

**LOCAL OPTION SALES AND USE TAXES
FOR TRANSPORTATION ACT**

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne L. Niederhauser

House Sponsor: R. Curt Webb

LONG TITLE

Committee Note:

The Revenue and Taxation Interim Committee recommended this bill.

General Description:

This bill amends the Sales and Use Tax Act to address local option sales and use taxes for transportation.

Highlighted Provisions:

This bill:

- ▶ enacts the Local Option Sales and Use Taxes for Transportation Act;
- ▶ defines terms;
- ▶ repeals certain local option sales and use taxes for transportation and enacts certain local option sales and use taxes for transportation;
- ▶ addresses the authority to impose a local option sales and use tax for transportation;
- ▶ addresses the transactions that may be subject to taxation and the tax rates at which those transactions may be subject to taxation;
- ▶ addresses the determination of the location of a transaction for sales and use tax purposes;
- ▶ addresses the administration, collection, and enforcement of a local option sales and use tax for transportation;
- ▶ addresses the transfer or transmission of revenues collected from a local option



28 sales and use tax for transportation;

29 ▶ addresses the State Tax Commission's authority to retain a percentage of revenues
30 collected from a local option sales and use tax for transportation, the deposit of
31 those revenues into the Sales and Use Tax Administrative Fees Account, and the
32 expenditure of those revenues;

33 ▶ addresses legislative body and voter approval requirements for a local option sales
34 and use tax for transportation;

35 ▶ addresses the enactment, repeal, or change in the rate of a local option sales and use
36 tax for transportation;

37 ▶ addresses a seller's or certified service provider's failure to collect a local option
38 sales and use tax for transportation if the seller or certified service provider relies on
39 certain State Tax Commission information;

40 ▶ addresses a seller's or certified service provider's failure to collect a local option
41 sales and use tax for transportation if the seller or certified service provider relies on
42 certain software certified by the State Tax Commission;

43 ▶ addresses the circumstances under which a purchaser is relieved from a penalty or is
44 not liable for a tax or interest;

44a **Ĥ→ ▶ provides transition provisions; ←Ĥ**

45 ▶ addresses the imposition of local option sales and use taxes for transportation
46 including the purposes for which revenues collected from the taxes may be
47 expended; and

48 ▶ makes technical and conforming changes.

49 **Monies Appropriated in this Bill:**

50 None

51 **Other Special Clauses:**

52 This bill takes effect on July 1, 2010.

52a **Ĥ→ This bill provides revisor instructions. ←Ĥ**

53 **Utah Code Sections Affected:**

54 AMENDS:

55 **10-8-86**, as last amended by Laws of Utah 1988, Chapter 213

56 **17-50-322**, as enacted by Laws of Utah 2006, Fourth Special Session, Chapter 1

57 **17B-1-412**, as renumbered and amended by Laws of Utah 2007, Chapter 329

58 **59-12-102**, as last amended by Laws of Utah 2009, Chapters 203 and 314

59 **59-12-211**, as enacted by Laws of Utah 2008, Chapter 384
 60 **59-12-602**, as last amended by Laws of Utah 2008, Chapter 286
 61 **59-12-2003**, as last amended by Laws of Utah 2009, Chapter 385
 62 **63B-11-501**, as last amended by Laws of Utah 2003, Chapter 335
 63 **63B-11-502**, as last amended by Laws of Utah 2008, Chapter 224
 64 **72-2-117.5**, as last amended by Laws of Utah 2009, Chapters 244, 344, and 374
 65 **72-2-121**, as last amended by Laws of Utah 2009, Chapter 275
 66 **72-2-121.1**, as last amended by Laws of Utah 2007, Chapter 10
 67 **72-2-121.2**, as last amended by Laws of Utah 2009, Chapter 244
 68 **72-10-215**, as enacted by Laws of Utah 2008, Chapter 286

69 ENACTS:

70 **59-12-2201**, Utah Code Annotated 1953
 71 **59-12-2202**, Utah Code Annotated 1953
 72 **59-12-2203**, Utah Code Annotated 1953
 73 **59-12-2204**, Utah Code Annotated 1953
 74 **59-12-2205**, Utah Code Annotated 1953
 75 **59-12-2206**, Utah Code Annotated 1953
 76 **59-12-2207**, Utah Code Annotated 1953
 77 **59-12-2208**, Utah Code Annotated 1953
 78 **59-12-2209**, Utah Code Annotated 1953
 79 **59-12-2210**, Utah Code Annotated 1953
 80 **59-12-2211**, Utah Code Annotated 1953
 81 **59-12-2212**, Utah Code Annotated 1953

81a **Ĥ→ 59-12-2212.1, Utah Code Annotated 1953 ←Ĥ**

82 **59-12-2213**, Utah Code Annotated 1953
 83 **59-12-2214**, Utah Code Annotated 1953
 84 **59-12-2215**, Utah Code Annotated 1953
 85 **59-12-2216**, Utah Code Annotated 1953
 86 **59-12-2217**, Utah Code Annotated 1953

87 RENUMBERS AND AMENDS:

88 **59-12-2218**, (Renumbered from 59-12-1903, as last amended by Laws of Utah 2009,
 89 Chapter 244)

90 REPEALS:

91 **59-12-501**, as last amended by Laws of Utah 2008, Chapters 7 and 384

92 **59-12-502**, as last amended by Laws of Utah 2009, Chapter 244

93 **59-12-503**, as enacted by Laws of Utah 1997, Chapter 131

94 **59-12-504**, as last amended by Laws of Utah 2008, Chapters 382 and 384

95 **59-12-506**, as last amended by Laws of Utah 2009, Chapter 203

96 **59-12-507**, as enacted by Laws of Utah 2008, Chapter 384

97 **59-12-508**, as enacted by Laws of Utah 2008, Chapter 384

98 **59-12-1001**, as last amended by Laws of Utah 2009, Chapter 388

99 **59-12-1002**, as last amended by Laws of Utah 2008, Chapter 384

100 **59-12-1004**, as last amended by Laws of Utah 2009, Chapter 203

101 **59-12-1005**, as enacted by Laws of Utah 2008, Chapter 384

102 **59-12-1006**, as enacted by Laws of Utah 2008, Chapter 384

103 **59-12-1501**, as enacted by Laws of Utah 2003, Chapter 282

104 **59-12-1502**, as last amended by Laws of Utah 2007, Chapters 10 and 329

105 **59-12-1503**, as last amended by Laws of Utah 2008, Chapters 382 and 384

106 **59-12-1505**, as last amended by Laws of Utah 2009, Chapter 203

107 **59-12-1506**, as enacted by Laws of Utah 2008, Chapter 384

108 **59-12-1507**, as enacted by Laws of Utah 2008, Chapter 384

109 **59-12-1701**, as enacted by Laws of Utah 2006, Fourth Special Session, Chapter 1

110 **59-12-1702**, as enacted by Laws of Utah 2006, Fourth Special Session, Chapter 1

111 **59-12-1703**, as last amended by Laws of Utah 2008, Chapters 382 and 384

112 **59-12-1704**, as enacted by Laws of Utah 2006, Fourth Special Session, Chapter 1

113 **59-12-1705**, as enacted by Laws of Utah 2006, Fourth Special Session, Chapter 1

114 **59-12-1706**, as last amended by Laws of Utah 2009, Chapter 203

115 **59-12-1707**, as enacted by Laws of Utah 2008, Chapter 384

116 **59-12-1708**, as enacted by Laws of Utah 2008, Chapter 384

117 **59-12-1901**, as last amended by Laws of Utah 2009, Chapter 244

118 **59-12-1902**, as last amended by Laws of Utah 2009, Chapter 244

119 **59-12-1904**, as last amended by Laws of Utah 2009, Chapter 203

120 **59-12-1905**, as enacted by Laws of Utah 2008, Chapter 286

121 **59-12-1906**, as enacted by Laws of Utah 2008, Chapter 286

122

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

124 Section 1. Section **10-8-86** is amended to read:

125 **10-8-86. Organization, operation, maintenance, and funding of system for public**
 126 **transit authorized.**

127 (1) The governing body of any municipality may adopt a resolution allowing the
 128 municipality to organize, operate, and maintain a [~~public transportation~~] system for public
 129 transit within [~~such~~] the municipality and to impose a sales and a use tax to fund the system for
 130 public transit as provided in Section [~~59-12-501~~] 59-12-2213.

131 (2) The authority granted municipalities by this section to organize, operate, and
 132 maintain a [~~public transportation~~] system for public transit is inapplicable to a municipality
 133 located in or within five highway or roadway miles of the boundary of an existing transit
 134 district, unless the existing transit district consents to the organization and operation of [~~such a~~]
 135 the system for public transit by the municipality.

136 Section 2. Section **17-50-322** is amended to read:

137 **17-50-322. County funding for a fixed guideway.**

138 (1) For purposes of this section, "fixed guideway" means a public transit facility that
 139 uses and occupies:

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

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

142 (2) (a) Except as provided in Subsection (2)(b), a county legislative body may not levy
 143 a property tax or expend revenues from uniform fees or any tax or fee imposed in lieu of a
 144 property tax, to purchase, erect, repair, rebuild, maintain, or otherwise fund a fixed guideway.

145 (b) Subsection (2)(a) does not apply to a property tax levy imposed by a county for the
 146 purpose of paying for bonds if:

147 (i) before January 1, 2007, the bonds were issued or approved by voters for issuance to
 148 fund a fixed guideway; and

149 (ii) the county does not impose a sales and use tax authorized by Section [~~59-12-1703~~]
 150 59-12-2217.

151 Section 3. Section **17B-1-412** is amended to read:

152 **17B-1-412. Protests -- Election.**

153 (1) (a) An owner of private real property located within or a registered voter residing
154 within an area proposed to be annexed may protest an annexation by filing a written protest
155 with the board of trustees of the proposed annexing local district, except:

- 156 (i) as provided in Section 17B-1-413;
- 157 (ii) for an annexation under Section 17B-1-415; and
- 158 (iii) for an annexation proposed by a local district that receives sales and use tax funds
159 from the counties, cities, and towns within the local district that impose a sales and use tax
160 under Section [~~59-12-501~~] 59-12-2213.

161 (b) A protest of a boundary adjustment is not governed by this section but is governed
162 by Section 17B-1-417.

163 (2) Each protest under Subsection (1)(a) shall be filed within 30 days after the date of
164 the public hearing under Section 17B-1-409.

165 (3) (a) Except as provided in Subsection (4), the local district shall hold an election on
166 the proposed annexation if:

- 167 (i) timely protests are filed by:
 - 168 (A) the owners of private real property that:
 - 169 (I) is located within the area proposed to be annexed;
 - 170 (II) covers at least 10% of the total private land area within the entire area proposed to
171 be annexed and within each applicable area; and
 - 172 (III) is equal in assessed value to at least 10% of the assessed value of all private real
173 property within the entire area proposed to be annexed and within each applicable area; or
 - 174 (B) registered voters residing within the entire area proposed to be annexed and within
175 each applicable area equal in number to at least 10% of the number of votes cast within the
176 entire area proposed for annexation and within each applicable area, respectively, for the office
177 of governor at the last regular general election before the filing of the petition; or

178 (ii) the proposed annexing local district is one that receives sales and use tax funds
179 from the counties, cities, and towns within the local district that impose a sales and use tax
180 under Section [~~59-12-501~~] 59-12-2213.

181 (b) (i) At each election held under Subsection (3)(a)(ii), the ballot question shall be
182 phrased to indicate that a voter's casting a vote for or against the annexation includes also a

183 vote for or against the imposition of the sales and use tax as provided in Section [~~59-12-501~~]
184 59-12-2213.

185 (ii) Except as otherwise provided in this part, each election under Subsection (3)(a)
186 shall be governed by Title 20A, Election Code.

187 (c) If a majority of registered voters residing within the area proposed to be annexed
188 and voting on the proposal vote:

189 (i) in favor of annexation, the board of trustees shall, subject to Subsections
190 17B-1-414(1)(b), (2), and (3), complete the annexation by adopting a resolution approving
191 annexation of the area; or

192 (ii) against annexation, the annexation process is terminated, the board may not adopt a
193 resolution approving annexation of the area, and the area proposed to be annexed may not for
194 two years be the subject of an effort under this part to annex to the same local district.

195 (4) If sufficient protests are filed under this section to require an election for a
196 proposed annexation to which the protest provisions of this section are applicable, a board of
197 trustees may, notwithstanding Subsection (3), adopt a resolution rejecting the annexation and
198 terminating the annexation process without holding an election.

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

200 **59-12-102. Definitions.**

201 As used in this chapter:

202 (1) "800 service" means a telecommunications service that:

203 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

204 (b) is typically marketed:

205 (i) under the name 800 toll-free calling;

206 (ii) under the name 855 toll-free calling;

207 (iii) under the name 866 toll-free calling;

208 (iv) under the name 877 toll-free calling;

209 (v) under the name 888 toll-free calling; or

210 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
211 Federal Communications Commission.

212 (2) (a) "900 service" means an inbound toll telecommunications service that:

213 (i) a subscriber purchases;

214 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
215 the subscriber's:

216 (A) prerecorded announcement; or

217 (B) live service; and

218 (iii) is typically marketed:

219 (A) under the name 900 service; or

220 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
221 Communications Commission.

222 (b) "900 service" does not include a charge for:

223 (i) a collection service a seller of a telecommunications service provides to a
224 subscriber; or

225 (ii) the following a subscriber sells to the subscriber's customer:

226 (A) a product; or

227 (B) a service.

228 (3) (a) "Admission or user fees" includes season passes.

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

231 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
232 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
233 Agreement after November 12, 2002.

234 (5) "Agreement combined tax rate" means the sum of the tax rates:

235 (a) listed under Subsection (6); and

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

237 (6) "Agreement sales and use tax" means a tax imposed under:

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

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

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

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

242 (e) Section 59-12-204;

243 (f) Section 59-12-401;

244 (g) Section 59-12-402;

- 245 [~~(h)~~ Section 59-12-501;]
- 246 [~~(i)~~ Section 59-12-502;]
- 247 [~~(j)~~ (h) Section 59-12-703;
- 248 [~~(k)~~ (i) Section 59-12-802;
- 249 [~~(l)~~ (j) Section 59-12-804;
- 250 [~~(m)~~ Section 59-12-1001;]
- 251 [~~(n)~~ (k) Section 59-12-1102;
- 252 [~~(o)~~ (l) Section 59-12-1302;
- 253 [~~(p)~~ (m) Section 59-12-1402;
- 254 [~~(q)~~ Section 59-12-1503;]
- 255 [~~(r)~~ Section 59-12-1703;]
- 256 [~~(s)~~ (n) Section 59-12-1802;
- 257 [~~(t)~~ Section 59-12-1903;]
- 258 [~~(u)~~ (o) Section 59-12-2003; [~~or~~]
- 259 [~~(v)~~ (p) Section 59-12-2103~~[-];~~];
- 260 (q) Section 59-12-2213;
- 261 (r) Section 59-12-2214;
- 262 (s) Section 59-12-2215;
- 263 (t) Section 59-12-2216;
- 264 (u) Section 59-12-2217; or
- 265 (v) Section 59-12-2218.
- 266 (7) "Aircraft" is as defined in Section 72-10-102.
- 267 (8) "Alcoholic beverage" means a beverage that:
- 268 (a) is suitable for human consumption; and
- 269 (b) contains .5% or more alcohol by volume.
- 270 (9) (a) "Ancillary service" means a service associated with, or incidental to, the
- 271 provision of telecommunications service.
- 272 (b) "Ancillary service" includes:
- 273 (i) a conference bridging service;
- 274 (ii) a detailed communications billing service;
- 275 (iii) directory assistance;

276 (iv) a vertical service; or

277 (v) a voice mail service.

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

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

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

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

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

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

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

292 (13) "Authorized carrier" means:

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

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

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

300 (14) (a) Except as provided in Subsection (14)(b), "biomass energy" means any of the
301 following that is used as the primary source of energy to produce fuel or electricity:

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

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

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

305 (B) animal waste;

306 (C) methane produced:

- 307 (I) at landfills; or
308 (II) as a byproduct of the treatment of wastewater residuals;
309 (D) aquatic plants; and
310 (E) agricultural products.
- 311 (b) "Biomass energy" does not include:
312 (i) black liquor;
313 (ii) treated woods; or
314 (iii) biomass from municipal solid waste other than methane produced:
315 (A) at landfills; or
316 (B) as a byproduct of the treatment of wastewater residuals.
- 317 (15) (a) "Bundled transaction" means the sale of two or more items of tangible personal
318 property, products, or services if the tangible personal property, products, or services are:
319 (i) distinct and identifiable; and
320 (ii) sold for one nonitemized price.
- 321 (b) "Bundled transaction" does not include:
322 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
323 the basis of the selection by the purchaser of the items of tangible personal property included in
324 the transaction;
325 (ii) the sale of real property;
326 (iii) the sale of services to real property;
327 (iv) the retail sale of tangible personal property and a service if:
328 (A) the tangible personal property:
329 (I) is essential to the use of the service; and
330 (II) is provided exclusively in connection with the service; and
331 (B) the service is the true object of the transaction;
332 (v) the retail sale of two services if:
333 (A) one service is provided that is essential to the use or receipt of a second service;
334 (B) the first service is provided exclusively in connection with the second service; and
335 (C) the second service is the true object of the transaction;
336 (vi) a transaction that includes tangible personal property or a product subject to
337 taxation under this chapter and tangible personal property or a product that is not subject to

338 taxation under this chapter if the:

339 (A) seller's purchase price of the tangible personal property or product subject to
340 taxation under this chapter is de minimis; or

341 (B) seller's sales price of the tangible personal property or product subject to taxation
342 under this chapter is de minimis; and

343 (vii) the retail sale of tangible personal property that is not subject to taxation under
344 this chapter and tangible personal property that is subject to taxation under this chapter if:

345 (A) that retail sale includes:

346 (I) food and food ingredients;

347 (II) a drug;

348 (III) durable medical equipment;

349 (IV) mobility enhancing equipment;

350 (V) an over-the-counter drug;

351 (VI) a prosthetic device; or

352 (VII) a medical supply; and

353 (B) subject to Subsection (15)(f):

354 (I) the seller's purchase price of the tangible personal property subject to taxation under
355 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

356 (II) the seller's sales price of the tangible personal property subject to taxation under
357 this chapter is 50% or less of the seller's total sales price of that retail sale.

358 (c) (i) For purposes of Subsection (15)(a)(i), tangible personal property, a product, or a
359 service that is distinct and identifiable does not include:

360 (A) packaging that:

361 (I) accompanies the sale of the tangible personal property, product, or service; and

362 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
363 service;

364 (B) tangible personal property, a product, or a service provided free of charge with the
365 purchase of another item of tangible personal property, a product, or a service; or

366 (C) an item of tangible personal property, a product, or a service included in the
367 definition of "purchase price."

368 (ii) For purposes of Subsection (15)(c)(i)(B), an item of tangible personal property, a

369 product, or a service is provided free of charge with the purchase of another item of tangible
370 personal property, a product, or a service if the sales price of the purchased item of tangible
371 personal property, product, or service does not vary depending on the inclusion of the tangible
372 personal property, product, or service provided free of charge.

373 (d) (i) For purposes of Subsection (15)(a)(ii), property sold for one nonitemized price
374 does not include a price that is separately identified by product on the following, regardless of
375 whether the following is in paper format or electronic format:

376 (A) a binding sales document; or

377 (B) another supporting sales-related document that is available to a purchaser.

378 (ii) For purposes of Subsection (15)(d)(i), a binding sales document or another
379 supporting sales-related document that is available to a purchaser includes:

380 (A) a bill of sale;

381 (B) a contract;

382 (C) an invoice;

383 (D) a lease agreement;

384 (E) a periodic notice of rates and services;

385 (F) a price list;

386 (G) a rate card;

387 (H) a receipt; or

388 (I) a service agreement.

389 (e) (i) For purposes of Subsection (15)(b)(vi), the sales price of tangible personal
390 property or a product subject to taxation under this chapter is de minimis if:

391 (A) the seller's purchase price of the tangible personal property or product is 10% or
392 less of the seller's total purchase price of the bundled transaction; or

393 (B) the seller's sales price of the tangible personal property or product is 10% or less of
394 the seller's total sales price of the bundled transaction.

395 (ii) For purposes of Subsection (15)(b)(vi), a seller:

396 (A) shall use the seller's purchase price or the seller's sales price to determine if the
397 purchase price or sales price of the tangible personal property or product subject to taxation
398 under this chapter is de minimis; and

399 (B) may not use a combination of the seller's purchase price and the seller's sales price

400 to determine if the purchase price or sales price of the tangible personal property or product
401 subject to taxation under this chapter is de minimis.

402 (iii) For purposes of Subsection (15)(b)(vi), a seller shall use the full term of a service
403 contract to determine if the sales price of tangible personal property or a product is de minimis.

404 (f) For purposes of Subsection (15)(b)(vii)(B), a seller may not use a combination of
405 the seller's purchase price and the seller's sales price to determine if tangible personal property
406 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
407 price of that retail sale.

408 (16) "Certified automated system" means software certified by the governing board of
409 the agreement that:

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

412 (i) on a transaction; and

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

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

416 (c) maintains a record of the transaction described in Subsection (16)(a)(i).

417 (17) "Certified service provider" means an agent certified:

418 (a) by the governing board of the agreement; and

419 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
420 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
421 own purchases.

422 (18) (a) Subject to Subsection (18)(b), "clothing" means all human wearing apparel
423 suitable for general use.

424 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
425 commission shall make rules:

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

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

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

430 (20) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other

431 fuels that does not constitute industrial use under Subsection (46) or residential use under
432 Subsection (91).

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

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

438 (ii) For purposes of Subsection (21)(b)(i), in accordance with Title 63G, Chapter 3,
439 Utah Administrative Rulemaking Act, the commission may make rules defining what
440 constitutes a person's place of employment.

441 (22) "Component part" includes:

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

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

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

447 (d) feed, seeds, and seedlings.

448 (23) "Computer" means an electronic device that accepts information:

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

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

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

452 (24) "Computer software" means a set of coded instructions designed to cause:

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

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

455 (25) (a) "Conference bridging service" means an ancillary service that links two or
456 more participants of an audio conference call or video conference call.

457 (b) "Conference bridging service" includes providing a telephone number as part of the
458 ancillary service described in Subsection (25)(a).

459 (c) "Conference bridging service" does not include a telecommunications service used
460 to reach the ancillary service described in Subsection (25)(a).

461 (26) "Construction materials" means any tangible personal property that will be

462 converted into real property.

