

Senator Gregory S. Bell proposes the following substitute bill:

TAX AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gregory S. Bell

House Sponsor: Bradley G. Last

LONG TITLE

General Description:

This bill amends the Sales and Use Tax Act and related provisions to address certain local sales and use taxes relating to airports, highways, and public transportation.

Highlighted Provisions:

This bill:

► amends the additional public transit tax to:

- expand the uses of tax revenues;
- create an exemption from certain election requirements; and
- provide that if an exemption from election requirements applies a county, city, or town shall obtain approval to impose the tax from the county, city, or town legislative body;

► amends a local option sales and use tax for airports, highways, and public transit by:

- providing and modifying definitions;
- allowing a city or town within a county of the second class to impose the tax in addition to a county of the second class under certain circumstances;
- modifying the purposes for which tax revenues may be expended, including providing that certain cities and towns may expend up to all of the revenues collected from the tax for certain airport facilities;



- 26 • addressing certain notice requirements for a city or town imposing the tax; and
- 27 • addressing procedures for the State Tax Commission to distribute tax revenues;
- 28 ▶ addresses the expenditure of revenues deposited into the Local Transportation
- 29 Corridor Preservation Fund if those revenues are allocated to a city or town that
- 30 imposes the local option sales and use tax for airports, highways, and public transit;
- 31 ▶ addresses the expenditure of revenues deposited into the County of the Second
- 32 Class State Highway Projects Fund if those revenues are deposited for or allocated
- 33 to a city or town that imposes the local option sales and use tax for airports,
- 34 highways, and public transit; and
- 35 ▶ makes technical changes.

36 **Monies Appropriated in this Bill:**

37 None

38 **Other Special Clauses:**

39 This bill provides an immediate effective date.

40 **Utah Code Sections Affected:**

41 AMENDS:

42 **59-12-502**, as last amended by Laws of Utah 2008, Chapter 384

43 **59-12-1901**, as enacted by Laws of Utah 2008, Chapter 286

44 **59-12-1902**, as enacted by Laws of Utah 2008, Chapter 286

45 **59-12-1903**, as enacted by Laws of Utah 2008, Chapter 286

46 **72-2-117.5**, as last amended by Laws of Utah 2008, Chapter 286

47 **72-2-121.2**, as enacted by Laws of Utah 2008, Chapter 286



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

50 Section 1. Section **59-12-502** is amended to read:

51 **59-12-502. Additional public transit tax for a fixed guideway, expanded public**
52 **transportation system, airport facility, or to be deposited into the County of the First**
53 **Class State Highway Projects Fund -- Base -- Rate -- Voter approval.**

54 (1) (a) (i) ~~[It]~~ Except as provided in Subsection (5) and in addition to other sales and
55 use taxes, including the public transit district tax authorized by Section 59-12-501, a county,
56 city, or town may impose a sales and use tax of .25% on the transactions described in

57 Subsection 59-12-103(1) located within the county, city, or town, to ~~fund~~ be expended:

58 (A) to fund a fixed guideway ~~and~~;

59 (B) to fund an expanded public transportation system[-];

60 (C) to fund a project or service related to an airport facility as defined in Section

61 59-12-602 for the portion of the project or service that is performed within the county, city, or
62 town within which the tax is imposed:

63 (I) for a county that imposes the sales and use tax, if the airport facility is part of the
64 regional transportation plan of the area metropolitan planning organization if a metropolitan
65 planning organization exists for the area; or

66 (II) for a city or town that imposes the sales and use tax, if:

67 (Aa) that city or town is located within a county of the second class;

68 (Bb) that city or town owns or operates the airport facility; and

69 (Cc) an airline as defined in Section 59-2-102 is headquartered in that city or town; or

70 (D) for a combination of Subsections (1)(a)(i)(A) through (C).

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

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

75 (B) except as provided in Subsection (1)(c), amounts paid or charged for food and food
76 ingredients.

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

79 (c) A county, city, or town imposing a tax under this section shall impose the tax on
80 amounts paid or charged for food and food ingredients if the food and food ingredients are sold
81 as part of a bundled transaction attributable to food and food ingredients and tangible personal
82 property other than food and food ingredients.

