursing facility; and  
613 (c) Subsections (12)(a) and (b) apply to:  
614 (i) food and food ingredients;

615 (ii) prepared food; or  
616 (iii) alcoholic beverages;  
617 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property  
618 or a product transferred electronically by a person:  
619 (i) regardless of the number of transactions involving the sale of that tangible personal  
620 property or product transferred electronically by that person; and  
621 (ii) not regularly engaged in the business of selling that type of tangible personal  
622 property or product transferred electronically;  
623 (b) this Subsection (13) does not apply if:  
624 (i) the sale is one of a series of sales of a character to indicate that the person is  
625 regularly engaged in the business of selling that type of tangible personal property or product  
626 transferred electronically;  
627 (ii) the person holds that person out as regularly engaged in the business of selling that  
628 type of tangible personal property or product transferred electronically;  
629 (iii) the person sells an item of tangible personal property or product transferred  
630 electronically that the person purchased as a sale that is exempt under Subsection (25); or  
631 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of  
632 this state in which case the tax is based upon:  
633 (A) the bill of sale or other written evidence of value of the vehicle or vessel being  
634 sold; or  
635 (B) in the absence of a bill of sale or other written evidence of value, the fair market  
636 value of the vehicle or vessel being sold at the time of the sale as determined by the  
637 commission; and  
638 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
639 commission shall make rules establishing the circumstances under which:  
640 (i) a person is regularly engaged in the business of selling a type of tangible personal  
641 property or product transferred electronically;  
642 (ii) a sale of tangible personal property or a product transferred electronically is one of  
643 a series of sales of a character to indicate that a person is regularly engaged in the business of  
644 selling that type of tangible personal property or product transferred electronically; or  
645 (iii) a person holds that person out as regularly engaged in the business of selling a type

646 of tangible personal property or product transferred electronically;

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

650 (i) machinery and equipment that:

651 (A) is used:

652 (I) for a manufacturing facility other than a manufacturing facility that is a scrap  
653 recycler described in Subsection 59-12-102 (52)(b):

654 (Aa) in the manufacturing process; and

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

656 (II) for a manufacturing facility that is a scrap recycler described in Subsection  
657 59-12-102 (52)(b), to process an item sold as tangible personal property; and

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

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

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

661 (B) are used:

662 (I) for a manufacturing facility in the state other than a manufacturing facility that is a  
663 scrap recycler described in Subsection 59-12-102 (52)(b), in the manufacturing process; or

664 (II) for a manufacturing facility in the state that is a scrap recycler described in  
665 Subsection 59-12-102 (52)(b), to process an item sold as tangible personal property;

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

669 (A) machinery and equipment that:

670 (I) is used:

671 (Aa) in the manufacturing process; and

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

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

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

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

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

677 (ii) for amounts paid or charged on or after July 1, 2005, but on or before June 30,  
678 2006, for a purchase or lease described in Subsection (14)(b)(i), a cogeneration facility may  
679 claim the exemption allowed by Subsection (14)(b)(i) by filing for a refund:

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

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

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

689 (i) machinery and equipment that:

690 (A) are used in:

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

692 (II) research and development; and

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

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

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

696 (B) are used in:

697 (I) the production process, other than the production of real property, in an  
698 establishment described in this Subsection (14)(c) in the state; or

699 (II) research and development in an establishment described in this Subsection (14)(c)  
700 in the state;

701 (d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,  
702 Utah Administrative Rulemaking Act, the commission:

703 (i) shall by rule define the term "establishment"; and

704 (ii) may by rule define what constitutes:

705 (A) processing an item sold as tangible personal property;

706 (B) the production process, other than the production of real property; or

707 (C) research and development; and

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

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

713 (ii) include in its report:

714 (A) the cost of the exemptions;

715 (B) the purpose and effectiveness of the exemptions; and

716 (C) the benefits of the exemptions to the state;

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

718 (i) tooling;

719 (ii) special tooling;

720 (iii) support equipment;

721 (iv) special test equipment; or

722 (v) parts used in the repairs or renovations of tooling or equipment described in  
723 Subsections (15)(a)(i) through (iv); and

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

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

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

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

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

734 (16) sales of newspapers or newspaper subscriptions;

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



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

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

744 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the  
745 following items of tangible personal property or products transferred electronically traded in as  
746 full or part payment of the purchase price:

747 (i) money;

748 (ii) electricity;

749 (iii) water;

750 (iv) gas; or

751 (v) steam;

752 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property  
753 or a product transferred electronically used or consumed primarily and directly in farming  
754 operations, regardless of whether the tangible personal property or product transferred  
755 electronically:

756 (A) becomes part of real estate; or

757 (B) is installed by a:

758 (I) farmer;

759 (II) contractor; or

760 (III) subcontractor; or

761 (ii) sales of parts used in the repairs or renovations of tangible personal property or a  
762 product transferred electronically if the tangible personal property or product transferred  
763 electronically is exempt under Subsection (18)(a)(i); and

764 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following are  
765 subject to the taxes imposed by this chapter:

766 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is  
767 incidental to farming:

768 (I) machinery;

769 (II) equipment;

770 (III) materials; or  
771 (IV) supplies; and  
772 (B) tangible personal property that is considered to be used in a manner that is  
773 incidental to farming includes:  
774 (I) hand tools; or  
775 (II) maintenance and janitorial equipment and supplies;  
776 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product  
777 transferred electronically if the tangible personal property or product transferred electronically  
778 is used in an activity other than farming; and  
779 (B) tangible personal property or a product transferred electronically that is considered  
780 to be used in an activity other than farming includes:  
781 (I) office equipment and supplies; or  
782 (II) equipment and supplies used in:  
783 (Aa) the sale or distribution of farm products;  
784 (Bb) research; or  
785 (Cc) transportation; or  
786 (iii) a vehicle required to be registered by the laws of this state during the period  
787 ending two years after the date of the vehicle's purchase;  
788 (19) sales of hay;  
789 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or  
790 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or  
791 garden, farm, or other agricultural produce is sold by:  
792 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other  
793 agricultural produce;  
794 (b) an employee of the producer described in Subsection (20)(a); or  
795 (c) a member of the immediate family of the producer described in Subsection (20)(a);  
796 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued  
797 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;;  
798 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,  
799 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,  
800 wholesaler, or retailer for use in packaging tangible personal property to be sold by that