463 (27) "Delivered electronically" means delivered to a purchaser by means other than
464 tangible storage media.

465 (28) (a) "Delivery charge" means a charge:

466 (i) by a seller of:

467 (A) tangible personal property;

468 (B) a product transferred electronically; or

469 (C) services; and

470 (ii) for preparation and delivery of the tangible personal property, product transferred
471 electronically, or services described in Subsection (28)(a)(i) to a location designated by the
472 purchaser.

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

474 (i) transportation;

475 (ii) shipping;

476 (iii) postage;

477 (iv) handling;

478 (v) crating; or

479 (vi) packing.

480 (29) "Detailed telecommunications billing service" means an ancillary service of
481 separately stating information pertaining to individual calls on a customer's billing statement.

482 (30) "Dietary supplement" means a product, other than tobacco, that:

483 (a) is intended to supplement the diet;

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

485 (i) a vitamin;

486 (ii) a mineral;

487 (iii) an herb or other botanical;

488 (iv) an amino acid;

489 (v) a dietary substance for use by humans to supplement the diet by increasing the total
490 dietary intake; or

491 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
492 described in Subsections (30)(b)(i) through (v);

- 493 (c) (i) except as provided in Subsection (30)(c)(ii), is intended for ingestion in:
- 494 (A) tablet form;
- 495 (B) capsule form;
- 496 (C) powder form;
- 497 (D) softgel form;
- 498 (E) gelcap form; or
- 499 (F) liquid form; or
- 500 (ii) notwithstanding Subsection (30)(c)(i), if the product is not intended for ingestion in
- 501 a form described in Subsections (30)(c)(i)(A) through (F), is not represented:
- 502 (A) as conventional food; and
- 503 (B) for use as a sole item of:
- 504 (I) a meal; or
- 505 (II) the diet; and
- 506 (d) is required to be labeled as a dietary supplement:
- 507 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 508 (ii) as required by 21 C.F.R. Sec. 101.36.
- 509 (31) (a) "Direct mail" means printed material delivered or distributed by United States
- 510 mail or other delivery service:
- 511 (i) to:
- 512 (A) a mass audience; or
- 513 (B) addressees on a mailing list provided:
- 514 (I) by a purchaser of the mailing list; or
- 515 (II) at the discretion of the purchaser of the mailing list; and
- 516 (ii) if the cost of the printed material is not billed directly to the recipients.
- 517 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 518 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 519 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 520 single address.
- 521 (32) "Directory assistance" means an ancillary service of providing:
- 522 (a) address information; or
- 523 (b) telephone number information.

524 (33) (a) "Disposable home medical equipment or supplies" means medical equipment
525 or supplies that:

- 526 (i) cannot withstand repeated use; and
- 527 (ii) are purchased by, for, or on behalf of a person other than:
 - 528 (A) a health care facility as defined in Section 26-21-2;
 - 529 (B) a health care provider as defined in Section 78B-3-403;
 - 530 (C) an office of a health care provider described in Subsection (33)(a)(ii)(B); or
 - 531 (D) a person similar to a person described in Subsections (33)(a)(ii)(A) through (C).

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

- 533 (i) a drug;
- 534 (ii) durable medical equipment;
- 535 (iii) a hearing aid;
- 536 (iv) a hearing aid accessory;
- 537 (v) mobility enhancing equipment; or
- 538 (vi) tangible personal property used to correct impaired vision, including:
 - 539 (A) eyeglasses; or
 - 540 (B) contact lenses.

541 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
542 commission may by rule define what constitutes medical equipment or supplies.

543 (34) (a) "Drug" means a compound, substance, or preparation, or a component of a
544 compound, substance, or preparation that is:

- 545 (i) recognized in:
 - 546 (A) the official United States Pharmacopoeia;
 - 547 (B) the official Homeopathic Pharmacopoeia of the United States;
 - 548 (C) the official National Formulary; or
 - 549 (D) a supplement to a publication listed in Subsections (34)(a)(i)(A) through (C);
- 550 (ii) intended for use in the:
 - 551 (A) diagnosis of disease;
 - 552 (B) cure of disease;
 - 553 (C) mitigation of disease;
 - 554 (D) treatment of disease; or

- 555 (E) prevention of disease; or
- 556 (iii) intended to affect:
- 557 (A) the structure of the body; or
- 558 (B) any function of the body.
- 559 (b) "Drug" does not include:
- 560 (i) food and food ingredients;
- 561 (ii) a dietary supplement;
- 562 (iii) an alcoholic beverage; or
- 563 (iv) a prosthetic device.
- 564 (35) (a) Except as provided in Subsection (35)(c), "durable medical equipment" means
- 565 equipment that:
- 566 (i) can withstand repeated use;
- 567 (ii) is primarily and customarily used to serve a medical purpose;
- 568 (iii) generally is not useful to a person in the absence of illness or injury; and
- 569 (iv) is not worn in or on the body.
- 570 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 571 equipment described in Subsection (35)(a).
- 572 (c) Notwithstanding Subsection (35)(a), "durable medical equipment" does not include
- 573 mobility enhancing equipment.
- 574 (36) "Electronic" means:
- 575 (a) relating to technology; and
- 576 (b) having:
- 577 (i) electrical capabilities;
- 578 (ii) digital capabilities;
- 579 (iii) magnetic capabilities;
- 580 (iv) wireless capabilities;
- 581 (v) optical capabilities;
- 582 (vi) electromagnetic capabilities; or
- 583 (vii) capabilities similar to Subsections (36)(b)(i) through (vi).
- 584 (37) "Employee" is as defined in Section 59-10-401.
- 585 (38) "Fixed guideway" means a public transit facility that uses and occupies:

- 586 (a) rail for the use of public transit; or
- 587 (b) a separate right-of-way for the use of public transit.
- 588 (39) "Fixed wireless service" means a telecommunications service that provides radio
- 589 communication between fixed points.
- 590 (40) (a) "Food and food ingredients" means substances:
- 591 (i) regardless of whether the substances are in:
- 592 (A) liquid form;
- 593 (B) concentrated form;
- 594 (C) solid form;
- 595 (D) frozen form;
- 596 (E) dried form; or
- 597 (F) dehydrated form; and
- 598 (ii) that are:
- 599 (A) sold for:
- 600 (I) ingestion by humans; or
- 601 (II) chewing by humans; and
- 602 (B) consumed for the substance's:
- 603 (I) taste; or
- 604 (II) nutritional value.
- 605 (b) "Food and food ingredients" includes an item described in Subsection (75)(b)(iii).
- 606 (c) "Food and food ingredients" does not include:
- 607 (i) an alcoholic beverage;
- 608 (ii) tobacco; or
- 609 (iii) prepared food.
- 610 (41) (a) "Fundraising sales" means sales:
- 611 (i) (A) made by a school; or
- 612 (B) made by a school student;
- 613 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 614 materials, or provide transportation; and
- 615 (iii) that are part of an officially sanctioned school activity.
- 616 (b) For purposes of Subsection (41)(a)(iii), "officially sanctioned school activity"

617 means a school activity:

618 (i) that is conducted in accordance with a formal policy adopted by the school or school
619 district governing the authorization and supervision of fundraising activities;

620 (ii) that does not directly or indirectly compensate an individual teacher or other
621 educational personnel by direct payment, commissions, or payment in kind; and

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

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

626 (43) "Governing board of the agreement" means the governing board of the agreement
627 that is:

628 (a) authorized to administer the agreement; and

629 (b) established in accordance with the agreement.

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

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

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

635 (iii) the legislative branch of the state, including the House of Representatives, the
636 Senate, the Legislative Printing Office, the Office of Legislative Research and General
637 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
638 Analyst;

639 (iv) the National Guard;

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

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

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

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

645 (ii) a school;

646 (iii) the State Board of Education;

647 (iv) the State Board of Regents; or

648 (v) a state institution of higher education as defined in Section 53B-3-102.
649 (45) "Hydroelectric energy" means water used as the sole source of energy to produce
650 electricity.
651 (46) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
652 other fuels:
653 (a) in mining or extraction of minerals;
654 (b) in agricultural operations to produce an agricultural product up to the time of
655 harvest or placing the agricultural product into a storage facility, including:
656 (i) commercial greenhouses;
657 (ii) irrigation pumps;
658 (iii) farm machinery;
659 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
660 registered under Title 41, Chapter 1a, Part 2, Registration; and
661 (v) other farming activities;
662 (c) in manufacturing tangible personal property at an establishment described in SIC
663 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
664 Executive Office of the President, Office of Management and Budget;
665 (d) by a scrap recycler if:
666 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
667 one or more of the following items into prepared grades of processed materials for use in new
668 products:
669 (A) iron;
670 (B) steel;
671 (C) nonferrous metal;
672 (D) paper;
673 (E) glass;
674 (F) plastic;
675 (G) textile; or
676 (H) rubber; and
677 (ii) the new products under Subsection (46)(d)(i) would otherwise be made with
678 nonrecycled materials; or

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

681 (47) (a) Except as provided in Subsection (47)(b), "installation charge" means a charge
682 for installing:

683 (i) tangible personal property; or

684 (ii) a product transferred electronically.

685 (b) "Installation charge" does not include a charge for repairs or renovations of:

686 (i) tangible personal property; or

687 (ii) a product transferred electronically.

688 (48) (a) "Lease" or "rental" means a transfer of possession or control of tangible
689 personal property or a product transferred electronically for:

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

691 (B) an indeterminate term; and

692 (ii) consideration.

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

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

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

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

703 (A) upon completion of required payments; and

704 (B) if the payment of an option price does not exceed the greater of:

705 (I) \$100; or

706 (II) 1% of the total required payments; or

707 (iii) providing tangible personal property along with an operator for a fixed period of
708 time or an indeterminate period of time if the operator is necessary for equipment to perform as
709 designed.

710 (d) For purposes of Subsection (48)(c)(iii), an operator is necessary for equipment to
711 perform as designed if the operator's duties exceed the:

- 712 (i) set-up of tangible personal property;
- 713 (ii) maintenance of tangible personal property; or
- 714 (iii) inspection of tangible personal property.

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

717 (50) "Local taxing jurisdiction" means a:

- 718 (a) county that is authorized to impose an agreement sales and use tax;
- 719 (b) city that is authorized to impose an agreement sales and use tax; or
- 720 (c) town that is authorized to impose an agreement sales and use tax.

721 (51) "Manufactured home" is as defined in Section 58-56-3.

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

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

726 (b) a scrap recycler if:

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

- 730 (A) iron;
- 731 (B) steel;
- 732 (C) nonferrous metal;
- 733 (D) paper;
- 734 (E) glass;
- 735 (F) plastic;
- 736 (G) textile; or
- 737 (H) rubber; and

738 (ii) the new products under Subsection (52)(b)(i) would otherwise be made with
739 nonrecycled materials; or

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

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

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

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

745 (ii) a foster child or foster stepchild;

746 (b) grandchild or stepgrandchild;

747 (c) grandparent or stepgrandparent;

748 (d) nephew or stepnephew;

749 (e) niece or stepniece;

750 (f) parent or stepparent;

751 (g) sibling or stepsibling;

752 (h) spouse;

753 (i) person who is the spouse of a person described in Subsections (53)(a) through (g);

754 or

755 (j) person similar to a person described in Subsections (53)(a) through (i) as

756 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

757 Administrative Rulemaking Act.

758 (54) "Mobile home" is as defined in Section 58-56-3.

759 (55) "Mobile telecommunications service" is as defined in the Mobile

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

761 (56) (a) "Mobile wireless service" means a telecommunications service, regardless of
762 the technology used, if:

763 (i) the origination point of the conveyance, routing, or transmission is not fixed;

764 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

765 (iii) the origination point described in Subsection (56)(a)(i) and the termination point
766 described in Subsection (56)(a)(ii) are not fixed.

767 (b) "Mobile wireless service" includes a telecommunications service that is provided
768 by a commercial mobile radio service provider.

769 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
770 commission may by rule define "commercial mobile radio service provider."

771 (57) (a) Except as provided in Subsection (57)(c), "mobility enhancing equipment"

772 means equipment that is:

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

775 (ii) appropriate for use in a:

776 (A) home; or

777 (B) motor vehicle; and

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

779 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
780 the equipment described in Subsection (57)(a).

781 (c) Notwithstanding Subsection (57)(a), "mobility enhancing equipment" does not
782 include:

783 (i) a motor vehicle;

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

786 (iii) durable medical equipment; or

787 (iv) a prosthetic device.

788 (58) "Model 1 seller" means a seller that has selected a certified service provider as the
789 seller's agent to perform all of the seller's sales and use tax functions for agreement sales and
790 use taxes other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
791 own purchases.

792 (59) "Model 2 seller" means a seller that:

793 (a) except as provided in Subsection (59)(b), has selected a certified automated system
794 to perform the seller's sales tax functions for agreement sales and use taxes; and

795 (b) notwithstanding Subsection (59)(a), retains responsibility for remitting all of the
796 sales tax:

797 (i) collected by the seller; and

798 (ii) to the appropriate local taxing jurisdiction.

799 (60) (a) Subject to Subsection (60)(b), "model 3 seller" means a seller that has:

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

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

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

- 803 (A) for an agreement sales and use tax; and
804 (B) due to each local taxing jurisdiction; and
805 (iv) entered into a performance agreement with the governing board of the agreement.
806 (b) For purposes of Subsection (60)(a), "model 3 seller" includes an affiliated group of
807 sellers using the same proprietary system.
- 808 (61) "Modular home" means a modular unit as defined in Section 58-56-3.
809 (62) "Motor vehicle" is as defined in Section 41-1a-102.
810 (63) "Oil shale" means a group of fine black to dark brown shales containing
811 bituminous material that yields petroleum upon distillation.
- 812 (64) (a) "Other fuels" means products that burn independently to produce heat or
813 energy.
814 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
815 personal property.
- 816 (65) (a) "Paging service" means a telecommunications service that provides
817 transmission of a coded radio signal for the purpose of activating a specific pager.
818 (b) For purposes of Subsection (65)(a), the transmission of a coded radio signal
819 includes a transmission by message or sound.
- 820 (66) "Pawnbroker" is as defined in Section 13-32a-102.
821 (67) "Pawn transaction" is as defined in Section 13-32a-102.
822 (68) (a) "Permanently attached to real property" means that for tangible personal
823 property attached to real property:
824 (i) the attachment of the tangible personal property to the real property:
825 (A) is essential to the use of the tangible personal property; and
826 (B) suggests that the tangible personal property will remain attached to the real
827 property in the same place over the useful life of the tangible personal property; or
828 (ii) if the tangible personal property is detached from the real property, the detachment
829 would:
830 (A) cause substantial damage to the tangible personal property; or
831 (B) require substantial alteration or repair of the real property to which the tangible
832 personal property is attached.
833 (b) "Permanently attached to real property" includes:

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

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

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

837 (ii) a temporary detachment of tangible personal property from real property for a

838 repair or renovation if the repair or renovation is performed where the tangible personal

839 property and real property are located; or

840 (iii) property attached to oil, gas, or water pipelines, except for the property listed in

841 Subsection (68)(c)(iii) or (iv).

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

843 (i) the attachment of portable or movable tangible personal property to real property if

844 that portable or movable tangible personal property is attached to real property only for:

845 (A) convenience;

846 (B) stability; or

847 (C) for an obvious temporary purpose;

848 (ii) the detachment of tangible personal property from real property except for the

849 detachment described in Subsection (68)(b)(ii);

850 (iii) an attachment of the following tangible personal property to real property if the

851 attachment to real property is only through a line that supplies water, electricity, gas,

852 telecommunications, cable, or supplies a similar item as determined by the commission by rule

853 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

854 (A) a computer;

855 (B) a telephone;

856 (C) a television; or

857 (D) tangible personal property similar to Subsections (68)(c)(iii)(A) through (C) as

858 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

859 Administrative Rulemaking Act; or

860 (iv) an item listed in Subsection (108)(c).

861 (69) "Person" includes any individual, firm, partnership, joint venture, association,

862 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,

863 municipality, district, or other local governmental entity of the state, or any group or

864 combination acting as a unit.

865 (70) "Place of primary use":
866 (a) for telecommunications service other than mobile telecommunications service,
867 means the street address representative of where the customer's use of the telecommunications
868 service primarily occurs, which shall be:

- 869 (i) the residential street address of the customer; or
- 870 (ii) the primary business street address of the customer; or
- 871 (b) for mobile telecommunications service, is as defined in the Mobile
872 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

873 (71) (a) "Postpaid calling service" means a telecommunications service a person
874 obtains by making a payment on a call-by-call basis:

- 875 (i) through the use of a:
 - 876 (A) bank card;
 - 877 (B) credit card;
 - 878 (C) debit card; or
 - 879 (D) travel card; or
- 880 (ii) by a charge made to a telephone number that is not associated with the origination
881 or termination of the telecommunications service.

882 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
883 service, that would be a prepaid wireless calling service if the service were exclusively a
884 telecommunications service.

885 (72) "Postproduction" means an activity related to the finishing or duplication of a
886 medium described in Subsection 59-12-104(54)(a).

887 (73) "Prepaid calling service" means a telecommunications service:

- 888 (a) that allows a purchaser access to telecommunications service that is exclusively
889 telecommunications service;
- 890 (b) that:
 - 891 (i) is paid for in advance; and
 - 892 (ii) enables the origination of a call using an:
 - 893 (A) access number; or
 - 894 (B) authorization code;
 - 895 (c) that is dialed:

- 896 (i) manually; or
- 897 (ii) electronically; and
- 898 (d) sold in predetermined units or dollars that decline:
- 899 (i) by a known amount; and
- 900 (ii) with use.
- 901 (74) "Prepaid wireless calling service" means a telecommunications service:
- 902 (a) that provides the right to utilize:
- 903 (i) mobile wireless service; and
- 904 (ii) other service that is not a telecommunications service, including:
- 905 (A) the download of a product transferred electronically;
- 906 (B) a content service; or
- 907 (C) an ancillary service;
- 908 (b) that:
- 909 (i) is paid for in advance; and
- 910 (ii) enables the origination of a call using an:
- 911 (A) access number; or
- 912 (B) authorization code;
- 913 (c) that is dialed:
- 914 (i) manually; or
- 915 (ii) electronically; and
- 916 (d) sold in predetermined units or dollars that decline:
- 917 (i) by a known amount; and
- 918 (ii) with use.
- 919 (75) (a) "Prepared food" means:
- 920 (i) food:
- 921 (A) sold in a heated state; or
- 922 (B) heated by a seller;
- 923 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 924 item; or
- 925 (iii) except as provided in Subsection (75)(c), food sold with an eating utensil provided
- 926 by the seller, including a:

- 927 (A) plate;
- 928 (B) knife;
- 929 (C) fork;
- 930 (D) spoon;
- 931 (E) glass;
- 932 (F) cup;
- 933 (G) napkin; or
- 934 (H) straw.
- 935 (b) "Prepared food" does not include:
- 936 (i) food that a seller only:
- 937 (A) cuts;
- 938 (B) repackages; or
- 939 (C) pasteurizes; or
- 940 (ii) (A) the following:
- 941 (I) raw egg;
- 942 (II) raw fish;
- 943 (III) raw meat;
- 944 (IV) raw poultry; or
- 945 (V) a food containing an item described in Subsections (75)(b)(ii)(A)(I) through (IV);
- 946 and
- 947 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 948 Food and Drug Administration's Food Code that a consumer cook the items described in
- 949 Subsection (75)(b)(ii)(A) to prevent food borne illness; or
- 950 (iii) the following if sold without eating utensils provided by the seller:
- 951 (A) food and food ingredients sold by a seller if the seller's proper primary
- 952 classification under the 2002 North American Industry Classification System of the federal
- 953 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 954 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 955 Manufacturing;
- 956 (B) food and food ingredients sold in an unheated state:
- 957 (I) by weight or volume; and

- 958 (II) as a single item; or
- 959 (C) a bakery item, including:
- 960 (I) a bagel;
- 961 (II) a bar;
- 962 (III) a biscuit;
- 963 (IV) bread;
- 964 (V) a bun;
- 965 (VI) a cake;
- 966 (VII) a cookie;
- 967 (VIII) a croissant;
- 968 (IX) a danish;
- 969 (X) a donut;
- 970 (XI) a muffin;
- 971 (XII) a pastry;
- 972 (XIII) a pie;
- 973 (XIV) a roll;
- 974 (XV) a tart;
- 975 (XVI) a torte; or
- 976 (XVII) a tortilla.
- 977 (c) Notwithstanding Subsection (75)(a)(iii), an eating utensil provided by the seller
- 978 does not include the following used to transport the food:
- 979 (i) a container; or
- 980 (ii) packaging.
- 981 (76) "Prescription" means an order, formula, or recipe that is issued:
- 982 (a) (i) orally;
- 983 (ii) in writing;
- 984 (iii) electronically; or
- 985 (iv) by any other manner of transmission; and
- 986 (b) by a licensed practitioner authorized by the laws of a state.
- 987 (77) (a) Except as provided in Subsection (77)(b)(ii) or (iii), "prewritten computer
- 988 software" means computer software that is not designed and developed:

- 989 (i) by the author or other creator of the computer software; and
990 (ii) to the specifications of a specific purchaser.
- 991 (b) "Prewritten computer software" includes:
992 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
993 software is not designed and developed:
994 (A) by the author or other creator of the computer software; and
995 (B) to the specifications of a specific purchaser;
996 (ii) notwithstanding Subsection (77)(a), computer software designed and developed by
997 the author or other creator of the computer software to the specifications of a specific purchaser
998 if the computer software is sold to a person other than the purchaser; or
999 (iii) notwithstanding Subsection (77)(a) and except as provided in Subsection (77)(c),
1000 prewritten computer software or a prewritten portion of prewritten computer software:
1001 (A) that is modified or enhanced to any degree; and
1002 (B) if the modification or enhancement described in Subsection (77)(b)(iii)(A) is
1003 designed and developed to the specifications of a specific purchaser.
- 1004 (c) Notwithstanding Subsection (77)(b)(iii), "prewritten computer software" does not
1005 include a modification or enhancement described in Subsection (77)(b)(iii) if the charges for
1006 the modification or enhancement are:
1007 (i) reasonable; and
1008 (ii) separately stated on the invoice or other statement of price provided to the
1009 purchaser.
- 1010 (78) (a) "Private communication service" means a telecommunications service:
1011 (i) that entitles a customer to exclusive or priority use of one or more communications
1012 channels between or among termination points; and
1013 (ii) regardless of the manner in which the one or more communications channels are
1014 connected.
- 1015 (b) "Private communications service" includes the following provided in connection
1016 with the use of one or more communications channels:
1017 (i) an extension line;
1018 (ii) a station;
1019 (iii) switching capacity; or

1020 (iv) another associated service that is provided in connection with the use of one or
1021 more communications channels as defined in Section 59-12-215.

