

Senator Wayne A. Harper proposes the following substitute bill:

TRANSPORTATION GOVERNANCE AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill modifies governance of certain public transit districts, amends provisions related to registration fees, modifies taxes related to transportation, modifies the governance of the Department of Transportation, and makes other changes.

Highlighted Provisions:

This bill:

- ▶ amends and enacts provisions to allow local jurisdictions to share property tax revenue for transportation capital development projects;
- ▶ defines "large public transit district" and "small public transit district";
- ▶ vests in the Legislature the authority to name a large public transit district;
- ▶ modifies the makeup of the board of trustees of a large public transit district by:
 - reducing membership from 16 to three;
 - vesting nomination responsibilities in executives of local governments and appointment responsibilities in the governor; and
 - defining responsibilities of the members of the board of trustees;
- ▶ creates a local advisory board for a large public transit district and defines the membership and duties of a local advisory board;
- ▶ requires a large public transit district to transition retirement benefits to fall under



- 26 the provisions and oversight provided in the Utah State Retirement and Insurance Benefit Act;
- 27 ▶ exempts certain meetings of members of the board of trustees of a large public
- 28 transit district from the Open and Public Meetings Act;
- 29 ▶ defines "alternative fuel vehicle," "diesel fuel," "electric motor vehicle," "hybrid
- 30 electric motor vehicle," "motor fuel," "natural gas," and "plug-in hybrid electric
- 31 motor vehicle";
- 32 ▶ modifies provisions imposing registration fees on motor vehicles based on the type
- 33 of motor vehicle and fuel used to propel the vehicle;
- 34 ▶ creates the "Transit Transportation Investment Fund" within the Transportation
- 35 Investment Fund of 2005;
- 36 ▶ imposes a deadline for a local government to impose certain local option sales and
- 37 use taxes;
- 38 ▶ authorizes a new local option sales and use tax for transportation;
- 39 ▶ allows a county, city, or town to impose certain local option sales and use taxes
- 40 without submitting the question to the county's, city's, or town's registered voters;
- 41 ▶ allows a city to impose certain local option sales and use taxes not imposed by the
- 42 county;
- 43 ▶ amends provisions related to the expenditure of certain local option sales and use
- 44 taxes;
- 45 ▶ imposes a statewide sales and use tax to generate revenue for transportation;
- 46 ▶ modifies certain responsibilities of the Department of Transportation and the
- 47 executive director of the Department of Transportation related to supervision and
- 48 oversight of certain projects and cooperation with other entities involved in a
- 49 project;
- 50 ▶ modifies governance of the Department of Transportation, including:
- 51 • requiring a second deputy director;
- 52 • describing the qualifications for each deputy; and
- 53 • describing the responsibilities of each deputy director;
- 54 ▶ creates the Planning and Investment Division within the Department of
- 55 Transportation;
- 56 ▶ modifies requirements for the Department of Transportation to develop statewide

57 strategic initiatives for coordinating and planning multimodal transportation;
58 ▶ requires the Department of Transportation to study a road user charge and
59 implement a demonstration program;
60 ▶ requires the Transportation Commission to consider public transit projects in the
61 prioritization process to allocate funds;
62 ▶ modifies criteria for the Transportation Commission to consider while prioritizing
63 transportation and public transit projects;
64 ▶ allows corridor preservation funds to be used for public transit district corridors;
65 and
66 ▶ allows the Department of Transportation to assume responsibilities for review and
67 approval of projects under the requirements of the National Environmental Policy
68 Act of 1969.

69 **Money Appropriated in this Bill:**

70 None

71 **Other Special Clauses:**

72 This bill provides a special effective date.

73 **Utah Code Sections Affected:**

74 AMENDS:

- 75 **11-13-103**, as last amended by Laws of Utah 2016, Chapter 382
76 **11-13-202**, as last amended by Laws of Utah 2009, Chapter 218
77 **11-13-206**, as last amended by Laws of Utah 2015, Chapter 265
78 **11-13-207**, as last amended by Laws of Utah 2015, Chapter 265
79 **17B-1-301**, as last amended by Laws of Utah 2014, Chapter 362
80 **17B-1-702**, as renumbered and amended by Laws of Utah 2007, Chapter 329
81 **17B-1-703**, as renumbered and amended by Laws of Utah 2007, Chapter 329
82 **17B-2a-802**, as last amended by Laws of Utah 2016, Chapter 387
83 **17B-2a-804**, as last amended by Laws of Utah 2017, Chapters 181 and 427
84 **17B-2a-807**, as last amended by Laws of Utah 2017, Chapter 70
85 **17B-2a-808**, as last amended by Laws of Utah 2010, Chapter 281
86 **17B-2a-810**, as last amended by Laws of Utah 2016, Chapter 56
87 **17B-2a-811**, as last amended by Laws of Utah 2010, Chapter 281

- 88 [17B-2a-826](#), as enacted by Laws of Utah 2017, Chapter 427
- 89 [41-1a-102](#), as last amended by Laws of Utah 2016, Chapter 40
- 90 [41-1a-1201](#), as last amended by Laws of Utah 2017, Chapters 261 and 406
- 91 [41-1a-1206](#), as last amended by Laws of Utah 2017, Chapters 261, 406 and last
- 92 amended by Coordination Clause, Laws of Utah 2017, Chapter 261
- 93 [52-4-103](#), as last amended by Laws of Utah 2017, Chapters 196, 277, and 441
- 94 [59-12-102](#), as last amended by Laws of Utah 2017, Chapters 181, 382, and 422
- 95 [59-12-103](#), as last amended by Laws of Utah 2017, Chapters 234, 421, and 422
- 96 [59-12-2202](#), as enacted by Laws of Utah 2010, Chapter 263
- 97 [59-12-2203](#), as last amended by Laws of Utah 2015, Chapter 275
- 98 [59-12-2213](#), as last amended by Laws of Utah 2011, Chapter 223
- 99 [59-12-2214](#), as last amended by Laws of Utah 2015, Chapter 421
- 100 [59-12-2215](#), as enacted by Laws of Utah 2010, Chapter 263
- 101 [59-12-2216](#), as enacted by Laws of Utah 2010, Chapter 263
- 102 [59-12-2217](#), as last amended by Laws of Utah 2017, Chapter 240
- 103 [59-12-2218](#), as last amended by Laws of Utah 2017, Chapter 240
- 104 [59-12-2219](#), as last amended by Laws of Utah 2016, Chapter 373
- 105 [63G-6a-1402](#), as last amended by Laws of Utah 2017, Chapter 348
- 106 [72-1-102](#), as last amended by Laws of Utah 2001, Chapter 372
- 107 [72-1-202](#), as last amended by Laws of Utah 2013, Chapter 78
- 108 [72-1-203](#), as last amended by Laws of Utah 2006, Chapter 139
- 109 [72-1-204](#), as last amended by Laws of Utah 2017, Chapter 97
- 110 [72-1-208](#), as last amended by Laws of Utah 2016, Chapter 350
- 111 [72-1-211](#), as last amended by Laws of Utah 2008, Chapter 382
- 112 [72-1-213](#), as enacted by Laws of Utah 2015, Chapter 275
- 113 [72-1-214](#), as enacted by Laws of Utah 2017, Chapter 160
- 114 [72-1-303](#), as last amended by Laws of Utah 2011, Chapter 256
- 115 [72-1-304](#), as last amended by Laws of Utah 2008, Chapter 382
- 116 [72-1-305](#), as last amended by Laws of Utah 2009, Chapter 364
- 117 [72-2-117.5](#), as last amended by Laws of Utah 2017, Chapter 240
- 118 [72-2-121](#), as last amended by Laws of Utah 2017, Chapter 436

119 72-2-124, as last amended by Laws of Utah 2017, Chapter 436

120 72-5-401, as last amended by Laws of Utah 2005, Chapter 254

121 72-6-120, as last amended by Laws of Utah 2015, Chapter 144

122 ENACTS:

123 11-13-227, Utah Code Annotated 1953

124 17B-2a-803.1, Utah Code Annotated 1953

125 17B-2a-807.1, Utah Code Annotated 1953

126 17B-2a-808.1, Utah Code Annotated 1953

127 17B-2a-808.2, Utah Code Annotated 1953

128 17B-2a-811.1, Utah Code Annotated 1953

129 59-12-2220, Utah Code Annotated 1953

130 59-12-2221, Utah Code Annotated 1953

131 REPEALS:

132 17B-2a-807.5, as enacted by Laws of Utah 2009, Chapter 364



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

135 Section 1. Section 11-13-103 is amended to read:

136 **11-13-103. Definitions.**

137 As used in this chapter:

138 (1) (a) "Additional project capacity" means electric generating capacity provided by a
139 generating unit that first produces electricity on or after May 6, 2002, and that is constructed or
140 installed at or adjacent to the site of a project that first produced electricity before May 6, 2002,
141 regardless of whether:

142 (i) the owners of the new generating unit are the same as or different from the owner of
143 the project; and

144 (ii) the purchasers of electricity from the new generating unit are the same as or
145 different from the purchasers of electricity from the project.

146 (b) "Additional project capacity" does not mean or include replacement project
147 capacity.

148 (2) "Board" means the Permanent Community Impact Fund Board created by Section
149 35A-8-304, and its successors.

- 150 (3) "Candidate" means one or more of:
- 151 (a) the state;
- 152 (b) a county, municipality, school district, local district, special service district, or other
153 political subdivision of the state; and
- 154 (c) a prosecution district.
- 155 (4) "Commercial project entity" means a project entity, defined in Subsection (18),
156 that:
- 157 (a) has no taxing authority; and
- 158 (b) is not supported in whole or in part by and does not expend or disburse tax
159 revenues.
- 160 (5) "Direct impacts" means an increase in the need for public facilities or services that
161 is attributable to the project or facilities providing additional project capacity, except impacts
162 resulting from the construction or operation of a facility that is:
- 163 (a) owned by an owner other than the owner of the project or of the facilities providing
164 additional project capacity; and
- 165 (b) used to furnish fuel, construction, or operation materials for use in the project.
- 166 (6) "Electric interlocal entity" means an interlocal entity described in Subsection
167 [11-13-203](#)(3).
- 168 (7) "Energy services interlocal entity" means an interlocal entity that is described in
169 Subsection [11-13-203](#)(4).
- 170 (8) (a) "Estimated electric requirements," when used with respect to a qualified energy
171 services interlocal entity, includes any of the following that meets the requirements of
172 Subsection (8)(b):
- 173 (i) generation capacity;
- 174 (ii) generation output; or
- 175 (iii) an electric energy production facility.
- 176 (b) An item listed in Subsection (8)(a) is included in "estimated electric requirements"
177 if it is needed by the qualified energy services interlocal entity to perform the qualified energy
178 services interlocal entity's contractual or legal obligations to any of its members.
- 179 (9) (a) "Facilities providing replacement project capacity" means facilities that have
180 been, are being, or are proposed to be constructed, reconstructed, converted, repowered,

181 acquired, leased, used, or installed to provide replacement project capacity.

182 (b) "Facilities providing replacement project capacity" includes facilities that have
183 been, are being, or are proposed to be constructed, reconstructed, converted, repowered,
184 acquired, leased, used, or installed:

185 (i) to support and facilitate the construction, reconstruction, conversion, repowering,
186 installation, financing, operation, management, or use of replacement project capacity; or

187 (ii) for the distribution of power generated from existing capacity or replacement
188 project capacity to facilities located on real property in which the project entity that owns the
189 project has an ownership, leasehold, right-of-way, or permitted interest.

190 (10) "Governing authority" means a governing board or joint administrator.

191 (11) (a) "Governing board" means the body established in reliance on the authority
192 provided under Subsection 11-13-206(1)(b) to govern an interlocal entity.

193 (b) "Governing board" includes a board of directors described in an agreement, as
194 amended, that creates a project entity.

195 (c) "Governing board" does not include a board as defined in Subsection (2).

196 (12) "Interlocal entity" means:

197 (a) a Utah interlocal entity, an electric interlocal entity, or an energy services interlocal
198 entity; or

199 (b) a separate legal or administrative entity created under Section 11-13-205.

200 (13) "Joint administrator" means an administrator or joint board described in Section
201 11-13-207 to administer a joint or cooperative undertaking.

202 (14) "Joint or cooperative undertaking" means an undertaking described in Section
203 11-13-207 that is not conducted by an interlocal entity.

204 (15) "Member" means a public agency that, with another public agency, creates an
205 interlocal entity under Section 11-13-203.

206 (16) "Out-of-state public agency" means a public agency as defined in Subsection
207 (19)(c), (d), or (e).

208 (17) (a) "Project":

209 (i) means an electric generation and transmission facility owned by a Utah interlocal
210 entity or an electric interlocal entity; and

211 (ii) includes fuel or fuel transportation facilities and water facilities owned by that Utah

212 interlocal entity or electric interlocal entity and required for the generation and transmission
213 facility.

214 (b) "Project" includes a project entity's ownership interest in:

215 (i) facilities that provide additional project capacity;

216 (ii) facilities providing replacement project capacity; and

217 (iii) additional generating, transmission, fuel, fuel transportation, water, or other
218 facilities added to a project.

219 (18) "Project entity" means a Utah interlocal entity or an electric interlocal entity that
220 owns a project as defined in this section.

221 (19) "Public agency" means:

222 (a) a city, town, county, school district, local district, special service district, an
223 interlocal entity, or other political subdivision of the state;

224 (b) the state or any department, division, or agency of the state;

225 (c) any agency of the United States;

226 (d) any political subdivision or agency of another state or the District of Columbia
227 including any interlocal cooperation or joint powers agency formed under the authority of the
228 law of the other state or the District of Columbia; or

229 (e) any Indian tribe, band, nation, or other organized group or community which is
230 recognized as eligible for the special programs and services provided by the United States to
231 Indians because of their status as Indians.

232 (20) "Qualified energy services interlocal entity" means an energy services interlocal
233 entity that at the time that the energy services interlocal entity acquires its interest in facilities
234 providing additional project capacity has at least five members that are Utah public agencies.

235 (21) "Replacement project capacity" means electric generating capacity or transmission
236 capacity that:

237 (a) replaces all or a portion of the existing electric generating or transmission capacity
238 of a project; and

239 (b) is provided by a facility that is on, adjacent to, in proximity to, or interconnected
240 with the site of a project, regardless of whether:

241 (i) the capacity replacing existing capacity is less than or exceeds the generating or
242 transmission capacity of the project existing before installation of the capacity replacing

243 existing capacity;

244 (ii) the capacity replacing existing capacity is owned by the project entity that is the
245 owner of the project, a segment established by the project entity, or a person with whom the
246 project entity or a segment established by the project entity has contracted; or

247 (iii) the facility that provides the capacity replacing existing capacity is constructed,
248 reconstructed, converted, repowered, acquired, leased, used, or installed before or after any
249 actual or anticipated reduction or modification to existing capacity of the project.

250 (22) "Transportation reinvestment zone" means an area created by two or more public
251 agencies by interlocal agreement to capture increased property or sales tax revenue generated
252 by a transportation infrastructure project as described in Section 11-13-227.

253 [~~22~~] (23) "Utah interlocal entity":

254 (a) means an interlocal entity described in Subsection 11-13-203(2); and

255 (b) includes a separate legal or administrative entity created under Laws of Utah 1977,
256 Chapter 47, Section 3, as amended.

257 [~~23~~] (24) "Utah public agency" means a public agency under Subsection (19)(a) or
258 (b).

259 Section 2. Section 11-13-202 is amended to read:

260 **11-13-202. Agreements for joint or cooperative undertaking, for providing or**
261 **exchanging services, or for law enforcement services -- Effective date of agreement --**
262 **Public agencies may restrict their authority or exempt each other regarding permits and**
263 **fees.**

264 (1) Any two or more public agencies may enter into an agreement with one another
265 under this chapter:

266 (a) for joint or cooperative action;

267 (b) to provide services that they are each authorized by statute to provide;

268 (c) to exchange services that they are each authorized by statute to provide;

269 (d) for a public agency to provide law enforcement services to one or more other public
270 agencies, if the public agency providing law enforcement services under the interlocal
271 agreement is authorized by law to provide those services, or to provide joint or cooperative law
272 enforcement services between or among public agencies that are each authorized by law to
273 provide those services; [~~or~~]

274 (e) to create a transportation reinvestment zone as defined in Section 11-13-103; or
275 ~~[(e)]~~ (f) to do anything else that they are each authorized by statute to do.

276 (2) An agreement under Subsection (1) does not take effect until it has been approved,
277 as provided in Section 11-13-202.5, by each public agency that is a party to it.

278 (3) (a) In an agreement under Subsection (1), a public agency that is a party to the
279 agreement may agree:

280 (i) to restrict its authority to issue permits to or assess fees from another public agency
281 that is a party to the agreement; and

282 (ii) to exempt another public agency that is a party to the agreement from permit or fee
283 requirements.

284 (b) A provision in an agreement under Subsection (1) whereby the parties agree as
285 provided in Subsection (3)(a) is subject to all remedies provided by law and in the agreement,
286 including injunction, mandamus, abatement, or other remedy to prevent, enjoin, abate, or
287 enforce the provision.

288 (4) An interlocal agreement between a county and one or more municipalities for law
289 enforcement service within an area that includes some or all of the unincorporated area of the
290 county shall require the law enforcement service provided under the agreement to be provided
291 by or under the direction of the county sheriff.

292 Section 3. Section 11-13-206 is amended to read:

293 **11-13-206. Requirements for agreements for joint or cooperative action.**

294 (1) Each agreement under Section 11-13-202, 11-13-203, ~~[or] 11-13-205,~~ or 11-13-227
295 shall specify:

296 (a) its duration;

297 (b) if the agreement creates an interlocal entity:

298 (i) the precise organization, composition, and nature of the interlocal entity;

299 (ii) the powers delegated to the interlocal entity;

300 (iii) the manner in which the interlocal entity is to be governed; and

301 (iv) subject to Subsection (2), the manner in which the members of its governing board
302 are to be appointed or selected;

303 (c) its purpose or purposes;

304 (d) the manner of financing the joint or cooperative action and of establishing and

305 maintaining a budget for it;

306 (e) the permissible method or methods to be employed in accomplishing the partial or
307 complete termination of the agreement and for disposing of property upon such partial or
308 complete termination;

309 (f) the process, conditions, and terms for withdrawal of a participating public agency
310 from the interlocal entity or the joint or cooperative undertaking;

311 (g) (i) whether voting is based upon one vote per member or weighted; and

312 (ii) if weighted voting is allowed, the basis upon which the vote weight will be
313 determined; and

314 (h) any other necessary and proper matters.