801 manufacturer, processor, wholesaler, or retailer;

802 (23) a product stored in the state for resale;

803 (24) (a) purchases of a product if:

804 (i) the product is:

805 (A) purchased outside of this state;

806 (B) brought into this state:

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

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

809 purchase;

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

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

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

813 (ii) for:

814 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of

815 the product for a purpose for which the product is designed occurs outside of this state;

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

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

818 outside of this state;

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

820 (i) a lease or rental of a product; or

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

822 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

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

824 following:

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

826 Subsection (24) as in Subsection (64);

827 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)

828 as in Subsection (64); or

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

830 this Subsection (24) as in Subsection (64);

831 (25) a product purchased for resale in this state, in the regular course of business, either

832 in its original form or as an ingredient or component part of a manufactured or compounded  
833 product;

834 (26) a product upon which a sales or use tax was paid to some other state, or one of its  
835 subdivisions, except that the state shall be paid any difference between the tax paid and the tax  
836 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if  
837 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax  
838 Act;

839 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a  
840 person for use in compounding a service taxable under the subsections;

841 (28) purchases made in accordance with the special supplemental nutrition program for  
842 women, infants, and children established in 42 U.S.C. Sec. 1786;

843 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,  
844 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens  
845 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification  
846 Manual of the federal Executive Office of the President, Office of Management and Budget;

847 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State  
848 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

849 (a) not registered in this state; and

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

851 (ii) used in this state:

852 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a  
853 time period that does not exceed the longer of:

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

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

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

860 (31) sales of aircraft manufactured in Utah;

861 (32) amounts paid for the purchase of telecommunications service for purposes of  
862 providing telecommunications service;

- 863 (33) sales, leases, or uses of the following:
- 864 (a) a vehicle by an authorized carrier; or
- 865 (b) tangible personal property that is installed on a vehicle:
- 866 (i) sold or leased to or used by an authorized carrier; and
- 867 (ii) before the vehicle is placed in service for the first time;
- 868 (34) (a) 45% of the sales price of any new manufactured home; and
- 869 (b) 100% of the sales price of any used manufactured home;
- 870 (35) sales relating to schools and fundraising sales;
- 871 (36) sales or rentals of durable medical equipment if:
- 872 (a) a person presents a prescription for the durable medical equipment; and
- 873 (b) the durable medical equipment is used for home use only;
- 874 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 875 Section 72-11-102; and
- 876 (b) the commission shall by rule determine the method for calculating sales exempt
- 877 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 878 (38) sales to a ski resort of:
- 879 (a) snowmaking equipment;
- 880 (b) ski slope grooming equipment;
- 881 (c) passenger ropeways as defined in Section 72-11-102; or
- 882 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 883 described in Subsections (38)(a) through (c);
- 884 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 885 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 886 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 887 59-12-102;
- 888 (b) if a seller that sells or rents at the same business location the right to use or operate
- 889 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 890 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 891 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 892 amusement, entertainment, or recreation for the assisted amusement devices; and
- 893 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,

894 Utah Administrative Rulemaking Act, the commission may make rules:

895 (i) governing the circumstances under which sales are at the same business location;

896 and

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

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

901 (i) a governmental entity; or

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

903 (A) a school; or

904 (B) the State Board of Education; or

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

906 (42) amounts paid for admission to an athletic event at an institution of higher  
907 education that is subject to the provisions of Title IX of the Education Amendments of 1972,  
908 20 U.S.C. Sec. 1681 et seq.;

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

910 (44) (a) sales made to or by:

911 (i) an area agency on aging; or

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

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

914 (45) sales or leases of semiconductor fabricating, processing, research, or development  
915 materials regardless of whether the semiconductor fabricating, processing, research, or  
916 development materials:

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

918 (b) ultimately become incorporated into real property;

919 (46) an amount paid by or charged to a purchaser for accommodations and services  
920 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section  
921 59-12-104.2;

922 (47) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary  
923 sports event registration certificate in accordance with Section 41-3-306 for the event period  
924 specified on the temporary sports event registration certificate;

- 925 (48) sales or uses of electricity, if the sales or uses are:
- 926 (a) made under a tariff adopted by the Public Service Commission of Utah only for
- 927 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
- 928 source, as designated in the tariff by the Public Service Commission of Utah; and
- 929 (b) for an amount of electricity that is:
- 930 (i) unrelated to the amount of electricity used by the person purchasing the electricity
- 931 under the tariff described in Subsection (48)(a); and
- 932 (ii) equivalent to the number of kilowatthours specified in the tariff described in
- 933 Subsection (48)(a) that may be purchased under the tariff described in Subsection (48)(a);
- 934 (49) sales or rentals of mobility enhancing equipment if a person presents a
- 935 prescription for the mobility enhancing equipment;
- 936 (50) sales of water in a:
- 937 (a) pipe;
- 938 (b) conduit;
- 939 (c) ditch; or
- 940 (d) reservoir;
- 941 (51) sales of currency or coinage that constitute legal tender of the United States or of a
- 942 foreign nation;
- 943 (52) (a) sales of an item described in Subsection (52)(b) if the item:
- 944 (i) does not constitute legal tender of any nation; and
- 945 (ii) has a gold, silver, or platinum content of 80% or more; and
- 946 (b) Subsection (52)(a) applies to a gold, silver, or platinum:
- 947 (i) ingot;
- 948 (ii) bar;
- 949 (iii) medallion; or
- 950 (iv) decorative coin;
- 951 (53) amounts paid on a sale-leaseback transaction;
- 952 (54) sales of a prosthetic device:
- 953 (a) for use on or in a human; and
- 954 (b) (i) for which a prescription is required; or
- 955 (ii) if the prosthetic device is purchased by a hospital or other medical facility;