1022 (79) (a) "Prosthetic device" means a device that is worn on or in the body to:

- 1023 (i) artificially replace a missing portion of the body;
- 1024 (ii) prevent or correct a physical deformity or physical malfunction; or
- 1025 (iii) support a weak or deformed portion of the body.

1026 (b) "Prosthetic device" includes:

- 1027 (i) parts used in the repairs or renovation of a prosthetic device;
- 1028 (ii) replacement parts for a prosthetic device;
- 1029 (iii) a dental prosthesis; or
- 1030 (iv) a hearing aid.

1031 (c) "Prosthetic device" does not include:

- 1032 (i) corrective eyeglasses; or
- 1033 (ii) contact lenses.

1034 (80) (a) "Protective equipment" means an item:

- 1035 (i) for human wear; and
- 1036 (ii) that is:
 - 1037 (A) designed as protection:
 - 1038 (I) to the wearer against injury or disease; or
 - 1039 (II) against damage or injury of other persons or property; and
 - 1040 (B) not suitable for general use.

1041 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1042 commission shall make rules:

- 1043 (i) listing the items that constitute "protective equipment"; and
- 1044 (ii) that are consistent with the list of items that constitute "protective equipment"
1045 under the agreement.

1046 (81) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
1047 printed matter, other than a photocopy:

- 1048 (i) regardless of:
 - 1049 (A) characteristics;
 - 1050 (B) copyright;

1051 (C) form;
1052 (D) format;
1053 (E) method of reproduction; or
1054 (F) source; and
1055 (ii) made available in printed or electronic format.
1056 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1057 commission may by rule define the term "photocopy."
1058 (82) (a) "Purchase price" and "sales price" mean the total amount of consideration:
1059 (i) valued in money; and
1060 (ii) for which tangible personal property, a product transferred electronically, or
1061 services are:
1062 (A) sold;
1063 (B) leased; or
1064 (C) rented.
1065 (b) "Purchase price" and "sales price" include:
1066 (i) the seller's cost of the tangible personal property, a product transferred
1067 electronically, or services sold;
1068 (ii) expenses of the seller, including:
1069 (A) the cost of materials used;
1070 (B) a labor cost;
1071 (C) a service cost;
1072 (D) interest;
1073 (E) a loss;
1074 (F) the cost of transportation to the seller; or
1075 (G) a tax imposed on the seller;
1076 (iii) a charge by the seller for any service necessary to complete the sale; or
1077 (iv) consideration a seller receives from a person other than the purchaser if:
1078 (A) (I) the seller actually receives consideration from a person other than the purchaser;
1079 and
1080 (II) the consideration described in Subsection (82)(b)(iv)(A)(I) is directly related to a
1081 price reduction or discount on the sale;

1082 (B) the seller has an obligation to pass the price reduction or discount through to the
1083 purchaser;

1084 (C) the amount of the consideration attributable to the sale is fixed and determinable by
1085 the seller at the time of the sale to the purchaser; and

1086 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
1087 seller to claim a price reduction or discount; and

1088 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
1089 coupon, or other documentation with the understanding that the person other than the seller
1090 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1091 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1092 organization allowed a price reduction or discount, except that a preferred customer card that is
1093 available to any patron of a seller does not constitute membership in a group or organization
1094 allowed a price reduction or discount; or

1095 (III) the price reduction or discount is identified as a third party price reduction or
1096 discount on the:

1097 (Aa) invoice the purchaser receives; or

1098 (Bb) certificate, coupon, or other documentation the purchaser presents.

1099 (c) "Purchase price" and "sales price" do not include:

1100 (i) a discount:

1101 (A) in a form including:

1102 (I) cash;

1103 (II) term; or

1104 (III) coupon;

1105 (B) that is allowed by a seller;

1106 (C) taken by a purchaser on a sale; and

1107 (D) that is not reimbursed by a third party; or

1108 (ii) the following if separately stated on an invoice, bill of sale, or similar document
1109 provided to the purchaser:

1110 (A) the following from credit extended on the sale of tangible personal property or
1111 services:

1112 (I) a carrying charge;

- 1113 (II) a financing charge; or
- 1114 (III) an interest charge;
- 1115 (B) a delivery charge;
- 1116 (C) an installation charge;
- 1117 (D) a manufacturer rebate on a motor vehicle; or
- 1118 (E) a tax or fee legally imposed directly on the consumer.
- 1119 (83) "Purchaser" means a person to whom:
- 1120 (a) a sale of tangible personal property is made;
- 1121 (b) a product is transferred electronically; or
- 1122 (c) a service is furnished.
- 1123 (84) "Regularly rented" means:
- 1124 (a) rented to a guest for value three or more times during a calendar year; or
- 1125 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1126 value.
- 1127 (85) "Renewable energy" means:
- 1128 (a) biomass energy;
- 1129 (b) hydroelectric energy;
- 1130 (c) geothermal energy;
- 1131 (d) solar energy; or
- 1132 (e) wind energy.
- 1133 (86) (a) "Renewable energy production facility" means a facility that:
- 1134 (i) uses renewable energy to produce electricity; and
- 1135 (ii) has a production capacity of 20 kilowatts or greater.
- 1136 (b) A facility is a renewable energy production facility regardless of whether the
- 1137 facility is:
- 1138 (i) connected to an electric grid; or
- 1139 (ii) located on the premises of an electricity consumer.
- 1140 (87) "Rental" is as defined in Subsection (48).
- 1141 (88) "Repairs or renovations of tangible personal property" means:
- 1142 (a) a repair or renovation of tangible personal property that is not permanently attached
- 1143 to real property; or

1144 (b) attaching tangible personal property or a product that is transferred electronically to
1145 other tangible personal property if the other tangible personal property to which the tangible
1146 personal property or product that is transferred electronically is attached is not permanently
1147 attached to real property.

1148 (89) "Research and development" means the process of inquiry or experimentation
1149 aimed at the discovery of facts, devices, technologies, or applications and the process of
1150 preparing those devices, technologies, or applications for marketing.

1151 (90) (a) "Residential telecommunications services" means a telecommunications
1152 service or an ancillary service that is provided to an individual for personal use:

1153 (i) at a residential address; or

1154 (ii) at an institution, including a nursing home or a school, if the telecommunications
1155 service or ancillary service is provided to and paid for by the individual residing at the
1156 institution rather than the institution.

1157 (b) For purposes of Subsection (90)(a), a residential address includes an:

1158 (i) apartment; or

1159 (ii) other individual dwelling unit.

1160 (91) "Residential use" means the use in or around a home, apartment building, sleeping
1161 quarters, and similar facilities or accommodations.

1162 (92) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1163 than:

1164 (a) resale;

1165 (b) sublease; or

1166 (c) subrent.

1167 (93) (a) "Retailer" means any person engaged in a regularly organized business in
1168 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
1169 who is selling to the user or consumer and not for resale.

1170 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1171 engaged in the business of selling to users or consumers within the state.

1172 (94) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1173 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1174 Subsection 59-12-103(1), for consideration.

- 1175 (b) "Sale" includes:
- 1176 (i) installment and credit sales;
- 1177 (ii) any closed transaction constituting a sale;
- 1178 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
- 1179 chapter;
- 1180 (iv) any transaction if the possession of property is transferred but the seller retains the
- 1181 title as security for the payment of the price; and
- 1182 (v) any transaction under which right to possession, operation, or use of any article of
- 1183 tangible personal property is granted under a lease or contract and the transfer of possession
- 1184 would be taxable if an outright sale were made.
- 1185 (95) "Sale at retail" is as defined in Subsection (92).
- 1186 (96) "Sale-leaseback transaction" means a transaction by which title to tangible
- 1187 personal property or a product transferred electronically that is subject to a tax under this
- 1188 chapter is transferred:
- 1189 (a) by a purchaser-lessee;
- 1190 (b) to a lessor;
- 1191 (c) for consideration; and
- 1192 (d) if:
- 1193 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
- 1194 of the tangible personal property or product transferred electronically;
- 1195 (ii) the sale of the tangible personal property or product transferred electronically to the
- 1196 lessor is intended as a form of financing:
- 1197 (A) for the tangible personal property or product transferred electronically; and
- 1198 (B) to the purchaser-lessee; and
- 1199 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
- 1200 is required to:
- 1201 (A) capitalize the tangible personal property or product transferred electronically for
- 1202 financial reporting purposes; and
- 1203 (B) account for the lease payments as payments made under a financing arrangement.
- 1204 (97) "Sales price" is as defined in Subsection (82).
- 1205 (98) (a) "Sales relating to schools" means the following sales by, amounts paid to, or

1206 amounts charged by a school:

1207 (i) sales that are directly related to the school's educational functions or activities

1208 including:

1209 (A) the sale of:

1210 (I) textbooks;

1211 (II) textbook fees;

1212 (III) laboratory fees;

1213 (IV) laboratory supplies; or

1214 (V) safety equipment;

1215 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1216 that:

1217 (I) a student is specifically required to wear as a condition of participation in a

1218 school-related event or school-related activity; and

1219 (II) is not readily adaptable to general or continued usage to the extent that it takes the

1220 place of ordinary clothing;

1221 (C) sales of the following if the net or gross revenues generated by the sales are

1222 deposited into a school district fund or school fund dedicated to school meals:

1223 (I) food and food ingredients; or

1224 (II) prepared food; or

1225 (D) transportation charges for official school activities; or

1226 (ii) amounts paid to or amounts charged by a school for admission to a school-related

1227 event or school-related activity.

1228 (b) "Sales relating to schools" does not include:

1229 (i) bookstore sales of items that are not educational materials or supplies;

1230 (ii) except as provided in Subsection (98)(a)(i)(B):

1231 (A) clothing;

1232 (B) clothing accessories or equipment;

1233 (C) protective equipment; or

1234 (D) sports or recreational equipment; or

1235 (iii) amounts paid to or amounts charged by a school for admission to a school-related

1236 event or school-related activity if the amounts paid or charged are passed through to a person:

- 1237 (A) other than a:
- 1238 (I) school;
- 1239 (II) nonprofit organization authorized by a school board or a governing body of a
1240 private school to organize and direct a competitive secondary school activity; or
- 1241 (III) nonprofit association authorized by a school board or a governing body of a
1242 private school to organize and direct a competitive secondary school activity; and
- 1243 (B) that is required to collect sales and use taxes under this chapter.
- 1244 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1245 commission may make rules defining the term "passed through."
- 1246 (99) For purposes of this section and Section 59-12-104, "school":
- 1247 (a) means:
- 1248 (i) an elementary school or a secondary school that:
- 1249 (A) is a:
- 1250 (I) public school; or
- 1251 (II) private school; and
- 1252 (B) provides instruction for one or more grades kindergarten through 12; or
- 1253 (ii) a public school district; and
- 1254 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1255 (100) "Seller" means a person that makes a sale, lease, or rental of:
- 1256 (a) tangible personal property;
- 1257 (b) a product transferred electronically; or
- 1258 (c) a service.
- 1259 (101) (a) "Semiconductor fabricating, processing, research, or development materials"
1260 means tangible personal property or a product transferred electronically if the tangible personal
1261 property or product transferred electronically is:
- 1262 (i) used primarily in the process of:
- 1263 (A) (I) manufacturing a semiconductor;
- 1264 (II) fabricating a semiconductor; or
- 1265 (III) research or development of a:
- 1266 (Aa) semiconductor; or
- 1267 (Bb) semiconductor manufacturing process; or

- 1268 (B) maintaining an environment suitable for a semiconductor; or
- 1269 (ii) consumed primarily in the process of:
- 1270 (A) (I) manufacturing a semiconductor;
- 1271 (II) fabricating a semiconductor; or
- 1272 (III) research or development of a:
- 1273 (Aa) semiconductor; or
- 1274 (Bb) semiconductor manufacturing process; or
- 1275 (B) maintaining an environment suitable for a semiconductor.
- 1276 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1277 includes:
- 1278 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1279 transferred electronically described in Subsection (101)(a); or
- 1280 (ii) a chemical, catalyst, or other material used to:
- 1281 (A) produce or induce in a semiconductor a:
- 1282 (I) chemical change; or
- 1283 (II) physical change;
- 1284 (B) remove impurities from a semiconductor; or
- 1285 (C) improve the marketable condition of a semiconductor.
- 1286 (102) "Senior citizen center" means a facility having the primary purpose of providing
- 1287 services to the aged as defined in Section 62A-3-101.
- 1288 (103) "Simplified electronic return" means the electronic return:
- 1289 (a) described in Section 318(C) of the agreement; and
- 1290 (b) approved by the governing board of the agreement.
- 1291 (104) "Solar energy" means the sun used as the sole source of energy for producing
- 1292 electricity.
- 1293 (105) (a) "Sports or recreational equipment" means an item:
- 1294 (i) designed for human use; and
- 1295 (ii) that is:
- 1296 (A) worn in conjunction with:
- 1297 (I) an athletic activity; or
- 1298 (II) a recreational activity; and

- 1299 (B) not suitable for general use.
- 1300 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1301 commission shall make rules:
 - 1302 (i) listing the items that constitute "sports or recreational equipment"; and
 - 1303 (ii) that are consistent with the list of items that constitute "sports or recreational
 - 1304 equipment" under the agreement.
- 1305 (106) "State" means the state of Utah, its departments, and agencies.
- 1306 (107) "Storage" means any keeping or retention of tangible personal property or any
- 1307 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
- 1308 sale in the regular course of business.
- 1309 (108) (a) Except as provided in Subsection (108) (d) or (e), "tangible personal
- 1310 property" means personal property that:
 - 1311 (i) may be:
 - 1312 (A) seen;
 - 1313 (B) weighed;
 - 1314 (C) measured;
 - 1315 (D) felt; or
 - 1316 (E) touched; or
 - 1317 (ii) is in any manner perceptible to the senses.
- 1318 (b) "Tangible personal property" includes:
 - 1319 (i) electricity;
 - 1320 (ii) water;
 - 1321 (iii) gas;
 - 1322 (iv) steam; or
 - 1323 (v) prewritten computer software.
- 1324 (c) "Tangible personal property" includes the following regardless of whether the item
- 1325 is attached to real property:
 - 1326 (i) a dishwasher;
 - 1327 (ii) a dryer;
 - 1328 (iii) a freezer;
 - 1329 (iv) a microwave;

1330 (v) a refrigerator;
1331 (vi) a stove;
1332 (vii) a washer; or
1333 (viii) an item similar to Subsections (108)(c)(i) through (vii) as determined by the
1334 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1335 Rulemaking Act.

1336 (d) "Tangible personal property" does not include a product that is transferred
1337 electronically.

1338 (e) "Tangible personal property" does not include the following if attached to real
1339 property, regardless of whether the attachment to real property is only through a line that
1340 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1341 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1342 Rulemaking Act:

- 1343 (i) a hot water heater;
- 1344 (ii) a water filtration system; or
- 1345 (iii) a water softener system.

1346 (109) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon
1347 and require further processing other than mechanical blending before becoming finished
1348 petroleum products.

1349 (110) (a) "Telecommunications enabling or facilitating equipment, machinery, or
1350 software" means an item listed in Subsection (110)(b) if that item is purchased or leased
1351 primarily to enable or facilitate one or more of the following to function:

- 1352 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1353 (ii) telecommunications transmission equipment, machinery, or software.

1354 (b) The following apply to Subsection (110)(a):

- 1355 (i) a pole;
- 1356 (ii) software;
- 1357 (iii) a supplementary power supply;
- 1358 (iv) temperature or environmental equipment or machinery;
- 1359 (v) test equipment;
- 1360 (vi) a tower; or

1361 (vii) equipment, machinery, or software that functions similarly to an item listed in
1362 Subsections (110)(b)(i) through (vi) as determined by the commission by rule made in
1363 accordance with Subsection (110)(c).

1364 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1365 commission may by rule define what constitutes equipment, machinery, or software that
1366 functions similarly to an item listed in Subsections (110)(b)(i) through (vi).

1367 (111) "Telecommunications equipment, machinery, or software required for 911
1368 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
1369 Sec. 20.18.

1370 (112) "Telecommunications maintenance or repair equipment, machinery, or software"
1371 means equipment, machinery, or software purchased or leased primarily to maintain or repair
1372 one or more of the following, regardless of whether the equipment, machinery, or software is
1373 purchased or leased as a spare part or as an upgrade or modification to one or more of the
1374 following:

1375 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1376 (b) telecommunications switching or routing equipment, machinery, or software; or

1377 (c) telecommunications transmission equipment, machinery, or software.

1378 (113) (a) "Telecommunications service" means the electronic conveyance, routing, or
1379 transmission of audio, data, video, voice, or any other information or signal to a point, or
1380 among or between points.

1381 (b) "Telecommunications service" includes:

1382 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1383 processing application is used to act:

1384 (A) on the code, form, or protocol of the content;

1385 (B) for the purpose of electronic conveyance, routing, or transmission; and

1386 (C) regardless of whether the service:

1387 (I) is referred to as voice over Internet protocol service; or

1388 (II) is classified by the Federal Communications Commission as enhanced or value
1389 added;

1390 (ii) an 800 service;

1391 (iii) a 900 service;

- 1392 (iv) a fixed wireless service;
- 1393 (v) a mobile wireless service;
- 1394 (vi) a postpaid calling service;
- 1395 (vii) a prepaid calling service;
- 1396 (viii) a prepaid wireless calling service; or
- 1397 (ix) a private communications service.
- 1398 (c) "Telecommunications service" does not include:
- 1399 (i) advertising, including directory advertising;
- 1400 (ii) an ancillary service;
- 1401 (iii) a billing and collection service provided to a third party;
- 1402 (iv) a data processing and information service if:
- 1403 (A) the data processing and information service allows data to be:
- 1404 (I) (Aa) acquired;
- 1405 (Bb) generated;
- 1406 (Cc) processed;
- 1407 (Dd) retrieved; or
- 1408 (Ee) stored; and
- 1409 (II) delivered by an electronic transmission to a purchaser; and
- 1410 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1411 or information;
- 1412 (v) installation or maintenance of the following on a customer's premises:
- 1413 (A) equipment; or
- 1414 (B) wiring;
- 1415 (vi) Internet access service;
- 1416 (vii) a paging service;
- 1417 (viii) a product transferred electronically, including:
- 1418 (A) music;
- 1419 (B) reading material;
- 1420 (C) a ring tone;
- 1421 (D) software; or
- 1422 (E) video;

- 1423 (ix) a radio and television audio and video programming service:
- 1424 (A) regardless of the medium; and
- 1425 (B) including:
 - 1426 (I) furnishing conveyance, routing, or transmission of a television audio and video
 - 1427 programming service by a programming service provider;
 - 1428 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
 - 1429 (III) audio and video programming services delivered by a commercial mobile radio
 - 1430 service provider as defined in 47 C.F.R. Sec. 20.3;
 - 1431 (x) a value-added nonvoice data service; or
 - 1432 (xi) tangible personal property.
- 1433 (114) (a) "Telecommunications service provider" means a person that:
 - 1434 (i) owns, controls, operates, or manages a telecommunications service; and
 - 1435 (ii) engages in an activity described in Subsection (114)(a)(i) for the shared use with or
 - 1436 resale to any person of the telecommunications service.
- 1437 (b) A person described in Subsection (114)(a) is a telecommunications service provider
- 1438 whether or not the Public Service Commission of Utah regulates:
 - 1439 (i) that person; or
 - 1440 (ii) the telecommunications service that the person owns, controls, operates, or
 - 1441 manages.
- 1442 (115) (a) "Telecommunications switching or routing equipment, machinery, or
- 1443 software" means an item listed in Subsection (115)(b) if that item is purchased or leased
- 1444 primarily for switching or routing:
 - 1445 (i) an ancillary service;
 - 1446 (ii) data communications;
 - 1447 (iii) voice communications; or
 - 1448 (iv) telecommunications service.
- 1449 (b) The following apply to Subsection (115)(a):
 - 1450 (i) a bridge;
 - 1451 (ii) a computer;
 - 1452 (iii) a cross connect;
 - 1453 (iv) a modem;

- 1454 (v) a multiplexer;
- 1455 (vi) plug in circuitry;
- 1456 (vii) a router;
- 1457 (viii) software;
- 1458 (ix) a switch; or
- 1459 (x) equipment, machinery, or software that functions similarly to an item listed in
- 1460 Subsections (115)(b)(i) through (ix) as determined by the commission by rule made in
- 1461 accordance with Subsection (115)(c).

1462 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1463 commission may by rule define what constitutes equipment, machinery, or software that

1464 functions similarly to an item listed in Subsections (115)(b)(i) through (ix).

1465 (116) (a) "Telecommunications transmission equipment, machinery, or software"

1466 means an item listed in Subsection (116)(b) if that item is purchased or leased primarily for

1467 sending, receiving, or transporting:

- 1468 (i) an ancillary service;
 - 1469 (ii) data communications;
 - 1470 (iii) voice communications; or
 - 1471 (iv) telecommunications service.
- 1472 (b) The following apply to Subsection (116)(a):
- 1473 (i) an amplifier;
 - 1474 (ii) a cable;
 - 1475 (iii) a closure;
 - 1476 (iv) a conduit;
 - 1477 (v) a controller;
 - 1478 (vi) a duplexer;
 - 1479 (vii) a filter;
 - 1480 (viii) an input device;
 - 1481 (ix) an input/output device;
 - 1482 (x) an insulator;
 - 1483 (xi) microwave machinery or equipment;
 - 1484 (xii) an oscillator;

- 1485 (xiii) an output device;
- 1486 (xiv) a pedestal;
- 1487 (xv) a power converter;
- 1488 (xvi) a power supply;
- 1489 (xvii) a radio channel;
- 1490 (xviii) a radio receiver;
- 1491 (xix) a radio transmitter;
- 1492 (xx) a repeater;
- 1493 (xxi) software;
- 1494 (xxii) a terminal;
- 1495 (xxiii) a timing unit;
- 1496 (xxiv) a transformer;
- 1497 (xxv) a wire; or
- 1498 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1499 Subsections (116)(b)(i) through (xxv) as determined by the commission by rule made in
- 1500 accordance with Subsection (116)(c).

1501 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1502 commission may by rule define what constitutes equipment, machinery, or software that

1503 functions similarly to an item listed in Subsections (116)(b)(i) through (xxv).