315 (2) Each agreement under Section 11-13-203 or 11-13-205 that creates an interlocal
316 entity shall require that Utah public agencies that are parties to the agreement have the right to
317 appoint or select members of the interlocal entity's governing board with a majority of the
318 voting power.

319 Section 4. Section 11-13-207 is amended to read:

320 **11-13-207. Additional requirements for agreement not establishing interlocal**
321 **entity.**

322 (1) If an agreement under Section 11-13-202 or 11-13-227 does not establish an
323 interlocal entity to conduct the joint or cooperative undertaking, the agreement shall, in
324 addition to the items specified in Section 11-13-206, provide for:

325 (a) the joint or cooperative undertaking to be administered by:

326 (i) an administrator; or

327 (ii) a joint board with representation from the public agencies that are parties to the
328 agreement;

329 (b) the manner of acquiring, holding, and disposing of real and personal property used
330 in the joint or cooperative undertaking;

331 (c) the functions to be performed by the joint or cooperative undertaking; and

332 (d) the powers of the joint administrator.

333 (2) The creation, operation, governance, and fiscal procedures of a joint or cooperative
334 undertaking are governed by this chapter.

335 Section 5. Section 11-13-227 is enacted to read:

336 11-13-227. Transportation reinvestment zones.

337 (1) Subject to the provisions of this part, any two or more public agencies may enter
338 into an agreement with one another to create a transportation reinvestment zone as described in
339 this section.

340 (2) To create a transportation reinvestment zone, two or more public agencies, at least
341 one of which has land use authority over the transportation reinvestment zone area, shall:

342 (a) define the transportation infrastructure need and proposed improvement;

343 (b) define the boundaries of the zone;

344 (c) establish terms for sharing sales tax revenue among the members of the agreement;

345 (d) establish a base year to calculate the increase of property tax revenue within the
346 zone;

347 (e) establish terms for sharing any increase in property tax revenue within the zone;

348 and

349 (f) before an agreement is approved as required in Section [11-13-202.5](#), hold a public
350 hearing regarding the details of the proposed transportation reinvestment zone.

351 (3) Any agreement to establish a transportation reinvestment zone is subject to the
352 requirements of Sections [11-13-202](#), [11-13-202.5](#), [11-13-206](#), and [11-13-207](#).

353 (4) (a) Each public agency that is party to an agreement under this section shall
354 annually publish a report including a statement of the increased tax revenue and the
355 expenditures made in accordance with the agreement.

356 (b) Each public agency that is party to an agreement under this section shall transmit a
357 copy of the report described in Subsection (4)(a) to the state auditor.

358 (5) If any surplus revenue remains in a tax revenue account created as part of a
359 transportation reinvestment zone agreement, the parties may use the surplus for other purposes
360 as determined by agreement of the parties.

361 Section 6. Section **17B-1-301** is amended to read:

362 **17B-1-301. Board of trustees duties and powers.**

363 (1) (a) Each local district shall be governed by a board of trustees which shall manage
364 and conduct the business and affairs of the district and shall determine all questions of district
365 policy.

366 (b) All powers of a local district are exercised through the board of trustees.

- 367 (2) The board of trustees may:
- 368 (a) fix the location of the local district's principal place of business and the location of
369 all offices and departments, if any;
- 370 (b) fix the times of meetings of the board of trustees;
- 371 (c) select and use an official district seal;
- 372 (d) subject to Subsections (3) and (4), employ employees and agents, or delegate to
373 district officers power to employ employees and agents, for the operation of the local district
374 and its properties and prescribe or delegate to district officers the power to prescribe the duties,
375 compensation, and terms and conditions of employment of those employees and agents;
- 376 (e) require district officers and employees charged with the handling of district funds to
377 provide surety bonds in an amount set by the board or provide a blanket surety bond to cover
378 officers and employees;
- 379 (f) contract for or employ professionals to perform work or services for the local
380 district that cannot satisfactorily be performed by the officers or employees of the district;
- 381 (g) through counsel, prosecute on behalf of or defend the local district in all court
382 actions or other proceedings in which the district is a party or is otherwise involved;
- 383 (h) adopt bylaws for the orderly functioning of the board;
- 384 (i) adopt and enforce rules and regulations for the orderly operation of the local district
385 or for carrying out the district's purposes;
- 386 (j) prescribe a system of civil service for district employees;
- 387 (k) on behalf of the local district, enter into contracts that the board considers to be for
388 the benefit of the district;
- 389 (l) acquire, construct or cause to be constructed, operate, occupy, control, and use
390 buildings, works, or other facilities for carrying out the purposes of the local district;
- 391 (m) on behalf of the local district, acquire, use, hold, manage, occupy, and possess
392 property necessary to carry out the purposes of the district, dispose of property when the board
393 considers it appropriate, and institute and maintain in the name of the district any action or
394 proceeding to enforce, maintain, protect, or preserve rights or privileges associated with district
395 property;
- 396 (n) delegate to a district officer the exercise of a district duty; and
- 397 (o) exercise all powers and perform all functions in the operation of the local district

398 and its properties as are ordinarily exercised by the governing body of a political subdivision of
399 the state and as are necessary to accomplish the purposes of the district.

400 (3) (a) As used in this Subsection (3), "interim vacancy period" means:

401 (i) if any member of the local district board is elected, the period of time that:

402 (A) begins on the day on which an election is held to elect a local district board
403 member; and

404 (B) ends on the day on which the local district board member-elect begins the
405 member's term; or

406 (ii) if any member of the local district board is appointed, the period of time that:

407 (A) begins on the day on which an appointing authority posts a notice of vacancy in
408 accordance with Section 17B-1-304; and

409 (B) ends on the day on which the person who is appointed by the local district board to
410 fill the vacancy begins the person's term.

411 (b) (i) The local district may not hire during an interim vacancy period a manager, a
412 chief executive officer, a chief administrative officer, an executive director, or a similar
413 position to perform executive and administrative duties or functions.

414 (ii) Notwithstanding Subsection (3)(b)(i):

415 (A) the local district may hire an interim manager, a chief executive officer, a chief
416 administrative officer, an executive director, or a similar position during an interim vacancy
417 period; and

418 (B) the interim manager's, chief executive officer's, chief administrative officer's, or
419 similar position's employment shall terminate once a new manager, chief executive officer,
420 chief administrative officer, or similar position is hired by the new local district board after the
421 interim vacancy period has ended.

422 (c) Subsection (3)(b) does not apply if:

423 (i) all the elected local district board members who held office on the day of the
424 election for the local district board members, whose term of office was vacant for the election
425 are re-elected to the local district board; and

426 (ii) all the appointed local district board members who were appointed whose term of
427 appointment was expiring are re-appointed to the local district board.

428 (4) A local district board that hires an interim manager, a chief executive officer, a

429 chief administrative officer, an executive director, or a similar position in accordance with this
430 section may not, on or after May 10, 2011, enter into an employment contract that contains an
431 automatic renewal provision with the interim manager, chief executive officer, chief
432 administrative officer, executive director, or similar position.

433 Section 7. Section **17B-1-702** is amended to read:

434 **17B-1-702. Local districts to submit budgets.**

435 (1) (a) Except as provided in Subsection (1)(b), within 30 days after it is approved by
436 the board, and at least 30 days before the board adopts a final budget, the board of each local
437 district with an annual budget of \$50,000 or more shall send a copy of its tentative budget and
438 notice of the time and place for its budget hearing to:

439 (i) each of its constituent entities that has in writing requested a copy; and

440 (ii) to each of its customer agencies that has in writing requested a copy.

441 (b) Within 30 days after it is approved by the board, and at least 30 days before the
442 board adopts a final budget, the board of trustees of a large public transit district [~~servicing a~~
443 ~~population of more than 200,000 people~~] as defined in Section [17B-2a-802](#) shall send a copy of
444 its tentative budget and notice of the time and place for its budget hearing to:

445 (i) each of its constituent entities;

446 (ii) each of its customer agencies that has in writing requested a copy;

447 (iii) the governor; and

448 (iv) the Legislature.

449 (c) The local district shall include with the tentative budget a signature sheet that
450 includes:

451 (i) language that the constituent entity or customer agency received the tentative budget
452 and has no objection to it; and

453 (ii) a place for the chairperson or other designee of the constituent entity or customer
454 agency to sign.

455 (2) Each constituent entity and each customer agency that receives the tentative budget
456 shall review the tentative budget submitted by the district and either:

457 (a) sign the signature sheet and return it to the district; or

458 (b) attend the budget hearing or other meeting scheduled by the district to discuss the
459 objections to the proposed budget.

460 (3) (a) If any constituent entity or customer agency that received the tentative budget
461 has not returned the signature sheet to the local district within 15 calendar days after the
462 tentative budget was mailed, the local district shall send a written notice of the budget hearing
463 to each constituent entity or customer agency that did not return a signature sheet and invite
464 them to attend that hearing.

465 (b) If requested to do so by any constituent entity or customer agency, the local district
466 shall schedule a meeting to discuss the budget with the constituent entities and customer
467 agencies.

468 (c) At the budget hearing, the local district board shall:

469 (i) explain its budget and answer any questions about it;

470 (ii) specifically address any questions or objections raised by the constituent entity,
471 customer agency, or those attending the meeting; and

472 (iii) seek to resolve the objections.

473 (4) Nothing in this part prevents a local district board from approving or implementing
474 a budget over any or all constituent entity's or customer agency's protests, objections, or failure
475 to respond.

476 Section 8. Section **17B-1-703** is amended to read:

477 **17B-1-703. Local districts to submit audit reports.**

478 (1) (a) Except as provided in Subsection (1)(b), within 30 days after it is presented to
479 the board, the board of each local district with an annual budget of \$50,000 or more shall send
480 a copy of any audit report to:

481 (i) each of its constituent entities that has in writing requested a copy; and

482 (ii) each of its customer agencies that has in writing requested a copy.

483 (b) Within 30 days after it is presented to the board, the board of a large public transit
484 district [~~serving a population of more than 200,000 people~~] as defined in Section 17B-2a-802
485 shall send a copy of its annual audit report to:

486 (i) each of its constituent entities; and

487 (ii) each of its customer agencies that has in writing requested a copy.

488 (2) Each constituent entity and each customer agency that received the audit report
489 shall review the audit report submitted by the district and, if necessary, request a meeting with
490 the district board to discuss the audit report.

491 (3) At the meeting, the local district board shall:

492 (a) answer any questions about the audit report; and

493 (b) discuss their plans to implement suggestions made by the auditor.

494 Section 9. Section **17B-2a-802** is amended to read:

495 **17B-2a-802. Definitions.**

496 As used in this part:

497 (1) "Affordable housing" means housing occupied or reserved for occupancy by
498 households that meet certain gross household income requirements based on the area median
499 income for households of the same size.

500 (a) "Affordable housing" may include housing occupied or reserved for occupancy by
501 households that meet specific area median income targets or ranges of area median income
502 targets.

503 (b) "Affordable housing" does not include housing occupied or reserved for occupancy
504 by households with gross household incomes that are more than 60% of the area median
505 income for households of the same size.

506 (2) "Appointing entity" means the person, county, unincorporated area of a county, or
507 municipality appointing a member to a public transit district board of trustees.

508 (3) (a) "Chief executive officer" means a person appointed by the board of trustees of a
509 small public transit district to serve as chief executive officer.

510 (b) "Chief executive officer" shall enjoy all the rights, duties, and responsibilities
511 defined in Sections **17B-2a-810** and **17B-2a-811** and includes all rights, duties, and
512 responsibilities assigned to the general manager but prescribed by the board of trustees to be
513 fulfilled by the chief executive officer.

514 (4) "Council of governments" means a decision-making body in each county composed
515 of membership including the county governing body and the mayors of each municipality in the
516 county.

517 [~~4~~] (5) "Department" means the Department of Transportation created in Section
518 **72-1-201**.

519 (6) "Executive director" means a person appointed by the board of trustees of a large
520 public transit district to serve as executive director.

521 [~~5~~] (7) (a) "General manager" means a person appointed by the board of trustees of a

522 small public transit district to serve as general manager.

523 (b) "General manager" shall enjoy all the rights, duties, and responsibilities defined in
524 Sections [17B-2a-810](#) and [17B-2a-811](#) prescribed by the board of trustees of a small public
525 transit district.

526 (8) "Large public transit district" means a public transit district that provides public
527 transit to an area that includes:

528 (a) more than 65% of the population of the state based on the most recent official
529 census or census estimate of the United States Census Bureau; and

530 (b) two or more counties.

531 [~~(7)~~] (9) (a) "Locally elected public official" means a person who holds an elected
532 position with a county or municipality.

533 (b) "Locally elected public official" does not include a person who holds an elected
534 position if the elected position is not with a county or municipality.

535 [~~(7)~~] (10) "Metropolitan planning organization" means the same as that term is defined
536 in Section [72-1-208.5](#).

537 [~~(8)~~] (11) "Multicounty district" means a public transit district located in more than one
538 county.

539 [~~(9)~~] (12) "Operator" means a public entity or other person engaged in the
540 transportation of passengers for hire.

541 [~~(10)~~] (13) "Public transit" means the transportation of passengers only and their
542 incidental baggage by means other than:

543 (a) chartered bus;

544 (b) sightseeing bus; or

545 (c) taxi.

546 (14) "Public transit district" means a local district that provides public transit services.

547 (15) "Small public transit district" means any public transit district that is not a large
548 public transit district.

549 [~~(H)~~] (16) "Transit facility" means a transit vehicle, transit station, depot, passenger
550 loading or unloading zone, parking lot, or other facility:

551 (a) leased by or operated by or on behalf of a public transit district; and

552 (b) related to the public transit services provided by the district, including:

- 553 (i) railway or other right-of-way;
- 554 (ii) railway line; and
- 555 (iii) a reasonable area immediately adjacent to a designated stop on a route traveled by
- 556 a transit vehicle.

557 [~~(14)~~] (17) "Transit vehicle" means a passenger bus, coach, railcar, van, or other
 558 vehicle operated as public transportation by a public transit district.

559 [~~(12)~~] (18) "Transit-oriented development" means a mixed use residential or
 560 commercial area that is designed to maximize access to public transit and includes the
 561 development of land owned by a public transit district that serves a county of the first class.

562 [~~(13)~~] (19) "Transit-supportive development" means a mixed use residential or
 563 commercial area that is designed to maximize access to public transit and does not include the
 564 development of land owned by a public transit district.

565 Section 10. Section **17B-2a-803.1** is enacted to read:

566 **17B-2a-803.1. Authority to name a large public transit district.**

567 (1) The authority to name any large public transit district is vested in the Legislature
 568 and the name shall be codified in this section.

569 (2) For the large public transit district in existence and with a portion of the district
 570 within a county of the first class as of May 8, 2018, the large public transit district shall be
 571 called Transit District Utah.

572 Section 11. Section **17B-2a-804** is amended to read:

573 **17B-2a-804. Additional public transit district powers.**

574 (1) In addition to the powers conferred on a public transit district under Section
 575 **17B-1-103**, a public transit district may:

576 (a) provide a public transit system for the transportation of passengers and their
 577 incidental baggage;

578 (b) notwithstanding Subsection **17B-1-103(2)(g)** and subject to Section **17B-2a-817**,
 579 levy and collect property taxes only for the purpose of paying:

580 (i) principal and interest of bonded indebtedness of the public transit district; or

581 (ii) a final judgment against the public transit district if:

582 (A) the amount of the judgment exceeds the amount of any collectable insurance or
 583 indemnity policy; and

- 584 (B) the district is required by a final court order to levy a tax to pay the judgment;
- 585 (c) insure against:
 - 586 (i) loss of revenues from damage to or destruction of some or all of a public transit
 - 587 system from any cause;
 - 588 (ii) public liability;
 - 589 (iii) property damage; or
 - 590 (iv) any other type of event, act, or omission;
- 591 (d) acquire, contract for, lease, construct, own, operate, control, or use:
 - 592 (i) a right-of-way, rail line, monorail, bus line, station, platform, switchyard, terminal,
 - 593 parking lot, or any other facility necessary or convenient for public transit service; or
 - 594 (ii) any structure necessary for access by persons and vehicles;
- 595 (e) (i) hire, lease, or contract for the supplying or management of a facility, operation,
- 596 equipment, service, employee, or management staff of an operator; and
 - 597 (ii) provide for a sublease or subcontract by the operator upon terms that are in the
 - 598 public interest;
- 599 (f) operate feeder bus lines and other feeder or ridesharing services as necessary;
- 600 (g) accept a grant, contribution, or loan, directly through the sale of securities or
- 601 equipment trust certificates or otherwise, from the United States, or from a department,
- 602 instrumentality, or agency of the United States;
- 603 (h) study and plan transit facilities in accordance with any legislation passed by
- 604 Congress;
 - 605 (i) cooperate with and enter into an agreement with the state or an agency of the state
 - 606 or otherwise contract to finance to establish transit facilities and equipment or to study or plan
 - 607 transit facilities;
- 608 (j) subject to Subsection [17B-2a-808.1\(4\)](#), issue bonds as provided in and subject to
- 609 Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;
- 610 (k) from bond proceeds or any other available funds, reimburse the state or an agency
- 611 of the state for an advance or contribution from the state or state agency;
- 612 (l) do anything necessary to avail itself of any aid, assistance, or cooperation available
- 613 under federal law, including complying with labor standards and making arrangements for
- 614 employees required by the United States or a department, instrumentality, or agency of the

615 United States;

616 (m) sell or lease property;

617 (n) except as provided in Subsection (2)(b), assist in or operate transit-oriented or
618 transit-supportive developments;

619 (o) establish, finance, participate as a limited partner or member in a development with
620 limited liabilities in accordance with Subsection (1)(p), construct, improve, maintain, or
621 operate transit facilities, equipment, and, in accordance with Subsection (3), transit-oriented
622 developments or transit-supportive developments; and

623 (p) subject to the restrictions and requirements in Subsections (2) and (3), assist in a
624 transit-oriented development or a transit-supportive development in connection with project
625 area development as defined in Section 17C-1-102 by:

626 (i) investing in a project as a limited partner or a member, with limited liabilities; or

627 (ii) subordinating an ownership interest in real property owned by the public transit
628 district.