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

87 (ii) Notice of the election under Subsection (1)(d)(i) shall be given by the county, city,

88 or town governing body 15 days in advance in the manner prescribed by statute.

89 (2) ~~[H]~~ Except as provided in Subsection (3), if the majority of the voters voting in this
90 election approve the proposal, it shall become effective on the date provided by the county,
91 city, or town governing body.

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

94 ~~[(b) This section shall be construed to require an election to impose the sales and use~~
95 ~~tax authorized by this section, including jurisdictions where the voters have previously~~
96 ~~approved the sales and use tax authorized by Section 59-12-501, but this section may not be~~
97 ~~construed to affect the sales and use tax authorized by Section 59-12-501.]~~

98 (3) (a) A county, city, or town is not required to submit a proposal to voters to impose a
99 tax under this section if:

100 (i) the county, city, or town imposes the tax under this section on or after July 1, 2009;

101 (ii) on July 1, 2009, the county, city, or town imposes a tax under:

102 (A) Section 59-12-501; or

103 (B) Section 59-12-1001; and

104 (iii) the county, city, or town obtained voter approval to impose the tax under:

105 (A) Section 59-12-501; or

106 (B) Section 59-12-1001.

107 (b) A county, city, or town that is not required to submit a proposal to voters to impose
108 a tax under this section in accordance with Subsection (3)(a) shall obtain approval from a
109 majority of the members of the county, city, or town legislative body to impose a tax under this
110 section.

111 (4) ~~[No public]~~ Public funds ~~[shall]~~ may not be spent to promote the required election.

112 (5) ~~[Notwithstanding the designated use of revenues in Subsection (1), of the]~~ Of the
113 revenues generated by the tax imposed under this section by any county of the first class:

114 (a) 80% shall be allocated to fund a fixed guideway and expanded public transportation
115 system; and

116 (b) 20% shall be deposited into the County of the First Class State Highway Projects
117 Fund created by Section 72-2-121.

118 Section 2. Section **59-12-1901** is amended to read:

119 **59-12-1901. Title.**

120 This part is known as the "[~~County of the Second Class~~] Airport, Highway, and Public
121 Transit Sales and Use Tax Act."

122 Section 3. Section **59-12-1902** is amended to read:

123 **59-12-1902. Definitions.**

124 As used in this part:

125 (1) "Airline" is as defined in Section 59-2-102.

126 [~~(1)~~] (2) "Airport facility" is as defined in Section 59-12-602.

127 [~~(2)~~] (3) "Annexation" means an annexation to:

128 (a) a county under Title 17, Chapter 2, Annexation to County[~~;~~]; or

129 (b) a city or town under Title 10, Chapter 2, Part 4, Annexation.

130 [~~(3)~~] (4) "Annexing area" means an area that is annexed into a county, city, or town.

131 [~~(4)~~] (5) "Fixed guideway" is as defined in Section 59-12-1702.

132 [~~(5)~~] (6) "Local highway of regional significance" means a local highway that is a:

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

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

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

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

137 [~~(6)~~] (7) "Public transit" is as defined in Section 59-12-1502.

138 Section 4. Section **59-12-1903** is amended to read:

139 **59-12-1903. Imposition of tax -- Base -- Rate -- Expenditure of revenues collected**
140 **from the tax -- Administration, collection, and enforcement of tax by commission --**
141 **Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**

142 (1) (a) Subject to the other provisions of this section and except as provided in
143 Subsection (2), [~~beginning on January 1, 2009, a county legislative body of a county of the~~
144 ~~second class~~] the following may impose a sales and use tax [~~on the transactions~~] under this
145 part:

146 [~~(i) described in Subsection 59-12-103(1); and~~]

147 [~~(ii) within the county, including the cities and towns within the county.]~~

148 (i) if, on April 1, 2009, a county legislative body of a county of the second class
149 imposes a sales and use tax under this part, the county legislative body of the county of the

150 second class may impose the sales and use tax on the transactions:

151 (A) described in Subsection 59-12-103(1); and

152 (B) within the county, including the cities and towns within the county; or

153 (ii) if, on April 1, 2009, a county legislative body of a county of the second class does

154 not impose a sales and use tax under this part:

155 (A) a city legislative body of a city within the county of the second class may impose a

156 sales and use tax under this part on the transactions described in Subsection 59-12-103(1)

157 within that city;

158 (B) a town legislative body of a town within the county of the second class may impose

159 a sales and use tax under this part on the transactions described in Subsection 59-12-103(1)

160 within that town; and

161 (C) the county legislative body of the county of the second class may impose a sales

162 and use tax on the transactions described in Subsection 59-12-103(1):

163 (I) within the county, including the cities and towns within the county, if on the date

164 the county legislative body provides the notice described in Subsection (7)(a) to the

165 commission stating that the county will enact a tax under this part, no city or town within that

166 county:

167 (Aa) imposes a tax under this part; or

168 (Bb) has provided the notice described in Subsection (7)(a) to the commission stating

169 that the city or town will enact a tax under this part; or

170 (II) within the county, except for within a city or town within that county, if, on the

171 date the county legislative body provides the notice described in Subsection (7)(a) to the

172 commission stating that the county will enact a tax under this part, that city or town:

173 (Aa) imposes a tax under this part; or

174 (Bb) has provided the notice described in Subsection (7)(a) to the commission stating

175 that the city or town will enact a tax under this part.

176 (b) For purposes of Subsection (1)(a), a county, city, or town legislative body that

177 imposes a tax under this part may impose [a] the tax at a rate of:

178 (i) .10%, to be:

179 (A) as determined by the county, city, or town legislative body, deposited as provided

180 in Subsection (4)(c)(i) into the County of the Second Class State Highway Projects Fund

181 created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2;

182 (B) as determined by the county, city, or town legislative body, expended for a project
183 or service relating to an airport facility for the portion of the project or service that is performed
184 within the county, city, or town within which the tax is imposed:

185 (I) for a county legislative body that imposes the tax, if that airport facility is part of the
186 regional transportation plan of the area metropolitan planning organization if a metropolitan
187 planning organization exists for the area; [~~and (H) for the portion of the project or service that~~
188 ~~is performed within the county;~~] or

189 (II) for a city or town legislative body that imposes the tax, if:

190 (Aa) that city or town owns or operates the airport facility; and

191 (Bb) an airline is headquartered in that city or town; or

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

194 (ii) subject to Subsection (1)(c), .25%, to be expended as follows:

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

198 (B) .05%, to be deposited as provided in Subsection (4)(c)(ii) into the Local
199 Transportation Corridor Preservation Fund created by Section 72-2-117.5 and expended and
200 distributed in accordance with Section 72-2-117.5; and

201 (C) as determined by the county, city, or town legislative body, .10% to be:

202 (I) deposited as provided in Subsection (4)(c)(i) into the County of the Second Class
203 State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in
204 Section 72-2-121.2;

205 (II) expended for:

206 (Aa) a state highway designated under Title 72, Chapter 4, Part 1, Designation of State
207 Highways Act;

208 (Bb) a local highway of regional significance; or

209 (Cc) a combination of Subsections (1)(b)(ii)(C)(II)(Aa) and (Bb);

210 (III) expended for a project or service relating to a system for public transit for the
211 portion of the project or service that is performed within the county, city, or town within which

212 the tax is imposed;

213 (IV) expended for a project or service relating to a fixed guideway for the portion of
214 the project or service that is performed within the county, city, or town within which the tax is
215 imposed;

216 (V) expended for a project or service relating to an airport facility[?] for the portion of
217 the project or service that is performed within the county, city, or town within which the tax is
218 imposed:

219 (Aa) for a county legislative body that imposes the tax, if that airport facility is part of
220 the regional transportation plan of the area metropolitan planning organization if a metropolitan
221 planning organization exists for the area; [~~and (Bb) for the portion of the project or service that~~
222 ~~is performed within the county;~~] or

223 (Bb) for a city or town legislative body that imposes the tax, if:

224 (Ii) that city or town owns or operates the airport facility; and

225 (Iiii) an airline is headquartered in that city or town; or

226 (VI) deposited or expended for a combination of Subsections (1)(b)(ii)(C)(I) through
227 (V).