1504 (117) "Tobacco" means:

- 1505 (a) a cigarette;
- 1506 (b) a cigar;
- 1507 (c) chewing tobacco;
- 1508 (d) pipe tobacco; or
- 1509 (e) any other item that contains tobacco.

1510 (118) "Unassisted amusement device" means an amusement device, skill device, or

1511 ride device that is started and stopped by the purchaser or renter of the right to use or operate

1512 the amusement device, skill device, or ride device.

1513 (119) (a) "Use" means the exercise of any right or power over tangible personal

1514 property, a product transferred electronically, or a service under Subsection 59-12-103(1),

1515 incident to the ownership or the leasing of that tangible personal property, product transferred

1516 electronically, or service.

1517 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1518 property, a product transferred electronically, or a service in the regular course of business and
1519 held for resale.

1520 (120) "Value-added nonvoice data service" means a service:

1521 (a) that otherwise meets the definition of a telecommunications service except that a
1522 computer processing application is used to act primarily for a purpose other than conveyance,
1523 routing, or transmission; and

1524 (b) with respect to which a computer processing application is used to act on data or
1525 information:

- 1526 (i) code;
- 1527 (ii) content;
- 1528 (iii) form; or
- 1529 (iv) protocol.

1530 (121) (a) Subject to Subsection (121)(b), "vehicle" means the following that are
1531 required to be titled, registered, or titled and registered:

- 1532 (i) an aircraft as defined in Section 72-10-102;
- 1533 (ii) a vehicle as defined in Section 41-1a-102;
- 1534 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1535 (iv) a vessel as defined in Section 41-1a-102.

1536 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1537 (i) a vehicle described in Subsection (121)(a); or
- 1538 (ii) (A) a locomotive;
- 1539 (B) a freight car;
- 1540 (C) railroad work equipment; or
- 1541 (D) other railroad rolling stock.

1542 (122) "Vehicle dealer" means a person engaged in the business of buying, selling, or
1543 exchanging a vehicle as defined in Subsection (121).

1544 (123) (a) "Vertical service" means an ancillary service that:

- 1545 (i) is offered in connection with one or more telecommunications services; and
- 1546 (ii) offers an advanced calling feature that allows a customer to:

- 1547 (A) identify a caller; and
1548 (B) manage multiple calls and call connections.
- 1549 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
1550 conference bridging service.
- 1551 (124) (a) "Voice mail service" means an ancillary service that enables a customer to
1552 receive, send, or store a recorded message.
- 1553 (b) "Voice mail service" does not include a vertical service that a customer is required
1554 to have in order to utilize a voice mail service.
- 1555 (125) (a) Except as provided in Subsection (125)(b), "waste energy facility" means a
1556 facility that generates electricity:
- 1557 (i) using as the primary source of energy waste materials that would be placed in a
1558 landfill or refuse pit if it were not used to generate electricity, including:
- 1559 (A) tires;
1560 (B) waste coal; or
1561 (C) oil shale; and
- 1562 (ii) in amounts greater than actually required for the operation of the facility.
- 1563 (b) "Waste energy facility" does not include a facility that incinerates:
- 1564 (i) municipal solid waste;
1565 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or
1566 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 1567 (126) "Watercraft" means a vessel as defined in Section 73-18-2.
- 1568 (127) "Wind energy" means wind used as the sole source of energy to produce
1569 electricity.
- 1570 (128) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
1571 location by the United States Postal Service.
- 1572 Section 5. Section **59-12-211** is amended to read:
- 1573 **59-12-211. Definitions -- Location of certain transactions -- Reports to**
1574 **commission -- Direct payment provision for a seller making certain purchases --**
1575 **Exceptions.**
- 1576 (1) As used in this section:
1577 (a) (i) "Receipt" and "receive" mean:

- 1578 (A) taking possession of tangible personal property;
- 1579 (B) making first use of a service; or
- 1580 (C) for a product transferred electronically, the earlier of:
 - 1581 (I) taking possession of the product transferred electronically; or
 - 1582 (II) making first use of the product transferred electronically.
- 1583 (ii) "Receipt" and "receive" do not include possession by a shipping company on behalf
- 1584 of a purchaser.
- 1585 (b) "Transportation equipment" means:
 - 1586 (i) a locomotive or rail car that is used to carry a person or property in interstate
 - 1587 commerce;
 - 1588 (ii) a truck or truck-tractor:
 - 1589 (A) with a gross vehicle weight rating of 10,001 pounds or more;
 - 1590 (B) registered under Section 41-1a-301; and
 - 1591 (C) operated under the authority of a carrier authorized and certificated:
 - 1592 (I) by the United States Department of Transportation or another federal authority; and
 - 1593 (II) to engage in carrying a person or property in interstate commerce;
 - 1594 (iii) a trailer, semitrailer, or passenger bus that is:
 - 1595 (A) registered under Section 41-1a-301; and
 - 1596 (B) operated under the authority of a carrier authorized and certificated:
 - 1597 (I) by the United States Department of Transportation or another federal authority; and
 - 1598 (II) to engage in carrying a person or property in interstate commerce;
 - 1599 (iv) an aircraft that is operated by an air carrier authorized and certificated:
 - 1600 (A) by the United States Department of Transportation or another federal or foreign
 - 1601 authority; and
 - 1602 (B) to engage in carrying a person or property in interstate commerce; or
 - 1603 (v) a container designed for use on, or a component part attached or secured on, an
 - 1604 item of equipment listed in[-] Subsections (1)(b)(i) through (iv).
 - 1605 (2) Except as provided in Subsections (8) and (13), if tangible personal property, a
 - 1606 product transferred electronically, or a service that is subject to taxation under this chapter is
 - 1607 received by a purchaser at a business location of a seller, the location of the transaction is the
 - 1608 business location of the seller.

1609 (3) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),
1610 and (13), if tangible personal property, a product transferred electronically, or a service that is
1611 subject to taxation under this chapter is not received by a purchaser at a business location of a
1612 seller, the location of the transaction is the location where the purchaser takes receipt of the
1613 tangible personal property or service.

1614 (4) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),
1615 and (13), if Subsection (2) or (3) does not apply, the location of the transaction is the location
1616 indicated by an address for or other information on the purchaser if:

1617 (a) the address or other information is available from the seller's business records; and
1618 (b) use of the address or other information from the seller's records does not constitute
1619 bad faith.

1620 (5) (a) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9),
1621 (11), and (13), if Subsection (2), (3), or (4) does not apply, the location of the transaction is the
1622 location indicated by an address for the purchaser if:

1623 (i) the address is obtained during the consummation of the transaction; and
1624 (ii) use of the address described in Subsection (5)(a)(i) does not constitute bad faith.
1625 (b) An address used under Subsection (5)(a) includes the address of a purchaser's
1626 payment instrument if no other address is available.

1627 (6) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),
1628 and (13), if Subsection (2), (3), (4), or (5) does not apply or if a seller does not have sufficient
1629 information to apply Subsection (2), (3), (4), or (5), the location of the transaction is the
1630 location indicated by the address from which:

1631 (a) except as provided in Subsection (6)(b), for tangible personal property that is
1632 subject to taxation under this chapter, the tangible personal property is shipped;

1633 (b) for computer software delivered electronically or for a product transferred
1634 electronically that is subject to taxation under this chapter, the computer software or product
1635 transferred electronically is first available for transmission by the seller; or

1636 (c) for a service that is subject to taxation under this chapter, the service is provided.

1637 (7) (a) For purposes of this Subsection (7), "shared ZIP Code" means a nine-digit ZIP
1638 Code that is located within two or more local taxing jurisdictions.

1639 (b) If the location of a transaction determined under Subsections (3) through (6) is in a

1640 shared ZIP Code, the location of the transaction is:

1641 (i) if there is only one local taxing jurisdiction that imposes the lowest agreement
1642 combined tax rate for the shared ZIP Code, the local taxing jurisdiction that imposes the lowest
1643 agreement combined tax rate; or

1644 (ii) if two or more local taxing jurisdictions impose the lowest agreement combined tax
1645 rate for the shared ZIP Code, the local taxing jurisdiction that:

1646 (A) imposes the lowest agreement combined tax rate for the shared ZIP Code; and

1647 (B) has located within the local taxing jurisdiction the largest number of street
1648 addresses within the shared ZIP Code.

1649 (c) ~~[For]~~ Notwithstanding any provision under this chapter authorizing or requiring the
1650 imposition of a sales and use tax, for purposes of Subsection (7)(b), a seller shall collect a sales
1651 and use tax imposed under this chapter at the lowest agreement combined tax rate imposed
1652 within the local taxing jurisdiction in which the transaction is located under Subsection (7)(b)
1653 [notwithstanding:].

1654 ~~[(i) Section 59-12-204;]~~

1655 ~~[(ii) Section 59-12-401;]~~

1656 ~~[(iii) Section 59-12-402;]~~

1657 ~~[(iv) Section 59-12-501;]~~

1658 ~~[(v) Section 59-12-502;]~~

1659 ~~[(vi) Section 59-12-703;]~~

1660 ~~[(vii) Section 59-12-802;]~~

1661 ~~[(viii) Section 59-12-804;]~~

1662 ~~[(ix) Section 59-12-1001;]~~

1663 ~~[(x) Section 59-12-1102;]~~

1664 ~~[(xi) Section 59-12-1302;]~~

1665 ~~[(xii) Section 59-12-1402;]~~

1666 ~~[(xiii) Section 59-12-1503;]~~

1667 ~~[(xiv) Section 59-12-1703; or]~~

1668 ~~[(xv) Section 59-12-1802;]~~

1669 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1670 commission may make rules:

1671 (i) providing for the circumstances under which a seller has exercised due diligence in
1672 determining the nine-digit ZIP Code for an address; or

1673 (ii) notwithstanding Subsection (7)(b), for determining the local taxing jurisdiction
1674 within which a transaction is located if a seller is unable to determine the local taxing
1675 jurisdiction within which the transaction is located under Subsection (7)(b).

1676 (8) The location of a transaction made with a direct payment permit described in
1677 Section 59-12-107.1 is the location where receipt of the tangible personal property, product, or
1678 service by the purchaser occurs.

1679 (9) The location of a purchase of direct mail is the location described in Subsection (6),
1680 if the purchaser of the direct mail:

1681 (a) has not been issued a direct payment permit under Section 59-12-107.1; and

1682 (b) does not provide the seller the form or information described in Subsection
1683 59-12-123(1).

1684 (10) (a) Except as provided in Subsection (10)(b), the location of a transaction
1685 determined under Subsections (3) through (6), (8), or (9), is the local taxing jurisdiction within
1686 which:

1687 (i) the nine-digit ZIP Code assigned to the location determined under Subsections (3)
1688 through (6), (8), or (9) is located; or

1689 (ii) the five-digit ZIP Code assigned to the location determined under Subsections (3)
1690 through (6), (8), or (9) is located if:

1691 (A) a nine-digit ZIP Code is not available for the location determined under
1692 Subsections (3) through (6), (8), or (9); or

1693 (B) after exercising due diligence, a seller or certified service provider is unable to
1694 determine a nine-digit ZIP Code for the location determined under Subsections (3) through (6),
1695 (8), or (9).

1696 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1697 commission may make rules for determining the local taxing jurisdiction within which a
1698 transaction is located if a seller or certified service provider is unable to determine the local
1699 taxing jurisdiction within which the transaction is located under Subsection (10)(a).

1700 (11) (a) As used in this Subsection (11), "florist delivery transaction" means a
1701 transaction commenced by a florist that transmits an order:

- 1702 (i) by:
- 1703 (A) telegraph;
- 1704 (B) telephone; or
- 1705 (C) a means of communication similar to Subsection (11)(a)(i)(A) or (B); and
- 1706 (ii) for delivery to another place:
- 1707 (A) in this state; or
- 1708 (B) outside this state.
- 1709 (b) Notwithstanding Subsections (3) through (6), beginning on January 1, 2009, and
- 1710 ending on December 31, 2009, the location of a florist delivery transaction is the business
- 1711 location of the florist that commences the florist delivery transaction.
- 1712 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1713 commission may by rule:
- 1714 (i) define:
- 1715 (A) "business location"; and
- 1716 (B) "florist";
- 1717 (ii) define what constitutes a means of communication similar to Subsection
- 1718 (11)(a)(i)(A) or (B); and
- 1719 (iii) provide procedures for determining when a transaction is commenced.
- 1720 (12) (a) A tax collected under this chapter shall be reported to the commission on a
- 1721 form that identifies the location of each transaction that occurs during the return filing period.
- 1722 (b) The form described in Subsection (12)(a) shall be filed with the commission as
- 1723 required under this chapter.
- 1724 (13) This section does not apply to:
- 1725 (a) amounts charged by a seller for:
- 1726 (i) telecommunications service; or
- 1727 (ii) the retail sale or transfer of:
- 1728 (A) a motor vehicle other than a motor vehicle that is transportation equipment;
- 1729 (B) an aircraft other than an aircraft that is transportation equipment;
- 1730 (C) a watercraft;
- 1731 (D) a modular home;
- 1732 (E) a manufactured home; or

- 1733 (F) a mobile home; or
1734 (iii) except as provided in Section 59-12-214, the lease or rental of tangible personal
1735 property other than tangible personal property that is transportation equipment;
1736 (b) a tax paid under this chapter:
1737 (i) by a seller; and
1738 (ii) for the seller's purchases; or
1739 (c) a retail sale of tangible personal property or a product transferred electronically if:
1740 (i) the seller receives the order for the tangible personal property or product transferred
1741 electronically in this state;
1742 (ii) receipt of the tangible personal property or product transferred electronically by the
1743 purchaser or the purchaser's donee occurs in this state;
1744 (iii) the location where receipt of the tangible personal property or product transferred
1745 electronically by the purchaser occurs is determined in accordance with Subsections (3)
1746 through (5); and
1747 (iv) at the time the seller receives the order, the record keeping system that the seller
1748 uses to calculate the proper amount of tax imposed under this chapter captures the location
1749 where the order is received.

1750 Section 6. Section **59-12-602** is amended to read:

1751 **59-12-602. Definitions.**

1752 As used in this part:

1753 (1) (a) Subject to Subsection (1)(b), "airport facility" means an airport of regional
1754 significance, as defined by the Transportation Commission by rule made in accordance with
1755 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1756 (b) "Airport facility" includes:

1757 (i) an appurtenance to an airport, including a fixed guideway [~~as defined in Section~~
1758 ~~59-12-1702~~] that provides transportation service to or from the airport;

1759 (ii) a control tower, including a radar system;

1760 (iii) a public area of an airport; or

1761 (iv) a terminal facility.

1762 (2) "Convention facility" means any publicly owned or operated convention center,
1763 sports arena, or other facility at which conventions, conferences, and other gatherings are held

1764 and whose primary business or function is to host such conventions, conferences, and other
1765 gatherings.

1766 (3) "Cultural facility" means any publicly owned or operated museum, theater, art
1767 center, music hall, or other cultural or arts facility.

1768 (4) "Recreation facility" or "tourist facility" means any publicly owned or operated
1769 park, campground, marina, dock, golf course, water park, historic park, monument,
1770 planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.

1771 (5) (a) "Restaurant" includes any coffee shop, cafeteria, luncheonette, soda fountain, or
1772 fast-food service where food is prepared for immediate consumption.

1773 (b) "Restaurant" does not include:

1774 (i) any retail establishment whose primary business or function is the sale of fuel or
1775 food items for off-premise, but not immediate, consumption; and

1776 (ii) a theater that sells food items, but not a dinner theater.

1777 Section 7. Section **59-12-2003** is amended to read:

1778 **59-12-2003. Imposition -- Base -- Rate -- Revenues distributed to certain public**
1779 **transit districts.**

1780 (1) Subject to the other provisions of this section and except as provided in Subsection
1781 (2) or (4), beginning on July 1, 2008, the state shall impose a tax under this part on the
1782 transactions described in Subsection 59-12-103(1) within a city, town, or the unincorporated
1783 area of a county of the first or second class if, on January 1, 2008, there is a public transit
1784 district within any portion of that county of the first or second class.

1785 (2) The state may not impose a tax under this part within a county of the first or second
1786 class if within all of the cities, towns, and the unincorporated area of the county of the first or
1787 second class there is imposed a sales and use tax of:

1788 (a) .30% under Section [~~59-12-501~~] 59-12-2213;

1789 (b) .30% under Section [~~59-12-1001~~] 59-12-2215; or

1790 (c) .30% under Section [~~59-12-1503~~] 59-12-2216.

1791 (3) (a) Subject to Subsection (3)(b), if the state imposes a tax under this part, the tax
1792 rate imposed within a city, town, or the unincorporated area of a county of the first or second
1793 class is a percentage equal to the difference between:

1794 (i) .30%; and

1795 (ii) (A) for a city within the county of the first or second class, the highest tax rate
1796 imposed within that city under:

1797 (I) Section [~~59-12-501~~] 59-12-2213;

1798 (II) Section [~~59-12-1001~~] 59-12-2215; or

1799 (III) Section [~~59-12-1503~~] 59-12-2216;

1800 (B) for a town within the county of the first or second class, the highest tax rate
1801 imposed within that town under:

1802 (I) Section [~~59-12-501~~] 59-12-2213;

1803 (II) Section [~~59-12-1001~~] 59-12-2215; or

1804 (III) Section [~~59-12-1503~~] 59-12-2216; or

1805 (C) for the unincorporated area of the county of the first or second class, the highest tax
1806 rate imposed within that unincorporated area under:

1807 (I) Section [~~59-12-501~~] 59-12-2213;

1808 (II) Section [~~59-12-1001~~] 59-12-2215; or

1809 (III) Section [~~59-12-1503~~] 59-12-2216.

1810 (b) For purposes of Subsection (3)(a), if for a city, town, or the unincorporated area of
1811 a county of the first or second class, the highest tax rate imposed under Section [~~59-12-501~~]
1812 59-12-2213, [~~59-12-1001~~] 59-12-2215, or [~~59-12-1503~~] 59-12-2216 within that city, town, or
1813 unincorporated area of the county of the first or second class is .30%, the state may not impose
1814 a tax under this part within that city, town, or unincorporated area.

1815 (4) (a) The state may not impose a tax under this part on:

1816 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
1817 are exempt from taxation under Section 59-12-104; or

1818 (ii) except as provided in Subsection (4)(b), amounts paid or charged for food and food
1819 ingredients.

1820 (b) The state shall impose a tax under this part on amounts paid or charged for food
1821 and food ingredients if the food and food ingredients are sold as part of a bundled transaction
1822 attributable to food and ingredients and tangible personal property other than food and food
1823 ingredients.

1824 (5) For purposes of Subsection (1), the location of a transaction shall be determined in
1825 accordance with Sections 59-12-211 through 59-12-215.

1826 (6) The commission shall distribute the revenues the state collects from the sales and
1827 use tax under this part, after subtracting amounts a seller retains in accordance with Section
1828 59-12-108, to the public transit districts within the cities, towns, and unincorporated areas:

1829 (a) within which the state imposes a tax under this part; and

1830 (b) in proportion to the revenues collected from the sales and use tax under this part
1831 within each city, town, and unincorporated area within which the state imposes a tax under this
1832 part.

1833 Section 8. Section **59-12-2201** is enacted to read:

1834 **Part 22. Local Option Sales and Use Taxes for Transportation Act**

1835 **59-12-2201. Title.**

1836 This part is known as the "Local Option Sales and Use Taxes for Transportation Act."

1837 Section 9. Section **59-12-2202** is enacted to read:

1838 **59-12-2202. Definitions.**

1839 As used in this part:

1840 (1) "Airline" is as defined in Section 59-2-102.

1841 (2) "Airport facility" is as defined in Section 59-12-602.

1842 (3) "Airport of regional significance" means an airport identified by the Federal
1843 Aviation Administration in the most current National Plan of Integrated Airport Systems or an
1844 update to the National Plan of Integrated Airport Systems.

1845 (4) "Annexation" means an annexation to:

1846 (a) a county under Title 17, Chapter 2, County Consolidations and Annexations; or

1847 (b) a city or town under Title 10, Chapter 2, Part 4, Annexation.

1848 (5) "Annexing area" means an area that is annexed into a county, city, or town.

1849 (6) "Council of governments" is as defined in Section 72-2-117.5.

1850 (7) "Fixed guideway" is as defined in Section 59-12-102.

1851 (8) "Major collector highway" is as defined in Section 72-4-102.5.

1852 (9) "Metropolitan planning organization" is as defined in Section 72-1-208.5.

1853 (10) "Minor arterial highway" is as defined in Section 72-4-102.5.

1854 (11) "Minor collector road" is as defined in Section 72-4-102.5.

1855 (12) "Principal arterial highway" is as defined in Section 72-4-102.5.

1856 (13) "Regionally significant transportation facility" means:

- 1857 (a) in a county of the first or second class:
1858 (i) a principal arterial highway;
1859 (ii) a minor arterial highway;
1860 (iii) a fixed guideway that:
1861 (A) extends across two or more cities or unincorporated areas; or
1862 (B) is an extension to an existing fixed guideway; or
1863 (iv) an airport of regional significance; or
1864 (b) in a county of the third, fourth, fifth, or sixth class:
1865 (i) a principal arterial highway;
1866 (ii) a minor arterial highway;
1867 (iii) a major collector highway;
1868 (iv) a minor collector road; or
1869 (v) an airport of regional significance.
1870 (14) "State highway" means a highway designated as a state highway under Title 72,
1871 Chapter 4, Designation of State Highways Act.
1872 (15) (a) Subject to Subsection (15)(b), "system for public transit" has the same
1873 meaning as "public transit" as defined in Section 17B-2a-802.
1874 (b) "System for public transit" includes:
1875 (i) the following costs related to public transit:
1876 (A) maintenance costs; or
1877 (B) operating costs;
1878 (ii) a fixed guideway;
1879 (iii) a park and ride facility;
1880 (iv) a passenger station or passenger terminal;
1881 (v) a right-of-way for public transit; or
1882 (vi) the following that serve a public transit facility:
1883 (A) a maintenance facility;
1884 (B) a platform;
1885 (C) a repair facility;
1886 (D) a roadway;
1887 (E) a storage facility;

1888 (F) a utility line; or

1889 (G) a facility or item similar to Subsections (15)(b)(vi)(A) through (F).

1890 Section 10. Section **59-12-2203** is enacted to read:

1891 **59-12-2203. Limitations on authority to impose a sales and use tax under this**
1892 **part.**

1893 (1) As provided in this Subsection (1), one of the following sales and use taxes may be
1894 imposed within the boundaries of a local taxing jurisdiction:

1895 (a) a county, city, or town may impose the sales and use tax authorized by Section
1896 59-12-2213 in accordance with Section 59-12-2213; or

1897 (b) a city or town may impose the sales and use tax authorized by Section 59-12-2215
1898 in accordance with Section 59-12-2215.