629 (2) (a) A public transit district may only assist in the development of areas under
630 Subsection (1)(p):

631 (i) in the manner described in Subsection (1)(p)(i) or (ii); and

632 (ii) on no more than eight transit-oriented developments or transit-supportive
633 developments selected by the board of trustees.

634 (b) A public transit district may not invest in a transit-oriented development or
635 transit-supportive development as a limited partner or other limited liability entity under the
636 provisions of Subsection (1)(p)(i), unless the partners, developer, or other investor in the entity,
637 makes an equity contribution equal to no less than 25% of the appraised value of the property
638 to be contributed by the public transit district.

639 (c) (i) For transit-oriented development projects, a public transit district shall adopt
640 transit-oriented development policies and guidelines that include provisions on affordable
641 housing.

642 (ii) For transit-supportive development projects, a public transit district shall work with
643 the metropolitan planning organization and city and county governments where the project is
644 located to collaboratively seek to create joint plans for the areas within one-half mile of transit
645 stations, including plans for affordable housing.

646 (d) A current board member of a public transit district to which the board member is
647 appointed may not have any interest in the transactions engaged in by the public transit district
648 pursuant to Subsection (1)(p)(i) or (ii), except as may be required by the board member's
649 fiduciary duty as a board member.

650 (3) For any transit-oriented development or transit-supportive development authorized
651 in this section, the public transit district shall:

652 (a) perform a cost-benefit analysis of the monetary investment and expenditures of the
653 development, including effect on:

654 (i) service and ridership;

655 (ii) regional plans made by the metropolitan planning agency;

656 (iii) the local economy;

657 (iv) the environment and air quality;

658 (v) affordable housing; and

659 (vi) integration with other modes of transportation; and

660 (b) provide evidence to the public of a quantifiable positive return on investment,
661 including improvements to public transit service.

662 (4) A public transit district may be funded from any combination of federal, state,
663 local, or private funds.

664 (5) A public transit district may not acquire property by eminent domain.

665 Section 12. Section ~~17B-2a-807~~ is amended to read:

666 **17B-2a-807. Small public transit district board of trustees -- Appointment --**
667 **Apportionment -- Qualifications -- Quorum -- Compensation -- Terms.**

668 (1) (a) [~~If 200,000 people or fewer reside within the boundaries of a~~] For a small public
669 transit district, the board of trustees shall consist of members appointed by the legislative
670 bodies of each municipality, county, or unincorporated area within any county on the basis of
671 one member for each full unit of regularly scheduled passenger routes proposed to be served by
672 the district in each municipality or unincorporated area within any county in the following
673 calendar year.

674 (b) For purposes of determining membership under Subsection (1)(a), the number of
675 service miles comprising a unit shall be determined jointly by the legislative bodies of the
676 municipalities or counties comprising the district.

677 (c) The board of trustees of a public transit district under this ~~[Subsection (1)]~~ section
 678 may include a member that is a commissioner on the Transportation Commission created in
 679 Section 72-1-301 and appointed as provided in Subsection ~~[(1)]~~ (8), who shall serve as a
 680 nonvoting, ex officio member.

681 (d) Members appointed under this ~~[Subsection (1)]~~ section shall be appointed and
 682 added to the board or omitted from the board at the time scheduled routes are changed, or as
 683 municipalities, counties, or unincorporated areas of counties annex to or withdraw from the
 684 district using the same appointment procedures.

685 (e) For purposes of appointing members under this ~~[Subsection (1)]~~ section,
 686 municipalities, counties, and unincorporated areas of counties in which regularly scheduled
 687 passenger routes proposed to be served by the district in the following calendar year is less than
 688 a full unit, as defined in Subsection (1)(b), may combine with any other similarly situated
 689 municipality or unincorporated area to form a whole unit and may appoint one member for
 690 each whole unit formed.

691 ~~[(2)(a) Subject to Section 17B-2a-807.5, if more than 200,000 people reside within the~~
 692 ~~boundaries of a public transit district, the board of trustees shall consist of:]~~

693 ~~[(i) 11 members:]~~

694 ~~[(A) appointed as described under this Subsection (2); or]~~

695 ~~[(B) retained in accordance with Section 17B-2a-807.5;]~~

696 ~~[(ii) three members appointed as described in Subsection (4);]~~

697 ~~[(iii) one voting member appointed as provided in Subsection (11); and]~~

698 ~~[(iv) one nonvoting member appointed as provided in Subsection (12).]~~

699 ~~[(b) Except as provided in Subsections (2)(c) and (d), the board shall apportion voting~~
 700 ~~members to each county within the district using an average of:]~~

701 ~~[(i) the proportion of population included in the district and residing within each~~
 702 ~~county, rounded to the nearest 1/11 of the total transit district population; and]~~

703 ~~[(ii) the cumulative proportion of transit sales and use tax collected from areas~~
 704 ~~included in the district and within each county, rounded to the nearest 1/11 of the total~~
 705 ~~cumulative transit sales and use tax collected for the transit district.]~~

706 ~~[(c) The board shall join an entire or partial county not apportioned a voting member~~
 707 ~~under this Subsection (2) with an adjacent county for representation. The combined~~

708 ~~apportionment basis included in the district of both counties shall be used for the~~
709 ~~apportionment.]~~

710 ~~[(d) (i) If rounding to the nearest 1/11 of the total public transit district apportionment~~
711 ~~basis under Subsection (2)(b) results in an apportionment of more than 11 members, the county~~
712 ~~or combination of counties with the smallest additional fraction of a whole member proportion~~
713 ~~shall have one less member apportioned to it.]~~

714 ~~[(ii) If rounding to the nearest 1/11 of the total public transit district apportionment~~
715 ~~basis under Subsection (2)(b) results in an apportionment of less than 11 members, the county~~
716 ~~or combination of counties with the largest additional fraction of a whole member proportion~~
717 ~~shall have one more member apportioned to it.]~~

718 ~~[(e) If the population of a county is at least 750,000, the county executive, with the~~
719 ~~advice and consent of the county legislative body, shall appoint one voting member to~~
720 ~~represent the population of the county.]~~

721 ~~[(f) If a municipality's population is at least 160,000, the chief municipal executive,~~
722 ~~with the advice and consent of the municipal legislative body, shall appoint one voting member~~
723 ~~to represent the population within a municipality.]~~

724 ~~[(g) (i) The number of voting members appointed from a county and municipalities~~
725 ~~within a county under Subsections (2)(e) and (f) shall be subtracted from the county's total~~
726 ~~voting member apportionment under this Subsection (2).]~~

727 ~~[(ii) Notwithstanding Subsections (2)(i) and (10), no more than one voting member~~
728 ~~appointed by an appointing entity may be a locally elected public official.]~~

729 ~~[(h) If the entire county is within the district, the remaining voting members for the~~
730 ~~county shall represent the county or combination of counties, if Subsection (2)(c) applies, or~~
731 ~~the municipalities within the county.]~~

732 ~~[(i) If the entire county is not within the district, and the county is not joined with~~
733 ~~another county under Subsection (2)(c), the remaining voting members for the county shall~~
734 ~~represent a municipality or combination of municipalities.]~~

735 ~~[(j) (i) Except as provided under Subsections (2)(e) and (f), voting members~~
736 ~~representing counties, combinations of counties if Subsection (2)(c) applies, or municipalities~~
737 ~~within the county shall be designated and appointed by a simple majority of the chief~~
738 ~~executives of the municipalities within the county or combinations of counties if Subsection~~

739 ~~(2)(c) applies.]~~

740 ~~[(ii) The appointments shall be made by joint written agreement of the appointing~~
741 ~~municipalities, with the consent and approval of the county legislative body of the county that~~
742 ~~has at least 1/11 of the district's apportionment basis.]~~

743 ~~[(k) Voting members representing a municipality or combination of municipalities~~
744 ~~shall be designated and appointed by the chief executive officer of the municipality or simple~~
745 ~~majority of chief executive officers of municipalities with the consent of the legislative body of~~
746 ~~the municipality or municipalities.]~~

747 ~~[(l) The appointment of members shall be made without regard to partisan political~~
748 ~~affiliation from among citizens in the community.]~~

749 ~~[(m) Each member shall be a bona fide resident of the municipality, county, or~~
750 ~~unincorporated area or areas which the member is to represent for at least six months before the~~
751 ~~date of appointment, and shall continue in that residency to remain qualified to serve as a~~
752 ~~member.]~~

753 ~~[(n) (i) All population figures used under this section shall be derived from the most~~
754 ~~recent official census or census estimate of the United States Bureau of the Census.]~~

755 ~~[(ii) If population estimates are not available from the United States Bureau of Census,~~
756 ~~population figures shall be derived from the estimate from the Utah Population Estimates~~
757 ~~Committee.]~~

758 ~~[(iii) All transit sales and use tax totals shall be obtained from the State Tax~~
759 ~~Commission.]~~

760 ~~[(o) (i) The board shall be apportioned as provided under this section in conjunction~~
761 ~~with the decennial United States Census Bureau report every 10 years.]~~

762 ~~[(ii) Within 120 days following the receipt of the population estimates under this~~
763 ~~Subsection (2)(o), the district shall reapportion representation on the board of trustees in~~
764 ~~accordance with this section.]~~

765 ~~[(iii) The board shall adopt by resolution a schedule reflecting the current and proposed~~
766 ~~apportionment.]~~

767 ~~[(iv) Upon adoption of the resolution, the board shall forward a copy of the resolution~~
768 ~~to each of its constituent entities as defined under Section [17B-1-701](#).]~~

769 ~~[(v) The appointing entities gaining a new board member shall appoint a new member~~

770 within 30 days following receipt of the resolution.]

771 [~~(vi) The appointing entities losing a board member shall inform the board of which~~
772 ~~member currently serving on the board will step down:]~~

773 [~~(A) upon appointment of a new member under Subsection (2)(o)(v); or]~~

774 [~~(B) in accordance with Section 17B-2a-807.5:]~~

775 [~~(3)~~] (2) Upon the completion of an annexation to a public transit district under
776 Chapter 1, Part 4, Annexation, the annexed area shall have a representative on the board of
777 trustees on the same basis as if the area had been included in the district as originally
778 organized.

779 [~~(4) In addition to the voting members appointed in accordance with Subsection (2),~~
780 ~~the board shall consist of three voting members appointed as follows:]~~

781 [~~(a) one member appointed by the speaker of the House of Representatives;]~~

782 [~~(b) one member appointed by the president of the Senate; and]~~

783 [~~(c) one member appointed by the governor:]~~

784 [~~(5) Except as provided in Section 17B-2a-807.5, the terms of office of the members of~~
785 ~~the board shall be four years or until a successor is appointed, qualified, seated, and has taken~~
786 ~~the oath of office:]~~

787 [~~(6)~~] (3) (a) Vacancies for members shall be filled by the official appointing the
788 member creating the vacancy for the unexpired term, unless the official fails to fill the vacancy
789 within 90 days.

790 (b) If the appointing official under Subsection (1) does not fill the vacancy within 90
791 days, the board of trustees of the authority shall fill the vacancy.

792 [~~(c) If the appointing official under Subsection (2) does not fill the vacancy within 90~~
793 ~~days, the governor, with the advice and consent of the Senate, shall fill the vacancy:]~~

794 [~~(7)~~] (4) (a) Each voting member may cast one vote on all questions, orders,
795 resolutions, and ordinances coming before the board of trustees.

796 (b) A majority of all voting members of the board of trustees are a quorum for the
797 transaction of business.

798 (c) The affirmative vote of a majority of all voting members present at any meeting at
799 which a quorum was initially present shall be necessary and, except as otherwise provided, is
800 sufficient to carry any order, resolution, ordinance, or proposition before the board of trustees.

801 ~~[(8)]~~ (5) Each public transit district shall pay to each member per diem and travel
802 expenses for meetings actually attended, in accordance with Section 11-55-103.

803 ~~[(9)]~~ (6) (a) Members of the initial board of trustees shall convene at the time and place
804 fixed by the chief executive officer of the entity initiating the proceedings.

805 (b) The board of trustees shall elect from its voting membership a chair, vice chair, and
806 secretary.

807 (c) The members elected under Subsection ~~[(9)]~~ (6)(b) shall serve for a period of two
808 years or until their successors shall be elected and qualified.

809 (d) On or after January 1, 2011, a locally elected public official is not eligible to serve
810 as the chair, vice chair, or secretary of the board of trustees.

811 ~~[(10)]~~ (7) (a) Except as otherwise authorized under ~~[Subsections (2)(g) and (10)(b) and~~
812 ~~Section 17B-2a-807.5]~~ Subsection (7)(b), at the time of a member's appointment or during a
813 member's tenure in office, a member may not hold any employment, except as an independent
814 contractor or locally elected public official, with a county or municipality within the district.

815 (b) A member appointed by a county or municipality may hold employment with the
816 county or municipality if the employment is disclosed in writing and the public transit district
817 board of trustees ratifies the appointment.

818 ~~[(11)]~~ (8) The Transportation Commission created in Section 72-1-301~~[(a) for a~~
819 ~~public transit district serving a population of 200,000 people or fewer,]~~ may appoint a
820 commissioner of the Transportation Commission to serve on the board of trustees of a small
821 public transit district as a nonvoting, ex officio member~~[, and]~~.

822 ~~[(b) for a public transit district serving a population of more than 200,000 people, shall~~
823 ~~appoint a commissioner of the Transportation Commission to serve on the board of trustees as~~
824 ~~a voting member.]~~

825 ~~[(12) (a) The board of trustees of a public transit district serving a population of more~~
826 ~~than 200,000 people shall include a nonvoting member who represents all municipalities and~~
827 ~~unincorporated areas within the district that are located within a county that is not annexed into~~
828 ~~the public transit district.]~~

829 ~~[(b) The nonvoting member representing the combination of municipalities and~~
830 ~~unincorporated areas described in Subsection (12)(a) shall be designated and appointed by a~~
831 ~~weighted vote of the majority of the chief executive officers of the municipalities described in~~

832 Subsection (12)(a).]

833 ~~[(c) Each municipality's vote under Subsection (12)(b) shall be weighted using the~~
 834 ~~proportion of the public transit district population that resides within that municipality and the~~
 835 ~~adjacent unincorporated areas within the same county.]~~

836 ~~[(13)]~~ (9) (a) (i) Each member of the board of trustees of a public transit district is
 837 subject to recall at any time by the legislative body of the county or municipality from which
 838 the member is appointed.

839 (ii) Each recall of a board of trustees member shall be made in the same manner as the
 840 original appointment.

841 (iii) The legislative body recalling a board of trustees member shall provide written
 842 notice to the member being recalled.

843 (b) Upon providing written notice to the board of trustees, a member of the board may
 844 resign from the board of trustees.

845 (c) ~~[Except as provided in Section 17B-2a-807.5, if]~~ If a board member is recalled or
 846 resigns under this Subsection ~~[(13)]~~ (9), the vacancy shall be filled as provided in Subsection
 847 ~~[(6)]~~ (3).

848 Section 13. Section 17B-2a-807.1 is enacted to read:

849 **17B-2a-807.1. Large public transit district board of trustees -- Appointment -- --**
 850 **Quorum -- Compensation -- Terms.**

851 (1) (a) For a large public transit district, the board of trustees shall consist of three
 852 members appointed as described in Subsection (1)(b).

853 (b) (i) The governor, with advice and consent of the Senate, shall appoint the members
 854 of the board of trustees, making:

855 (A) one appointment from the nominees described in Subsection (1)(b)(ii);

856 (B) one appointment from the nominees described in Subsection (1)(b)(iii); and

857 (C) one appointment from the nominees described in Subsection (1)(b)(iv).

858 (ii) The chief executive officer of a county of the first class within a large public transit
 859 district, with approval of the legislative body of the county, shall nominate two or more
 860 individuals to the governor for appointment to the board of trustees.

861 (iii) (A) Subject to Subsection (1)(b)(iii)(B), the executive governing individuals or
 862 bodies of a county or counties of the second class, with a population over 500,000, within a

863 large public transit district, shall nominate two or more individuals to the governor for
864 appointment to the board of trustees.

865 (B) To select individuals for nomination, the executive governing individuals or bodies
866 described in Subsection (1)(b)(iii)(A) shall consult with the executive governing individual or
867 body of a county of the third or smaller class within the large public transit district.

868 (iv) (A) Subject to Subsection (1)(b)(iv)(B), the executive governing individuals or
869 bodies of any county or counties of the second class, with a population of 500,000 or less,
870 within a large public transit district, shall jointly nominate two or more individuals to the
871 governor for appointment to the board of trustees.

872 (B) To select individuals for nomination, the executive governing individuals or bodies
873 described in Subsection (1)(b)(iv)(A) shall consult with the executive governing individual or
874 body of a county of the third or smaller class within the large public transit district different
875 from a third or smaller class county consulting with the county or counties described in
876 Subsection (1)(b)(iii).

877 (c) Each nominee shall be a qualified executive with technical and administrative
878 experience and training appropriate for the position.

879 (d) The board of trustees of a large public transit district shall be full-time employees
880 of the public transit district.

881 (e) The compensation package for the board of trustees shall be determined by the local
882 advisory board as described in Section [17B-2a-808.2](#).

883 (2) (a) Subject to Subsections (3) and (4), each member of the board of trustees of a
884 large public transit district shall serve for a term of three years.

885 (b) A member of the board of trustees may serve an unlimited number of terms.

886 (3) Each member of the board of trustees of a large public transit district shall serve at
887 the pleasure of the governor.