228 (c) (i) Subject to the other provisions of this Subsection (1)(c), a city or town within
229 which a tax is imposed at the tax rate described in Subsection (1)(b)(ii) may:

230 (A) expend the revenues in accordance with Subsection (1)(b)(ii); or

231 (B) expend the revenues in accordance with Subsections (1)(c)(ii) through (iv) if:

232 (I) that city or town owns or operates an airport facility; and

233 (II) an airline is headquartered in that city or town.

234 (ii) If a city or town within which a tax is imposed at the tax rate described in
235 Subsection (1)(b)(ii) owns or operates an airport facility at which an airline is headquartered,
236 the city or town legislative body may expend the revenues collected from a tax rate of greater
237 than .10% but not to exceed the revenues collected from a tax rate of .25% for:

238 (A) a project or service relating to the airport facility; and

239 (B) the portion of the project or service that is performed within the city or town
240 imposing the tax.

241 (iii) If a city or town legislative body described in Subsection (1)(c)(ii) determines to
242 expend the revenues collected from a tax rate of greater than .10% but not to exceed the

243 revenues collected from a tax rate of .25% for a project or service relating to an airport facility
244 as allowed by Subsection (1)(c)(ii), any remaining revenues that are collected from the tax
245 imposed at the tax rate described in Subsection (1)(b)(ii) that are not expended for the project
246 or service relating to an airport facility as allowed by Subsection (1)(c)(ii) shall be expended as
247 follows:

248 (A) 75% of the remaining revenues shall be deposited as provided in Subsection (4)(d)
249 into the County of the Second Class State Highway Projects Fund created by Section
250 72-2-121.2 and expended as provided in Section 72-2-121.2; and

251 (B) 25% of the remaining revenues shall be deposited as provided in Subsection (4)(d)
252 into the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5 and
253 expended and distributed in accordance with Section 72-2-117.5.

254 (iv) A city or town legislative body that expends the revenues collected from a tax
255 imposed at the tax rate described in Subsection (1)(b)(ii) in accordance with Subsections
256 (1)(c)(ii) and (iii):

257 (A) shall, on or before the date the city or town legislative body provides the notice
258 described in Subsection (7)(a) to the commission stating that the city or town will enact a tax
259 under this part:

260 (I) determine the tax rate:

261 (Aa) the collections from which the city or town legislative body will expend for a
262 project or service relating to an airport facility as allowed by Subsection (1)(c)(ii); and

263 (Bb) at a percentage that is greater than .10% but does not exceed .25%; and

264 (II) notify the commission in writing of the tax rate the city or town legislative body
265 determines in accordance with Subsection (1)(c)(iv)(A)(I);

266 (B) shall, on or before the April 1 immediately following the date the city or town
267 legislative body provides the notice described in Subsection (1)(c)(iv)(A) to the commission:

268 (I) determine the tax rate:

269 (Aa) the collections from which the city or town legislative body will expend for a
270 project or service relating to an airport facility as allowed by Subsection (1)(c)(ii); and

271 (Bb) at a percentage that is greater than .10% but does not exceed .25%; and

272 (II) notify the commission in writing of the tax rate the city or town legislative body
273 determines in accordance with Subsection (1)(c)(iv)(B)(I);

274 (C) shall, on or before April 1 of each year after the April 1 described in Subsection
275 (1)(c)(iv)(B):

276 (I) determine the tax rate:

277 (Aa) the collections from which the city or town legislative body will expend for a
278 project or service relating to an airport facility as allowed by Subsection (1)(c)(ii); and

279 (Bb) at a percentage that is greater than .10% but does not exceed .25%; and

280 (II) notify the commission in writing of the tax rate the city or town legislative body
281 determines in accordance with Subsection (1)(c)(iv)(C)(I); and

282 (D) may not change the tax rate the city or town legislative body determines in
283 accordance with Subsections (1)(c)(iv)(A) through (C) more frequently than as prescribed by
284 Subsections (1)(c)(iv)(A) through (C).