1899 (2) As provided in this Subsection (2), one of the following sales and use taxes may be
1900 imposed within the boundaries of a local taxing jurisdiction:

1901 (a) a county, city, or town may impose the sales and use tax authorized by Section
1902 59-12-2214 in accordance with Section 59-12-2214; or

1903 (b) a county may impose the sales and use tax authorized by Section 59-12-2216 in
1904 accordance with Section 59-12-2216.

1905 (3) As provided in this Subsection (3), one of the following sales and use taxes may be
1906 imposed within the boundaries of a local taxing jurisdiction:

1907 (a) a county may impose the sales and use tax authorized by Section 59-12-2217 in
1908 accordance with Section 59-12-2217; or

1909 (b) a county, city, or town may impose the sales and use tax authorized by Section
1910 59-12-2218 in accordance with Section 59-12-2218.

1911 Section 11. Section **59-12-2204** is enacted to read:

1912 **59-12-2204. Transactions that may not be subject to taxation under this part --**
1913 **Exception for food and food ingredients sold as part of a bundled transaction.**

1914 (1) A county, city, or town may not impose a sales and use tax under this part on:

1915 (a) the sales and uses described in Section 59-12-104 to the extent the sales and uses
1916 are exempt from taxation under Section 59-12-104; and

1917 (b) except as provided in Subsection (2), amounts paid or charged for food and food
1918 ingredients.

1919 (2) A county, city, or town imposing a sales and use tax under this part shall impose
1920 the sales and use tax on amounts paid or charged for food and food ingredients if the food and
1921 food ingredients are sold as part of a bundled transaction attributable to food and food
1922 ingredients and tangible personal property other than food and food ingredients.

1923 Section 12. Section **59-12-2205** is enacted to read:

1924 **59-12-2205. Determination of the location of a transaction.**

1925 For purposes of this part, the location of a transaction shall be determined in accordance
1926 with Sections 59-12-211 through 59-12-215.

1927 Section 13. Section **59-12-2206** is enacted to read:

1928 **59-12-2206. Administration, collection, and enforcement of a sales and use tax**
1929 **under this part -- Transmission of revenues monthly by electronic funds transfer --**
1930 **Transfer of revenues to a public transit district.**

1931 (1) Except as provided in Subsection (2), the commission shall administer, collect, and
1932 enforce a sales and use tax imposed under this part.

1933 (2) The commission shall administer, collect, and enforce a sales and use tax imposed
1934 under this part in accordance with:

1935 (a) the same procedures used to administer, collect, and enforce a tax under:

1936 (i) Part 1, Tax Collection; or

1937 (ii) Part 2, Local Sales and Use Tax Act; and

1938 (b) Chapter 1, General Taxation Policies.

1939 (3) A sales and use tax under this part is not subject to Subsections 59-12-205(2)
1940 through (6).

1941 (4) Subject to Section 59-12-2207 and except as provided in Subsection (5) or another
1942 provision of this part, the state treasurer shall transmit revenues collected within a county, city,
1943 or town from a sales and use tax under this part to the county, city, or town legislative body
1944 monthly by electronic funds transfer.

1945 (5) Subject to Section 59-12-2207, the state treasurer shall transfer revenues collected
1946 within a county, city, or town from a sales and use tax under this part directly to a public transit
1947 district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act, if the county,
1948 city, or town legislative body:

1949 (a) provides written notice to the state treasurer requesting the transfer; and

1950 (b) designates the public transit district to which the county, city, or town legislative
1951 body requests the state treasurer to transfer the revenues.

1952 Section 14. Section **59-12-2207** is enacted to read:

1953 **59-12-2207. Commission authority to retain a percentage of revenues collected**
1954 **from a sales and use tax under this part -- Deposit of revenues into the Sales and Use Tax**
1955 **Administrative Fees Account -- Expenditure of revenues.**

1956 (1) The commission may retain a percentage of revenues collected from a sales and use
1957 tax under this part of not to exceed the lesser of:

1958 (a) 1.50%; or

1959 (b) a percentage of revenues collected from a sales and use tax under this part
1960 sufficient to cover the cost to the commission of administering this part.

1961 (2) The commission shall:

1962 (a) deposit any revenues the commission retains under Subsection (1) into the Sales
1963 and Use Tax Administrative Fees Account; and

1964 (b) expend the revenues described in Subsection (2)(a) as provided in Subsection
1965 59-12-206(2).

1966 Section 15. Section **59-12-2208** is enacted to read:

1967 **59-12-2208. Legislative body approval requirements -- Voter approval**
1968 **requirements.**

1969 (1) Subject to the other provisions of this section, before imposing a sales and use tax
1970 under this part, a county, city, or town legislative body shall:

1971 (a) obtain approval to impose the sales and use tax from a majority of the members of
1972 the county, city, or town legislative body; and

1973 (b) submit an opinion question to the county's, city's, or town's registered voters voting
1974 on the imposition of the sales and use tax so that each registered voter has the opportunity to
1975 express the registered voter's opinion on whether a sales and use tax should be imposed under
1976 this section.

1977 (2) The opinion question required by this section shall state:

1978 "Shall (insert the name of the county, city, or town), Utah, be authorized to impose a
1979 (insert the tax rate of the sales and use tax) sales and use tax for (list the purposes for which the
1980 revenues collected from the sales and use tax shall be expended)?"

1981 (3) (a) Subject to Subsection (3)(b), the election required by this section shall be held:

1982 (i) at a regular general election conducted in accordance with the procedures and

1983 requirements of Title 20A, Election Code, governing regular general elections; or

1984 (ii) at a municipal general election conducted in accordance with the procedures and

1985 requirements of Section 20A-1-202.

1986 (b) (i) Subject to Subsection (3)(b)(ii), the county clerk of the county in which the

1987 opinion question required by this section will be submitted to registered voters shall, no later

1988 than 15 days before the date of the election:

1989 (A) publish a notice:

1990 (I) once in a newspaper published in that county; and

1991 (II) as required in Section 45-1-101; or

1992 (B) (I) cause a copy of the notice to be posted in a conspicuous place most likely to

1993 give notice of the election to the registered voters voting on the imposition of the sales and use

1994 tax; and

1995 (II) prepare an affidavit of that posting, showing a copy of the notice and the places

1996 where the notice was posted.

1997 (ii) The notice under Subsection (3)(b)(i) shall:

1998 (A) state that an opinion question will be submitted to the county's, city's, or town's

1999 registered voters voting on the imposition of a sales and use tax under this section so that each

2000 registered voter has the opportunity to express the registered voter's opinion on whether a sales

2001 and use tax should be imposed under this section; and

2002 (B) list the purposes for which the revenues collected from the sales and use tax shall

2003 be expended.

2004 (4) A county, city, or town that submits an opinion question to registered voters under

2005 this section is subject to Section 20A-11-1203.

2006 (5) Subject to Section 59-12-2209, if a county, city, or town legislative body

2007 determines that a majority of the county's, city's, or town's registered voters voting on the

2008 imposition of a sales and use tax under this part have voted in favor of the imposition of the

2009 sales and use tax in accordance with this section, the county, city, or town legislative body shall

2010 impose the sales and use tax.

2011 (6) If, after imposing a sales and use tax under this part, a county, city, or town

2012 legislative body seeks to impose a tax rate for the sales and use tax that exceeds or is less than
2013 the tax rate stated in the opinion question described in Subsection (2) or repeals the tax rate
2014 stated in the opinion question described in Subsection (2), the county, city, or town legislative
2015 body shall:

2016 (a) obtain approval from a majority of the members of the county, city, or town
2017 legislative body to impose a tax rate for the sales and use tax that exceeds or is less than the tax
2018 rate stated in the opinion question described in Subsection (2) or repeals the tax rate stated in
2019 the opinion question described in Subsection (2); and

2020 (b) in accordance with the procedures and requirements of this section, submit an
2021 opinion question to the county's, city's, or town's registered voters voting on the tax rate so that
2022 each registered voter has the opportunity to express the registered voter's opinion on whether to
2023 impose a tax rate for the sales and use tax that exceeds or is less than the tax rate stated in the
2024 opinion question described in Subsection (2) or repeal the tax rate stated in the opinion
2025 question described in Subsection (2).

2026 Section 16. Section **59-12-2209** is enacted to read:

2027 **59-12-2209. Enactment, repeal, or change in the rate of a sales and use tax under**
2028 **this part -- Annexation -- Notice.**

2029 (1) Except as provided in Subsection (3) or (4), if a county, city, or town enacts or
2030 repeals a sales and use tax or changes the rate of a sales and use tax under this part, the
2031 enactment, repeal, or change shall take effect:

2032 (a) on the first day of a calendar quarter; and

2033 (b) after a 90-day period beginning on the date the commission receives notice meeting
2034 the requirements of Subsection (2) from the county, city, or town.

2035 (2) The notice described in Subsection (1)(b) shall state:

2036 (a) that the county, city, or town will enact, repeal, or change the rate of a sales and use
2037 tax under this part;

2038 (b) the statutory authority for the sales and use tax described in Subsection (2)(a);

2039 (c) the date the enactment, repeal, or change will take effect; and

2040 (d) if the county, city, or town enacts the sales and use tax or changes the rate of the
2041 sales and use tax described in Subsection (2)(a), the rate of the sales and use tax.

2042 (3) (a) If the billing period for a transaction begins before the effective date of the

2043 enactment of a sales and use tax or a tax rate increase under this part, the enactment of the sales
2044 and use tax or the tax rate increase shall take effect on the first day of the first billing period
2045 that begins after the effective date of the enactment of the sales and use tax or the tax rate
2046 increase.

2047 (b) If the billing period for a transaction begins before the effective date of the repeal of
2048 a sales and use tax or a tax rate decrease under this part, the repeal of the sales and use tax or
2049 the tax rate decrease shall take effect on the first day of the last billing period that began before
2050 the effective date of the repeal of the sales and use tax or the tax rate decrease.

2051 (4) (a) If a sales and use tax due under this part on a catalogue sale is computed on the
2052 basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in
2053 the rate of a sales and use tax described in Subsection (1) takes effect:

2054 (i) on the first day of a calendar quarter; and

2055 (ii) beginning 60 days after the effective date of the enactment, repeal, or change in the
2056 rate of the sales and use tax under Subsection (1).

2057 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2058 commission may by rule define the term "catalogue sale."

2059 (5) Except as provided in Subsection (7) or (8), if an annexation will result in the
2060 enactment, repeal, or change in the rate of a sales and use tax under this part for an annexing
2061 area, the enactment, repeal, or change shall take effect:

2062 (a) on the first day of a calendar quarter; and

2063 (b) after a 90-day period beginning on the date the commission receives notice meeting
2064 the requirements of Subsection (6) from the county, city, or town that annexes the annexing
2065 area.

2066 (6) The notice described in Subsection (5) shall state:

2067 (a) that the annexation described in Subsection (5) will result in an enactment, repeal,
2068 or change in the rate of a sales and use tax under this part for the annexing area;

2069 (b) the statutory authority for the sales and use tax described in Subsection (6)(a);

2070 (c) the date the enactment, repeal, or change will take effect; and

2071 (d) if the annexation will result in the enactment or change in the rate of the sales and
2072 use tax described in Subsection (6)(a), the rate of the sales and use tax.

2073 (7) (a) If the billing period for a transaction begins before the effective date of the

2074 enactment of a sales and use tax or a tax rate increase under this part, the enactment of the sales
2075 and use tax or the tax rate increase shall take effect on the first day of the first billing period
2076 that begins after the effective date of the enactment of the sales and use tax or the tax rate
2077 increase.

2078 (b) If the billing period for a transaction begins before the effective date of the repeal of
2079 a sales and use tax or a tax rate decrease under this part, the repeal of the sales and use tax or
2080 the tax rate decrease shall take effect on the first day of the last billing period that began before
2081 the effective date of the repeal of the sales and use tax or the tax rate decrease.

2082 (8) (a) If a sales and use tax due under this part on a catalogue sale is computed on the
2083 basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in
2084 the rate of a sales and use tax described in Subsection (6) takes effect:

2085 (i) on the first day of a calendar quarter; and

2086 (ii) beginning 60 days after the effective date of the enactment, repeal, or change in the
2087 rate of the sales and use tax under Subsection (6).

2088 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2089 commission may by rule define the term "catalogue sale."

2090 Section 17. Section **59-12-2210** is enacted to read:

2091 **59-12-2210. Seller or certified service provider reliance on commission**
2092 **information.**

2093 A seller or certified service provider is not liable for failing to collect a sales and use
2094 tax at a tax rate imposed under this part if the seller's or certified service provider's failure to
2095 collect the sales and use tax is as a result of the seller's or certified service provider's reliance
2096 on incorrect data provided by the commission in a database created by the commission:

2097 (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

2098 (2) indicating the taxability of tangible personal property, a product transferred
2099 electronically, or a service.

2100 Section 18. Section **59-12-2211** is enacted to read:

2101 **59-12-2211. Certified service provider or model 2 seller reliance on commission**
2102 **certified software.**

2103 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified
2104 service provider or model 2 seller is not liable for failing to collect a sales and use tax required

2105 under this part if:

2106 (a) the certified service provider or model 2 seller relies on software the commission
2107 certifies; and

2108 (b) the certified service provider's or model 2 seller's failure to collect a sales and use
2109 tax required under this part is as a result of the seller's or certified service provider's reliance on
2110 incorrect data:

2111 (i) provided by the commission; or

2112 (ii) in the software the commission certifies.

2113 (2) The relief from liability described in Subsection (1) does not apply if a certified
2114 service provider or model 2 seller incorrectly classifies an item or transaction into a product
2115 category the commission certifies.

2116 (3) If the taxability of a product category is incorrectly classified in software the
2117 commission certifies, the commission shall:

2118 (a) notify a certified service provider or model 2 seller of the incorrect classification of
2119 the taxability of a product category in software the commission certifies; and

2120 (b) state in the notice required by Subsection (3)(a) that the certified service provider or
2121 model 2 seller is liable for failing to collect the correct amount of sales and use tax under this
2122 part on the incorrectly classified product category if the certified service provider or model 2
2123 seller fails to correct the taxability of the item or transaction within 10 days after the day on
2124 which the certified service provider or model 2 seller receives the notice.

2125 (4) If a certified service provider or model 2 seller fails to correct the taxability of an
2126 item or transaction within 10 days after the day on which the certified service provider or
2127 model 2 seller receives the notice described in Subsection (3), the certified service provider or
2128 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
2129 item or transaction.

2130 Section 19. Section **59-12-2212** is enacted to read:

2131 **59-12-2212. Purchaser relief from liability.**

2132 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
2133 under Section 59-1-401 for failure to pay a sales and use tax due under this part or an
2134 underpayment if:

2135 (i) the purchaser's seller or certified service provider relies on incorrect data provided

2136 by the commission:
2137 (A) on a tax rate;
2138 (B) on a boundary;
2139 (C) on a taxing jurisdiction; or
2140 (D) in the taxability matrix the commission provides in accordance with the agreement;
2141 or
2142 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
2143 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:
2144 (A) on a tax rate;
2145 (B) on a boundary;
2146 (C) on a taxing jurisdiction; or
2147 (D) in the taxability matrix the commission provides in accordance with the agreement.
2148 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
2149 Section 59-1-401 for failure to pay a sales and use tax due under this part or an underpayment
2150 if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance
2151 on incorrect data provided by the commission is as a result of conduct that is:
2152 (i) fraudulent;
2153 (ii) intentional; or
2154 (iii) willful.
2155 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
2156 not liable for a tax or interest under Section 59-1-402 for failure to pay a sales and use tax due
2157 under this part or an underpayment if:
2158 (a) the purchaser's seller or certified service provider relies on:
2159 (i) incorrect data provided by the commission:
2160 (A) on a tax rate;
2161 (B) on a boundary; or
2162 (C) on a taxing jurisdiction; or
2163 (ii) an erroneous classification by the commission:
2164 (A) in the taxability matrix the commission provides in accordance with the agreement;
2165 and
2166 (B) with respect to a term:

2167 (I) in the library of definitions; and
 2168 (II) that is:
 2169 (Aa) listed as taxable or exempt;
 2170 (Bb) included in or excluded from "sales price"; or
 2171 (Cc) included in or excluded from a definition; or
 2172 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
 2173 accordance with Section 59-12-107.1, relies on:

2174 (i) incorrect data provided by the commission;
 2175 (A) on a tax rate;
 2176 (B) on a boundary; or
 2177 (C) on a taxing jurisdiction; or
 2178 (ii) an erroneous classification by the commission:
 2179 (A) in the taxability matrix the commission provides in accordance with the agreement;
 2180 and

2181 (B) with respect to a term:

2182 (I) in the library of definitions; and
 2183 (II) that is:
 2184 (Aa) listed as taxable or exempt;
 2185 (Bb) included in or excluded from "sales price"; or
 2186 (Cc) included in or excluded from a definition.

2186a **H→ Section 20. Section 59-12-2212.1 is enacted to read:**

2186b **59-12-2212.1. Transition provisions.**

2186c **Notwithstanding any other provision of this part, a county, city, or town legislative**
 2186d **body is not required to submit an opinion question to the county's, city's, or town's registered**
 2186e **voters in accordance with Section 59-12-2208 and is not required to provide notice to the**
 2186f **commission in accordance with Section 59-12-2209 if:**

2186g **(1) (a) on June 30, 2010, a county, city, or town imposes a sales and use tax under**
 2186h **Section 59-12-501 that is repealed by this bill;**

2186i **(b) on July 1, 2010 the authority for the county, city, or town to impose the sales and**
 2186j **use tax described in Subsection (1)(a) is transferred to Section 59-12-2213; and**

2186k **(c) the rate of the sales and use tax described under Subsection (1)(a) and the rate of**
 2186l **the sales and use tax the county, city, or town imposes under Section 59-12-2213 are the same;**

2186m **(2) (a) on June 30, 2010, a county, city, or town imposes a sales and use tax under**
 2186n **Section 59-12-502 that is repealed by this bill;**

- 2186o (b) on July 1, 2010 the authority for the county, city, or town to impose the sales and
 2186p use tax described in Subsection (2)(a) is transferred to Section 59-12-2214; and
- 2186q (c) the rate of the sales and use tax described under Subsection (2)(a) and the rate of
 2186r the sales and use tax the county, city, or town imposes under Section 59-12-2214 are the same;
- 2186s (3) (a) on June 30, 2010, a city or town imposes a sales and use tax under
 2186t Section 59-12-1001 that is repealed by this bill;
- 2186u (b) on July 1, 2010, the authority for the city or town to impose the sales and use tax
 2186v described in Subsection (3)(a) is transferred to Section 59-12-2215; and
- 2186w (c) the rate of the sales and use tax described under Subsection (3)(a) and the rate of
 2186x the sales and use tax the city or town imposes under Section 59-12-2215 are the same;
- 2186y (4) (a) on June 30, 2010, a county imposes a sales and use tax under Section 59-12-1503
 2186z that is repealed by this bill;
- 2186aa (b) on July 1, 2010, the authority for the county to impose the sales and use tax
 2186ab described in Subsection (4)(a) is transferred to Section 59-12-2216; and
- 2186ac (c) the rate of the sales and use tax described under Subsection (4)(a) and the rate of
 2186ad the sales and use tax the county imposes under Section 59-12-2216 are the same;
- 2186ae (5) (a) on June 30, 2010, a county imposes a sales and use tax under Section 59-12-1703
 2186af that is repealed by this bill;
- 2186ag (b) on July 1, 2010, the authority for the county to impose the sales and use tax
 2186ah described in Subsection (5)(a) is transferred to Section 59-12-2217; and
- 2186ai (c) the rate of the sales and use tax described under Subsection (5)(a) and the rate of
 2186aj the sales and use tax the county imposes under Section 59-12-2217 are the same; and
- 2186ak (6) (a) on June 30, 2010, a county, city, or town imposes a sales and use tax under
 2186al Section 59-12-1903 that is repealed by this bill;
- 2186am (b) on July 1, 2010, the authority for the county, city, or town to impose the sales and
 2186an use tax described in Subsection (6)(a) is transferred to Section 59-12-2218; and
- 2186ao (c) the rate of the sales and use tax described under Subsection (6)(a) and the rate of the
 2186ap sales and use tax the county, city, or town imposes under Section 59-12-2218 are the same. ←H
- 2187 Section H→ [20] 21 ←H . Section 59-12-2213 is enacted to read:
- 2188 59-12-2213. County, city, or town option sales and use tax to fund a system for
 2189 public transit -- Base -- Rate.
- 2190 Subject to the other provision of this part, a county, city, or town may impose a sales
 2191 and use tax under this section of up to:
- 2192 (1) for a county, city, or town other than a county, city, or town described in Subsection

2193 (2), .25% on the transactions described in Subsection 59-12-103(1) located within the county,
2194 city, or town to fund a system for public transit; or
2195 (2) for a county, city, or town within which a tax is not imposed under Section
2196 59-12-2216, .30% on the transactions described in Subsection 59-12-103(1) located within the
2197 county, city, or town, to fund a system for public transit.

2198 Section ~~H~~→ [21] 22 ←~~H~~ . Section 59-12-2214 is enacted to read:

2199 **59-12-2214. County, city, or town option sales and use tax to fund a system for**
 2200 **public transit, an airport facility, or to be deposited into the County of the First Class**
 2201 **State Highway Projects Fund -- Base -- Rate.**

2202 (1) Subject to the other provisions of this part, a county, city, or town may impose a
 2203 sales and use tax of .25% on the transactions described in Subsection 59-12-103(1) located
 2204 within the county, city, or town.

2205 (2) Subject to Subsection (3), a county, city, or town that imposes a sales and use tax
 2206 under this section shall expend the revenues collected from the sales and use tax:

2207 (a) to fund a system for public transit;

2208 (b) to fund a project or service related to an airport facility for the portion of the project
 2209 or service that is performed within the county, city, or town within which the sales and use tax
 2210 is imposed:

2211 (i) for a county that imposes the sales and use tax, if the airport facility is part of the
 2212 regional transportation plan of the area metropolitan planning organization if a metropolitan
 2213 planning organization exists for the area; or

2214 (ii) for a city or town that imposes the sales and use tax, if:

2215 (A) that city or town is located within a county of the second class;

2216 (B) that city or town owns or operates the airport facility; and

2217 (C) an airline is headquartered in that city or town; or

2218 (c) for a combination of Subsections (2)(a) and (b).