888 (4) The first time the board of trustees is appointed under this section, the governor
889 shall stagger the initial term of each of the members of the board of trustees as follows:

890 (a) one member of the board of trustees shall serve an initial term of two years;

891 (b) one member of the board of trustees shall serve an initial term of three years; and

892 (c) one member of the board of trustees shall serve an initial term of four years.

893 (5) The governor shall designate one member of the board of trustees as chair of the

894 board of trustees.

895 (6) (a) If a vacancy occurs, the nomination and appointment procedures to replace the
896 individual shall occur in the same manner described in Subsection (1) for the member creating
897 the vacancy.

898 (b) A replacement board member shall serve for the remainder of the unexpired term,
899 but may serve an unlimited number of terms as provided in Subsection (2)(b).

900 (c) If the nominating officials under Subsection (1) do not nominate to fill the vacancy
901 within 60 days, the governor shall appoint an individual to fill the vacancy.

902 (7) For any large public transit district in existence as of May 8, 2018:

903 (a) the individuals or bodies providing nominations as described in this section shall
904 provide the nominations to the governor as described in this section before July 31, 2018;

905 (b) the governor shall appoint the members of the board of trustees before August 31,
906 2018; and

907 (c) the new board shall assume control of the large public transit district on or before
908 November 1, 2018.

909 Section 14. Section **17B-2a-808** is amended to read:

910 **17B-2a-808. Small public transit district board of trustees powers and duties --**
911 **Adoption of ordinances, resolutions, or orders -- Effective date of ordinances.**

912 (1) The powers and duties of a board of trustees of a small public transit district stated
913 in this section are in addition to the powers and duties stated in Section **17B-1-301**.

914 (2) The board of trustees of each small public transit district shall:

915 (a) appoint and fix the salary of a general manager, a chief executive officer, or both, as
916 provided in Section **17B-2a-811**;

917 (b) determine the transit facilities that the district should acquire or construct;

918 (c) supervise and regulate each transit facility that the district owns and operates,
919 including:

920 (i) fixing rates, fares, rentals, and charges and any classifications of rates, fares, rentals,
921 and charges; and

922 (ii) making and enforcing rules, regulations, contracts, practices, and schedules for or
923 in connection with a transit facility that the district owns or controls;

924 (d) control the investment of all funds assigned to the district for investment, including

925 funds:

926 (i) held as part of a district's retirement system; and

927 (ii) invested in accordance with the participating employees' designation or direction

928 pursuant to an employee deferred compensation plan established and operated in compliance

929 with Section 457 of the Internal Revenue Code;

930 (e) invest all funds according to the procedures and requirements of Title 51, Chapter

931 7, State Money Management Act;

932 (f) if a custodian is appointed under Subsection (3)(d), pay the fees for the custodian's

933 services from the interest earnings of the investment fund for which the custodian is appointed;

934 (g) (i) cause an annual audit of all district books and accounts to be made by an

935 independent certified public accountant;

936 (ii) as soon as practicable after the close of each fiscal year, submit to the chief

937 administrative officer and legislative body of each county and municipality with territory

938 within the district a financial report showing:

939 (A) the result of district operations during the preceding fiscal year; and

940 (B) the district's financial status on the final day of the fiscal year; and

941 (iii) supply copies of the report under Subsection (2)(g)(ii) to the general public upon

942 request in a quantity that the board considers appropriate;

943 (h) report at least annually to the Transportation Commission created in Section

944 72-1-301 the district's short-term and long-range public transit plans, including the transit

945 portions of applicable regional transportation plans adopted by a metropolitan planning

946 organization established under 23 U.S.C. Sec. 134;

947 (i) direct the internal auditor appointed under Section 17B-2a-810 to conduct audits

948 that the board of trustees determines to be the most critical to the success of the organization;

949 and

950 (j) hear audit reports for audits conducted in accordance with Subsection (2)(i).

951 (3) A board of trustees of a public transit district may:

952 (a) subject to Subsection (5), make and pass ordinances, resolutions, and orders that

953 are:

954 (i) not repugnant to the United States Constitution, the Utah Constitution, or the

955 provisions of this part; and

956 (ii) necessary for:
957 (A) the government and management of the affairs of the district;
958 (B) the execution of district powers; and
959 (C) carrying into effect the provisions of this part;
960 (b) provide by resolution, under terms and conditions the board considers fit, for the
961 payment of demands against the district without prior specific approval by the board, if the
962 payment is:
963 (i) for a purpose for which the expenditure has been previously approved by the board;
964 (ii) in an amount no greater than the amount authorized; and
965 (iii) approved by the general manager or other officer or deputy as the board prescribes;
966 (c) (i) hold public hearings and subpoena witnesses; and
967 (ii) appoint district officers to conduct a hearing and require the officers to make
968 findings and conclusions and report them to the board; and
969 (d) appoint a custodian for the funds and securities under its control, subject to
970 Subsection (2)(f).
971 (4) A member of the board of trustees of a public transit district or a hearing officer
972 designated by the board may administer oaths and affirmations in a district investigation or
973 proceeding.
974 (5) (a) The vote of the board of trustees on each ordinance shall be by roll call vote
975 with each affirmative and negative vote recorded.
976 (b) (i) Subject to Subsection (5)(b)(ii), the board of trustees may adopt a resolution or
977 order by voice vote.
978 (ii) The vote of the board of trustees on a resolution or order shall be by roll call vote if
979 a member of the board so demands.
980 (c) (i) Except as provided in Subsection (5)(c)(ii), the board of trustees of a public
981 transit district may not adopt an ordinance unless it is:
982 (A) introduced at least a day before the board of trustees adopts it; or
983 (B) mailed by registered mail, postage prepaid, to each member of the board of trustees
984 at least five days before the day upon which the ordinance is presented for adoption.
985 (ii) Subsection (5)(c)(i) does not apply if the ordinance is adopted by a unanimous vote
986 of all board members present at a meeting at which at least 3/4 of all board members are

987 present.

988 (d) Each ordinance adopted by a public transit district's board of trustees shall take
989 effect upon adoption, unless the ordinance provides otherwise.

990 Section 15. Section **17B-2a-808.1** is enacted to read:

991 **17B-2a-808.1. Large public transit district board of trustees powers and duties --**
992 **Adoption of ordinances, resolutions, or orders -- Effective date of ordinances.**

993 (1) The powers and duties of a board of trustees of a large public transit district stated
994 in this section are in addition to the powers and duties stated in Section [17B-1-301](#).

995 (2) The board of trustees of each large public transit district shall:

996 (a) hold public meetings and receive public comment;

997 (b) ensure that the policies, procedures, and management practices established by the
998 public transit district meet state and federal regulatory requirements and federal grantee
999 eligibility;

1000 (c) create and approve an annual budget, including the issuance of bonds and other
1001 financial instruments, after consultation with the local advisory board;

1002 (d) approve any interlocal agreement with a local jurisdiction;

1003 (e) in consultation with the local advisory board, approve contracts and overall
1004 property acquisitions and dispositions for transit-oriented development;

1005 (f) in consultation with constituent counties, municipalities, metropolitan planning
1006 organizations, and the local advisory board:

1007 (i) develop and approve a strategic plan for development and operations on at least a
1008 four-year basis; and

1009 (ii) create and pursue funding opportunities for transit capital and service initiatives to
1010 meet anticipated growth within the public transit district;

1011 (g) annually report the public transit district's long-term financial plan to the State
1012 Bonding Commission;

1013 (h) annually report the public transit district's progress and expenditures related to state
1014 resources to the Executive Appropriations Committee and the Infrastructure and General
1015 Government Appropriations Subcommittee;

1016 (i) (A) in partnership with the Department of Transportation, study and evaluate the
1017 feasibility of a strategic transition of a large public transit district into a state entity; and

1018 (B) in partnership with the Department of Transportation, before November 30 of each
1019 year, report on the progress of the study to the Transportation Interim Committee and the
1020 Infrastructure and General Government Appropriations Subcommittee;
1021 (j) hire, set salaries, and develop performance targets and evaluations for:
1022 (i) the executive director;
1023 (ii) the general counsel;
1024 (iii) the chief internal auditor;
1025 (iv) the chief people officer;
1026 (v) any vice president level officer; and
1027 (vi) the chief safety, security, and technology officer;
1028 (k) supervise and regulate each transit facility that the public transit district owns and
1029 operates, including:
1030 (i) fix rates, fares, rentals, charges and any classifications of rates, fares, rentals, and
1031 charges; and
1032 (ii) make and enforce rules, regulations, contracts, practices, and schedules for or in
1033 connection with a transit facility that the district owns or controls;
1034 (l) subject to Subsection (4), control the investment of all funds assigned to the district
1035 for investment, including funds:
1036 (i) held as part of a district's retirement system; and
1037 (ii) invested in accordance with the participating employees' designation or direction
1038 pursuant to an employee deferred compensation plan established and operated in compliance
1039 with Section 457 of the Internal Revenue Code;
1040 (m) in consultation with the local advisory board created under Section [17B-2a-808.2](#),
1041 invest all funds according to the procedures and requirements of Title 51, Chapter 7, State
1042 Money Management Act;
1043 (n) if a custodian is appointed under Subsection (3)(d), and subject to Subsection (4),
1044 pay the fees for the custodian's services from the interest earnings of the investment fund for
1045 which the custodian is appointed;
1046 (o) (i) cause an annual audit of all public transit district books and accounts to be made
1047 by an independent certified public accountant;
1048 (ii) as soon as practicable after the close of each fiscal year, submit to each of the

- 1049 councils of governments within the public transit district a financial report showing:
- 1050 (A) the result of district operations during the preceding fiscal year;
- 1051 (B) an accounting of the expenditures of all local sales tax revenues generated under
- 1052 Title 59, Chapter 12, Part 22, Local Option Sales and Use Taxes for Transportation Act;
- 1053 (C) the district's financial status on the final day of the fiscal year; and
- 1054 (D) the district's progress and efforts to improve efficiency relative to the previous
- 1055 fiscal year; and
- 1056 (iii) supply copies of the report under Subsection (2)(o)(ii) to the general public upon
- 1057 request;
- 1058 (p) report at least annually to the Transportation Commission created in Section
- 1059 72-1-301, which report shall include:
- 1060 (i) the district's short-term and long-range public transit plans, including the portions of
- 1061 applicable regional transportation plans adopted by a metropolitan planning organization
- 1062 established under 23 U.S.C. Sec. 134; and
- 1063 (ii) any transit capital development projects that the board of trustees would like the
- 1064 Transportation Commission to consider;
- 1065 (q) direct the internal auditor appointed under Section 17B-2a-810 to conduct audits
- 1066 that the board of trustees determines, in consultation with the local advisory board created in
- 1067 Section 17B-2a-808.2, to be the most critical to the success of the organization;
- 1068 (r) together with the local advisory board created in Section 17B-2a-808.2, hear audit
- 1069 reports for audits conducted in accordance with Subsection (2)(o);
- 1070 (s) negotiate all contracts pertaining to reduced fares, and evaluate existing contracts,
- 1071 including review of:
- 1072 (i) how negotiations occurred;
- 1073 (ii) the rationale for providing a reduced fare; and
- 1074 (iii) identification and evaluation of cost shifts to offset operational costs incurred and
- 1075 impacted by each contract offering a reduced fare;
- 1076 (t) in consultation with the local advisory board, develop and approve other board
- 1077 policies, ordinances, and bylaws; and
- 1078 (u) review and approve any:
- 1079 (i) contract or expense exceeding \$200,000; or

1080 (ii) proposed change order to an existing contract if the value of the change order
1081 exceeds:
1082 (A) 15% of the total contract; or
1083 (B) \$200,000.
1084 (3) A board of trustees of a large public transit district may:
1085 (a) subject to Subsection (5), make and pass ordinances, resolutions, and orders that
1086 are:
1087 (i) not repugnant to the United States Constitution, the Utah Constitution, or the
1088 provisions of this part; and
1089 (ii) necessary for:
1090 (A) the governance and management of the affairs of the district;
1091 (B) the execution of district powers; and
1092 (C) carrying into effect the provisions of this part;
1093 (b) provide by resolution, under terms and conditions the board considers fit, for the
1094 payment of demands against the district without prior specific approval by the board, if the
1095 payment is:
1096 (i) for a purpose for which the expenditure has been previously approved by the board;
1097 (ii) in an amount no greater than the amount authorized; and
1098 (iii) approved by the executive director or other officer or deputy as the board
1099 prescribes;
1100 (c) in consultation with the local advisory board created in Section [17B-2a-808.2](#):
1101 (i) hold public hearings and subpoena witnesses; and
1102 (ii) appoint district officers to conduct a hearing and require the officers to make
1103 findings and conclusions and report them to the board; and
1104 (d) appoint a custodian for the funds and securities under its control, subject to
1105 Subsection (2)(n).
1106 (4) On or before September 30, 2019, the board of trustees of a large public transit
1107 district shall present a report to the Transportation Interim Committee regarding retirement
1108 benefits of the district, including:
1109 (a) the feasibility of becoming a participating employer and having retirement benefits
1110 of eligible employees and officials covered in applicable systems and plans administered under

1111 Title 49, Utah State Retirement and Insurance Benefit Act;

1112 (b) any legal or contractual restrictions on any employees that are party to a collectively
1113 bargained retirement plan; and

1114 (c) a comparison of retirement plans offered by the large public transit district and
1115 similarly situated public employees, including the costs of each plan and the value of the
1116 benefit offered.

1117 (5) The board of trustees may not issue a bond unless the board of trustees has
1118 consulted and received approval from the State Bonding Commission created in Section
1119 [63B-1-201](#).

1120 (6) A member of the board of trustees of a large public transit district or a hearing
1121 officer designated by the board may administer oaths and affirmations in a district investigation
1122 or proceeding.

1123 (7) (a) The vote of the board of trustees on each ordinance or resolution shall be by roll
1124 call vote with each affirmative and negative vote recorded.

1125 (b) The board of trustees of a large public transit district may not adopt an ordinance
1126 unless it is introduced at least 24 hours before the board of trustees adopts it.

1127 (c) Each ordinance adopted by a large public transit district's board of trustees shall
1128 take effect upon adoption, unless the ordinance provides otherwise.

1129 Section 16. Section **17B-2a-808.2** is enacted to read:

1130 **17B-2a-808.2. Large public transit district local advisory board -- Powers and**
1131 **duties.**

1132 (1) A large public transit district shall create and consult with a local advisory board.

1133 (2) (a) The local advisory board shall have membership selected as described in
1134 Subsection (2)(b).

1135 (b) (i) The council of governments of a county of the first class within a large public
1136 transit district shall appoint three members to the local advisory board.

1137 (ii) The chief executive officer of a city that is the county seat within a county of the
1138 first class within a large public transit district shall appoint one member to the local advisory
1139 board.

1140 (iii) The council of governments of a county of the second class with a population of
1141 500,000 or more within a large public transit district shall appoint two members to the local

1142 advisory board.

1143 (iv) The council of governments of a county of the second class with a population
1144 under 500,000 within a large public transit district shall each appoint one member to the local
1145 advisory board.

1146 (v) The councils of governments of any counties of the third or smaller class or smaller
1147 within a large public transit district shall jointly appoint one member to the local advisory
1148 board.

1149 (c) The population numbers used to apportion appointment powers described in
1150 Subsection (2)(b) shall be based on the most recent official census or census estimate of the
1151 United States Census Bureau.

1152 (3) The local advisory board shall meet at least quarterly in a meeting open to the
1153 public for comment to discuss the service, operations, and any concerns with the public transit
1154 district operations and functionality.

1155 (4) The duties of the local advisory board shall include:

1156 (a) setting the compensation packages of the board of trustees;

1157 (b) reviewing, approving, and recommending final adoption by the board of trustees of
1158 the large public transit district service plans at least every two and one-half years;

1159 (c) reviewing, approving, and recommending final adoption by the board of trustees of
1160 project development plans, including funding, of all new capital development projects;

1161 (d) reviewing, approving, and recommending final adoption by the board of trustees of
1162 any plan for a transit-oriented development where a large public transit district is involved;

1163 (e) at least annually, engaging with the safety and security team of the large public
1164 transit district to ensure coordination with local municipalities and counties;

1165 (f) assisting with coordinated mobility and constituent services provided by the public
1166 transit district;

1167 (g) representing and advocating the concerns of citizens within the public transit
1168 district to the board of trustees; and

1169 (h) other duties described in Section [17B-2a-808.1](#).

1170 (5) The local advisory board shall meet at least quarterly with and consult with the
1171 board of trustees and advise regarding the operation and management of the public transit
1172 district.

- 1173 Section 17. Section **17B-2a-810** is amended to read:
- 1174 **17B-2a-810. Officers of a public transit district.**
- 1175 (1) (a) The officers of a public transit district shall consist of:
- 1176 (i) the members of the board of trustees;
- 1177 (ii) for a small public transit district, a chair and vice chair, appointed by the board of
- 1178 trustees, subject to Subsection (1)(c);
- 1179 (iii) a secretary, appointed by the board of trustees;
- 1180 (iv) (A) for a small public transit district, a general manager, appointed by the board of
- 1181 trustees as provided in Section [17B-2a-811](#), whose duties may be allocated by the board of
- 1182 trustees, at the board of trustees' discretion, to a chief executive officer, or both; or
- 1183 (B) for a large public transit district, an executive director appointed by the board of
- 1184 trustees as provided in Section [17B-2a-811.1](#);
- 1185 (v) for a small public transit district, a chief executive officer appointed by the board of
- 1186 trustees, as provided in Section [17B-2a-811](#);
- 1187 (vi) a general counsel, appointed by the board of trustees, subject to Subsection (1)(d);
- 1188 (vii) a treasurer, appointed as provided in Section [17B-1-633](#);
- 1189 (viii) a comptroller, appointed by the board of trustees, subject to Subsection (1)(e);
- 1190 (ix) for a [~~public transit district with more than 200,000 people residing within the~~
- 1191 ~~boundaries of the]~~ large public transit district, an internal auditor, appointed by the board of
- 1192 trustees, subject to Subsection (1)(f); and
- 1193 (x) other officers, assistants, and deputies that the board of trustees considers
- 1194 necessary.
- 1195 (b) The board of trustees of a small public transit district may, at its discretion, appoint
- 1196 a president, who shall also be considered an officer of a public transit district.
- 1197 (c) The district chair and vice chair of a small public transit district shall be members
- 1198 of the board of trustees.
- 1199 (d) The person appointed as general counsel shall:
- 1200 (i) be admitted to practice law in the state; and
- 1201 (ii) have been actively engaged in the practice of law for at least seven years next
- 1202 preceding the appointment.
- 1203 (e) The person appointed as comptroller shall have been actively engaged in the

1204 practice of accounting for at least seven years next preceding the appointment.