956 (55) (a) except as provided in Subsection (55)(b), purchases, leases, or rentals of  
957 machinery or equipment by an establishment described in Subsection (55)(c) if the machinery  
958 or equipment is primarily used in the production or postproduction of the following media for  
959 commercial distribution:

- 960 (i) a motion picture;
- 961 (ii) a television program;
- 962 (iii) a movie made for television;
- 963 (iv) a music video;
- 964 (v) a commercial;
- 965 (vi) a documentary; or
- 966 (vii) a medium similar to Subsections (55)(a)(i) through (vi) as determined by the  
967 commission by administrative rule made in accordance with Subsection (55)(d); or

968 (b) notwithstanding Subsection (55)(a), purchases, leases, or rentals of machinery or  
969 equipment by an establishment described in Subsection (55)(c) that is used for the production  
970 or postproduction of the following are subject to the taxes imposed by this chapter:

- 971 (i) a live musical performance;
- 972 (ii) a live news program; or
- 973 (iii) a live sporting event;

974 (c) the following establishments listed in the 1997 North American Industry  
975 Classification System of the federal Executive Office of the President, Office of Management  
976 and Budget, apply to Subsections (55)(a) and (b):

- 977 (i) NAICS Code 512110; or
- 978 (ii) NAICS Code 51219; and

979 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
980 commission may by rule:

- 981 (i) prescribe what constitutes a medium similar to Subsections (55)(a)(i) through (vi);

982 or

- 983 (ii) define:
  - 984 (A) "commercial distribution";
  - 985 (B) "live musical performance";
  - 986 (C) "live news program"; or



987 (D) "live sporting event";  
988 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on  
989 or before June 30, 2019, of machinery or equipment that:  
990 (i) is leased or purchased for or by a facility that:  
991 (A) is a renewable energy production facility;  
992 (B) is located in the state; and  
993 (C) (I) becomes operational on or after July 1, 2004; or  
994 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
995 2004 as a result of the use of the machinery or equipment;  
996 (ii) has an economic life of five or more years; and  
997 (iii) is used to make the facility or the increase in capacity of the facility described in  
998 Subsection (56)(a)(i) operational up to the point of interconnection with an existing  
999 transmission grid including:  
1000 (A) a wind turbine;  
1001 (B) generating equipment;  
1002 (C) a control and monitoring system;  
1003 (D) a power line;  
1004 (E) substation equipment;  
1005 (F) lighting;  
1006 (G) fencing;  
1007 (H) pipes; or  
1008 (I) other equipment used for locating a power line or pole; and  
1009 (b) this Subsection (56) does not apply to:  
1010 (i) machinery or equipment used in construction of:  
1011 (A) a new renewable energy production facility; or  
1012 (B) the increase in the capacity of a renewable energy production facility;  
1013 (ii) contracted services required for construction and routine maintenance activities;  
1014 and  
1015 (iii) unless the machinery or equipment is used or acquired for an increase in capacity  
1016 of the facility described in Subsection (56)(a)(i)(C)(II), machinery or equipment used or  
1017 acquired after:

- 1018 (A) the renewable energy production facility described in Subsection (56)(a)(i) is
- 1019 operational as described in Subsection (56)(a)(iii); or
- 1020 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
- 1021 in Subsection (56)(a)(iii);
- 1022 (57) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
- 1023 or before June 30, 2019, of machinery or equipment that:
- 1024 (i) is leased or purchased for or by a facility that:
- 1025 (A) is a waste energy production facility;
- 1026 (B) is located in the state; and
- 1027 (C) (I) becomes operational on or after July 1, 2004; or
- 1028 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 1029 2004 as a result of the use of the machinery or equipment;
- 1030 (ii) has an economic life of five or more years; and
- 1031 (iii) is used to make the facility or the increase in capacity of the facility described in
- 1032 Subsection (57)(a)(i) operational up to the point of interconnection with an existing
- 1033 transmission grid including:
- 1034 (A) generating equipment;
- 1035 (B) a control and monitoring system;
- 1036 (C) a power line;
- 1037 (D) substation equipment;
- 1038 (E) lighting;
- 1039 (F) fencing;
- 1040 (G) pipes; or
- 1041 (H) other equipment used for locating a power line or pole; and
- 1042 (b) this Subsection (57) does not apply to:
- 1043 (i) machinery or equipment used in construction of:
- 1044 (A) a new waste energy facility; or
- 1045 (B) the increase in the capacity of a waste energy facility;
- 1046 (ii) contracted services required for construction and routine maintenance activities;
- 1047 and
- 1048 (iii) unless the machinery or equipment is used or acquired for an increase in capacity

1049 described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or acquired after:

1050 (A) the waste energy facility described in Subsection (57)(a)(i) is operational as

1051 described in Subsection (57)(a)(iii); or

1052 (B) the increased capacity described in Subsection (57)(a)(i) is operational as described

1053 in Subsection (57)(a)(iii);

1054 (58) (a) leases of five or more years or purchases made on or after July 1, 2004 but on

1055 or before June 30, 2019, of machinery or equipment that:

1056 (i) is leased or purchased for or by a facility that:

1057 (A) is located in the state;

1058 (B) produces fuel from biomass energy including:

1059 (I) methanol; or

1060 (II) ethanol; and

1061 (C) (I) becomes operational on or after July 1, 2004; or

1062 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as

1063 a result of the installation of the machinery or equipment;

1064 (ii) has an economic life of five or more years; and

1065 (iii) is installed on the facility described in Subsection (58)(a)(i);