2219 (3) A county of the first class that imposes a sales and use tax under this section shall
 2220 expend the revenues collected from the sales and use tax as follows:

2221 (a) 80% of the revenues collected from the sales and use tax shall be expended to fund
 2222 a system for public transit; and

2223 (b) 20% of the revenues collected from the sales and use shall be deposited into the
 2224 County of the First Class State Highway Projects Fund created by Section 72-2-121.

2224a ~~H~~→ **(4) Notwithstanding Section 59-12-2208, a county, city, or town legislative body is not**
 2224b **required to submit an opinion question to the county's, city's, or town's registered voters in**
 2224c **accordance with Section 59-12-2208 to impose a sales and use tax under this section if:**

2224d **(a) the county, city, or town imposes the sales and use tax under this section on or after**
 2224e **July 1, 2010, but on or before July 1, 2011;**

2224f **(b) on July 1, 2010, the county, city, or town imposes a sales and use tax under:**

2224g **(i) Section 59-12-2213; or**

2224h (ii) Section 59-12-2215; and
2224i (c) the county, city, or town obtained voter approval to impose the sales and use tax
2224j under:
2224k (i) Section 59-12-2213; or
2224l (ii) Section 59-12-2215. ←H
2225 Section H→ [22] 23 ←H . Section 59-12-2215 is enacted to read:
2226 59-12-2215. City or town option sales and use tax for highways or to fund a
2227 system for public transit -- Base -- Rate -- Ordinance requirements.
2228 (1) Subject to the other provisions of this part, a city or town may impose a sales and

2229 use tax of up to .30% on the transactions described in Subsection 59-12-103(1) located within
 2230 the city or town.

2231 (2) A city or town imposing a sales and use tax under this section shall expend the
 2232 revenues collected from the sales and use tax:

2233 (a) for the construction and maintenance of highways under the jurisdiction of the city
 2234 or town imposing the tax;

2235 (b) to fund a system for public transit; or

2236 (c) for a combination of Subsections (2)(a) and (b).

2237 Section ~~H~~→ [23] 24 ←~~H~~ . Section 59-12-2216 is enacted to read:

2238 **59-12-2216. County option sales and use tax for highways or to fund a system for**
 2239 **public transit -- Base -- Rate.**

2240 (1) Subject to the other provisions of this part, a county legislative body may impose a
 2241 sales and use tax of up to .30% on the transactions described in Subsection 59-12-103(1)
 2242 within the county, including the cities and towns within the county.

2243 (2) Subject to Subsection (3), before obtaining voter approval in accordance with
 2244 Section 59-12-2208, a county legislative body shall adopt a resolution specifying the
 2245 percentage of revenues the county will receive from the sales and use tax under this section that
 2246 will be allocated to fund one or more of the following:

2247 (a) a project or service relating to a fixed guideway for the portion of the project or
 2248 service that is performed within the county;

2249 (b) a project or service relating to a system for public transit, except for a fixed
 2250 guideway, for the portion of the project or service that is performed within the county;

2251 (c) the following relating to a state highway within the county:

2252 (i) a project within the county if the project:

2253 (A) begins on or after the day on which a county legislative body imposes a tax under
 2254 this section; and

2255 (B) involves an environmental study, an improvement, new construction, or a
 2256 renovation;

2257 (ii) debt service on a project described in Subsection (2)(c)(i); or

2258 (iii) bond issuance costs related to a project described in Subsection (2)(c)(i); or

2259 (d) a project, debt service, or bond issuance cost described in Subsection (2)(c) relating

2260 to a highway that is:

2261 (i) a principal arterial highway or minor arterial highway;

2262 (ii) included in a metropolitan planning organization's regional transportation plan; and

2263 (iii) not a state highway.

2264 (3) A county legislative body shall in the resolution described in Subsection (2)

2265 allocate 100% of the revenues the county will receive from the sales and use tax under this

2266 section for one or more of the purposes described in Subsection (2).

2267 (4) Notwithstanding Section 59-12-2208, the opinion question required by Section

2268 59-12-2208 shall state the allocations the county legislative body makes in accordance with this

2269 section.

2270 (5) The revenues collected from a sales and use tax under this section shall be:

2271 (a) allocated in accordance with the allocations specified in the resolution under

2272 Subsection (2); and

2273 (b) expended as provided in this section.

2274 (6) If a county legislative body allocates revenues collected from a sales and use tax

2275 under this section for a state highway project described in Subsection (2)(c)(i), before

2276 beginning the state highway project within the county, the county legislative body shall:

2277 (a) obtain approval from the Transportation Commission to complete the project; and

2278 (b) enter into an interlocal agreement established in accordance with Title 11, Chapter

2279 13, Interlocal Cooperation Act, with the Department of Transportation to complete the project.

2280 (7) If after a county legislative body imposes a sales and use tax under this section the

2281 county legislative body seeks to change an allocation specified in the resolution under

2282 Subsection (2), the county legislative body may change the allocation by:

2283 (a) adopting a resolution in accordance with Subsection (2) specifying the percentage

2284 of revenues the county will receive from the sales and use tax under this section that will be

2285 allocated to fund one or more of the items described in Subsection (2);

2286 (b) obtaining approval to change the allocation of the sales and use tax by a majority of

2287 all of the members of the county legislative body; and

2288 (c) subject to Subsection (8):

2289 (i) in accordance with Section 59-12-2208, submitting an opinion question to the

2290 county's registered voters voting on changing the allocation so that each registered voter has the

2291 opportunity to express the registered voter's opinion on whether the allocation should be
 2292 changed; and

2293 (ii) in accordance with Section 59-12-2208, obtaining approval to change the allocation
 2294 from a majority of the county's registered voters voting on changing the allocation.

2295 (8) Notwithstanding Section 59-12-2208, the opinion question required by Subsection
 2296 (7)(c)(i) shall state the allocations specified in the resolution adopted in accordance with
 2297 Subsection (7)(a) and approved by the county legislative body in accordance with Subsection
 2298 (7)(b).

2299 (9) Revenues collected from a sales and use tax under this section that a county
 2300 allocates for a purpose described in Subsection (2)(c) shall be:

2301 (a) deposited into the ~~H~~→ [State] ←~~H~~ Highway Projects Within Counties Fund created by
 2301a Section
 2302 72-2-121.1; and

2303 (b) expended as provided in Section 72-2-121.1.

2303a **~~H~~→ (10) (a) Notwithstanding Section 59-12-2206 and subject to Subsection (10)(b), revenues**
 2303b **collected from a sales and use tax under this section that a county allocates for a purpose**
 2303c **described in Subsection (2)(d) shall be transferred to the Department of Transportation if the**
 2303d **transfer of the revenues is required under an interlocal agreement:**

2303e **(i) entered into on or before January 1, 2010; and**

2303f **(ii) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.**

2303g **(b) The Department of Transportation shall expend the revenues described in**
 2303h **Subsection (10)(a) as provided in the interlocal agreement described in Subsection (10)(a). ←~~H~~**

2304 Section ~~H~~→ [24] 25 ←~~H~~ . Section 59-12-2217 is enacted to read:

2305 **59-12-2217. County option sales and use tax for transportation -- Base -- Rate --**

2306 **Written prioritization process -- Approval by county legislative body.**

2307 (1) Subject to the other provisions of this part, a county legislative body may impose a
 2308 sales and use tax of up to .25% on the transactions described in Subsection 59-12-103(1)
 2309 within the county, including the cities and towns within the county.

2310 (2) Subject to Subsections (3) through (8) and Section 59-12-2207, the revenues
 2311 collected from a sales and use tax under this section may only be expended for:

2312 (a) a project or service:

2313 (i) relating to a regionally significant transportation facility for the portion of the
 2314 project or service that is performed within the county;

2315 (ii) for new capacity or congestion mitigation if the project or service is performed

2316 within a county:
2317 (A) of the first or second class; or
2318 (B) if that county is part of an area metropolitan planning organization; and
2319 (iii) that is on a priority list:
2320 (A) created by the county's council of governments in accordance with Subsection (7);
2321 and

- 2322 (B) approved by the county legislative body in accordance with Subsection (7);
2323 (b) corridor preservation for a project or service described in Subsection (2)(a) as
2324 provided in Subsection (8); or
2325 (c) debt service or bond issuance costs related to a project or service described in
2326 Subsection (2)(a)(i) or (ii).
2327 (3) If a project or service described in Subsection (2) is for:
2328 (a) a principal arterial highway or a minor arterial highway in a county of the first or
2329 second class, that project or service shall be part of the:
2330 (i) county and municipal master plan; and
2331 (ii) (A) statewide long-range plan; or
2332 (B) regional transportation plan of the area metropolitan planning organization if a
2333 metropolitan planning organization exists for the area; or
2334 (b) a fixed guideway or an airport, that project or service shall be part of the regional
2335 transportation plan of the area metropolitan planning organization if a metropolitan planning
2336 organization exists for the area.
2337 (4) In a county of the first or second class, a regionally significant transportation
2338 facility project or service described in Subsection (2)(a)(i) shall have a funded year priority
2339 designation on a Statewide Transportation Improvement Program and Transportation
2340 Improvement Program if the project or service described in Subsection (2)(a)(i) is:
2341 (a) a principal arterial highway;
2342 (b) a minor arterial highway; or
2343 (c) a major collector highway in a rural area.
2344 (5) Of the revenues collected from a sales and use tax imposed under this section
2345 within a county of the first or second class, 25% or more shall be expended for the purpose
2346 described in Subsection (2)(b).
2347 (6) (a) As provided in this Subsection (6), a council of governments shall:
2348 (i) develop a written prioritization process for the prioritization of projects to be funded
2349 by revenues collected from a sales and use tax under this section;
2350 (ii) create a priority list of regionally significant transportation facility projects or
2351 services described in Subsection (2)(a)(i) in accordance with Subsection (7); and
2352 (iii) present the priority list to the county legislative body for approval in accordance

2353 with Subsection (7).

2354 (b) The written prioritization process described in Subsection (6)(a)(i) shall include:

2355 (i) a definition of the type of projects to which the written prioritization process

2356 applies;

2357 (ii) subject to Subsection (6)(c), the specification of a weighted criteria system that the

2358 council of governments will use to rank proposed projects and how that weighted criteria

2359 system will be used to determine which proposed projects will be prioritized;

2360 (iii) the specification of data that is necessary to apply the weighted criteria system;

2361 (iv) application procedures for a project to be considered for prioritization by the

2362 council of governments; and

2363 (v) any other provision the council of governments considers appropriate.

2364 (c) The weighted criteria system described in Subsection (6)(b)(ii) shall include the

2365 following:

2366 (i) the cost effectiveness of a project;

2367 (ii) the degree to which a project will mitigate regional congestion;

2368 (iii) the compliance requirements of applicable federal laws or regulations;

2369 (iv) the economic impact of a project;

2370 (v) the degree to which a project will require tax revenues to fund maintenance and

2371 operation expenses; and

2372 (vi) any other provision the council of governments considers appropriate.

2373 (d) A council of governments of a county of the first or second class shall submit the

2374 written prioritization process described in Subsection (6)(a)(i) to the Executive Appropriations

2375 Committee for approval prior to taking final action on:

2376 (i) the written prioritization process; or

2377 (ii) any proposed amendment to the written prioritization process.

2378 (7) (a) A council of governments shall use the weighted criteria system adopted in the

2379 written prioritization process developed in accordance with Subsection (6) to create a priority

2380 list of regionally significant transportation facility projects or services for which revenues

2381 collected from a sales and use tax under this section may be expended.

2382 (b) Before a council of governments may finalize a priority list or the funding level of a

2383 project, the council of governments shall conduct a public meeting on:

2384 (i) the written prioritization process; and
2385 (ii) the merits of the projects that are prioritized as part of the written prioritization
2386 process.

2387 (c) A council of governments shall make the weighted criteria system ranking for each
2388 project prioritized as part of the written prioritization process publicly available before the
2389 public meeting required by Subsection (7)(b) is held.

2390 (d) If a council of governments prioritizes a project over another project with a higher
2391 rank under the weighted criteria system, the council of governments shall:

2392 (i) identify the reasons for prioritizing the project over another project with a higher
2393 rank under the weighted criteria system at the public meeting required by Subsection (7)(b);
2394 and

2395 (ii) make the reasons described in Subsection (7)(d)(i) publicly available.

2396 (e) Subject to Subsections (7)(f) and (g), after a council of governments finalizes a
2397 priority list in accordance with this Subsection (7), the council of governments shall:

2398 (i) submit the priority list to the county legislative body for approval; and

2399 (ii) obtain approval of the priority list from a majority of the members of the county
2400 legislative body.

2401 (f) A council of governments may only submit one priority list per calendar year to the
2402 county legislative body.

2403 (g) A county legislative body may only consider and approve one priority list submitted
2404 under Subsection (7)(e) per calendar year.

2405 (8) (a) Except as provided in Subsection (8)(b), revenues collected from a sales and use
2406 tax under this section that a county allocates for a purpose described in Subsection (2)(b) shall
2407 be:

2408 (i) deposited in or transferred to the Local Transportation Corridor Preservation Fund
2409 created by Section 72-2-117.5; and

2410 (ii) expended as provided in Section 72-2-117.5.

2411 (b) In a county of the first class, revenues collected from a sales and use tax under this
2412 section that a county allocates for a purpose described in Subsection (2)(b) shall be:

2413 (i) deposited in or transferred to the County of the First Class State Highway Projects
2414 Fund created by Section 72-2-121; and

2415 (ii) expended as provided in Section 72-2-121.

2416 Section ~~H~~→ [25] 26 ←~~H~~ . Section 59-12-2218, which is renumbered from Section
59-12-1903 is

2417 renumbered and amended to read:

2418 ~~[59-12-1903]~~. 59-12-2218. County option sales and use tax for airports,
2419 **highways, and a system for public transit -- Base -- Rate -- Administration of sales and**
2420 **use tax.**

2421 (1) (a) Subject to the other provisions of this ~~[section and except as provided in~~
2422 ~~Subsection (2)]~~ part, the following may impose a sales and use tax under this ~~[part]~~ section:

2423 (i) if, on April 1, 2009, a county legislative body of a county of the second class
2424 imposes a sales and use tax under this ~~[part]~~ section, the county legislative body of the county
2425 of the second class may impose the sales and use tax on the transactions:

2426 (A) described in Subsection 59-12-103(1); and

2427 (B) within the county, including the cities and towns within the county; or

2428 (ii) if, on April 1, 2009, a county legislative body of a county of the second class does
2429 not impose a sales and use tax under this ~~[part]~~ section:

2430 (A) a city legislative body of a city within the county of the second class may impose a
2431 sales and use tax under this ~~[part]~~ section on the transactions described in Subsection
2432 59-12-103(1) within that city;

2433 (B) a town legislative body of a town within the county of the second class may impose
2434 a sales and use tax under this ~~[part]~~ section on the transactions described in Subsection
2435 59-12-103(1) within that town; and

2436 (C) the county legislative body of the county of the second class may impose a sales
2437 and use tax on the transactions described in Subsection 59-12-103(1):

2438 (I) within the county, including the cities and towns within the county, if on the date
2439 the county legislative body provides the notice described in ~~[Subsection (7)(a)]~~ Section
2440 59-12-2209 to the commission stating that the county will enact a sales and use tax under this
2441 ~~[part]~~ section, no city or town within that county:

2442 (Aa) imposes a sales and use tax under this ~~[part]~~ section; or

2443 (Bb) has provided the notice described in ~~[Subsection (7)(a)]~~ Section 59-12-2209 to the
2444 commission stating that the city or town will enact a sales and use tax under this ~~[part]~~ section;

2445 or

2446 (II) within the county, except for within a city or town within that county, if, on the
2447 date the county legislative body provides the notice described in [~~Subsection (7)(a)~~] Section
2448 59-12-2209 to the commission stating that the county will enact a sales and use tax under this
2449 [~~part~~] section, that city or town:

2450 (Aa) imposes a sales and use tax under this [~~part~~] section; or

2451 (Bb) has provided the notice described in [~~Subsection (7)(a)~~] Section 59-12-2209 to the
2452 commission stating that the city or town will enact a sales and use tax under this [~~part~~] section.

2453 (b) For purposes of Subsection (1)(a), a county, city, or town legislative body that
2454 imposes a sales and use tax under this [~~part~~] section may impose the tax at a rate of:

2455 (i) .10%, to be:

2456 (A) as determined by the county, city, or town legislative body, deposited as provided
2457 in Subsection [~~(4)(c)~~] (3)(b)(i) into the County of the Second Class State Highway Projects
2458 Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2;

2459 (B) as determined by the county, city, or town legislative body, expended for a project
2460 or service relating to an airport facility for the portion of the project or service that is performed
2461 within the county, city, or town within which the tax is imposed:

2462 (I) for a county legislative body that imposes the sales and use tax, if that airport
2463 facility is part of the regional transportation plan of the area metropolitan planning organization
2464 if a metropolitan planning organization exists for the area; or

2465 (II) for a city or town legislative body that imposes the sales and use tax, if:

2466 (Aa) that city or town owns or operates the airport facility; and

2467 (Bb) an airline is headquartered in that city or town; or

2468 (C) as determined by the county, city, or town legislative body, deposited or expended
2469 for a combination of Subsections (1)(b)(i)(A) and (B); or

2470 (ii) subject to Subsection (1)(c), .25%, to be expended as follows:

2471 (A) .10% to be deposited as provided in Subsection [~~(4)(c)(i)~~] (3)(b)(i) into the County
2472 of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended
2473 as provided in Section 72-2-121.2;

2474 (B) .05%, to be deposited as provided in Subsection [~~(4)(c)(ii)~~] (3)(b)(ii) into the Local
2475 Transportation Corridor Preservation Fund created by Section 72-2-117.5 and expended and
2476 distributed in accordance with Section 72-2-117.5; and

- 2477 (C) as determined by the county, city, or town legislative body, .10% to be:
- 2478 (I) deposited as provided in Subsection ~~[(4)(c)(i)]~~ (3)(b)(i) into the County of the
- 2479 Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as
- 2480 provided in Section 72-2-121.2;
- 2481 (II) expended for:
- 2482 (Aa) a state highway designated under Title 72, Chapter 4, Part 1, ~~[Designation of]~~
- 2483 State Highways ~~[Act]~~;
- 2484 (Bb) a local highway ~~[of regional significance]~~ that is a principal arterial highway,
- 2485 minor arterial highway, major collector highway, or minor collector road; or
- 2486 (Cc) a combination of Subsections (1)(b)(ii)(C)(II)(Aa) and (Bb);
- 2487 (III) expended for a project or service relating to a system for public transit for the
- 2488 portion of the project or service that is performed within the county, city, or town within which
- 2489 the sales and use tax is imposed;
- 2490 ~~[(IV) expended for a project or service relating to a fixed guideway for the portion of~~
- 2491 ~~the project or service that is performed within the county, city, or town within which the tax is~~
- 2492 ~~imposed;]~~
- 2493 ~~[(V)]~~ (IV) expended for a project or service relating to an airport facility for the portion
- 2494 of the project or service that is performed within the county, city, or town within which the
- 2495 sales and use tax is imposed:
- 2496 (Aa) for a county legislative body that imposes the sales and use tax, if that airport
- 2497 facility is part of the regional transportation plan of the area metropolitan planning organization
- 2498 if a metropolitan planning organization exists for the area; or
- 2499 (Bb) for a city or town legislative body that imposes the sales and use tax, if:
- 2500 (Ii) that city or town owns or operates the airport facility; and
- 2501 (Iiii) an airline is headquartered in that city or town; or
- 2502 ~~[(VI)]~~ (V) deposited or expended for a combination of Subsections (1)(b)(ii)(C)(I)
- 2503 through ~~[(V)]~~ (IV).
- 2504 (c) (i) Subject to the other provisions of this Subsection (1)(c), a city or town within
- 2505 which a sales and use tax is imposed at the tax rate described in Subsection (1)(b)(ii) may:
- 2506 (A) expend the revenues in accordance with Subsection (1)(b)(ii); or
- 2507 (B) expend the revenues in accordance with Subsections (1)(c)(ii) through (iv) if:

2508 (I) that city or town owns or operates an airport facility; and

2509 (II) an airline is headquartered in that city or town.

2510 (ii) ~~(A) [If a city or town within which a tax is imposed at the tax rate described in~~

2511 ~~Subsection (1)(b)(ii) owns or operates an airport facility at which an airline is headquartered,~~

2512 ~~the] A city or town legislative body of a city or town within which a sales and use tax is~~

2513 ~~imposed at the tax rate described in Subsection (1)(b)(ii) may expend the revenues collected~~

2514 ~~from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of~~

2515 ~~.25% for a purpose described in Subsection (1)(c)(ii)(B) if:~~

2516 ~~(I) that city or town owns or operates an airport facility; and~~

2517 ~~(II) an airline is headquartered in that city or town.~~

2518 ~~(B) A city or town described in Subsection (1)(c)(ii)(A) may expend the revenues~~

2519 ~~collected from a tax rate of greater than .10% but not to exceed the revenues collected from a~~

2520 ~~tax rate of .25% for:~~

2521 ~~[(A)] (I) a project or service relating to the airport facility; and~~

2522 ~~[(B)] (II) the portion of the project or service that is performed within the city or town~~

2523 ~~imposing the sales and use tax.~~

2524 (iii) If a city or town legislative body described in Subsection (1)(c)(ii)(A) determines

2525 to expend the revenues collected from a tax rate of greater than .10% but not to exceed the

2526 revenues collected from a tax rate of .25% for a project or service relating to an airport facility

2527 as allowed by Subsection (1)(c)(ii), any remaining revenues that are collected from the sales

2528 and use tax imposed at the tax rate described in Subsection (1)(b)(ii) that are not expended for

2529 the project or service relating to an airport facility as allowed by Subsection (1)(c)(ii) shall be

2530 expended as follows:

2531 (A) 75% of the remaining revenues shall be deposited as provided in Subsection

2532 ~~[(4)(d)] (3)(c)~~ into the County of the Second Class State Highway Projects Fund created by

2533 Section 72-2-121.2 and expended as provided in Section 72-2-121.2; and

2534 (B) 25% of the remaining revenues shall be deposited as provided in Subsection

2535 ~~[(4)(d)] (3)(c)~~ into the Local Transportation Corridor Preservation Fund created by Section

2536 72-2-117.5 and expended and distributed in accordance with Section 72-2-117.5.