1205 (f) The person appointed as internal auditor shall be a licensed certified internal auditor
1206 or certified public accountant with at least five years experience in the auditing or public
1207 accounting profession, or the equivalent, prior to appointment.

1208 (2) (a) [~~The~~] For a small public transit district, the district's general manager or chief
1209 executive officer, as the board prescribes, or for a large public transit district, the executive
1210 director, shall appoint all officers and employees not specified in Subsection (1).

1211 (b) Each officer and employee appointed by the district's general manager or chief
1212 executive officer of a small public transit district, or the executive director of a large public
1213 transit district, serves at the pleasure of the appointing general manager [~~or~~], chief executive
1214 officer, or executive director.

1215 (3) The board of trustees shall by ordinance or resolution fix the compensation of all
1216 district officers and employees, except as otherwise provided in this part.

1217 (4) (a) Each officer appointed by the board of trustees or by the district's general
1218 manager [~~or~~], chief executive officer, or executive director shall take the oath of office
1219 specified in Utah Constitution, Article IV, Section 10.

1220 (b) Each oath under Subsection (4)(a) shall be subscribed and filed with the district
1221 secretary no later than 15 days after the commencement of the officer's term of office.

1222 Section 18. Section **17B-2a-811** is amended to read:

1223 **17B-2a-811. General manager or chief executive officer of a small public transit**
1224 **district.**

1225 (1) (a) The board of trustees of a small public transit district shall appoint a person as a
1226 general manager.

1227 (b) The board of trustees of a small public transit district may, at its discretion, appoint
1228 a person as a chief executive officer.

1229 (c) The board of trustees of a small public transit district shall allocate the
1230 responsibilities defined in Subsection (2) between the general manager and the chief executive
1231 officer, if the board of trustees appoints a chief executive officer.

1232 (d) The chief executive officer shall have the same rights allocated to the general
1233 manager under Subsections (3) and (4).

1234 (e) The appointment of a general manager, chief executive officer, or both, shall be by

1235 the affirmative vote of a majority of all members of the board of trustees.

1236 (f) The board's appointment of a person as general manager, chief executive officer, or
1237 both, shall be based on the person's qualifications, with special reference to the person's actual
1238 experience in or knowledge of accepted practices with respect to the duties of the office.

1239 (g) A person appointed as general manager or chief executive officer of a small public
1240 transit district is not required to be a resident of the state at the time of appointment.

1241 (2) A general manager or chief executive officer of a small public transit district shall
1242 have the following responsibilities as allocated by the board of trustees:

1243 (a) be a full-time officer and devote full time to the district's business;

1244 (b) ensure that all district ordinances are enforced;

1245 (c) prepare and submit to the board of trustees, as soon as practical but not less than 45
1246 days after the end of each fiscal year, a complete report on the district's finances and
1247 administrative activities for the preceding year;

1248 (d) keep the board of trustees advised as to the district's needs;

1249 (e) prepare or cause to be prepared all plans and specifications for the construction of
1250 district works;

1251 (f) cause to be installed and maintained a system of auditing and accounting that
1252 completely shows the district's financial condition at all times; and

1253 (g) attend meetings of the board of trustees.

1254 (3) A general manager of a small public transit district:

1255 (a) serves at the pleasure of the board of trustees;

1256 (b) holds office for an indefinite term;

1257 (c) may be removed by the board of trustees upon the adoption of a resolution by the
1258 affirmative vote of a majority of all members of the board, subject to Subsection (5);

1259 (d) has full charge of:

1260 (i) the acquisition, construction, maintenance, and operation of district facilities; and

1261 (ii) the administration of the district's business affairs;

1262 (e) is entitled to participate in the deliberations of the board of trustees as to any matter
1263 before the board; and

1264 (f) may not vote at a meeting of the board of trustees.

1265 (4) The board of trustees may not reduce the general manager's salary below the

1266 amount fixed at the time of original appointment unless:

1267 (a) the board adopts a resolution by a vote of a majority of all members; and

1268 (b) if the general manager demands in writing, the board gives the general manager the
1269 opportunity to be publicly heard at a meeting of the board before the final vote on the
1270 resolution reducing the general manager's salary.

1271 (5) (a) Before adopting a resolution providing for a general manager's removal as
1272 provided in Subsection (3)(c), the board shall, if the manager makes a written demand:

1273 (i) give the general manager a written statement of the reasons alleged for the general
1274 manager's removal; and

1275 (ii) allow the general manager to be publicly heard at a meeting of the board of
1276 trustees.

1277 (b) Notwithstanding Subsection (5)(a), the board of trustees of a public transit district
1278 may suspend a general manager from office pending and during a hearing under Subsection
1279 (5)(a)(ii).

1280 (6) The action of a board of trustees suspending or removing a general manager or
1281 reducing the general manager's salary is final.

1282 Section 19. Section **17B-2a-811.1** is enacted to read:

1283 **17B-2a-811.1. Executive director of a large public transit district.**

1284 (1) (a) The board of trustees of a large public transit district shall appoint a person as
1285 an executive director.

1286 (b) The appointment of an executive director shall be by the affirmative vote of a
1287 majority of the board of trustees.

1288 (c) The board's appointment of a person as executive director shall be based on the
1289 person's qualifications, with special reference to the person's actual experience in or knowledge
1290 of accepted practices with respect to the duties of the office.

1291 (d) A person appointed as executive director of a large public transit district is not
1292 required to be a resident of the state at the time of appointment.

1293 (2) An executive director of a large public transit district shall:

1294 (a) be a full-time officer and devote full time to the district's business;

1295 (b) serve at the pleasure of the board of trustees;

1296 (c) hold office for an indefinite term;

- 1297 (d) ensure that all district ordinances are enforced;
- 1298 (e) prepare and submit to the board of trustees, as soon as practical but not less than 45
- 1299 days after the end of each fiscal year, a complete report on the district's finances and
- 1300 administrative activities for the preceding year;
- 1301 (f) advise the board of trustees regarding the needs of the district;
- 1302 (g) in consultation with the board of trustees, prepare or cause to be prepared all plans
- 1303 and specifications for the construction of district works;
- 1304 (h) cause to be installed and maintained a system of auditing and accounting that
- 1305 completely shows the district's financial condition at all times;
- 1306 (i) attend meetings of the board of trustees;
- 1307 (j) in consultation with the board of trustees, have charge of:
- 1308 (i) the acquisition, construction, maintenance, and operation of district facilities; and
- 1309 (ii) the administration of the district's business affairs; and
- 1310 (k) be entitled to participate in the deliberations of the board of trustees as to any
- 1311 matter before the board.
- 1312 (3) The board of trustees may not remove the executive director or reduce the
- 1313 executive director's salary below the amount fixed at the time of original appointment unless:
- 1314 (a) the board adopts a resolution by a vote of a majority of all members; and
- 1315 (b) if the executive director demands in writing, the board gives the executive director
- 1316 the opportunity to be publicly heard at a meeting of the board before the final vote on the
- 1317 resolution removing the executive director or reducing the executive director's salary.
- 1318 (4) (a) Before adopting a resolution providing for the removal of the executive director
- 1319 or a reduction in the executive director's salary as provided in Subsection (3), the board shall, if
- 1320 the executive director makes a written demand:
- 1321 (i) give the executive director a written statement of the reasons alleged for the removal
- 1322 or reduction in salary; and
- 1323 (ii) allow the executive director to be publicly heard at a meeting of the board of
- 1324 trustees.
- 1325 (b) Notwithstanding Subsection (4)(a), the board of trustees of a public transit district
- 1326 may suspend an executive director from office pending and during a hearing under Subsection
- 1327 (4)(a)(ii).

1328 (5) The action of a board of trustees suspending or removing an executive director or
1329 reducing the executive director's salary is final.

1330 Section 20. Section **17B-2a-826** is amended to read:

1331 **17B-2a-826. Public transit district office of constituent services and office of**
1332 **coordinated mobility.**

1333 (1) (a) The board of trustees of a large public transit district [~~servicing a population over~~
1334 ~~200,000 people~~] shall create and employ an office of constituent services.

1335 (b) The duties of the office of constituent services described in Subsection (1)(a) shall
1336 include:

1337 (i) establishing a central call number to hear and respond to complaints, requests,
1338 comments, concerns, and other communications from customers and citizens within the
1339 district;

1340 (ii) keeping a log of the complaints, comments, concerns, and other communications
1341 from customers and citizens within the district; and

1342 (iii) reporting complaints, comments, concerns, and other communications to
1343 management and to the [~~citizens'~~] local advisory board created in [~~Subsection (2)~~] Section
1344 17B-2a-808.2.

1345 ~~[(2) (a) A public transit district serving a population over 200,000 people shall create~~
1346 ~~and oversee a citizens' advisory board.]~~

1347 ~~[(b) (i) The board of trustees of the public transit district shall select up to 12 members~~
1348 ~~for the public transit district citizens' advisory board with membership representing the~~
1349 ~~diversity of the public transit district area.]~~

1350 ~~[(ii) The board of trustees shall ensure that each member of the citizens' advisory board~~
1351 ~~regularly uses the public transit district services.]~~

1352 ~~[(c) The public transit district citizens' advisory board shall meet as needed or quarterly~~
1353 ~~in a meeting open to the public for comment, to discuss the service, operations, and any~~
1354 ~~concerns with the public transit district operations and functionality.]~~

1355 ~~[(d) The public transit district management shall meet at least quarterly with and~~
1356 ~~consult with the citizens' advisory board and take into consideration the input of the citizens'~~
1357 ~~advisory board in managing and operating the public transit district.]~~

1358 ~~[(3)]~~ (2) (a) A large public transit district [~~servicing a population over 200,000 people~~]

1359 shall create and employ an office of coordinated mobility.

1360 (b) The duties of the office of coordinated mobility shall include:

1361 (i) establishing a central call number to facilitate human services transportation;

1362 (ii) coordinating all human services transportation needs within the public transit
1363 district;

1364 (iii) receiving requests and other communications regarding human services
1365 transportation;

1366 (iv) receiving requests and other communications regarding vans, buses, and other
1367 vehicles available for use from the public transit district to maximize the utility of and
1368 investment in those vehicles; and

1369 (v) supporting local efforts and applications for additional funding.

1370 Section 21. Section **41-1a-102** is amended to read:

1371 **41-1a-102. Definitions.**

1372 As used in this chapter:

1373 (1) "Actual miles" means the actual distance a vehicle has traveled while in operation.

1374 (2) "Actual weight" means the actual unladen weight of a vehicle or combination of
1375 vehicles as operated and certified to by a weighmaster.

1376 (3) "All-terrain type I vehicle" [~~has the same meaning provided~~] means the same as that
1377 term is defined in Section 41-22-2.

1378 (4) "All-terrain type II vehicle" [~~has the same meaning provided~~] means the same as
1379 that term is defined in Section 41-22-2.

1380 (5) "Alternative fuel vehicle" means:

1381 (a) an electric vehicle;

1382 (b) a hybrid electric vehicle;

1383 (c) a plug-in hybrid electric vehicle; or

1384 (d) a motor vehicle powered by a fuel other than:

1385 (i) motor fuel;

1386 (ii) diesel fuel;

1387 (iii) natural gas; or

1388 (iv) propane.

1389 [~~(5)~~] (6) "Amateur radio operator" means any person licensed by the Federal

1390 Communications Commission to engage in private and experimental two-way radio operation
1391 on the amateur band radio frequencies.

1392 ~~[(6)]~~ (7) "Autocycle" means the same as that term is defined in Section [53-3-102](#).

1393 ~~[(7)]~~ (8) "Branded title" means a title certificate that is labeled:

1394 (a) rebuilt and restored to operation;

1395 (b) flooded and restored to operation; or

1396 (c) not restored to operation.

1397 ~~[(8)]~~ (9) "Camper" means any structure designed, used, and maintained primarily to be
1398 mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a
1399 mobile dwelling, sleeping place, commercial space, or facilities for human habitation or for
1400 camping.

1401 ~~[(9)]~~ (10) "Certificate of title" means a document issued by a jurisdiction to establish a
1402 record of ownership between an identified owner and the described vehicle, vessel, or outboard
1403 motor.

1404 ~~[(10)]~~ (11) "Certified scale weigh ticket" means a weigh ticket that has been issued by
1405 a weighmaster.

1406 ~~[(11)]~~ (12) "Commercial vehicle" means a motor vehicle, trailer, or semitrailer used or
1407 maintained for the transportation of persons or property that operates:

1408 (a) as a carrier for hire, compensation, or profit; or

1409 (b) as a carrier to transport the vehicle owner's goods or property in furtherance of the
1410 owner's commercial enterprise.

1411 ~~[(12)]~~ (13) "Commission" means the State Tax Commission.

1412 ~~[(13)]~~ (14) "Consumer price index" means the same as that term is defined in Section
1413 [59-13-102](#).

1414 ~~[(14)]~~ (15) "Dealer" means a person engaged or licensed to engage in the business of
1415 buying, selling, or exchanging new or used vehicles, vessels, or outboard motors either outright
1416 or on conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an
1417 established place of business for the sale, lease, trade, or display of vehicles, vessels, or
1418 outboard motors.

1419 ~~[(15)]~~ (16) "Diesel fuel" means the same as that term is defined in Section [59-13-102](#).

1420 ~~[(16)]~~ (17) "Division" means the Motor Vehicle Division of the commission, created in

1421 Section 41-1a-106.

1422 (18) "Electric motor vehicle" means a motor vehicle that is powered solely by an
1423 electric motor drawing current from a rechargeable energy storage system.

1424 [~~15~~] (19) "Essential parts" means all integral and body parts of a vehicle of a type
1425 required to be registered in this state, the removal, alteration, or substitution of which would
1426 tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or
1427 mode of operation.

1428 [~~16~~] (20) "Farm tractor" means every motor vehicle designed and used primarily as a
1429 farm implement for drawing plows, mowing machines, and other implements of husbandry.

1430 [~~17~~] (21) (a) "Farm truck" means a truck used by the owner or operator of a farm
1431 solely for his own use in the transportation of:

1432 (i) farm products, including livestock and its products, poultry and its products,
1433 floricultural and horticultural products;

1434 (ii) farm supplies, including tile, fence, and every other thing or commodity used in
1435 agricultural, floricultural, horticultural, livestock, and poultry production; and

1436 (iii) livestock, poultry, and other animals and things used for breeding, feeding, or
1437 other purposes connected with the operation of a farm.

1438 (b) "Farm truck" does not include the operation of trucks by commercial processors of
1439 agricultural products.

1440 [~~18~~] (22) "Fleet" means one or more commercial vehicles.

1441 [~~19~~] (23) "Foreign vehicle" means a vehicle of a type required to be registered,
1442 brought into this state from another state, territory, or country other than in the ordinary course
1443 of business by or through a manufacturer or dealer, and not registered in this state.

1444 [~~20~~] (24) "Gross laden weight" means the actual weight of a vehicle or combination
1445 of vehicles, equipped for operation, to which shall be added the maximum load to be carried.

1446 [~~21~~] (25) "Highway" or "street" means the entire width between property lines of
1447 every way or place of whatever nature when any part of it is open to the public, as a matter of
1448 right, for purposes of vehicular traffic.

1449 (26) "Hybrid electric motor vehicle" means a motor vehicle that draws propulsion
1450 energy from onboard sources of stored energy that are both:

1451 (a) an internal combustion engine or heat engine using consumable fuel; and

1452 (b) a rechargeable energy storage system where energy for the storage system comes
1453 solely from sources onboard the vehicle.

1454 ~~[(22)]~~ (27) (a) "Identification number" means the identifying number assigned by the
1455 manufacturer or by the division for the purpose of identifying the vehicle, vessel, or outboard
1456 motor.

1457 (b) "Identification number" includes a vehicle identification number, state assigned
1458 identification number, hull identification number, and motor serial number.

1459 ~~[(23)]~~ (28) "Implement of husbandry" means every vehicle designed or adapted and
1460 used exclusively for an agricultural operation and only incidentally operated or moved upon the
1461 highways.

1462 ~~[(24)]~~ (29) (a) "In-state miles" means the total number of miles operated in this state
1463 during the preceding year by fleet power units.

1464 (b) If fleets are composed entirely of trailers or semitrailers, "in-state miles" means the
1465 total number of miles that those vehicles were towed on Utah highways during the preceding
1466 year.

1467 ~~[(25)]~~ (30) "Interstate vehicle" means any commercial vehicle operated in more than
1468 one state, province, territory, or possession of the United States or foreign country.

1469 ~~[(26)]~~ (31) "Jurisdiction" means a state, district, province, political subdivision,
1470 territory, or possession of the United States or any foreign country.

1471 ~~[(27)]~~ (32) "Lienholder" means a person with a security interest in particular property.

1472 ~~[(28)]~~ (33) "Manufactured home" means a transportable factory built housing unit
1473 constructed on or after June 15, 1976, according to the Federal Home Construction and Safety
1474 Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is
1475 eight body feet or more in width or 40 body feet or more in length, or when erected on site, is
1476 400 or more square feet, and which is built on a permanent chassis and designed to be used as a
1477 dwelling with or without a permanent foundation when connected to the required utilities, and
1478 includes the plumbing, heating, air-conditioning, and electrical systems.

1479 ~~[(29)]~~ (34) "Manufacturer" means a person engaged in the business of constructing,
1480 manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or
1481 outboard motors for the purpose of sale or trade.

1482 ~~[(30)]~~ (35) "Mobile home" means a transportable factory built housing unit built prior

1483 to June 15, 1976, in accordance with a state mobile home code which existed prior to the
1484 Federal Manufactured Housing and Safety Standards Act (HUD Code).