1066 (b) this Subsection (58) does not apply to:

1067 (i) machinery or equipment used in construction of:

1068 (A) a new facility described in Subsection (58)(a)(i); or

1069 (B) the increase in capacity of the facility described in Subsection (58)(a)(i); or

1070 (ii) contracted services required for construction and routine maintenance activities;

1071 and

1072 (iii) unless the machinery or equipment is used or acquired for an increase in capacity

1073 described in Subsection (58)(a)(i)(C)(II), machinery or equipment used or acquired after:

1074 (A) the facility described in Subsection (58)(a)(i) is operational; or

1075 (B) the increased capacity described in Subsection (58)(a)(i) is operational;

1076 (59) (a) subject to Subsection (59)(b) or (c), sales of tangible personal property or a

1077 product transferred electronically to a person within this state if that tangible personal property

1078 or product transferred electronically is subsequently shipped outside the state and incorporated

1079 pursuant to contract into and becomes a part of real property located outside of this state;

1080 (b) the exemption under Subsection (59)(a) is not allowed to the extent that the other  
1081 state or political entity to which the tangible personal property is shipped imposes a sales, use,  
1082 gross receipts, or other similar transaction excise tax on the transaction against which the other  
1083 state or political entity allows a credit for sales and use taxes imposed by this chapter; and

1084 (c) notwithstanding the time period of Subsection 59-12-110(2)(b) for filing for a  
1085 refund, a person may claim the exemption allowed by this Subsection (59) for a sale by filing  
1086 for a refund:

1087 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

1088 (ii) as if this Subsection (59) as in effect on July 1, 2008, were in effect on the day on  
1089 which the sale is made;

1090 (iii) if the person did not claim the exemption allowed by this Subsection (59) for the  
1091 sale prior to filing for the refund;

1092 (iv) for sales and use taxes paid under this chapter on the sale;

1093 (v) in accordance with Section 59-12-110; and

1094 (vi) subject to any extension allowed for filing for a refund under Section 59-12-110, if  
1095 the person files for the refund on or before June 30, 2011;

1096 (60) purchases:

1097 (a) of one or more of the following items in printed or electronic format:

1098 (i) a list containing information that includes one or more:

1099 (A) names; or

1100 (B) addresses; or

1101 (ii) a database containing information that includes one or more:

1102 (A) names; or

1103 (B) addresses; and

1104 (b) used to send direct mail;

1105 (61) redemptions or repurchases of a product by a person if that product was:

1106 (a) delivered to a pawnbroker as part of a pawn transaction; and

1107 (b) redeemed or repurchased within the time period established in a written agreement  
1108 between the person and the pawnbroker for redeeming or repurchasing the product;

1109 (62) (a) purchases or leases of an item described in Subsection (62)(b) if the item:

1110 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;

1111 and

1112 (ii) has a useful economic life of one or more years; and

1113 (b) the following apply to Subsection (62)(a):

1114 (i) telecommunications enabling or facilitating equipment, machinery, or software;

1115 (ii) telecommunications equipment, machinery, or software required for 911 service;

1116 (iii) telecommunications maintenance or repair equipment, machinery, or software;

1117 (iv) telecommunications switching or routing equipment, machinery, or software; or

1118 (v) telecommunications transmission equipment, machinery, or software;

1119 (63) (a) beginning on July 1, 2006, and ending on June 30, 2016, purchases of tangible

1120 personal property or a product transferred electronically that are used in the research and

1121 development of coal-to-liquids, oil shale, or tar sands technology; and

1122 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1123 commission may, for purposes of Subsection (63)(a), make rules defining what constitutes

1124 purchases of tangible personal property or a product transferred electronically that are used in

1125 the research and development of coal-to-liquids, oil shale, and tar sands technology;

1126 (64) (a) purchases of tangible personal property or a product transferred electronically

1127 if:

1128 (i) the tangible personal property or product transferred electronically is:

1129 (A) purchased outside of this state;

1130 (B) brought into this state at any time after the purchase described in Subsection

1131 (64)(a)(i)(A); and

1132 (C) used in conducting business in this state; and

1133 (ii) for:

1134 (A) tangible personal property or a product transferred electronically other than the

1135 tangible personal property described in Subsection (64)(a)(ii)(B), the first use of the property

1136 for a purpose for which the property is designed occurs outside of this state; or

1137 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

1138 outside of this state;

1139 (b) the exemption provided for in Subsection (64)(a) does not apply to:

1140 (i) a lease or rental of tangible personal property or a product transferred electronically;

1141 or

- 1142 (ii) a sale of a vehicle exempt under Subsection (33); and
- 1143 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
- 1144 purposes of Subsection (64)(a), the commission may by rule define what constitutes the
- 1145 following:
  - 1146 (i) conducting business in this state if that phrase has the same meaning in this
  - 1147 Subsection (64) as in Subsection (24);
  - 1148 (ii) the first use of tangible personal property or a product transferred electronically if
  - 1149 that phrase has the same meaning in this Subsection (64) as in Subsection (24); or
  - 1150 (iii) a purpose for which tangible personal property or a product transferred
  - 1151 electronically is designed if that phrase has the same meaning in this Subsection (64) as in
  - 1152 Subsection (24);
- 1153 (65) sales of disposable home medical equipment or supplies if:
  - 1154 (a) a person presents a prescription for the disposable home medical equipment or
  - 1155 supplies;
  - 1156 (b) the disposable home medical equipment or supplies are used exclusively by the
  - 1157 person to whom the prescription described in Subsection (65)(a) is issued; and
  - 1158 (c) the disposable home medical equipment and supplies are listed as eligible for
  - 1159 payment under:
    - 1160 (i) Title XVIII, federal Social Security Act; or
    - 1161 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- 1162 (66) sales:
  - 1163 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
  - 1164 District Act; or
  - 1165 (b) of tangible personal property to a subcontractor of a public transit district, if the
  - 1166 tangible personal property is:
    - 1167 (i) clearly identified; and
    - 1168 (ii) installed or converted to real property owned by the public transit district;
- 1169 (67) sales of construction materials:
  - 1170 (a) purchased on or after July 1, 2010;
  - 1171 (b) purchased by, on behalf of, or for the benefit of an international airport:
  - 1172 (i) located within a county of the first class; and