2537 (iv) A city or town legislative body that expends the revenues collected from a sales

2538 and use tax imposed at the tax rate described in Subsection (1)(b)(ii) in accordance with

2539 Subsections (1)(c)(ii) and (iii):

2540 (A) shall, on or before the date the city or town legislative body provides the notice
2541 described in [~~Subsection (7)(a)] Section 59-12-2209 to the commission stating that the city or
2542 town will enact a sales and use tax under this [~~part~~] section:~~

2543 (I) determine the tax rate:

2544 (Aa) the collections from which the city or town legislative body will expend for a
2545 project or service relating to an airport facility as allowed by Subsection (1)(c)(ii); and

2546 (Bb) at a percentage that is greater than .10% but does not exceed .25%; and

2547 (II) notify the commission in writing of the tax rate the city or town legislative body
2548 determines in accordance with Subsection (1)(c)(iv)(A)(I);

2549 (B) shall, on or before the April 1 immediately following the date the city or town
2550 legislative body provides the notice described in Subsection (1)(c)(iv)(A) to the commission:

2551 (I) determine the tax rate:

2552 (Aa) the collections from which the city or town legislative body will expend for a
2553 project or service relating to an airport facility as allowed by Subsection (1)(c)(ii); and

2554 (Bb) at a percentage that is greater than .10% but does not exceed .25%; and

2555 (II) notify the commission in writing of the tax rate the city or town legislative body
2556 determines in accordance with Subsection (1)(c)(iv)(B)(I);

2557 (C) shall, on or before April 1 of each year after the April 1 described in Subsection
2558 (1)(c)(iv)(B):

2559 (I) determine the tax rate:

2560 (Aa) the collections from which the city or town legislative body will expend for a
2561 project or service relating to an airport facility as allowed by Subsection (1)(c)(ii); and

2562 (Bb) at a percentage that is greater than .10% but does not exceed .25%; and

2563 (II) notify the commission in writing of the tax rate the city or town legislative body
2564 determines in accordance with Subsection (1)(c)(iv)(C)(I); and

2565 (D) may not change the tax rate the city or town legislative body determines in
2566 accordance with Subsections (1)(c)(iv)(A) through (C) more frequently than as prescribed by
2567 Subsections (1)(c)(iv)(A) through (C).

2568 [~~(d) If a county legislative body imposes a tax under this part, regardless of whether the
2569 tax under this part is imposed within all of the cities and towns within the county, the county~~

2570 legislative body may not impose a tax under Part 17, County Option Sales and Use Tax for
 2571 Transportation Act.]

2572 [(e) For purposes of this Subsection (1), the location of a transaction shall be
 2573 determined in accordance with Sections 59-12-211 through 59-12-215.]

2574 [(2)(a) A county, city, or town legislative body may not impose a tax under this part
 2575 on:]

2576 [(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
 2577 are exempt from taxation under Section 59-12-104; or]

2578 [(ii) except as provided in Subsection (2)(b), amounts paid or charged for food and
 2579 food ingredients:]

2580 [(b) A county, city, or town legislative body imposing a tax under this part shall impose
 2581 the tax on amounts paid or charged for food and food ingredients if the food and food
 2582 ingredients are sold as part of a bundled transaction attributable to food and food ingredients
 2583 and tangible personal property other than food and food ingredients:]

2584 [(3)(a) To impose a tax under this part, a county, city, or town legislative body shall
 2585 obtain approval from a majority of the members of the county, city, or town legislative body.]

2586 [(b)] (2) Before a city or town legislative body may impose a sales and use tax under
 2587 this [part] section, the city or town legislative body shall provide a copy of the notice described
 2588 in [Subsection (7)(a)] Section 59-12-2209 that the city or town legislative body provides to the
 2589 commission:

2590 [(i)] (a) to the county legislative body within which the city or town is located; and

2591 [(ii)] (b) at the same time as the city or town legislative body provides the notice to the
 2592 commission.

2593 [(4)] (3) (a) Subject to Subsections [(4)] (3)(b) through [(f)] (e) and [except as provided
 2594 in Subsection (6)] Section 59-12-2207, the commission shall transmit revenues collected
 2595 within a county, city, or town from a tax under this part that will be expended for a purpose
 2596 described in Subsection (1)(b)(i)(B) or Subsections (1)(b)(ii)(C)(II) through [(v)] (IV)[:(i)] to
 2597 the county, city, or town legislative body[;] in accordance with Section 59-12-2206.

2598 [(ii) monthly; and]

2599 [(iii) by electronic funds transfer.]

2600 [(b) Except as provided in Subsection (6), the commission shall transfer the revenues

2601 described in Subsection (4)(a) directly to a public transit district organized under Title 17B,
 2602 Chapter 2a, Part 8, Public Transit District Act, if the county, city, or town legislative body:]

2603 [~~(i)~~ provides written notice to the commission requesting the transfer; and]

2604 [~~(ii)~~ designates the public transit district to which the county, city, or town legislative
 2605 body requests the commission to transfer the revenues described in Subsection (4)(a).:]

2606 [~~(e)~~] (b) Except as provided in Subsection [~~(4)(d)~~ or ~~(6)~~] (3)(c) and subject to Section
 2607 59-12-2207, the commission shall deposit revenues collected within a county, city, or town
 2608 from a sales and use tax under this [~~part~~] section that:

2609 (i) are required to be expended for a purpose described in Subsection (1)(b)(ii)(A) into
 2610 the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2;

2611 (ii) are required to be expended for a purpose described in Subsection (1)(b)(ii)(B) into
 2612 the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or

2613 (iii) a county, city, or town legislative body determines to expend for a purpose
 2614 described in Subsection (1)(b)(i)(A) or (1)(b)(ii)(C)(I) into the County of the Second Class
 2615 State Highway Projects Fund created by Section 72-2-121.2 if the county, city, or town
 2616 legislative body provides written notice to the commission requesting the deposit.

2617 [~~(d)~~] (c) Subject to Subsection [~~(4)(e)~~ or ~~(f)~~] (3)(d) or (e), if a city or town legislative
 2618 body provides notice to the commission in accordance with Subsection (1)(c)(iv), the
 2619 commission shall:

2620 (i) transmit the revenues collected from the tax rate stated on the notice to the city or
 2621 town legislative body[~~:(A)~~] monthly[~~; and (B)~~] by electronic funds transfer; and

2622 (ii) deposit any remaining revenues described in Subsection (1)(c)(iii) in accordance
 2623 with Subsection (1)(c)(iii).

2624 [~~(e)~~] (d) (i) If a city or town legislative body provides the notice described in
 2625 Subsection (1)(c)(iv)(A) to the commission, the commission shall transmit or deposit the
 2626 revenues collected from the sales and use tax:

2627 (A) in accordance with Subsection [~~(4)(d)~~] (3)(c);

2628 (B) beginning on the date the city or town legislative body enacts the sales and use tax;

2629 and

2630 (C) ending on the earlier of:

2631 (I) the June 30 immediately following the date the city or town legislative body

2632 provides the notice described in Subsection (1)(c)(iv)(B) to the commission; or

2633 (II) the date the city or town legislative body repeals the sales and use tax.

2634 (ii) If a city or town legislative body provides the notice described in Subsection

2635 (1)(c)(iv)(B) or (C) to the commission, the commission shall transmit or deposit the revenues

2636 collected from the sales and use tax:

2637 (A) in accordance with Subsection [~~(4)(d)~~] (3)(c);

2638 (B) beginning on the July 1 immediately following the date the city or town legislative
2639 body provides the notice described in Subsection (1)(c)(iv)(B) or (C) to the commission; and

2640 (C) ending on the earlier of:

2641 (I) the June 30 of the year after the date the city or town legislative body provides the
2642 notice described in Subsection (1)(c)(iv)(B) or (C) to the commission; or

2643 (II) the date the city or town legislative body repeals the sales and use tax.

2644 [~~(f)~~] (e) (i) If a city or town legislative body that is required to provide the notice

2645 described in Subsection (1)(c)(iv)(A) does not provide the notice described in Subsection

2646 (1)(c)(iv)(A) to the commission on or before the date required by Subsection (1)(c)(iv) for

2647 providing the notice, the commission shall transmit, transfer, or deposit the revenues collected

2648 from the sales and use tax within the city or town in accordance with Subsections [~~(4)(a)~~

2649 ~~through (c)~~] (3)(a) and (b).

2650 (ii) If a city or town legislative body that is required to provide the notice described in

2651 Subsection (1)(c)(iv)(B) or (C) does not provide the notice described in Subsection

2652 (1)(c)(iv)(B) or (C) to the commission on or before the date required by Subsection (1)(c)(iv)

2653 for providing the notice, the commission shall transmit or deposit the revenues collected from

2654 the sales and use tax within the city or town in accordance with:

2655 (A) Subsection [~~(4)(d)~~] (3)(c); and

2656 (B) the most recent notice the commission received from the city or town legislative

2657 body under Subsection (1)(c)(iv).

2657a **Ĥ→ (4) Notwithstanding Section 59-12-2208, a county, city, or town legislative body is not**

2657b **required to submit an opinion question to the county's, city's, or town's registered voters in**

2657c **accordance with Section 59-12-2208 to impose a sales and use tax under this section if:**

2657d **(a) the county, city, or town imposes the sales and use tax under this section on or after**

2657e **July 1, 2010, but on or before July 1, 2011; and**

2657f **(b) a purpose for which the county, city, or town will expend revenues collected from**

2657g **the sales and use tax under this section is:**

2657h **(i) a project or service described in Subsection (1)(b)(i)(B); or**

2657i **(ii) a project or service described in Subsection (1)(b)(ii)(C)(IV).** ←H
2658 [~~(5) (a) Except as provided in Subsection (5)(b), the commission shall administer;~~
2659 collect, and enforce a tax under this part in accordance with:]
2660 [~~(i) the same procedures used to administer, collect, and enforce the tax under:]
2661 [~~(A) Part 1, Tax Collection; or]~~
2662 [~~(B) Part 2, Local Sales and Use Tax Act; and]~~~~

2663 ~~[(ii) Chapter 1, General Taxation Policies.]~~
2664 ~~[(b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).]~~
2665 ~~[(6) (a) The commission may retain an amount of tax collected under this part of not to~~
2666 ~~exceed the lesser of:]~~
2667 ~~[(i) 1.50%; or]~~
2668 ~~[(ii) an amount equal to the cost to the commission of administering this part.]~~
2669 ~~[(b) Any amount the commission retains under Subsection (6)(a) shall be:]~~
2670 ~~[(i) deposited into the Sales and Use Tax Administrative Fees Account; and]~~
2671 ~~[(ii) used as provided in Subsection 59-12-206(2).]~~
2672 ~~[(7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1,~~
2673 ~~2009, a county, city, or town enacts or repeals a tax or changes the rate of a tax under this part,~~
2674 ~~the enactment, repeal, or change shall take effect:]~~
2675 ~~[(A) on the first day of a calendar quarter; and]~~
2676 ~~[(B) after a 90-day period beginning on the date the commission receives notice~~
2677 ~~meeting the requirements of Subsection (7)(a)(ii) from the county, city, or town.]~~
2678 ~~[(ii) The notice described in Subsection (7)(a)(i)(B) shall state:]~~
2679 ~~[(A) that the county, city, or town will enact, repeal, or change the rate of a tax under~~
2680 ~~this part;]~~
2681 ~~[(B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);]~~
2682 ~~[(C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and]~~
2683 ~~[(D) if the county, city, or town enacts the tax or changes the rate of the tax described~~
2684 ~~in Subsection (7)(a)(ii)(A), the rate of the tax.]~~
2685 ~~[(b) (i) If the billing period for a transaction begins before the effective date of the~~
2686 ~~enactment of the tax or the tax rate increase under Subsection (1), the enactment of a tax or a~~
2687 ~~tax rate increase shall take effect on the first day of the first billing period that begins after the~~
2688 ~~effective date of the enactment of the tax or the tax rate increase.]~~
2689 ~~[(ii) If the billing period for a transaction begins before the effective date of the repeal~~
2690 ~~of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate~~
2691 ~~decrease shall take effect on the first day of the last billing period that began before the~~
2692 ~~effective date of the repeal of the tax or the tax rate decrease.]~~
2693 ~~[(c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales~~

2694 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
2695 described in Subsection (7)(a)(i) takes effect:]

2696 [(A) on the first day of a calendar quarter; and]

2697 [(B) beginning 60 days after the effective date of the enactment, repeal, or change in
2698 the rate of the tax under Subsection (7)(a)(i).]

2699 [(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
2700 the commission may by rule define the term "catalogue sale."]

2701 [(d) (i) Except as provided in Subsection (7)(c) or (f), if, for an annexation that occurs
2702 on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the
2703 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
2704 effect:]

2705 [(A) on the first day of a calendar quarter; and]

2706 [(B) after a 90-day period beginning on the date the commission receives notice
2707 meeting the requirements of Subsection (7)(d)(ii) from the county, city, or town that annexes
2708 the annexing area.]

2709 [(ii) The notice described in Subsection (7)(d)(i)(B) shall state:]

2710 [(A) that the annexation described in Subsection (7)(d)(i)(B) will result in an
2711 enactment, repeal, or change in the rate of a tax under this part for the annexing area;]

2712 [(B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);]

2713 [(C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and]

2714 [(D) if the county, city, or town enacts the tax or changes the rate of the tax described
2715 in Subsection (7)(d)(ii)(A), the rate of the tax.]

2716 [(e) (i) If the billing period for a transaction begins before the effective date of the
2717 enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax
2718 rate increase shall take effect on the first day of the first billing period that begins after the
2719 effective date of the enactment of the tax or the tax rate increase.]

2720 [(ii) If the billing period for a transaction begins before the effective date of the repeal
2721 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate
2722 decrease shall take effect on the first day of the last billing period that began before the
2723 effective date of the repeal of the tax or the tax rate decrease.]

2724 [(f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales

2725 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
 2726 described in Subsection (7)(d)(i) takes effect:]

2727 [(A) on the first day of a calendar quarter; and]

2728 [(B) beginning 60 days after the effective date of the enactment, repeal, or change in
 2729 the rate under Subsection (7)(d)(i).]

2730 [(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
 2731 the commission may by rule define the term "catalogue sale."]

2732 Section ~~H~~→ [26] 27 ←~~H~~ . Section **63B-11-501** is amended to read:

2733 **63B-11-501. State Bonding Commission authorized to issue general obligation**
 2734 **bonds.**

2735 Upon receipt of a written opinion from the Utah Attorney General that Salt Lake
 2736 County has entered a binding legal agreement with the state in which Salt Lake County agrees,
 2737 until all of the principal, interest, and issuance costs on the bonds have been paid, to annually
 2738 transfer enough of the [~~1/4 of 1/4%~~ of sales tax proceeds earmarked by Section 59-12-502]
 2739 amount described in Subsection 59-12-2214(3)(b) to the sinking fund created in Section
 2740 63B-11-508 to pay the principal, interest, and issuance costs for any general obligation bonds
 2741 issued to provide funds for any of the Salt Lake County transportation projects identified in
 2742 Section 63B-11-502, the commission created under Section 63B-1-201 may issue and sell
 2743 general obligation bonds of the state pledging the full faith, credit, and resources of the state for
 2744 the payment of the principal of and interest on the bonds, to provide funds to the Department of
 2745 Transportation.

2746 Section ~~H~~→ [27] 28 ←~~H~~ . Section **63B-11-502** is amended to read:

2747 **63B-11-502. Maximum amount -- Projects authorized.**

2748 (1) The total amount of bonds issued under this part may not exceed \$52,101,800.

2749 (2) (a) (i) Proceeds from the issuance of bonds shall be provided to the Department of
 2750 Transportation to provide funds to pay all or part of the costs of accelerating any of the
 2751 following state highway construction or reconstruction projects in Salt Lake County:

2752 (A) I-15: 10600 South to the Utah County line;

2753 (B) Final Environmental Impact Statement for Western Transportation Corridor: I-80
 2754 to Utah County;

2755 (C) I-215: Redwood Road to 4700 South;

2756 (D) State Street Reconstruction: 9000 South to 10600 South; and

2757 (E) except as provided in Subsection (2)(d), State Street Reconstruction: 7800 South to
2758 8000 South.

2759 (ii) If the Department of Transportation is unable to begin or complete a project
2760 authorized by this Subsection (2)(a) because of a court order, the Department of
2761 Transportation, with the approval of Salt Lake County, may expend bond proceeds to construct
2762 one or more projects identified in Subsection (2)(e).

2763 (b) When the Utah Transit Authority certifies to the Transportation Commission that
2764 the Utah Transit Authority will pay half the costs of reconstruction of the Utah Transit
2765 Authority railroad overpass on 8000 South State Street, the Department of Transportation may
2766 provide funds from bond proceeds to pay the other half of the costs of reconstruction of the
2767 Utah Transit Authority railroad overpass on 8000 South.

2768 (c) As used in Subsections (2)(a) and (b), "costs" may include the cost of acquiring
2769 land, interests in land, easements and rights-of-way, improving sites, and making all
2770 improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue
2771 on these bonds during the period to be covered by construction of the projects plus a period of
2772 six months after the end of the construction period, interest estimated to accrue on any bond
2773 anticipation notes issued under the authority of Chapter 11, Part 6, 2002 Highway General
2774 Obligation Bond Anticipation Notes for Salt Lake County, and all related engineering,
2775 architectural, and legal fees.

2776 (d) Bond proceeds may not be expended on the State Street Reconstruction: 7800 to
2777 8000 South project until the Transportation Commission has received the certification required
2778 by Subsection (2)(b) from the Utah Transit Authority.

2779 (e) As the following projects or future projects identified by Salt Lake County and the
2780 Legislature are prepared and ready for construction by the Department of Transportation, it is
2781 the intent of the Legislature that they will be accelerated and funded from future general
2782 obligation bonds issued in anticipation of receiving debt service funds from [~~Salt Lake~~
2783 ~~County's 1/4 of 1/4% sales tax proceeds earmarked by Section 59-12-502]~~ the amount
2784 described in Subsection 59-12-2214(3)(b) and from other funding sources available to the
2785 Department of Transportation, including monies available from the Centennial Highway Fund
2786 and the Statewide Transportation Improvement Plan: 5600 West Reconstruction: 4500 South to

2787 7000 South; Redwood Road: 12600 South to Bangerter Highway; I-15: Beck Street Overpass;
 2788 I-215: 4700 South to SR-201; acquisition of rights-of-way for the Western Transportation
 2789 Corridor; 11400 South: I-15 to Redwood Road; and State Street Reconstruction 6400 South to
 2790 7800 South and 8000 South to 9000 South.

2791 (3) If any portion of the proceeds of the tax paid to the state are not required to pay
 2792 principal, interest, and issuance costs of the bonds and the principal, interest, and issuance costs
 2793 of the bond have been paid off, or if, after completion of the projects authorized under
 2794 Subsection (2)(a) and payment of the costs of issuing and selling the bonds under Section
 2795 63B-11-503, any bond proceeds remain unexpended, the Department of Transportation may
 2796 use those unexpended proceeds to pay all or part of the costs of construction projects in Salt
 2797 Lake County that have been approved and prioritized by the Transportation Commission.

2798 (4) The commission, by resolution, or the state treasurer may make any statement of
 2799 intent relating to a reimbursement that is necessary or desirable to comply with federal tax law.

2800 (5) The Department of Transportation may enter into agreements related to the projects
 2801 before the receipt of proceeds of bonds issued under this chapter.

2802 Section ~~H~~→ [28] 29 ←~~H~~ . Section 72-2-117.5 is amended to read:

2803 **72-2-117.5. Local Transportation Corridor Preservation Fund -- Distribution.**

2804 (1) As used in this section:

2805 (a) "Council of governments" means a decision-making body in each county composed
 2806 of the county governing body and the mayors of each municipality in the county.

2807 (b) "Metropolitan planning organization" has the same meaning as defined in Section
 2808 72-1-208.5.

2809 (2) There is created the Local Transportation Corridor Preservation Fund within the
 2810 Transportation Fund.

2811 (3) The fund shall be funded from the following sources:

2812 (a) a local option highway construction and transportation corridor preservation fee
 2813 imposed under Section 41-1a-1222;

2814 (b) appropriations made to the fund by the Legislature;

2815 (c) contributions from other public and private sources for deposit into the fund;

2816 (d) all monies collected from rents and sales of real property acquired with fund
 2817 monies;

2818 (e) proceeds from general obligation bonds, revenue bonds, or other obligations issued
2819 as authorized by Title 63B, Bonds;

2820 (f) the portion of the sales and use tax described in Subsection [~~59-12-1703(4)(a)(ii)~~]
2821 59-12-2217(2)(b) and required by Subsection [~~59-12-1703(7)(b)(i)~~] 59-12-2217(8)(a) to be
2822 deposited into the fund; and

2823 (g) sales and use tax revenues deposited into the fund in accordance with Section
2824 [~~59-12-1903~~] 59-12-2218.

2825 (4) (a) The fund shall earn interest.

2826 (b) All interest earned on fund monies shall be deposited into the fund.

2827 (c) All monies appropriated to the Local Transportation Corridor Preservation Fund are
2828 nonlapsing.

2829 (d) The State Tax Commission shall provide the department with sufficient data for the
2830 department to allocate the revenues:

2831 (i) provided under Subsection (3)(a) to each county imposing a local option highway
2832 construction and transportation corridor preservation fee under Section 41-1a-1222;

2833 (ii) provided under Subsection [~~59-12-1703(4)(a)(ii)~~] 59-12-2217(2)(b) to each county
2834 imposing a county option sales and use tax for transportation; and

2835 (iii) provided under Subsection (3)(g) to each county of the second class or city or town
2836 within a county of the second class that imposes the sales and use tax authorized by Section
2837 [~~59-12-1903~~] 59-12-2218.

2838 (e) (i) The department shall annually allocate the interest earned on fund monies to
2839 each county based on the proportionate amount of interest earned on each county's allocation of
2840 funds under Subsection (4)(d) on an average monthly balance basis.

2841 (ii) The initial annual allocation of fund interest shall include all interest earned on
2842 fund monies since the creation of the fund.

2843 (f) The monies allocated under Subsection (4)(d):

2844 (i) shall be used for the purposes provided in this section for each county, city, or town;
2845 and

2846 (ii) are allocated to each county, city or town as provided in this section:

2847 (A) with the condition that the state will not be charged for any asset purchased with
2848 the monies allocated under Subsections (4)(d) and (e); and

2849 (B) are considered a local matching contribution for the purposes described under
2850 Section 72-2-123 if used on a state highway.

2851 (g) Administrative costs of the department to implement this section shall be paid from
2852 the fund.