1485 (36) "Motor fuel" means the same as that term is defined in Section 59-13-102.

1486 [~~(33)~~] (37) (a) "Motor vehicle" means a self-propelled vehicle intended primarily for
1487 use and operation on the highways.

1488 (b) "Motor vehicle" does not include an off-highway vehicle.

1489 [~~(31)~~] (38) "Motorboat" [has the same meaning as provided] means the same as that
1490 term is defined in Section 73-18-2.

1491 [~~(32)~~] (39) "Motorcycle" means:

1492 (a) a motor vehicle having a saddle for the use of the rider and designed to travel on not
1493 more than three wheels in contact with the ground; or

1494 (b) an autocytle.

1495 (40) "Natural gas" means a fuel of which the primary constituent is methane.

1496 [~~(34)~~] (41) (a) "Nonresident" means a person who is not a resident of this state as
1497 defined by Section 41-1a-202, and who does not engage in intrastate business within this state
1498 and does not operate in that business any motor vehicle, trailer, or semitrailer within this state.

1499 (b) A person who engages in intrastate business within this state and operates in that
1500 business any motor vehicle, trailer, or semitrailer in this state or who, even though engaging in
1501 interstate commerce, maintains any vehicle in this state as the home station of that vehicle is
1502 considered a resident of this state, insofar as that vehicle is concerned in administering this
1503 chapter.

1504 [~~(35)~~] (42) "Odometer" means a device for measuring and recording the actual distance
1505 a vehicle travels while in operation, but does not include any auxiliary odometer designed to be
1506 periodically reset.

1507 [~~(36)~~] (43) "Off-highway implement of husbandry" [has the same meaning as
1508 provided] means the same as that term is defined in Section 41-22-2.

1509 [~~(37)~~] (44) "Off-highway vehicle" [has the same meaning as provided] means the same
1510 as that term is defined in Section 41-22-2.

1511 [~~(38)~~] (45) "Operate" means to drive or be in actual physical control of a vehicle or to
1512 navigate a vessel.

1513 [~~(39)~~] (46) "Outboard motor" means a detachable self-contained propulsion unit,

1514 excluding fuel supply, used to propel a vessel.

1515 ~~[(40)]~~ (47) (a) "Owner" means a person, other than a lienholder, holding title to a
1516 vehicle, vessel, or outboard motor whether or not the vehicle, vessel, or outboard motor is
1517 subject to a security interest.

1518 (b) If a vehicle is the subject of an agreement for the conditional sale or installment
1519 sale or mortgage of the vehicle with the right of purchase upon performance of the conditions
1520 stated in the agreement and with an immediate right of possession vested in the conditional
1521 vendee or mortgagor, or if the vehicle is the subject of a security agreement, then the
1522 conditional vendee, mortgagor, or debtor is considered the owner for the purposes of this
1523 chapter.

1524 (c) If a vehicle is the subject of an agreement to lease, the lessor is considered the
1525 owner until the lessee exercises his option to purchase the vehicle.

1526 ~~[(41)]~~ (48) "Park model recreational vehicle" means a unit that:

1527 (a) is designed and marketed as temporary living quarters for recreational, camping,
1528 travel, or seasonal use;

1529 (b) is not permanently affixed to real property for use as a permanent dwelling;

1530 (c) requires a special highway movement permit for transit; and

1531 (d) is built on a single chassis mounted on wheels with a gross trailer area not
1532 exceeding 400 square feet in the setup mode.

1533 ~~[(42)]~~ (49) "Personalized license plate" means a license plate that has displayed on it a
1534 combination of letters, numbers, or both as requested by the owner of the vehicle and assigned
1535 to the vehicle by the division.

1536 ~~[(43)]~~ (50) (a) "Pickup truck" means a two-axle motor vehicle with motive power
1537 manufactured, remanufactured, or materially altered to provide an open cargo area.

1538 (b) "Pickup truck" includes motor vehicles with the open cargo area covered with a
1539 camper, camper shell, tarp, removable top, or similar structure.

1540 (51) "Plug-in hybrid electric motor vehicle" means a motor vehicle that has the
1541 capability to charge the battery or batteries used for vehicle propulsion from an off-vehicle
1542 electric source, such that the off-vehicle source cannot be connected to the vehicle while the
1543 vehicle is in motion.

1544 ~~[(44)]~~ (52) "Pneumatic tire" means every tire in which compressed air is designed to

1545 support the load.

1546 [(45)] (53) "Preceding year" means a period of 12 consecutive months fixed by the
1547 division that is within 16 months immediately preceding the commencement of the registration
1548 or license year in which proportional registration is sought. The division in fixing the period
1549 shall conform it to the terms, conditions, and requirements of any applicable agreement or
1550 arrangement for the proportional registration of vehicles.

1551 [(46)] (54) "Public garage" means every building or other place where vehicles or
1552 vessels are kept and stored and where a charge is made for the storage and keeping of vehicles
1553 and vessels.

1554 [(47)] (55) "Receipt of surrender of ownership documents" means the receipt of
1555 surrender of ownership documents described in Section 41-1a-503.

1556 [(48)] (56) "Reconstructed vehicle" means every vehicle of a type required to be
1557 registered in this state that is materially altered from its original construction by the removal,
1558 addition, or substitution of essential parts, new or used.

1559 [(49)] (57) "Recreational vehicle" [~~has the same meaning as provided~~] means the same
1560 as that term is defined in Section 13-14-102.

1561 [(50)] (58) "Registration" means a document issued by a jurisdiction that allows
1562 operation of a vehicle or vessel on the highways or waters of this state for the time period for
1563 which the registration is valid and that is evidence of compliance with the registration
1564 requirements of the jurisdiction.

1565 [(51)] (59) (a) "Registration year" means a 12 consecutive month period commencing
1566 with the completion of all applicable registration criteria.

1567 (b) For administration of a multistate agreement for proportional registration the
1568 division may prescribe a different 12-month period.

1569 [(52)] (60) "Repair or replacement" means the restoration of vehicles, vessels, or
1570 outboard motors to a sound working condition by substituting any inoperative part of the
1571 vehicle, vessel, or outboard motor, or by correcting the inoperative part.

1572 [(53)] (61) "Replica vehicle" means:

1573 (a) a street rod that meets the requirements under Subsection 41-21-1(3)(a)(i)(B); or

1574 (b) a custom vehicle that meets the requirements under Subsection

1575 41-6a-1507(1)(a)(i)(B).

1576 [~~(54)~~] (62) "Road tractor" means every motor vehicle designed and used for drawing
1577 other vehicles and constructed so it does not carry any load either independently or any part of
1578 the weight of a vehicle or load that is drawn.

1579 [~~(55)~~] (63) "Sailboat" means the same as that term is defined in Section 73-18-2.

1580 [~~(56)~~] (64) "Security interest" means an interest that is reserved or created by a security
1581 agreement to secure the payment or performance of an obligation and that is valid against third
1582 parties.

1583 [~~(57)~~] (65) "Semitrailer" means every vehicle without motive power designed for
1584 carrying persons or property and for being drawn by a motor vehicle and constructed so that
1585 some part of its weight and its load rests or is carried by another vehicle.

1586 [~~(58)~~] (66) "Special group license plate" means a type of license plate designed for a
1587 particular group of people or a license plate authorized and issued by the division in accordance
1588 with Section 41-1a-418.

1589 [~~(59)~~] (67) (a) "Special interest vehicle" means a vehicle used for general
1590 transportation purposes and that is:

1591 (i) 20 years or older from the current year; or

1592 (ii) a make or model of motor vehicle recognized by the division director as having
1593 unique interest or historic value.

1594 (b) In making a determination under Subsection [~~(59)~~] (67)(a), the division director
1595 shall give special consideration to:

1596 (i) a make of motor vehicle that is no longer manufactured;

1597 (ii) a make or model of motor vehicle produced in limited or token quantities;

1598 (iii) a make or model of motor vehicle produced as an experimental vehicle or one
1599 designed exclusively for educational purposes or museum display; or

1600 (iv) a motor vehicle of any age or make that has not been substantially altered or
1601 modified from original specifications of the manufacturer and because of its significance is
1602 being collected, preserved, restored, maintained, or operated by a collector or hobbyist as a
1603 leisure pursuit.

1604 [~~(60)~~] (68) (a) "Special mobile equipment" means every vehicle:

1605 (i) not designed or used primarily for the transportation of persons or property;

1606 (ii) not designed to operate in traffic; and

1607 (iii) only incidentally operated or moved over the highways.

1608 (b) "Special mobile equipment" includes:

1609 (i) farm tractors;

1610 (ii) off-road motorized construction or maintenance equipment including backhoes,
1611 bulldozers, compactors, graders, loaders, road rollers, tractors, and trenchers; and

1612 (iii) ditch-digging apparatus.

1613 (c) "Special mobile equipment" does not include a commercial vehicle as defined
1614 under Section [72-9-102](#).

1615 ~~[(61)]~~ [\(69\)](#) "Specially constructed vehicle" means every vehicle of a type required to be
1616 registered in this state, not originally constructed under a distinctive name, make, model, or
1617 type by a generally recognized manufacturer of vehicles, and not materially altered from its
1618 original construction.

1619 ~~[(62)]~~ [\(70\)](#) "Title" means the right to or ownership of a vehicle, vessel, or outboard
1620 motor.

1621 ~~[(63)]~~ [\(71\)](#) (a) "Total fleet miles" means the total number of miles operated in all
1622 jurisdictions during the preceding year by power units.

1623 (b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means
1624 the number of miles that those vehicles were towed on the highways of all jurisdictions during
1625 the preceding year.

1626 ~~[(64)]~~ [\(72\)](#) "Trailer" means a vehicle without motive power designed for carrying
1627 persons or property and for being drawn by a motor vehicle and constructed so that no part of
1628 its weight rests upon the towing vehicle.

1629 ~~[(65)]~~ [\(73\)](#) "Transferee" means a person to whom the ownership of property is
1630 conveyed by sale, gift, or any other means except by the creation of a security interest.

1631 ~~[(66)]~~ [\(74\)](#) "Transferor" means a person who transfers his ownership in property by
1632 sale, gift, or any other means except by creation of a security interest.

1633 ~~[(67)]~~ [\(75\)](#) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable
1634 vehicle without motive power, designed as a temporary dwelling for travel, recreational, or
1635 vacation use that does not require a special highway movement permit when drawn by a
1636 self-propelled motor vehicle.

1637 ~~[(68)]~~ [\(76\)](#) "Truck tractor" means a motor vehicle designed and used primarily for

1638 drawing other vehicles and not constructed to carry a load other than a part of the weight of the
1639 vehicle and load that is drawn.

1640 [~~(69)~~] (77) "Vehicle" includes a motor vehicle, trailer, semitrailer, off-highway vehicle,
1641 camper, park model recreational vehicle, manufactured home, and mobile home.

1642 [~~(70)~~] (78) "Vessel" means the same as that term is defined in Section 73-18-2.

1643 [~~(71)~~] (79) "Vintage vehicle" means the same as that term is defined in Section
1644 41-21-1.

1645 [~~(72)~~] (80) "Waters of this state" means the same as that term is defined in Section
1646 73-18-2.

1647 [~~(73)~~] (81) "Weighmaster" means a person, association of persons, or corporation
1648 permitted to weigh vehicles under this chapter.

1649 Section 22. Section 41-1a-1201 is amended to read:

1650 **41-1a-1201. Disposition of fees.**

1651 (1) All fees received and collected under this part shall be transmitted daily to the state
1652 treasurer.

1653 (2) Except as provided in Subsections (3), (6), (7), (8), and (9) and Sections 41-1a-422,
1654 41-1a-1220, 41-1a-1221, and 41-1a-1223 all fees collected under this part shall be deposited in
1655 the Transportation Fund.

1656 (3) Funds generated under Subsections 41-1a-1211(1)(b)(ii), (6)(b)(ii), and (7) and
1657 Section 41-1a-1212 may be used by the commission to cover the costs incurred in issuing
1658 license plates under Part 4, License Plates and Registration Indicia.

1659 (4) In accordance with Section 63J-1-602.2, all funds available to the commission for
1660 the purchase and distribution of license plates and decals are nonlapsing.

1661 (5) (a) Except as provided in Subsections (3) and (5)(b) and Section 41-1a-1205, the
1662 expenses of the commission in enforcing and administering this part shall be provided for by
1663 legislative appropriation from the revenues of the Transportation Fund.

1664 (b) Three dollars of the registration fees imposed under Subsections 41-1a-1206(2)(a)
1665 and (b) for each vehicle registered for a six-month registration period under Section
1666 41-1a-215.5 may be used by the commission to cover the costs incurred in enforcing and
1667 administering this part.

1668 (6) (a) The following portions of the registration fees imposed under Section

1669 41-1a-1206 for each vehicle shall be deposited in the Transportation Investment Fund of 2005
1670 created under Section 72-2-124:

1671 (i) \$30 of the registration fees imposed under Subsections 41-1a-1206(1)(a), (1)(b);(i)
1672 through (ix), (1)(f), ~~(3), and (6)~~ (4), and (7);

1673 (ii) \$21 of the registration fees imposed under Subsections 41-1a-1206(1)(c)(i) and
1674 (1)(c)(ii);

1675 (iii) \$2.50 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(ii);

1676 (iv) \$23 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(i);

1677 (v) \$24.50 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(i); and

1678 (vi) \$1 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(ii).

1679 (b) The following portions of the registration fees collected for each vehicle registered
1680 for a six-month registration period under Section 41-1a-215.5 shall be deposited in the
1681 Transportation Investment Fund of 2005 created by Section 72-2-124:

1682 (i) \$23.25 of ~~each~~ the registration fee collected under Subsection 41-1a-1206(2)(a);
1683 and

1684 (ii) \$23 of ~~each~~ the registration fee ~~[collected under Subsection]~~ imposed under
1685 Subsections 41-1a-1206(2)(b)(i) through (ix).

1686 (7) (a) Ninety-four cents of each registration fee imposed under Subsections
1687 41-1a-1206(1)(a) and (b) for each vehicle shall be deposited in the Public Safety Restricted
1688 Account created in Section 53-3-106.

1689 (b) Seventy-one cents of each registration fee imposed under Subsections
1690 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under
1691 Section 41-1a-215.5 shall be deposited in the Public Safety Restricted Account created in
1692 Section 53-3-106.

1693 (8) (a) One dollar of each registration fee imposed under Subsections 41-1a-1206(1)(a)
1694 and (b) for each vehicle shall be deposited into the Motor Vehicle Safety Impact Restricted
1695 Account created in Section 53-8-214.

1696 (b) One dollar of each registration fee imposed under Subsections 41-1a-1206(2)(a)
1697 and (b) for each vehicle registered for a six-month registration period under Section
1698 41-1a-215.5 shall be deposited into the Motor Vehicle Safety Impact Restricted Account
1699 created in Section 53-8-214.

1700 (9) Fifty cents of each registration fee imposed under Subsection [41-1a-1206\(1\)\(a\)](#) for
1701 each motorcycle shall be deposited in the Spinal Cord and Brain Injury Rehabilitation Fund
1702 created in Section [26-54-102](#).

1703 Section 23. Section **41-1a-1206** is amended to read:

1704 **41-1a-1206. Registration fees -- Fees by gross laden weight.**

1705 (1) Except as provided in Subsections (2) and [~~(3)~~] (4), and subject to Subsection (3),
1706 at the time application is made for registration or renewal of registration of a vehicle or
1707 combination of vehicles under this chapter, a registration fee shall be paid to the division as
1708 follows:

1709 (a) \$46.00 for each motorcycle;

1710 (b) [~~\$44~~] for each motor vehicle of 12,000 pounds or less gross laden weight, excluding
1711 motorcycles[;]:

1712 (i) \$44 for each motor vehicle fueled by motor fuel;

1713 (ii) \$44 for each motor vehicle fueled by diesel fuel;

1714 (iii) \$44 for each motor vehicle registered under Section [41-1a-301](#);

1715 (iv) \$44 for each motor vehicle fueled by natural gas;

1716 (v) \$194 for each electric motor vehicle;

1717 (vi) \$64 for each hybrid electric motor vehicle;

1718 (vii) \$124 for each plug-in hybrid electric motor vehicle;

1719 (viii) \$44 for each motor vehicle fueled by propane; and

1720 (ix) \$194 for each motor vehicle not described in Subsections (1)(b)(i) through (viii);

1721 (c) unless the semitrailer or trailer is exempt from registration under Section [41-1a-202](#)
1722 or is registered under Section [41-1a-301](#):

1723 (i) \$31 for each trailer or semitrailer over 750 pounds gross unladen weight; or

1724 (ii) \$28.50 for each commercial trailer or commercial semitrailer of 750 pounds or less
1725 gross unladen weight;

1726 (d) (i) \$53 for each farm truck over 12,000 pounds, but not exceeding 14,000 pounds
1727 gross laden weight; plus

1728 (ii) \$9 for each 2,000 pounds over 14,000 pounds gross laden weight;

1729 (e) (i) \$69.50 for each motor vehicle or combination of motor vehicles, excluding farm
1730 trucks, over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

- 1731 (ii) \$19 for each 2,000 pounds over 14,000 pounds gross laden weight;
- 1732 (f) (i) \$69.50 for each park model recreational vehicle over 12,000 pounds, but not
1733 exceeding 14,000 pounds gross laden weight; plus
- 1734 (ii) \$19 for each 2,000 pounds over 14,000 pounds gross laden weight; and
- 1735 (g) \$45 for each vintage vehicle that is less than 40 years old.
- 1736 (2) At the time application is made for registration or renewal of registration of a
1737 vehicle under this chapter for a six-month registration period under Section [41-1a-215.5](#), a
1738 registration fee shall be paid to the division as follows:
- 1739 (a) \$34.50 for each motorcycle; and
- 1740 (b) [~~\$33.50~~] for each motor vehicle of 12,000 pounds or less gross laden weight,
1741 excluding motorcycles[-];
- 1742 (i) \$33.50 for each motor vehicle fueled by motor fuel;
- 1743 (ii) \$33.50 for each motor vehicle fueled by diesel fuel;
- 1744 (iii) \$33.50 for each motor vehicle registered under Section [41-1a-301](#);
- 1745 (iv) \$33.50 for each motor vehicle fueled by natural gas;
- 1746 (v) \$147.75 for each electric motor vehicle;
- 1747 (vi) \$48.75 for each hybrid electric motor vehicle;
- 1748 (vii) \$94.50 for each plug-in hybrid electric motor vehicle;
- 1749 (viii) \$33.50 for each motor vehicle fueled by propane; and
- 1750 (ix) \$147.75 for each motor vehicle not described in Subsections (2)(b)(i) through
1751 (viii).
- 1752 (3) (a) Beginning on January 1, 2020, the commission shall, on January 1, annually
1753 adjust the registration fee for each motor vehicle of 12,000 pounds or less gross laden weight,
1754 excluding motorcycles, by taking the registration fee rate for the previous year and adding an
1755 amount equal to the greater of:
- 1756 (i) an amount calculated by multiplying the registration fee of the previous year by the
1757 actual percentage change during the previous fiscal year in the Consumer Price Index; and
- 1758 (ii) 0.
- 1759 (b) The amount calculated as described in Subsection (3)(a) shall be rounded up to the
1760 nearest 25 cents.
- 1761 [~~(3)~~] (4) (a) The initial registration fee for a vintage vehicle that is 40 years old or older

1762 is \$40.