- 1173 (ii) that has a United States customs office on its premises; and
- 1174 (c) if the construction materials are:
  - 1175 (i) clearly identified;
  - 1176 (ii) segregated; and
  - 1177 (iii) installed or converted to real property:
    - 1178 (A) owned or operated by the international airport described in Subsection (67)(b); and
    - 1179 (B) located at the international airport described in Subsection (67)(b);
- 1180 (68) sales of construction materials:
  - 1181 (a) purchased on or after July 1, 2008;
  - 1182 (b) purchased by, on behalf of, or for the benefit of a new airport:
    - 1183 (i) located within a county of the second class; and
    - 1184 (ii) that is owned or operated by a city in which an airline as defined in Section
    - 1185 59-2-102 is headquartered; and
  - 1186 (c) if the construction materials are:
    - 1187 (i) clearly identified;
    - 1188 (ii) segregated; and
    - 1189 (iii) installed or converted to real property:
      - 1190 (A) owned or operated by the new airport described in Subsection (68)(b);
      - 1191 (B) located at the new airport described in Subsection (68)(b); and
      - 1192 (C) as part of the construction of the new airport described in Subsection (68)(b); and
- 1193 (69) sales of fuel to a common carrier that is a railroad for use in a locomotive engine.
- 1194 Section 4. Section **59-12-204** is amended to read:

**59-12-204. Sales and use tax ordinance provisions -- Tax rate -- Distribution of tax revenues -- Commission requirement to retain an amount to be deposited into the Qualified Emergency Food Agencies Fund.**

- 1198 (1) The tax ordinance adopted pursuant to this part shall impose a tax upon those
- 1199 transactions listed in Subsection 59-12-103(1).
- 1200 (2) (a) The tax ordinance under Subsection (1) shall include a provision imposing a tax
- 1201 upon every transaction listed in Subsection 59-12-103(1) made within a county, including areas
- 1202 contained within the cities and towns located in the county:
  - 1203 (i) at the rate of 1% of the purchase price paid or charged; and

1204 (ii) if the transaction is consummated within the county in accordance with Section  
1205 59-12-205.

1206 (b) Notwithstanding Subsection (2)(a), a tax ordinance under this Subsection (2) shall  
1207 include a provision prohibiting a county, city, or town from imposing a tax under this section  
1208 on:

1209 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
1210 are exempt from taxation under Section 59-12-104; and

1211 (ii) any amounts paid or charged by a seller that collects a tax in accordance with  
1212 Subsection 59-12-107(1)(b) unless all of the counties, cities, and towns in the state impose the  
1213 tax under this section.

1214 (3) Such tax ordinance shall include provisions substantially the same as those  
1215 contained in Part 1, Tax Collection, insofar as they relate to sales or use tax, except that the  
1216 name of the county as the taxing agency shall be substituted for that of the state where  
1217 necessary for the purpose of this part and that an additional license is not required if one has  
1218 been or is issued under Section 59-12-106.

1219 (4) Such tax ordinance shall include a provision that the county shall contract, prior to  
1220 the effective date of the ordinance, with the commission to perform all functions incident to the  
1221 administration or operation of the ordinance.

1222 (5) Such tax ordinance shall include a provision that the sale, storage, use, or other  
1223 consumption of tangible personal property, the purchase price or the cost of which has been  
1224 subject to sales or use tax under a sales and use tax ordinance enacted in accordance with this  
1225 part by any county, city, or town in any other county in this state, shall be exempt from the tax  
1226 due under this ordinance.

1227 (6) Such tax ordinance shall include a provision that any person subject to the  
1228 provisions of a city or town sales and use tax shall be exempt from the county sales and use tax  
1229 if the city or town sales and use tax is levied under an ordinance including provisions in  
1230 substance as follows:

1231 (a) a provision imposing a tax upon every transaction listed in Section 59-12-103 made  
1232 within the city or town at the rate imposed by the county in which it is situated pursuant to  
1233 Subsection (2);

1234 (b) notwithstanding Subsection (2)(a), a provision prohibiting the city or town from



1235 imposing a tax under this section on any amounts paid or charged by a seller that collects a tax  
1236 in accordance with Subsection 59-12-107(1)(b) unless all of the counties, cities, and towns in  
1237 the state impose a tax under this section;

1238 (c) provisions substantially the same as those contained in Part 1, Tax Collection,  
1239 insofar as they relate to sales and use taxes, except that the name of the city or town as the  
1240 taxing agency shall be substituted for that of the state where necessary for the purposes of this  
1241 part;

1242 (d) a provision that the city or town shall contract prior to the effective date of the city  
1243 or town sales and use tax ordinance with the commission to perform all functions incident to  
1244 the administration or operation of the sales and use tax ordinance of the city or town;

1245 (e) a provision that the sale, storage, use, or other consumption of tangible personal  
1246 property, the gross receipts from the sale of or the cost of which has been subject to sales or use  
1247 tax under a sales and use tax ordinance enacted in accordance with this part by any county  
1248 other than the county in which the city or town is located, or city or town in this state, shall be  
1249 exempt from the tax; and

1250 (f) a provision that the amount of any tax paid under Part 1, Tax Collection, shall not  
1251 be included as a part of the purchase price paid or charged for a taxable item.