2853 (5) (a) The department shall authorize the expenditure of fund monies to allow a
2854 highway authority to acquire real property or any interests in real property for state, county, and
2855 municipal highway corridors subject to:

2856 (i) monies available in the fund to each county under Subsections (4)(d) and (e); and

2857 (ii) the provisions of this section.

2858 (b) Fund monies may be used to pay interest on debts incurred in accordance with this
2859 section.

2860 (c) (i) (A) Fund monies may be used to pay maintenance costs of properties acquired
2861 under this section but limited to a total of 5% of the purchase price of the property.

2862 (B) Any additional maintenance cost shall be paid from funds other than under this
2863 section.

2864 (C) Revenue generated by any property acquired under this section is excluded from
2865 the limitations under this Subsection (5)(c)(i).

2866 (ii) Fund monies may be used to pay direct costs of acquisition of properties acquired
2867 under this section.

2868 (d) Fund monies allocated under Subsections (4)(d) and (e) may be used by a county
2869 highway authority for countywide transportation planning if:

2870 (i) the county is not included in a metropolitan planning organization;

2871 (ii) the transportation planning is part of the county's continuing, cooperative, and
2872 comprehensive process for transportation planning, corridor preservation, right-of-way
2873 acquisition, and project programming;

2874 (iii) no more than four years allocation every 20 years to each county is used for
2875 transportation planning under this Subsection (5)(d); and

2876 (iv) the county otherwise qualifies to use the fund monies as provided under this
2877 section.

2878 (e) (i) Subject to Subsection (11), fund monies allocated under Subsections (4)(d) and
2879 (e) may be used by a county highway authority for transportation corridor planning that is part

2880 of the corridor elements of an ongoing work program of transportation projects.

2881 (ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the
2882 direction of:

2883 (A) the metropolitan planning organization if the county is within the boundaries of a
2884 metropolitan planning organization; or

2885 (B) the department if the county is not within the boundaries of a metropolitan
2886 planning organization.

2887 (6) (a) (i) The Local Transportation Corridor Preservation Fund shall be used to
2888 preserve highway corridors, promote long-term statewide transportation planning, save on
2889 acquisition costs, and promote the best interests of the state in a manner which minimizes
2890 impact on prime agricultural land.

2891 (ii) The Local Transportation Corridor Preservation Fund shall only be used to preserve
2892 a highway corridor that is right-of-way:

2893 (A) in a county of the first or second class for a:

2894 (I) state highway;

2895 (II) a principal arterial highway as defined in Section 72-4-102.5;

2896 (III) a minor arterial highway as defined in Section 72-4-102.5; or

2897 (IV) a collector highway in an urban area as defined in Section 72-4-102.5; or

2898 (B) in a county of the third, fourth, fifth, or sixth class for a:

2899 (I) state highway;

2900 (II) a principal arterial highway as defined in Section 72-4-102.5;

2901 (III) a minor arterial highway as defined in Section 72-4-102.5;

2902 (IV) a major collector highway as defined in Section 72-4-102.5; or

2903 (V) a minor collector road as defined in Section 72-4-102.5.

2904 (iii) The Local Transportation Corridor Preservation Fund may not be used for a
2905 highway corridor that is primarily a recreational trail as defined under Section 79-5-102.

2906 (b) (i) The department shall develop and implement a program to educate highway
2907 authorities on the objectives, application process, use, and responsibilities of the Local
2908 Transportation Corridor Preservation Fund as provided under this section to promote the most
2909 efficient and effective use of fund monies including priority use on designated high priority
2910 corridor preservation projects.

2911 (ii) The department shall develop a model transportation corridor property acquisition
2912 policy or ordinance that meets federal requirements for the benefit of a highway authority to
2913 acquire real property or any interests in real property under this section.

2914 (c) The department shall authorize the expenditure of fund monies after determining
2915 that the expenditure is being made in accordance with this section from applications that are:

2916 (i) made by a highway authority;

2917 (ii) endorsed by the council of governments; and

2918 (iii) for a right-of-way purchase for a highway authorized under Subsection (6)(a)(ii).

2919 (7) (a) (i) A council of governments shall establish a council of governments
2920 endorsement process which includes prioritization and application procedures for use of the
2921 monies allocated to each county under this section.

2922 (ii) The endorsement process under Subsection (7)(a)(i) may include review or
2923 endorsement of the preservation project by the:

2924 (A) metropolitan planning organization if the county is within the boundaries of a
2925 metropolitan planning organization; or

2926 (B) the department if the county is not within the boundaries of a metropolitan
2927 planning organization.

2928 (b) All fund monies shall be prioritized by each highway authority and council of
2929 governments based on considerations, including:

2930 (i) areas with rapidly expanding population;

2931 (ii) the willingness of local governments to complete studies and impact statements
2932 that meet department standards;

2933 (iii) the preservation of corridors by the use of local planning and zoning processes;

2934 (iv) the availability of other public and private matching funds for a project;

2935 (v) the cost-effectiveness of the preservation projects;

2936 (vi) long and short-term maintenance costs for property acquired; and

2937 (vii) whether the transportation corridor is included as part of:

2938 (A) the county and municipal master plan; and

2939 (B) (I) the statewide long range plan; or

2940 (II) the regional transportation plan of the area metropolitan planning organization if
2941 one exists for the area.

- 2942 (c) The council of governments shall:
- 2943 (i) establish a priority list of highway corridor preservation projects within the county;
- 2944 (ii) submit the list described in Subsection (7)(c)(i) to the county's legislative body for
- 2945 approval; and
- 2946 (iii) obtain approval of the list described in Subsection (7)(c)(i) from a majority of the
- 2947 members of the county legislative body.
- 2948 (d) A county's council of governments may only submit one priority list described in
- 2949 Subsection (7)(c)(i) per calendar year.
- 2950 (e) A county legislative body may only consider and approve one priority list described
- 2951 in Subsection (7)(c)(i) per calendar year.
- 2952 (8) (a) Unless otherwise provided by written agreement with another highway
- 2953 authority, the highway authority that holds the deed to the property is responsible for
- 2954 maintenance of the property.
- 2955 (b) The transfer of ownership for property acquired under this section from one
- 2956 highway authority to another shall include a recorded deed for the property and a written
- 2957 agreement between the highway authorities.
- 2958 (9) (a) The proceeds from any bonds or other obligations secured by revenues of the
- 2959 Local Transportation Corridor Preservation Fund shall be used for the purposes authorized for
- 2960 funds under this section.
- 2961 (b) The highway authority shall pledge the necessary part of the revenues of the Local
- 2962 Transportation Corridor Preservation Fund to the payment of principal and interest on the
- 2963 bonds or other obligations.
- 2964 (10) (a) A highway authority may not apply for monies under this section to purchase a
- 2965 right-of-way for a state highway unless the highway authority has:
- 2966 (i) a transportation corridor property acquisition policy or ordinance in effect that
- 2967 meets federal requirements for the acquisition of real property or any interests in real property
- 2968 under this section; and
- 2969 (ii) an access management policy or ordinance in effect that meets the requirements
- 2970 under Subsection 72-2-117(9).
- 2971 (b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a
- 2972 written agreement with the department for the acquisition of real property or any interests in

2973 real property under this section.

2974 (11) (a) The department shall, in expending or authorizing the expenditure of fund
2975 monies, ensure to the extent possible that the fund monies allocated to a city or town in
2976 accordance with Subsection (4) are expended:

2977 (i) to fund a project or service as allowed by this section within the city or town to
2978 which the fund monies are allocated;

2979 (ii) to pay debt service, principal, or interest on a bond or other obligation as allowed
2980 by this section if that bond or other obligation is:

2981 (A) secured by monies allocated to the city or town; and

2982 (B) issued to finance a project or service as allowed by this section within the city or
2983 town to which the fund monies are allocated;

2984 (iii) to fund transportation planning as allowed by this section within the city or town
2985 to which the fund monies are allocated; or

2986 (iv) for another purpose allowed by this section within the city or town to which the
2987 fund monies are allocated.

2988 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2989 department may make rules to implement the requirements of Subsection (11)(a).

2990 Section ~~H~~→ [29] 30 ←~~H~~ . Section **72-2-121** is amended to read:

2991 **72-2-121. County of the First Class State Highway Projects Fund.**

2992 (1) There is created a special revenue fund entitled the County of the First Class State
2993 Highway Projects Fund.

2994 (2) The fund consists of monies generated from the following revenue sources:

2995 (a) any voluntary contributions received for new construction, major renovations, and
2996 improvements to state highways within a county of the first class;

2997 (b) the portion of the sales and use tax described in Subsection [~~59-12-502(5)(a)]~~
2998 59-12-2214(3) ~~H~~→ [~~(a)~~] **(b)** ←~~H~~ deposited in or transferred to the fund;

2999 (c) the portion of the sales and use tax described in Subsection [~~59-12-1703(4)(a)(ii)]~~
3000 59-12-2217(2)(b) and required by Subsection [~~59-12-1703(7)(b)(ii)]~~ 59-12-2217(8)(b) to be
3001 deposited in or transferred to the fund; and

3002 (d) a portion of the local option highway construction and transportation corridor
3003 preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited in or

3004 transferred to the fund.

3005 (3) (a) The fund shall earn interest.

3006 (b) All interest earned on fund monies shall be deposited into the fund.

3007 (4) The executive director shall use fund monies only:

3008 (a) to pay debt service and bond issuance costs for bonds issued under Sections
3009 63B-16-102 and 63B-18-402;

3010 (b) for right-of-way acquisition, new construction, major renovations, and
3011 improvements to state highways within a county of the first class and to pay any debt service
3012 and bond issuance costs related to those projects;

3013 (c) for fiscal year 2008-09 only, to pay for or to provide funds to a municipality or
3014 county to pay for right-of-way acquisition, construction, reconstruction, renovations, and
3015 improvements to highways described in Subsection 63B-16-102(3); and

3016 (d) for fiscal year 2009-10 only, to pay for or to provide funds to a municipality or
3017 county to pay for right-of-way acquisition, construction, reconstruction, renovations, and
3018 improvements to highways described in Subsection 63B-18-402(2).

3019 (5) (a) For fiscal years beginning with fiscal year 2010-11 and ending with fiscal year
3020 2012-13, the executive director shall use at least 20% of fund monies available that are not
3021 required to pay principal, interest, and issuance costs of bonds issued under Sections
3022 63B-16-102 and 63B-18-402 to pay for:

3023 (i) east-west transportation route improvements in a county of the first class; and

3024 (ii) state highway capacity improvement and congestion mitigation projects in a county
3025 of the first class.

3026 (b) For a fiscal year beginning on or after July 1, 2013, the executive director shall use
3027 at least 25% of fund monies available that are not required to pay principal, interest, and
3028 issuance costs of bonds issued under Sections 63B-16-102 and 63B-18-402 to pay for:

3029 (i) east-west transportation route improvements in a county of the first class; and

3030 (ii) state highway capacity improvement and congestion mitigation projects in a county
3031 of the first class.

3032 (6) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the
3033 fund and bond proceeds from bonds issued under Sections 63B-16-102 and 63B-18-402 are
3034 considered a local matching contribution for the purposes described under Section 72-2-123.

3035 (7) The additional administrative costs of the department to administer this fund shall
3036 be paid from the monies in the fund.

3037 Section ~~H→~~ [30] 31 ~~←H~~ . Section 72-2-121.1 is amended to read:

3038 **72-2-121.1. Highway Projects Within Counties Fund -- Accounting for revenues**
3039 **-- Interest -- Expenditure of revenues.**

3040 (1) There is created a special revenue fund known as the Highway Projects Within
3041 Counties Fund.

3042 (2) The Highway Projects Within Counties Fund shall be funded by revenues generated
3043 by a tax imposed by a county under [~~Title 59, Chapter 12, Part 15, County Option Sales and~~
3044 ~~Use Tax for Highways, Fixed Guideways, or Systems for Public Transit Act~~] Section
3045 59-12-2216, if those revenues are allocated:

3046 (a) for a purpose described in Subsection [~~59-12-1503(2)(a)(iii)~~] 59-12-2216(2)(c); and

3047 (b) in accordance with Section [~~59-12-1503~~] 59-12-2216.

3048 (3) The department shall make a separate accounting for:

3049 (a) the revenues described in Subsection (2); and

3050 (b) each county for which revenues are deposited into the Highway Projects Within
3051 Counties Fund.

3052 (4) (a) The Highway Projects Within Counties Fund shall earn interest.

3053 (b) The department shall allocate the interest earned on the ~~H→~~ [~~State~~] ~~←H~~ Highway

3053a Projects

3054 Within Counties Fund:

3055 (i) proportionately;

3056 (ii) to each county's balance in the Highway Projects Within Counties Fund; and

3057 (iii) on the basis of each county's balance in the Highway Projects Within Counties

3058 Fund.

3059 (5) ~~H→~~ [~~a~~] ~~←H~~ The department shall expend the revenues and interest deposited into the

3060 Highway Projects Within Counties Fund to pay:

3061 ~~H→~~ [(~~†~~)] (a) ~~←H~~ for a state highway project within the county:

3062 ~~H→~~ [(~~A~~)] (i) ~~←H~~ described in Subsection [~~59-12-1503(2)(a)(iii)(A)~~] 59-12-2216(2)(c)(i);

3062a and

3063 ~~H→~~ [(~~B~~)] (ii) ~~←H~~ for which the requirements of

3063a Subsection [~~59-12-1503(5)~~] 59-12-2216(6) are met;

3064 ~~H→~~ [(~~††~~)] (b) ~~←H~~ debt service on a project described in Subsection (5)(a) ~~H→~~ [(~~††~~)] ~~←H~~ ; or

3065 ~~H→~~ [(~~†††~~)] (c) ~~←H~~ bond issuance costs [~~relating~~] related to a project described in Subsection

3065a (5)(a) ~~H→~~ [(~~††~~)] ~~←H~~ .

3066 ~~Ĥ→ [(b) (i) If a county legislative body submits a request to the department in writing, the~~
 3067 ~~department shall transfer revenues and interest deposited into the Highway Projects Within~~
 3068 ~~Counties Fund to the county legislative body to pay:~~

3069 ~~—— (A) for a [local highway of regional significance] project described in Subsection~~
 3070 ~~[59-12-1503(2)(a)(iii)(A)] 59-12-2216(2)(d);~~

3071 ~~—— (B) debt service on a project described in Subsection (5)(b)(i)(A); or~~

3072 ~~—— (C) bond issuance costs [relating] related to a project described in Subsection~~
 3073 ~~(5)(b)(i)(A);~~

3074 ~~—— (ii) The request submitted under Subsection (5)(b)(i) shall specify:~~

3075 ~~—— (A) the amount of revenues requested for transfer; and~~

3076 ~~—— (B) the [local highway of regional significance] project described in Subsection~~

3077 ~~59-12-2216(2)(d) that the funds requested under this Subsection (5)(b) will be expended on.] ←Ĥ~~

3078 Section ~~Ĥ→~~ [31] 32 ←Ĥ . Section 72-2-121.2 is amended to read:

3079 **72-2-121.2. County of the Second Class State Highway Projects Fund -- Use of**
 3080 **fund monies.**

3081 (1) As used in this section, "fund" means the County of the Second Class State
 3082 Highway Projects Fund created by this section.

3083 (2) There is created within the Transportation Fund a special revenue fund known as
 3084 the County of the Second Class State Highway Projects Fund.

3085 (3) The fund shall be funded by monies collected from:

3086 (a) any voluntary contributions the department receives for new construction, major
 3087 renovations, and improvements to state highways within a county of the second class; and

3088 (b) sales and use taxes deposited into the fund in accordance with Section
 3089 [~~59-12-1903~~] 59-12-2218.

3090 (4) The department shall make a separate accounting for:

3091 (a) the revenues described in Subsection (3); and

3092 (b) each county of the second class or city or town within a county of the second class
 3093 for which revenues are deposited into the fund.

3094 (5) (a) The fund shall earn interest.

3095 (b) Interest earned on fund monies shall be deposited into the fund.

3096 (6) Subject to Subsection (9), the executive director may use fund monies only:

3097 (a) for right-of-way acquisition, new construction, major renovations, and
3098 improvements to state highways within a county of the second class or a city or town within a
3099 county of the second class in an amount that does not exceed the amounts deposited for or
3100 allocated to that county of the second class or city or town within a county of the second class
3101 in accordance with this section;

3102 (b) to pay any debt service and bond issuance costs related to a purpose described in
3103 Subsection (6)(a) in an amount that does not exceed the amounts deposited for or allocated to
3104 that county of the second class or city or town within a county of the second class described in
3105 Subsection (6)(a) in accordance with this section; and

3106 (c) to pay the costs of the department to administer the fund in an amount not to exceed
3107 interest earned by the fund monies.

3108 (7) If interest remains in the fund after the executive director pays the costs of the
3109 department to administer the fund, the interest shall be:

3110 (a) allocated to each county of the second class or city or town within a county of the
3111 second class for which revenues are deposited into the fund in proportion to the deposits made
3112 into the fund for that county of the second class or city or town within a county of the second
3113 class; and

3114 (b) expended for the purposes described in Subsection (6).

3115 (8) Revenues described in Subsection (3)(b) that are deposited into the fund are
3116 considered to be a local matching contribution for the purposes described in Section 72-2-123.

3117 (9) (a) The executive director shall, in using fund monies, ensure to the extent possible
3118 that the fund monies deposited for or allocated to a city or town are used:

3119 (i) for a purpose described in Subsection (6)(a) within the city or town to which the
3120 fund monies are allocated;

3121 (ii) to pay debt service and bond issuance costs described in Subsection (6)(b) if the
3122 debt service and bond issuance costs are:

3123 (A) secured by monies deposited for or allocated to the city or town; and

3124 (B) related to a project described in Subsection (6)(a) within the city or town to which
3125 the fund monies are allocated; or

3126 (iii) for a purpose described in Subsection (6)(c).

3127 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3128 department may make rules to implement the requirements of Subsection (9)(a).

3129 Section ~~H~~→ [32] 33 ←~~H~~ . Section **72-10-215** is amended to read:

3130 **72-10-215. Restrictions on use of airport revenue to finance a fixed guideway.**

3131 An airport operator may not use airport revenue to contribute to the cost of
3132 constructing, equipping, maintaining, or operating any portion of a fixed guideway as defined
3133 in Section [~~59-12-1702~~] 59-12-102.

3134 Section ~~H~~→ [33] 34 ←~~H~~ . Repealer.

3135 This bill repeals:

3136 Section **59-12-501, Public transit tax -- Base -- Rate -- Voter approval.**

3137 Section **59-12-502, Additional public transit tax for a fixed guideway, expanded**
3138 **public transportation system, airport facility, or to be deposited into the County of the**
3139 **First Class State Highway Projects Fund -- Base -- Rate -- Voter approval -- Exception to**
3140 **voter approval requirement.**

3141 Section **59-12-503, Public transit taxes -- Local option direct transfer.**

3142 Section **59-12-504, Enactment or repeal of tax -- Effective date -- Notice**
3143 **requirements -- Administration, collection, and enforcement of tax.**

3144 Section **59-12-506, Seller or certified service provider reliance on commission**
3145 **information.**

3146 Section **59-12-507, Certified service provider or model 2 seller reliance on**
3147 **commission certified software.**

3148 Section **59-12-508, Purchaser relief from liability.**

3149 Section **59-12-1001, Authority to impose tax for highways or to fund a system for**
3150 **public transit -- Base -- Rate -- Ordinance requirements -- Voter approval requirements**
3151 **-- Election requirements -- Notice of election requirements -- Exceptions to voter**
3152 **approval requirements -- Enactment or repeal of tax -- Effective date -- Notice**
3153 **requirements.**

3154 Section **59-12-1002, Collection of taxes by commission -- Administration,**
3155 **collection, and enforcement of tax -- Charge for service.**

3156 Section **59-12-1004, Seller or certified service provider reliance on commission**
3157 **information.**

3158 Section **59-12-1005, Certified service provider or model 2 seller reliance on**

- 3159 **commission certified software.**
- 3160 Section **59-12-1006, Purchaser relief from liability.**
- 3161 Section **59-12-1501, Title.**
- 3162 Section **59-12-1502, Definitions.**
- 3163 Section **59-12-1503, Opinion question election -- Base -- Rate -- Imposition of tax --**
- 3164 **Use of tax revenues -- Administration, collection, and enforcement of tax by commission**
- 3165 **-- Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**
- 3166 Section **59-12-1505, Seller or certified service provider reliance on commission**
- 3167 **information.**
- 3168 Section **59-12-1506, Certified service provider or model 2 seller reliance on**
- 3169 **commission certified software.**
- 3170 Section **59-12-1507, Purchaser relief from liability.**
- 3171 Section **59-12-1701, Title.**
- 3172 Section **59-12-1702, Definitions.**
- 3173 Section **59-12-1703, Opinion question election -- Base -- Rate -- Imposition of tax --**
- 3174 **Use of tax revenues -- Administration, collection, and enforcement of tax by commission**
- 3175 **-- Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**
- 3176 Section **59-12-1704, Written project prioritization process for new transportation**
- 3177 **capacity projects.**
- 3178 Section **59-12-1705, Project selection using the written prioritization process --**
- 3179 **Report.**
- 3180 Section **59-12-1706, Seller or certified service provider reliance on commission**
- 3181 **information.**
- 3182 Section **59-12-1707, Certified service provider or model 2 seller reliance on**
- 3183 **commission certified software.**
- 3184 Section **59-12-1708, Purchaser relief from liability.**
- 3185 Section **59-12-1901, Title.**
- 3186 Section **59-12-1902, Definitions.**
- 3187 Section **59-12-1904, Seller or certified service provider reliance on commission**
- 3188 **information.**
- 3189 Section **59-12-1905, Certified service provider or model 2 seller reliance on**

3190 **commission certified software.**

3191 Section **59-12-1906, Purchaser relief from liability.**

3192 Section **Ĥ→ [34] 35 ←Ĥ . Effective date.**

3193 This bill takes effect on July 1, 2010.

3193a **Ĥ→ Section [35] 36 . Revisor instructions.**

3193b **It is the intent of the Legislature that, in preparing the Utah Code database for publication,**

3193c **the Office of Legislative Research and General Counsel shall replace the references in Section**

3193d **59-12-2212.1 from "this bill" to the bill's designated chapter number in the Laws of Utah. ←Ĥ**

Legislative Review Note
as of 11-20-09 6:39 AM

Office of Legislative Research and General Counsel

S.B. 30 - Local Option Sales and Use Taxes for Transportation Act

Fiscal Note

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Local governments may experience administrative costs to update ordinances to be consistent with statute. Individuals and businesses are unaffected.