285 [~~(c)~~] (d) If a county legislative body imposes a tax under this part, regardless of
286 whether the tax under this part is imposed within all of the cities and towns within the county,
287 the county legislative body may not impose a tax under Part 17, County Option Sales and Use
288 Tax for Transportation Act.

289 [~~(d)~~] (e) For purposes of this Subsection (1), the location of a transaction shall be
290 determined in accordance with Sections 59-12-211 through 59-12-215.

291 (2) (a) A county, city, or town legislative body may not impose a tax under this part on:

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

294 (ii) except as provided in Subsection (2)(b), amounts paid or charged for food and food
295 ingredients.

296 (b) A county, city, or town legislative body imposing a tax under this part shall impose
297 the tax on amounts paid or charged for food and food ingredients if the food and food
298 ingredients are sold as part of a bundled transaction attributable to food and food ingredients
299 and tangible personal property other than food and food ingredients.

300 (3) (a) To impose a tax under this part, a county, city, or town legislative body shall
301 obtain approval from a majority of the members of the county, city, or town legislative body.

302 (b) Before a city or town legislative body may impose a tax under this part, the city or
303 town legislative body shall provide a copy of the notice described in Subsection (7)(a) that the
304 city or town legislative body provides to the commission:

305 (i) to the county legislative body within which the city or town is located; and
306 (ii) at the same time as the city or town legislative body provides the notice to the
307 commission.

308 (4) (a) [~~Except as provided in Subsection (4)(b) or (c) or~~ Subject to Subsections (4)(b)
309 through (f) and except as provided in Subsection (6), the commission shall transmit revenues
310 collected within a county, city, or town from a tax under this part that [~~are required to~~] will be
311 expended for a purpose described in Subsection (1)(b)(i)(B) or Subsections (1)(b)(ii)(C)(II)
312 through (V):

- 313 (i) to the county, city, or town legislative body;
- 314 (ii) monthly; and
- 315 (iii) by electronic funds transfer.

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

- 319 (i) provides written notice to the commission requesting the transfer; and
- 320 (ii) designates the public transit district to which the county, city, or town legislative
321 body requests the commission to transfer the revenues described in Subsection (4)(a).

322 (c) Except as provided in Subsection (4)(d) or (6), the commission shall deposit
323 revenues collected within a county, city, or town from a tax under this part that:

- 324 (i) are required to be expended for a purpose described in Subsection (1)(b)(ii)(A) into
325 the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2;
- 326 (ii) are required to be expended for a purpose described in Subsection (1)(b)(ii)(B) into
327 the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or
- 328 (iii) a county, city, or town legislative body determines to expend for a purpose
329 described in Subsection (1)(b)(i)(A) or (1)(b)(ii)(C)(I) into the County of the Second Class
330 State Highway Projects Fund created by Section 72-2-121.2 if the county, city, or town
331 legislative body provides written notice to the commission requesting the deposit.

332 (d) Subject to Subsection (4)(e) or (f), if a city or town legislative body provides notice
333 to the commission in accordance with Subsection (1)(c)(iv), the commission shall:

- 334 (i) transmit the revenues collected from the tax rate stated on the notice to the city or
335 town legislative body:

336 (A) monthly; and
337 (B) by electronic funds transfer; and
338 (ii) deposit any remaining revenues described in Subsection (1)(c)(iii) in accordance
339 with Subsection (1)(c)(iii).

340 (e) (i) If a city or town legislative body provides the notice described in Subsection
341 (1)(c)(iv)(A) to the commission, the commission shall transmit or deposit the revenues
342 collected from the tax:

343 (A) in accordance with Subsection (4)(d);

344 (B) beginning on the date the city or town legislative body enacts the tax; and

345 (C) ending on the earlier of:

346 (I) the June 30 immediately following the date the city or town legislative body
347 provides the notice described in Subsection (1)(c)(iv)(B) to the commission; or

348 (II) the date the city or town legislative body repeals the tax.