1763 (b) A vintage vehicle that is 40 years old or older is exempt from the renewal of
1764 registration fees under Subsection (1).

1765 (c) A vehicle with a Purple Heart special group license plate issued in accordance with
1766 Section 41-1a-421 is exempt from the registration fees under Subsection (1).

1767 (d) A camper is exempt from the registration fees under Subsection (1).

1768 [~~(4)~~] (5) If a motor vehicle is operated in combination with a semitrailer or trailer, each
1769 motor vehicle shall register for the total gross laden weight of all units of the combination if the
1770 total gross laden weight of the combination exceeds 12,000 pounds.

1771 [~~(5)~~] (6) (a) Registration fee categories under this section are based on the gross laden
1772 weight declared in the licensee's application for registration.

1773 (b) Gross laden weight shall be computed in units of 2,000 pounds. A fractional part
1774 of 2,000 pounds is a full unit.

1775 [~~(6)~~] (7) The owner of a commercial trailer or commercial semitrailer may, as an
1776 alternative to registering under Subsection (1)(c), apply for and obtain a special registration and
1777 license plate for a fee of \$130.

1778 [~~(7)~~] (8) Except as provided in Section 41-6a-1642, a truck may not be registered as a
1779 farm truck unless:

1780 (a) the truck meets the definition of a farm truck under Section 41-1a-102; and

1781 (b) (i) the truck has a gross vehicle weight rating of more than 12,000 pounds; or

1782 (ii) the truck has a gross vehicle weight rating of 12,000 pounds or less and the owner
1783 submits to the division a certificate of emissions inspection or a waiver in compliance with
1784 Section 41-6a-1642.

1785 [~~(8)~~] (9) A violation of Subsection [~~(7)~~] (8) is an infraction that shall be punished by a
1786 fine of not less than \$200.

1787 [~~(9)~~] (10) Trucks used exclusively to pump cement, bore wells, or perform crane
1788 services with a crane lift capacity of five or more tons, are exempt from 50% of the amount of
1789 the fees required for those vehicles under this section.

1790 Section 24. Section 52-4-103 is amended to read:

1791 **52-4-103. Definitions.**

1792 As used in this chapter:

- 1793 (1) "Anchor location" means the physical location from which:
1794 (a) an electronic meeting originates; or
1795 (b) the participants are connected.
- 1796 (2) "Capitol hill complex" means the grounds and buildings within the area bounded by
1797 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake
1798 City.
- 1799 (3) (a) "Convening" means the calling together of a public body by a person authorized
1800 to do so for the express purpose of discussing or acting upon a subject over which that public
1801 body has jurisdiction or advisory power.
- 1802 (b) "Convening" does not include the initiation of a routine conversation between
1803 members of a three-member public body if the members involved in the conversation do not,
1804 during the conversation, take a tentative or final vote on the matter that is the subject of the
1805 conversation.
- 1806 (4) "Electronic meeting" means a public meeting convened or conducted by means of a
1807 conference using electronic communications.
- 1808 (5) "Electronic message" means a communication transmitted electronically, including:
1809 (a) electronic mail;
1810 (b) instant messaging;
1811 (c) electronic chat;
1812 (d) text messaging as defined in Section 76-4-401; or
1813 (e) any other method that conveys a message or facilitates communication
1814 electronically.
- 1815 (6) (a) "Meeting" means the convening of a public body or a specified body, with a
1816 quorum present, including a workshop or an executive session, whether in person or by means
1817 of electronic communications, for the purpose of discussing, receiving comments from the
1818 public about, or acting upon a matter over which the public body or specific body has
1819 jurisdiction or advisory power.
- 1820 (b) "Meeting" does not mean:
1821 (i) a chance gathering or social gathering; [or]
1822 (ii) a convening of the State Tax Commission to consider a confidential tax matter in
1823 accordance with Section 59-1-405[-]; or

1824 (iii) a convening of a three-member board of trustees of a large public transit district as
1825 defined in Section 17B-2a-802 if:

1826 (A) the board members do not, during the conversation, take a tentative or final vote on
1827 the matter that is the subject of the conversation; or

1828 (B) the conversation pertains only to day-to-day management and operation of the
1829 public transit district.

1830 (c) "Meeting" does not mean the convening of a public body that has both legislative
1831 and executive responsibilities if:

1832 (i) no public funds are appropriated for expenditure during the time the public body is
1833 convened; and

1834 (ii) the public body is convened solely for the discussion or implementation of
1835 administrative or operational matters:

1836 (A) for which no formal action by the public body is required; or

1837 (B) that would not come before the public body for discussion or action.

1838 (7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the
1839 public statements of each member of the public body who is participating in a meeting.

1840 (8) "Participate" means the ability to communicate with all of the members of a public
1841 body, either verbally or electronically, so that each member of the public body can hear or
1842 observe the communication.

1843 (9) (a) "Public body" means:

1844 (i) any administrative, advisory, executive, or legislative body of the state or its
1845 political subdivisions that:

1846 (A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

1847 (B) consists of two or more persons;

1848 (C) expends, disburses, or is supported in whole or in part by tax revenue; and

1849 (D) is vested with the authority to make decisions regarding the public's business; or

1850 (ii) any administrative, advisory, executive, or policymaking body of an association, as
1851 defined in Section 53A-1-1601, that:

1852 (A) consists of two or more persons;

1853 (B) expends, disburses, or is supported in whole or in part by dues paid by a public

1854 school or whose employees participate in a benefit or program described in Title 49, Utah State

1855 Retirement and Insurance Benefit Act; and

1856 (C) is vested with authority to make decisions regarding the participation of a public
1857 school or student in an interscholastic activity as defined in Section 53A-1-1601.

1858 (b) "Public body" includes:

1859 (i) as defined in Section 11-13-103, an interlocal entity or joint or cooperative
1860 undertaking; and

1861 (ii) as defined in Section 11-13a-102, a governmental nonprofit corporation.

1862 (c) "Public body" does not include:

1863 (i) a political party, a political group, or a political caucus;

1864 (ii) a conference committee, a rules committee, or a sifting committee of the

1865 Legislature;

1866 (iii) a school community council or charter trust land council as defined in Section
1867 53A-1a-108.1; or

1868 (iv) the Economic Development Legislative Liaison Committee created in Section
1869 36-30-201.

1870 (10) "Public statement" means a statement made in the ordinary course of business of
1871 the public body with the intent that all other members of the public body receive it.

1872 (11) (a) "Quorum" means a simple majority of the membership of a public body, unless
1873 otherwise defined by applicable law.

1874 (b) "Quorum" does not include a meeting of two elected officials by themselves when
1875 no action, either formal or informal, is taken on a subject over which these elected officials
1876 have advisory power.

1877 (12) "Recording" means an audio, or an audio and video, record of the proceedings of a
1878 meeting that can be used to review the proceedings of the meeting.

1879 (13) "Specified body":

1880 (a) means an administrative, advisory, executive, or legislative body that:

1881 (i) is not a public body;

1882 (ii) consists of three or more members; and

1883 (iii) includes at least one member who is:

1884 (A) a legislator; and

1885 (B) officially appointed to the body by the president of the Senate, speaker of the

1886 House of Representatives, or governor; and

1887 (b) does not include a body listed in Subsection (9)(c)(ii).

1888 (14) "Transmit" means to send, convey, or communicate an electronic message by
1889 electronic means.

1890 Section 25. Section **59-12-102** is amended to read:

1891 **59-12-102. Definitions.**

1892 As used in this chapter:

1893 (1) "800 service" means a telecommunications service that:

1894 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

1895 (b) is typically marketed:

1896 (i) under the name 800 toll-free calling;

1897 (ii) under the name 855 toll-free calling;

1898 (iii) under the name 866 toll-free calling;

1899 (iv) under the name 877 toll-free calling;

1900 (v) under the name 888 toll-free calling; or

1901 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the

1902 Federal Communications Commission.

1903 (2) (a) "900 service" means an inbound toll telecommunications service that:

1904 (i) a subscriber purchases;

1905 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
1906 the subscriber's:

1907 (A) prerecorded announcement; or

1908 (B) live service; and

1909 (iii) is typically marketed:

1910 (A) under the name 900 service; or

1911 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal

1912 Communications Commission.

1913 (b) "900 service" does not include a charge for:

1914 (i) a collection service a seller of a telecommunications service provides to a
1915 subscriber; or

1916 (ii) the following a subscriber sells to the subscriber's customer:

- 1917 (A) a product; or
1918 (B) a service.
1919 (3) (a) "Admission or user fees" includes season passes.
1920 (b) "Admission or user fees" does not include annual membership dues to private
1921 organizations.
1922 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
1923 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
1924 Agreement after November 12, 2002.
1925 (5) "Agreement combined tax rate" means the sum of the tax rates:
1926 (a) listed under Subsection (6); and
1927 (b) that are imposed within a local taxing jurisdiction.
1928 (6) "Agreement sales and use tax" means a tax imposed under:
1929 (a) Subsection 59-12-103(2)(a)(i)(A);
1930 (b) Subsection 59-12-103(2)(b)(i);
1931 (c) Subsection 59-12-103(2)(c)(i);
1932 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
1933 (e) Section 59-12-204;
1934 (f) Section 59-12-401;
1935 (g) Section 59-12-402;
1936 (h) Section 59-12-402.1;
1937 (i) Section 59-12-703;
1938 (j) Section 59-12-802;
1939 (k) Section 59-12-804;
1940 (l) Section 59-12-1102;
1941 (m) Section 59-12-1302;
1942 (n) Section 59-12-1402;
1943 (o) Section 59-12-1802;
1944 (p) Section 59-12-2003;
1945 (q) Section 59-12-2103;
1946 (r) Section 59-12-2213;
1947 (s) Section 59-12-2214;

- 1948 (t) Section [59-12-2215](#);
- 1949 (u) Section [59-12-2216](#);
- 1950 (v) Section [59-12-2217](#);
- 1951 (w) Section [59-12-2218](#); [~~or~~]
- 1952 (x) Section [59-12-2219](#)~~[-]~~; or
- 1953 (y) Section [59-12-2220](#).
- 1954 (7) "Aircraft" means the same as that term is defined in Section [72-10-102](#).
- 1955 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 1956 (a) except for:
- 1957 (i) an airline as defined in Section [59-2-102](#); or
- 1958 (ii) an affiliated group, as defined in Section [59-7-101](#), except that "affiliated group"
- 1959 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 1960 state, of an airline; and
- 1961 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 1962 whether the business entity performs the following in this state:
- 1963 (i) check, diagnose, overhaul, and repair:
- 1964 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 1965 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 1966 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 1967 engine;
- 1968 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 1969 aircraft:
- 1970 (A) an inspection;
- 1971 (B) a repair, including a structural repair or modification;
- 1972 (C) changing landing gear; and
- 1973 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 1974 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 1975 completely apply new paint to the fixed wing turbine powered aircraft; and
- 1976 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 1977 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 1978 authority that certifies the fixed wing turbine powered aircraft.

- 1979 (9) "Alcoholic beverage" means a beverage that:
- 1980 (a) is suitable for human consumption; and
- 1981 (b) contains .5% or more alcohol by volume.
- 1982 (10) "Alternative energy" means:
- 1983 (a) biomass energy;
- 1984 (b) geothermal energy;
- 1985 (c) hydroelectric energy;
- 1986 (d) solar energy;
- 1987 (e) wind energy; or
- 1988 (f) energy that is derived from:
- 1989 (i) coal-to-liquids;
- 1990 (ii) nuclear fuel;
- 1991 (iii) oil-impregnated diatomaceous earth;
- 1992 (iv) oil sands;
- 1993 (v) oil shale;
- 1994 (vi) petroleum coke; or
- 1995 (vii) waste heat from:
- 1996 (A) an industrial facility; or
- 1997 (B) a power station in which an electric generator is driven through a process in which
- 1998 water is heated, turns into steam, and spins a steam turbine.
- 1999 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 2000 facility" means a facility that:
- 2001 (i) uses alternative energy to produce electricity; and
- 2002 (ii) has a production capacity of two megawatts or greater.
- 2003 (b) A facility is an alternative energy electricity production facility regardless of
- 2004 whether the facility is:
- 2005 (i) connected to an electric grid; or
- 2006 (ii) located on the premises of an electricity consumer.
- 2007 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
- 2008 provision of telecommunications service.
- 2009 (b) "Ancillary service" includes:

- 2010 (i) a conference bridging service;
- 2011 (ii) a detailed communications billing service;
- 2012 (iii) directory assistance;
- 2013 (iv) a vertical service; or
- 2014 (v) a voice mail service.
- 2015 (13) "Area agency on aging" means the same as that term is defined in Section
- 2016 [62A-3-101](#).
- 2017 (14) "Assisted amusement device" means an amusement device, skill device, or ride
- 2018 device that is started and stopped by an individual:
- 2019 (a) who is not the purchaser or renter of the right to use or operate the amusement
- 2020 device, skill device, or ride device; and
- 2021 (b) at the direction of the seller of the right to use the amusement device, skill device,
- 2022 or ride device.
- 2023 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
- 2024 washing of tangible personal property if the cleaning or washing labor is primarily performed
- 2025 by an individual:
- 2026 (a) who is not the purchaser of the cleaning or washing of the tangible personal
- 2027 property; and
- 2028 (b) at the direction of the seller of the cleaning or washing of the tangible personal
- 2029 property.
- 2030 (16) "Authorized carrier" means:
- 2031 (a) in the case of vehicles operated over public highways, the holder of credentials
- 2032 indicating that the vehicle is or will be operated pursuant to both the International Registration
- 2033 Plan and the International Fuel Tax Agreement;
- 2034 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
- 2035 certificate or air carrier's operating certificate; or
- 2036 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
- 2037 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
- 2038 stock in more than one state.
- 2039 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the
- 2040 following that is used as the primary source of energy to produce fuel or electricity:

- 2041 (i) material from a plant or tree; or
- 2042 (ii) other organic matter that is available on a renewable basis, including:
 - 2043 (A) slash and brush from forests and woodlands;
 - 2044 (B) animal waste;
 - 2045 (C) waste vegetable oil;
 - 2046 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
 - 2047 wastewater residuals, or through the conversion of a waste material through a nonincineration,
 - 2048 thermal conversion process;
 - 2049 (E) aquatic plants; and
 - 2050 (F) agricultural products.
- 2051 (b) "Biomass energy" does not include:
 - 2052 (i) black liquor; or
 - 2053 (ii) treated woods.
- 2054 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 2055 property, products, or services if the tangible personal property, products, or services are:
 - 2056 (i) distinct and identifiable; and
 - 2057 (ii) sold for one nonitemized price.
- 2058 (b) "Bundled transaction" does not include:
 - 2059 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
 - 2060 the basis of the selection by the purchaser of the items of tangible personal property included in
 - 2061 the transaction;
 - 2062 (ii) the sale of real property;
 - 2063 (iii) the sale of services to real property;
 - 2064 (iv) the retail sale of tangible personal property and a service if:
 - 2065 (A) the tangible personal property:
 - 2066 (I) is essential to the use of the service; and
 - 2067 (II) is provided exclusively in connection with the service; and
 - 2068 (B) the service is the true object of the transaction;
 - 2069 (v) the retail sale of two services if:
 - 2070 (A) one service is provided that is essential to the use or receipt of a second service;
 - 2071 (B) the first service is provided exclusively in connection with the second service; and

2072 (C) the second service is the true object of the transaction;

2073 (vi) a transaction that includes tangible personal property or a product subject to

2074 taxation under this chapter and tangible personal property or a product that is not subject to

2075 taxation under this chapter if the:

2076 (A) seller's purchase price of the tangible personal property or product subject to

2077 taxation under this chapter is de minimis; or

2078 (B) seller's sales price of the tangible personal property or product subject to taxation

2079 under this chapter is de minimis; and

2080 (vii) the retail sale of tangible personal property that is not subject to taxation under

2081 this chapter and tangible personal property that is subject to taxation under this chapter if:

2082 (A) that retail sale includes:

2083 (I) food and food ingredients;

2084 (II) a drug;

2085 (III) durable medical equipment;

2086 (IV) mobility enhancing equipment;

2087 (V) an over-the-counter drug;

2088 (VI) a prosthetic device; or

2089 (VII) a medical supply; and

2090 (B) subject to Subsection (18)(f):

2091 (I) the seller's purchase price of the tangible personal property subject to taxation under

2092 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

2093 (II) the seller's sales price of the tangible personal property subject to taxation under

2094 this chapter is 50% or less of the seller's total sales price of that retail sale.