1252 (7) Notwithstanding any other provision of this section, beginning July 1, 2000, the  
1253 commission shall:

1254 (a) determine and retain the portion of sales and use tax imposed under this section:

1255 (i) by each county and by each city and town within that county whose legislative body  
1256 consents by resolution to the commission's retaining and depositing sales and use tax revenues  
1257 as provided in this Subsection (7); and

1258 (ii) that is equal to the revenues generated by a 1/64% tax rate;

1259 (b) deposit the revenues described in Subsection (7)(a) into a special fund of the  
1260 county, or a city, town, or other political subdivision of the state located within that county, that  
1261 has issued bonds to finance sports or recreational facilities or that is leasing sports or  
1262 recreational facilities, in order to repay those bonds or to pay the lease payments; and

1263 (c) continue to deposit those revenues into the special fund only as long as the bonds or  
1264 leases are outstanding.

1265 (8) (a) Notwithstanding any other provision of this section, beginning on July 1, 2009,

1266 the commission shall calculate and retain a portion of the sales and use tax collected under this  
1267 part as provided in this Subsection (8).

1268 (b) For a city, town, or unincorporated area of a county that imposes a tax under this  
1269 part, the commission shall calculate a percentage each month by dividing the sales and use tax  
1270 collected under this part for that month within the boundaries of that city, town, or  
1271 unincorporated area of a county by the total sales and use tax collected under this part for that  
1272 month within the boundaries of all of the cities, towns, and unincorporated areas of the  
1273 counties that impose a tax under this part.

1274 (c) For a city, town, or unincorporated area of a county that imposes a tax under this  
1275 part, the commission shall retain each month an amount equal to the product of:

1276 (i) the percentage the commission determines for the month under Subsection (8)(b)  
1277 for the city, town, or unincorporated area of a county; and

1278 (ii) \$25,417.

1279 (d) The commission shall deposit an amount the commission retains in accordance  
1280 with this Subsection (8) into the Qualified Emergency Food Agencies Fund created by Section  
1281 9-4-1409.

1282 (e) An amount the commission deposits into the Qualified Emergency Food Agencies  
1283 Fund shall be expended as provided in Section 9-4-1409.

1284 Section 5. Section **59-12-1102** is amended to read:

1285 **59-12-1102. Base -- Rate -- Imposition of tax -- Distribution of revenue --**  
1286 **Administration -- Commission requirement to retain an amount to be deposited into the**  
1287 **Qualified Emergency Food Agencies Fund -- Enactment or repeal of tax -- Effective date**  
1288 **-- Notice requirements.**

1289 (1) (a) (i) Subject to Subsections (2) through [~~(5)~~] (6), and in addition to any other tax  
1290 authorized by this chapter, a county may impose by ordinance a county option sales and use tax  
1291 of .25% upon the transactions described in Subsection 59-12-103(1).

1292 (ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this  
1293 section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are  
1294 exempt from taxation under Section 59-12-104.

1295 (b) For purposes of this Subsection (1), the location of a transaction shall be  
1296 determined in accordance with Sections 59-12-211 through 59-12-215.

- 1297 (c) The county option sales and use tax under this section shall be imposed:
- 1298 (i) upon transactions that are located within the county, including transactions that are
- 1299 located within municipalities in the county; and
- 1300 (ii) except as provided in Subsection (1)(d) or (5), beginning on the first day of
- 1301 January:
- 1302 (A) of the next calendar year after adoption of the ordinance imposing the tax if the
- 1303 ordinance is adopted on or before May 25; or
- 1304 (B) of the second calendar year after adoption of the ordinance imposing the tax if the
- 1305 ordinance is adopted after May 25.
- 1306 (d) Notwithstanding Subsection (1)(c)(ii), the county option sales and use tax under
- 1307 this section shall be imposed:
- 1308 (i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before
- 1309 September 4, 1997; or
- 1310 (ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997
- 1311 but after September 4, 1997.
- 1312 (2) (a) Before imposing a county option sales and use tax under Subsection (1), a
- 1313 county shall hold two public hearings on separate days in geographically diverse locations in
- 1314 the county.
- 1315 (b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting
- 1316 time of no earlier than 6 p.m.
- 1317 (ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven
- 1318 days after the day the first advertisement required by Subsection (2)(c) is published.
- 1319 (c) (i) Before holding the public hearings required by Subsection (2)(a), the county
- 1320 shall advertise in a newspaper of general circulation in the county:
- 1321 (A) its intent to adopt a county option sales and use tax;
- 1322 (B) the date, time, and location of each public hearing; and
- 1323 (C) a statement that the purpose of each public hearing is to obtain public comments
- 1324 regarding the proposed tax.
- 1325 (ii) The advertisement shall be published once each week for the two weeks preceding
- 1326 the earlier of the two public hearings.
- 1327 (iii) The advertisement shall be no less than 1/8 page in size, and the type used shall be

1328 no smaller than 18 point and surrounded by a 1/4-inch border.

1329 (iv) The advertisement may not be placed in that portion of the newspaper where legal  
1330 notices and classified advertisements appear.

1331 (v) Whenever possible:

1332 (A) the advertisement shall appear in a newspaper that is published at least five days a  
1333 week, unless the only newspaper in the county is published less than five days a week; and

1334 (B) the newspaper selected shall be one of general interest and readership in the  
1335 community, and not one of limited subject matter.

1336 (d) The adoption of an ordinance imposing a county option sales and use tax is subject  
1337 to a local referendum election and shall be conducted as provided in Title 20A, Chapter 7, Part  
1338 6, Local Referenda - Procedures.

1339 (3) (a) [Hf] Subject to Subsection (5), if the aggregate population of the counties  
1340 imposing a county option sales and use tax under Subsection (1) is less than 75% of the state  
1341 population, the tax levied under Subsection (1) shall be distributed to the county in which the  
1342 tax was collected.

1343 (b) [Hf] Subject to Subsection (5), if the aggregate population of the counties imposing  
1344 a county option sales and use tax under Subsection (1) is greater than or equal to 75% of the  
1345 state population:

1346 (i) 50% of the tax collected under Subsection (1) in each county shall be distributed to  
1347 the county in which the tax was collected; and

1348 (ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection  
1349 (1) in each county shall be distributed proportionately among all counties imposing the tax,  
1350 based on the total population of each county.