349 (ii) If a city or town legislative body provides the notice described in Subsection
350 (1)(c)(iv)(B) or (C) to the commission, the commission shall transmit or deposit the revenues
351 collected from the tax:

352 (A) in accordance with Subsection (4)(d);

353 (B) beginning on the July 1 immediately following the date the city or town legislative
354 body provides the notice described in Subsection (1)(c)(iv)(B) or (C) to the commission; and

355 (C) ending on the earlier of:

356 (I) the June 30 of the year after the date the city or town legislative body provides the
357 notice described in Subsection (1)(c)(iv)(B) or (C) to the commission; or

358 (II) the date the city or town legislative body repeals the tax.

359 (f) (i) If a city or town legislative body that is required to provide the notice described
360 in Subsection (1)(c)(iv)(A) does not provide the notice described in Subsection (1)(c)(iv)(A) to
361 the commission on or before the date required by Subsection (1)(c)(iv) for providing the notice,
362 the commission shall transmit, transfer, or deposit the revenues collected from the tax within
363 the city or town in accordance with Subsections (4)(a) through (c).

364 (ii) If a city or town legislative body that is required to provide the notice described in
365 Subsection (1)(c)(iv)(B) or (C) does not provide the notice described in Subsection
366 (1)(c)(iv)(B) or (C) to the commission on or before the date required by Subsection (1)(c)(iv)

367 for providing the notice, the commission shall transmit or deposit the revenues collected from
368 the tax within the city or town in accordance with:

369 (A) Subsection (4)(d); and

370 (B) the most recent notice the commission received from the city or town legislative
371 body under Subsection (1)(c)(iv).

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

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

375 (A) Part 1, Tax Collection; or

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

377 (ii) Chapter 1, General Taxation Policies.

378 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).

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

381 (i) 1.50%; or

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

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

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

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

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

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

390 (B) after a 90-day period beginning on the date the commission receives notice meeting
391 the requirements of Subsection (7)(a)(ii) from the county, city, or town.

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

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

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

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

397 (D) if the county, city, or town enacts the tax or changes the rate of the tax described in

398 Subsection (7)(a)(ii)(A), the rate of the tax.

399 (b) (i) If the billing period for a transaction begins before the effective date of the
400 enactment of the tax or the tax rate increase under Subsection (1), the enactment of a tax or a
401 tax rate increase shall take effect on the first day of the first billing period that begins after the
402 effective date of the enactment of the tax or the tax rate increase.

403 (ii) If the billing period for a transaction begins before the effective date of the repeal
404 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate
405 decrease shall take effect on the first day of the last billing period that began before the
406 effective date of the repeal of the tax or the tax rate decrease.

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

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

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

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

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

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

420 (B) after a 90-day period beginning on the date the commission receives notice meeting
421 the requirements of Subsection (7)(d)(ii) from the county, city, or town that annexes the
422 annexing area.

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

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

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

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

428 (D) if the county, city, or town enacts the tax or changes the rate of the tax described in

429 Subsection (7)(d)(ii)(A), the rate of the tax.

430 (e) (i) If the billing period for a transaction begins before the effective date of the
431 enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax
432 rate increase shall take effect on the first day of the first billing period that begins after the
433 effective date of the enactment of the tax or the tax rate increase.

434 (ii) If the billing period for a transaction begins before the effective date of the repeal
435 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate
436 decrease shall take effect on the first day of the last billing period that began before the
437 effective date of the repeal of the tax or the tax rate decrease.

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

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

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

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

446 Section 5. Section **72-2-117.5** is amended to read:

447 **72-2-117.5. Local Transportation Corridor Preservation Fund -- Distribution.**

448 (1) As used in this section:

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

451 (b) "Metropolitan planning organization" has the same meaning as defined in Section
452 72-1-208.5.

453 (2) There is created the Local Transportation Corridor Preservation Fund within the
454 Transportation Fund.

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

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

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

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

- 460 (d) interest earnings on cash balances;
- 461 (e) all monies collected from rents and sales of real property acquired with fund
- 462 monies;
- 463 (f) proceeds from general obligation bonds, revenue bonds, or other obligations issued
- 464 as authorized by Title 63B, Bonds;
- 465 (g) the portion of the sales and use tax described in Subsection 59-12-1703(4)(a)(ii)
- 466 and required by Subsection 59-12-1703(7)(b)(i) to be deposited into the fund; and
- 467 (h) sales and use tax revenues [~~required by Section 59-12-1903 to be~~] deposited into
- 468 the fund in accordance with Section 59-12-1903.

469 (4) (a) All monies appropriated to the Local Transportation Corridor Preservation Fund

470 are nonlapsing.

471 (b) The State Tax Commission shall provide the department with sufficient data for the

472 department to allocate the revenues:

473 (i) provided under Subsection (3)(a) to each county imposing a local option highway

474 construction and transportation corridor preservation fee under Section 41-1a-1222;

475 (ii) provided under Subsection 59-12-1703(4)(a)(ii) to each county imposing a county

476 option sales and use tax for transportation; and

477 (iii) provided under Subsection (3)(h) to each county of the second class [~~imposing~~] or

478 city or town within a county of the second class that imposes the sales and use tax authorized

479 by Section 59-12-1903.

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

481 (i) shall be used for the purposes provided in this section for each county, city, or town;

482 and

483 (ii) are allocated to each county, city, or town as provided in this section:

484 (A) with the condition that the state will not be charged for any asset purchased with

485 the monies allocated under Subsection (4)(b); and

486 (B) are considered a local matching contribution for the purposes described under

487 Section 72-2-123 if used on a state highway.

488 (d) Administrative costs of the department to implement this section shall be paid from

489 the fund.

490 (5) (a) The department shall authorize the expenditure of fund monies to allow a

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

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

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

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

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

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

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

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

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

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

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

515 (e) (i) ~~Fund~~ Subject to Subsection (11), fund monies allocated under Subsection
516 (4)(b) may be used by a county highway authority for transportation corridor planning that is
517 part of the corridor elements of an ongoing work program of transportation projects.

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

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

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

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

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

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

531 (I) state highway;

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

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

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

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

536 (I) state highway;

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

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

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

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

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

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

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

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

553 (i) made by a highway authority;

554 (ii) endorsed by the council of governments; and

555 (iii) for a right-of-way purchase for a highway authorized under Subsection (6)(a)(ii).

556 (7) (a) (i) A council of governments shall establish a council of governments

557 endorsement process which includes prioritization and application procedures for use of the

558 monies allocated to each county under this section.

559 (ii) The endorsement process under Subsection (7)(a)(i) may include review or

560 endorsement of the preservation project by the:

561 (A) metropolitan planning organization if the county is within the boundaries of a

562 metropolitan planning organization; or

563 (B) the department if the county is not within the boundaries of a metropolitan

564 planning organization.

565 (b) All fund monies shall be prioritized by each highway authority and council of

566 governments based on considerations, including:

567 (i) areas with rapidly expanding population;

568 (ii) the willingness of local governments to complete studies and impact statements

569 that meet department standards;

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

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

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

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

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

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

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

577 (II) the regional transportation plan of the area metropolitan planning organization if

578 one exists for the area.

579 (c) The council of governments shall:

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

581 (ii) submit the list described in Subsection (7)(c)(i) to the county's legislative body for

582 approval; and

583 (iii) obtain approval of the list described in Subsection (7)(c)(i) from a majority of the

584 members of the county legislative body.

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

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

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

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

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

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

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

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

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

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

611 (11) (a) The department shall, in expending or authorizing the expenditure of fund
612 monies, ensure to the extent possible that the fund monies allocated to a city or town in
613 accordance with Subsection (4) are expended:

614 (i) to fund a project or service as allowed by this section within the city or town to

615 which the fund monies are allocated;

616 (ii) to pay debt service, principal, or interest on a bond or other obligation as allowed

617 by this section if that bond or other obligation is:

618 (A) secured by monies allocated to the city or town; and

619 (B) issued to finance a project or service as allowed by this section within the city or
620 town to which the fund monies are allocated;

621 (iii) to fund transportation planning as allowed by this section within the city or town
622 to which the fund monies are allocated; or

623 (iv) for another purpose allowed by this section within the city or town to which the
624 fund monies are allocated.