1351 (c) [Hf] Except as provided in Subsection (5), the amount to be distributed annually to a  
1352 county under Subsection (3)(b)(ii), when combined with the amount distributed to the county  
1353 under Subsection (3)(b)(i), does not equal at least \$75,000, then:

1354 (i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall  
1355 be increased so that, when combined with the amount distributed to the county under  
1356 Subsection (3)(b)(i), the amount distributed annually to the county is \$75,000; and

1357 (ii) the amount to be distributed annually to all other counties under Subsection  
1358 (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under

1359 Subsection (3)(c)(i).

1360 (d) The commission shall establish rules to implement the distribution of the tax under  
1361 Subsections (3)(a), (b), and (c).

1362 (4) (a) Except as provided in Subsection (4)(b) or (c), a tax authorized under this part  
1363 shall be administered, collected, and enforced in accordance with:

1364 (i) the same procedures used to administer, collect, and enforce the tax under:

1365 (A) Part 1, Tax Collection; or

1366 (B) Part 2, Local Sales and Use Tax Act; and

1367 (ii) Chapter 1, General Taxation Policies.

1368 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to  
1369 Subsections 59-12-205(2) through (6).

1370 (c) Notwithstanding Subsection (4)(a), the fee charged by the commission under  
1371 Section 59-12-206 shall be based on the distribution amounts resulting after ~~aff~~:

1372 (i) the applicable distribution calculations under Subsection (3) have been made[-]; and

1373 (ii) the commission retains the amount required by Subsection (5).

1374 (5) (a) Beginning on July 1, 2009, the commission shall calculate and retain a portion  
1375 of the sales and use tax collected under this part as provided in this Subsection (5).

1376 (b) For a county that imposes a tax under this part, the commission shall calculate a  
1377 percentage each month by dividing the sales and use tax collected under this part for that  
1378 month within the boundaries of that county by the total sales and use tax collected under this  
1379 part for that month within the boundaries of all of the counties that impose a tax under this part.

1380 (c) For a county that imposes a tax under this part, the commission shall retain each  
1381 month an amount equal to the product of:

1382 (i) the percentage the commission determines for the month under Subsection (5)(b)  
1383 for the county; and

1384 (ii) \$6,354.

1385 (d) The commission shall deposit an amount the commission retains in accordance  
1386 with this Subsection (5) into the Qualified Emergency Food Agencies Fund created by Section  
1387 9-4-1409.

1388 (e) An amount the commission deposits into the Qualified Emergency Food Agencies  
1389 Fund shall be expended as provided in Section 9-4-1409.

- 1390            [~~5~~] (6) (a) For purposes of this Subsection [~~5~~] (6):
- 1391            (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
- 1392 Annexation to County.
- 1393            (ii) "Annexing area" means an area that is annexed into a county.
- 1394            (b) (i) Except as provided in Subsection [~~5~~] (6)(c) or (d), if, on or after July 1, 2004, a
- 1395 county enacts or repeals a tax under this part:
- 1396            (A) (I) the enactment shall take effect as provided in Subsection (1)(c); or
- 1397            (II) the repeal shall take effect on the first day of a calendar quarter; and
- 1398            (B) after a 90-day period beginning on the date the commission receives notice meeting
- 1399 the requirements of Subsection [~~5~~] (6)(b)(ii) from the county.
- 1400            (ii) The notice described in Subsection [~~5~~] (6)(b)(i)(B) shall state:
- 1401            (A) that the county will enact or repeal a tax under this part;
- 1402            (B) the statutory authority for the tax described in Subsection [~~5~~] (6)(b)(ii)(A);
- 1403            (C) the effective date of the tax described in Subsection [~~5~~] (6)(b)(ii)(A); and
- 1404            (D) if the county enacts the tax described in Subsection [~~5~~] (6)(b)(ii)(A), the rate of
- 1405 the tax.
- 1406            (c) (i) The enactment of a tax shall take effect on the first day of the first billing period:
- 1407            (A) that begins after the effective date of the enactment of the tax; and
- 1408            (B) if the billing period for the transaction begins before the effective date of the
- 1409 enactment of the tax under Subsection (1).
- 1410            (ii) The repeal of a tax shall take effect on the first day of the last billing period:
- 1411            (A) that began before the effective date of the repeal of the tax; and
- 1412            (B) if the billing period for the transaction begins before the effective date of the repeal
- 1413 of the tax imposed under Subsection (1).
- 1414            (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
- 1415 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
- 1416 Subsection [~~5~~] (6)(b)(i) takes effect:
- 1417            (A) on the first day of a calendar quarter; and
- 1418            (B) beginning 60 days after the effective date of the enactment or repeal under
- 1419 Subsection [~~5~~] (6)(b)(i).
- 1420            (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1421 commission may by rule define the term "catalogue sale."

1422 (e) (i) Except as provided in Subsection [~~5~~] (6)(f) or (g), if, for an annexation that  
1423 occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax  
1424 under this part for an annexing area, the enactment or repeal shall take effect:

1425 (A) on the first day of a calendar quarter; and

1426 (B) after a 90-day period beginning on the date the commission receives notice meeting  
1427 the requirements of Subsection [~~5~~] (6)(e)(ii) from the county that annexes the annexing area.

1428 (ii) The notice described in Subsection [~~5~~] (6)(e)(i)(B) shall state:

1429 (A) that the annexation described in Subsection [~~5~~] (6)(e)(i) will result in an  
1430 enactment or repeal of a tax under this part for the annexing area;

1431 (B) the statutory authority for the tax described in Subsection [~~5~~] (6)(e)(ii)(A);

1432 (C) the effective date of the tax described in Subsection [~~5~~] (6)(e)(ii)(A); and

1433 (D) the rate of the tax described in Subsection [~~5~~] (6)(e)(ii)(A).