625 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
626 department may make rules to implement the requirements of Subsection (11)(a).

627 Section 6. Section **72-2-121.2** is amended to read:

628 **72-2-121.2. County of the Second Class State Highway Projects Fund.**

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

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

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

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

636 ~~[(b) the sales and use tax described in:]~~

637 ~~[(i) Subsection 59-12-1903(1)(b)(i);]~~

638 ~~[(ii) Subsection 59-12-1903(1)(b)(ii)(A); or]~~

639 ~~[(iii) Subsection 59-12-1903(1)(b)(ii)(C)(I) as determined by the county legislative~~
640 ~~body of the county of the second class.]~~

641 (b) sales and use taxes deposited into the fund in accordance with Section 59-12-1903.

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

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

644 (b) each county of the second class or city or town within a county of the second class
645 for which revenues are deposited into the fund.

646 (5) (a) The fund shall earn interest.

647 (b) Interest earned on fund monies shall be deposited into the fund.

648 (6) ~~[The]~~ Subject to Subsection (9), the executive director may use fund monies only:

649 (a) for right-of-way acquisition, new construction, major renovations, and
650 improvements to state highways within a county of the second class or a city or town within a
651 county of the second class in an amount that does not exceed the amounts deposited for or
652 allocated to that county of the second class or city or town within a county of the second class
653 in accordance with this section;

654 (b) to pay any debt service and bond issuance costs related to a purpose described in
655 Subsection (6)(a) in an amount that does not exceed the amounts deposited for or allocated to
656 that county of the second class or city or town within a county of the second class described in
657 Subsection (6)(a) in accordance with this section; and

658 (c) to pay the costs of the department to administer the fund in an amount not to exceed
659 interest earned by the fund monies.

660 (7) If interest remains in the fund after the executive director pays the costs of the
661 department to administer the fund, the interest shall be:

662 (a) allocated to each county of the second class or city or town within a county of the
663 second class for which revenues are deposited into the fund in proportion to the deposits made
664 into the fund for that county of the second class or city or town within a county of the second
665 class; and

666 (b) expended for the purposes described in Subsection (6).

667 (8) Revenues described in Subsection (3)(b) that are deposited into the fund are
668 considered to be a local matching contribution for the purposes described in Section 72-2-123.

669 (9) (a) The executive director shall, in using fund monies, ensure to the extent possible
670 that the fund monies deposited for or allocated to a city or town are used:

671 (i) for a purpose described in Subsection (6)(a) within the city or town to which the
672 fund monies are allocated;

673 (ii) to pay debt service and bond issuance costs described in Subsection (6)(b) if the
674 debt service and bond issuance costs are:

675 (A) secured by monies deposited for or allocated to the city or town; and

676 (B) related to a project described in Subsection (6)(a) within the city or town to which

677 the fund monies are allocated; or

678 (iii) for a purpose described in Subsection (6)(c).

679 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
680 department may make rules to implement the requirements of Subsection (9)(a).

681 **Section 7. Effective date.**

682 If approved by two-thirds of all the members elected to each house, this bill takes effect
683 upon approval by the governor, or the day following the constitutional time limit of Utah

684 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,

685 the date of veto override.

S.B. 248 1st Sub. (Green) - Tax Amendments

Fiscal Note

2009 General Session
State of Utah

State Impact

Enactment of this bill allows the Tax Commission to keep up to 1.5% of the amount collected to cover costs of collection. Currently, the amount kept for administration is 0.8%. This would increase revenue to the Sales & Use Tax Administration Fee Account by \$34,100 in FY 2010 and \$34,900 in FY 2011.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
General Fund Restricted	\$0	\$34,100	\$34,900	\$0	\$0	\$0
Total	\$0	\$34,100	\$34,900	\$0	\$0	\$0

Individual, Business and/or Local Impact

Depending upon the actions of the taxing entities, individuals and businesses could experience a sales tax increase of \$4,260,000 in FY 2010 and \$4,360,000 in FY 2011. Local taxing entities will have more options available for infrastructure financing.