1434 (f) (i) The enactment of a tax shall take effect on the first day of the first billing period:

1435 (A) that begins after the effective date of the enactment of the tax; and

1436 (B) if the billing period for the transaction begins before the effective date of the  
1437 enactment of the tax under Subsection (1).

1438 (ii) The repeal of a tax shall take effect on the first day of the last billing period:

1439 (A) that began before the effective date of the repeal of the tax; and

1440 (B) if the billing period for the transaction begins before the effective date of the repeal  
1441 of the tax imposed under Subsection (1).

1442 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of  
1443 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in  
1444 Subsection [~~5~~] (6)(e)(i) takes effect:

1445 (A) on the first day of a calendar quarter; and

1446 (B) beginning 60 days after the effective date of the enactment or repeal under  
1447 Subsection [~~5~~] (6)(e)(i).

1448 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1449 commission may by rule define the term "catalogue sale."

1450 Section 6. Section **59-12-2003** is amended to read:

1451 **59-12-2003. Imposition -- Base -- Rate -- Revenues distributed to certain public**

1452 transit districts.

1453 (1) Subject to the other provisions of this section and except as provided in Subsection  
1454 (2) or (4), beginning on July 1, 2008, the state shall impose a tax under this part on the  
1455 transactions described in Subsection 59-12-103(1) within a city, town, or the unincorporated  
1456 area of a county of the first or second class if, on January 1, 2008, there is a public transit  
1457 district within any portion of that county of the first or second class.

1458 (2) The state may not impose a tax under this part within a county of the first or second  
1459 class if within all of the cities, towns, and the unincorporated area of the county of the first or  
1460 second class there is imposed a sales and use tax of:

- 1461 (a) .30% under Section 59-12-501;
- 1462 (b) .30% under Section 59-12-1001; or
- 1463 (c) .30% under Section 59-12-1503.

1464 (3) (a) Subject to Subsection (3)(b), if the state imposes a tax under this part, the tax  
1465 rate imposed within a city, town, or the unincorporated area of a county of the first or second  
1466 class is a percentage equal to the difference between:

- 1467 (i) .30%; and
- 1468 (ii) (A) for a city within the county of the first or second class, the highest tax rate  
1469 imposed within that city under:

- 1470 (I) Section 59-12-501;
- 1471 (II) Section 59-12-1001; or
- 1472 (III) Section 59-12-1503;

1473 (B) for a town within the county of the first or second class, the highest tax rate  
1474 imposed within that town under:

- 1475 (I) Section 59-12-501;
- 1476 (II) Section 59-12-1001; or
- 1477 (III) Section 59-12-1503; or

1478 (C) for the unincorporated area of the county of the first or second class, the highest tax  
1479 rate imposed within that unincorporated area under:

- 1480 (I) Section 59-12-501;
- 1481 (II) Section 59-12-1001; or
- 1482 (III) Section 59-12-1503.



1483 (b) For purposes of Subsection (3)(a), if for a city, town, or the unincorporated area of  
 1484 a county of the first or second class, the highest tax rate imposed under Section 59-12-501,  
 1485 59-12-1001, or 59-12-1503 within that city, town, or unincorporated area of the county of the  
 1486 first or second class is .30%, the state may not impose a tax under this part within that city,  
 1487 town, or unincorporated area.

1488 (4) (a) The state may not impose a tax under this part on:

1489 ~~[(i) a transaction described in Subsection 59-12-103(1)(d);]~~

1490 ~~[(ii) except as provided in Subsection (4)(b), a transaction described in Subsection~~  
 1491 ~~59-12-103(2)(c); or]~~

1492 ~~[(iii) (i) the sales and uses described in Section 59-12-104 to the extent the sales and~~  
 1493 ~~uses are exempt from taxation under Section 59-12-104[-]; or~~

1494 (ii) except as provided in Subsection (4)(b), amounts paid or charged for food and food  
 1495 ingredients.

1496 (b) The state shall impose a tax under this part on amounts paid or charged for food  
 1497 and food ingredients if the food and food ingredients are sold as part of a bundled transaction  
 1498 attributable to food and ingredients and tangible personal property other than food and food  
 1499 ingredients.

1500 (5) For purposes of Subsection (1), the location of a transaction shall be determined in  
 1501 accordance with Sections 59-12-211 through 59-12-215.

1502 (6) The commission shall distribute the revenues the state collects from the sales and  
 1503 use tax under this part, after subtracting amounts a seller retains in accordance with Section  
 1504 59-12-108, to the public transit districts within the cities, towns, and unincorporated areas:

1505 (a) within which the state imposes a tax under this part; and

1506 (b) in proportion to the revenues collected from the sales and use tax under this part  
 1507 within each city, town, and unincorporated area within which the state imposes a tax under this  
 1508 part.

1509 **Section 7. Effective dates -- Retrospective operation.**

1510 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2009.

1511 (2) The amendments to Section 59-12-2003 in this bill:

1512 (a) if approved by two-thirds of all the members elected to each house, take effect upon  
 1513 approval by the governor, or the day following the constitutional time limit of Utah

1514 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,  
1515 the date of veto override; and

1516 (b) have retrospective operation to July 1, 2008.

1517 **Section 8. Coordinating S.B. 189 with H.B. 403 -- Technically merging the**  
1518 **amendments.**

1519 If this S.B. 189 and H.B. 403, Sales and Use Tax and Income Tax Amendments, both  
1520 pass, it is the intent of the Legislature that the Office of Legislative Research and General  
1521 Counsel prepare the version of the Utah Code database that takes effect on July 1, 2009 for  
1522 publication by modifying Subsection 59-12-2003(4) to read:

1523 "(4) The state may not impose a tax under this part on the sales and uses described in  
1524 Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section  
1525 59-12-104."