2095 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a

2096 service that is distinct and identifiable does not include:

2097 (A) packaging that:

2098 (I) accompanies the sale of the tangible personal property, product, or service; and

2099 (II) is incidental or immaterial to the sale of the tangible personal property, product, or

2100 service;

2101 (B) tangible personal property, a product, or a service provided free of charge with the

2102 purchase of another item of tangible personal property, a product, or a service; or

2103 (C) an item of tangible personal property, a product, or a service included in the
2104 definition of "purchase price."

2105 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
2106 product, or a service is provided free of charge with the purchase of another item of tangible
2107 personal property, a product, or a service if the sales price of the purchased item of tangible
2108 personal property, product, or service does not vary depending on the inclusion of the tangible
2109 personal property, product, or service provided free of charge.

2110 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
2111 does not include a price that is separately identified by tangible personal property, product, or
2112 service on the following, regardless of whether the following is in paper format or electronic
2113 format:

2114 (A) a binding sales document; or

2115 (B) another supporting sales-related document that is available to a purchaser.

2116 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
2117 supporting sales-related document that is available to a purchaser includes:

2118 (A) a bill of sale;

2119 (B) a contract;

2120 (C) an invoice;

2121 (D) a lease agreement;

2122 (E) a periodic notice of rates and services;

2123 (F) a price list;

2124 (G) a rate card;

2125 (H) a receipt; or

2126 (I) a service agreement.

2127 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
2128 property or a product subject to taxation under this chapter is de minimis if:

2129 (A) the seller's purchase price of the tangible personal property or product is 10% or
2130 less of the seller's total purchase price of the bundled transaction; or

2131 (B) the seller's sales price of the tangible personal property or product is 10% or less of
2132 the seller's total sales price of the bundled transaction.

2133 (ii) For purposes of Subsection (18)(b)(vi), a seller:

2134 (A) shall use the seller's purchase price or the seller's sales price to determine if the
2135 purchase price or sales price of the tangible personal property or product subject to taxation
2136 under this chapter is de minimis; and

2137 (B) may not use a combination of the seller's purchase price and the seller's sales price
2138 to determine if the purchase price or sales price of the tangible personal property or product
2139 subject to taxation under this chapter is de minimis.

2140 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
2141 contract to determine if the sales price of tangible personal property or a product is de minimis.

2142 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
2143 the seller's purchase price and the seller's sales price to determine if tangible personal property
2144 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
2145 price of that retail sale.

2146 (19) "Certified automated system" means software certified by the governing board of
2147 the agreement that:

2148 (a) calculates the agreement sales and use tax imposed within a local taxing
2149 jurisdiction:

2150 (i) on a transaction; and

2151 (ii) in the states that are members of the agreement;

2152 (b) determines the amount of agreement sales and use tax to remit to a state that is a
2153 member of the agreement; and

2154 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

2155 (20) "Certified service provider" means an agent certified:

2156 (a) by the governing board of the agreement; and

2157 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
2158 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
2159 own purchases.

2160 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel
2161 suitable for general use.

2162 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2163 commission shall make rules:

2164 (i) listing the items that constitute "clothing"; and

2165 (ii) that are consistent with the list of items that constitute "clothing" under the
2166 agreement.

2167 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

2168 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
2169 fuels that does not constitute industrial use under Subsection (56) or residential use under
2170 Subsection (106).

2171 (24) (a) "Common carrier" means a person engaged in or transacting the business of
2172 transporting passengers, freight, merchandise, or other property for hire within this state.

2173 (b) (i) "Common carrier" does not include a person who, at the time the person is
2174 traveling to or from that person's place of employment, transports a passenger to or from the
2175 passenger's place of employment.

2176 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
2177 Utah Administrative Rulemaking Act, the commission may make rules defining what
2178 constitutes a person's place of employment.

2179 (c) "Common carrier" does not include a person that provides transportation network
2180 services, as defined in Section [13-51-102](#).

2181 (25) "Component part" includes:

2182 (a) poultry, dairy, and other livestock feed, and their components;

2183 (b) baling ties and twine used in the baling of hay and straw;

2184 (c) fuel used for providing temperature control of orchards and commercial
2185 greenhouses doing a majority of their business in wholesale sales, and for providing power for
2186 off-highway type farm machinery; and

2187 (d) feed, seeds, and seedlings.

2188 (26) "Computer" means an electronic device that accepts information:

2189 (a) (i) in digital form; or

2190 (ii) in a form similar to digital form; and

2191 (b) manipulates that information for a result based on a sequence of instructions.

2192 (27) "Computer software" means a set of coded instructions designed to cause:

2193 (a) a computer to perform a task; or

2194 (b) automatic data processing equipment to perform a task.

2195 (28) "Computer software maintenance contract" means a contract that obligates a seller

2196 of computer software to provide a customer with:

2197 (a) future updates or upgrades to computer software;

2198 (b) support services with respect to computer software; or

2199 (c) a combination of Subsections (28)(a) and (b).

2200 (29) (a) "Conference bridging service" means an ancillary service that links two or
2201 more participants of an audio conference call or video conference call.

2202 (b) "Conference bridging service" may include providing a telephone number as part of
2203 the ancillary service described in Subsection (29)(a).

2204 (c) "Conference bridging service" does not include a telecommunications service used
2205 to reach the ancillary service described in Subsection (29)(a).

2206 (30) "Construction materials" means any tangible personal property that will be
2207 converted into real property.

2208 (31) "Delivered electronically" means delivered to a purchaser by means other than
2209 tangible storage media.

2210 (32) (a) "Delivery charge" means a charge:

2211 (i) by a seller of:

2212 (A) tangible personal property;

2213 (B) a product transferred electronically; or

2214 (C) services; and

2215 (ii) for preparation and delivery of the tangible personal property, product transferred
2216 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
2217 purchaser.

2218 (b) "Delivery charge" includes a charge for the following:

2219 (i) transportation;

2220 (ii) shipping;

2221 (iii) postage;

2222 (iv) handling;

2223 (v) crating; or

2224 (vi) packing.

2225 (33) "Detailed telecommunications billing service" means an ancillary service of
2226 separately stating information pertaining to individual calls on a customer's billing statement.

- 2227 (34) "Dietary supplement" means a product, other than tobacco, that:
- 2228 (a) is intended to supplement the diet;
- 2229 (b) contains one or more of the following dietary ingredients:
- 2230 (i) a vitamin;
- 2231 (ii) a mineral;
- 2232 (iii) an herb or other botanical;
- 2233 (iv) an amino acid;
- 2234 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 2235 dietary intake; or
- 2236 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 2237 described in Subsections (34)(b)(i) through (v);
- 2238 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
- 2239 (A) tablet form;
- 2240 (B) capsule form;
- 2241 (C) powder form;
- 2242 (D) softgel form;
- 2243 (E) gelcap form; or
- 2244 (F) liquid form; or
- 2245 (ii) if the product is not intended for ingestion in a form described in Subsections
- 2246 (34)(c)(i)(A) through (F), is not represented:
- 2247 (A) as conventional food; and
- 2248 (B) for use as a sole item of:
- 2249 (I) a meal; or
- 2250 (II) the diet; and
- 2251 (d) is required to be labeled as a dietary supplement:
- 2252 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 2253 (ii) as required by 21 C.F.R. Sec. 101.36.
- 2254 (35) "Digital audio-visual work" means a series of related images which, when shown
- 2255 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 2256 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 2257 musical, spoken, or other sounds.

- 2258 (b) "Digital audio work" includes a ringtone.
- 2259 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
2260 sense as a book.
- 2261 (38) (a) "Direct mail" means printed material delivered or distributed by United States
2262 mail or other delivery service:
- 2263 (i) to:
- 2264 (A) a mass audience; or
- 2265 (B) addressees on a mailing list provided:
- 2266 (I) by a purchaser of the mailing list; or
- 2267 (II) at the discretion of the purchaser of the mailing list; and
- 2268 (ii) if the cost of the printed material is not billed directly to the recipients.
- 2269 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
2270 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 2271 (c) "Direct mail" does not include multiple items of printed material delivered to a
2272 single address.
- 2273 (39) "Directory assistance" means an ancillary service of providing:
- 2274 (a) address information; or
- 2275 (b) telephone number information.
- 2276 (40) (a) "Disposable home medical equipment or supplies" means medical equipment
2277 or supplies that:
- 2278 (i) cannot withstand repeated use; and
- 2279 (ii) are purchased by, for, or on behalf of a person other than:
- 2280 (A) a health care facility as defined in Section [26-21-2](#);
- 2281 (B) a health care provider as defined in Section [78B-3-403](#);
- 2282 (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or
- 2283 (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).
- 2284 (b) "Disposable home medical equipment or supplies" does not include:
- 2285 (i) a drug;
- 2286 (ii) durable medical equipment;
- 2287 (iii) a hearing aid;
- 2288 (iv) a hearing aid accessory;

- 2289 (v) mobility enhancing equipment; or
- 2290 (vi) tangible personal property used to correct impaired vision, including:
- 2291 (A) eyeglasses; or
- 2292 (B) contact lenses.
- 2293 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2294 commission may by rule define what constitutes medical equipment or supplies.
- 2295 (41) "Drilling equipment manufacturer" means a facility:
- 2296 (a) located in the state;
- 2297 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 2298 consist of manufacturing component parts of drilling equipment;
- 2299 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 2300 manufacturing process; and
- 2301 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 2302 manufacturing process.
- 2303 (42) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 2304 compound, substance, or preparation that is:
- 2305 (i) recognized in:
- 2306 (A) the official United States Pharmacopoeia;
- 2307 (B) the official Homeopathic Pharmacopoeia of the United States;
- 2308 (C) the official National Formulary; or
- 2309 (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);
- 2310 (ii) intended for use in the:
- 2311 (A) diagnosis of disease;
- 2312 (B) cure of disease;
- 2313 (C) mitigation of disease;
- 2314 (D) treatment of disease; or
- 2315 (E) prevention of disease; or
- 2316 (iii) intended to affect:
- 2317 (A) the structure of the body; or
- 2318 (B) any function of the body.
- 2319 (b) "Drug" does not include:

- 2320 (i) food and food ingredients;
- 2321 (ii) a dietary supplement;
- 2322 (iii) an alcoholic beverage; or
- 2323 (iv) a prosthetic device.
- 2324 (43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means
- 2325 equipment that:
 - 2326 (i) can withstand repeated use;
 - 2327 (ii) is primarily and customarily used to serve a medical purpose;
 - 2328 (iii) generally is not useful to a person in the absence of illness or injury; and
 - 2329 (iv) is not worn in or on the body.
- 2330 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 2331 equipment described in Subsection (43)(a).
- 2332 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 2333 (44) "Electronic" means:
 - 2334 (a) relating to technology; and
 - 2335 (b) having:
 - 2336 (i) electrical capabilities;
 - 2337 (ii) digital capabilities;
 - 2338 (iii) magnetic capabilities;
 - 2339 (iv) wireless capabilities;
 - 2340 (v) optical capabilities;
 - 2341 (vi) electromagnetic capabilities; or
 - 2342 (vii) capabilities similar to Subsections (44)(b)(i) through (vi).
- 2343 (45) "Electronic financial payment service" means an establishment:
 - 2344 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
 - 2345 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
 - 2346 federal Executive Office of the President, Office of Management and Budget; and
 - 2347 (b) that performs electronic financial payment services.
- 2348 (46) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 2349 (47) "Fixed guideway" means a public transit facility that uses and occupies:
 - 2350 (a) rail for the use of public transit; or

- 2351 (b) a separate right-of-way for the use of public transit.
- 2352 (48) "Fixed wing turbine powered aircraft" means an aircraft that:
- 2353 (a) is powered by turbine engines;
- 2354 (b) operates on jet fuel; and
- 2355 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 2356 (49) "Fixed wireless service" means a telecommunications service that provides radio
- 2357 communication between fixed points.
- 2358 (50) (a) "Food and food ingredients" means substances:
- 2359 (i) regardless of whether the substances are in:
- 2360 (A) liquid form;
- 2361 (B) concentrated form;
- 2362 (C) solid form;
- 2363 (D) frozen form;
- 2364 (E) dried form; or
- 2365 (F) dehydrated form; and
- 2366 (ii) that are:
- 2367 (A) sold for:
- 2368 (I) ingestion by humans; or
- 2369 (II) chewing by humans; and
- 2370 (B) consumed for the substance's:
- 2371 (I) taste; or
- 2372 (II) nutritional value.
- 2373 (b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).
- 2374 (c) "Food and food ingredients" does not include:
- 2375 (i) an alcoholic beverage;
- 2376 (ii) tobacco; or
- 2377 (iii) prepared food.
- 2378 (51) (a) "Fundraising sales" means sales:
- 2379 (i) (A) made by a school; or
- 2380 (B) made by a school student;
- 2381 (ii) that are for the purpose of raising funds for the school to purchase equipment,

2382 materials, or provide transportation; and

2383 (iii) that are part of an officially sanctioned school activity.

2384 (b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity"

2385 means a school activity:

2386 (i) that is conducted in accordance with a formal policy adopted by the school or school
2387 district governing the authorization and supervision of fundraising activities;

2388 (ii) that does not directly or indirectly compensate an individual teacher or other
2389 educational personnel by direct payment, commissions, or payment in kind; and

2390 (iii) the net or gross revenues from which are deposited in a dedicated account
2391 controlled by the school or school district.

2392 (52) "Geothermal energy" means energy contained in heat that continuously flows
2393 outward from the earth that is used as the sole source of energy to produce electricity.

2394 (53) "Governing board of the agreement" means the governing board of the agreement
2395 that is:

2396 (a) authorized to administer the agreement; and

2397 (b) established in accordance with the agreement.

2398 (54) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

2399 (i) the executive branch of the state, including all departments, institutions, boards,
2400 divisions, bureaus, offices, commissions, and committees;

2401 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
2402 Office of the Court Administrator, and similar administrative units in the judicial branch;

2403 (iii) the legislative branch of the state, including the House of Representatives, the
2404 Senate, the Legislative Printing Office, the Office of Legislative Research and General
2405 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
2406 Analyst;

2407 (iv) the National Guard;

2408 (v) an independent entity as defined in Section 63E-1-102; or

2409 (vi) a political subdivision as defined in Section 17B-1-102.

2410 (b) "Governmental entity" does not include the state systems of public and higher
2411 education, including:

2412 (i) a school;

- 2413 (ii) the State Board of Education;
- 2414 (iii) the State Board of Regents; or
- 2415 (iv) an institution of higher education described in Section [53B-1-102](#).
- 2416 (55) "Hydroelectric energy" means water used as the sole source of energy to produce
- 2417 electricity.
- 2418 (56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 2419 other fuels:
- 2420 (a) in mining or extraction of minerals;
- 2421 (b) in agricultural operations to produce an agricultural product up to the time of
- 2422 harvest or placing the agricultural product into a storage facility, including:
- 2423 (i) commercial greenhouses;
- 2424 (ii) irrigation pumps;
- 2425 (iii) farm machinery;
- 2426 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered
- 2427 under Title 41, Chapter 1a, Part 2, Registration; and
- 2428 (v) other farming activities;
- 2429 (c) in manufacturing tangible personal property at an establishment described in SIC
- 2430 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 2431 Executive Office of the President, Office of Management and Budget;
- 2432 (d) by a scrap recycler if:
- 2433 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 2434 one or more of the following items into prepared grades of processed materials for use in new
- 2435 products:
- 2436 (A) iron;
- 2437 (B) steel;
- 2438 (C) nonferrous metal;
- 2439 (D) paper;
- 2440 (E) glass;
- 2441 (F) plastic;
- 2442 (G) textile; or
- 2443 (H) rubber; and

2444 (ii) the new products under Subsection (56)(d)(i) would otherwise be made with
2445 nonrecycled materials; or

2446 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
2447 cogeneration facility as defined in Section 54-2-1.

2448 (57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge
2449 for installing:

2450 (i) tangible personal property; or

2451 (ii) a product transferred electronically.

2452 (b) "Installation charge" does not include a charge for:

2453 (i) repairs or renovations of:

2454 (A) tangible personal property; or

2455 (B) a product transferred electronically; or

2456 (ii) attaching tangible personal property or a product transferred electronically:

2457 (A) to other tangible personal property; and

2458 (B) as part of a manufacturing or fabrication process.

2459 (58) "Institution of higher education" means an institution of higher education listed in
2460 Section 53B-2-101.

2461 (59) (a) "Lease" or "rental" means a transfer of possession or control of tangible
2462 personal property or a product transferred electronically for:

2463 (i) (A) a fixed term; or

2464 (B) an indeterminate term; and

2465 (ii) consideration.

2466 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
2467 amount of consideration may be increased or decreased by reference to the amount realized
2468 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
2469 Code.

2470 (c) "Lease" or "rental" does not include:

2471 (i) a transfer of possession or control of property under a security agreement or
2472 deferred payment plan that requires the transfer of title upon completion of the required
2473 payments;

2474 (ii) a transfer of possession or control of property under an agreement that requires the

2475 transfer of title:

2476 (A) upon completion of required payments; and

2477 (B) if the payment of an option price does not exceed the greater of:

2478 (I) \$100; or

2479 (II) 1% of the total required payments; or

2480 (iii) providing tangible personal property along with an operator for a fixed period of

2481 time or an indeterminate period of time if the operator is necessary for equipment to perform as

2482 designed.

2483 (d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to

2484 perform as designed if the operator's duties exceed the:

2485 (i) set-up of tangible personal property;

2486 (ii) maintenance of tangible personal property; or

2487 (iii) inspection of tangible personal property.

2488 (60) "Life science establishment" means an establishment in this state that is classified

2489 under the following NAICS codes of the 2007 North American Industry Classification System

2490 of the federal Executive Office of the President, Office of Management and Budget:

2491 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

2492 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

2493 Manufacturing; or

2494 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

2495 (61) "Life science research and development facility" means a facility owned, leased,

2496 or rented by a life science establishment if research and development is performed in 51% or

2497 more of the total area of the facility.

2498 (62) "Load and leave" means delivery to a purchaser by use of a tangible storage media

2499 if the tangible storage media is not physically transferred to the purchaser.

2500 (63) "Local taxing jurisdiction" means a:

2501 (a) county that is authorized to impose an agreement sales and use tax;

2502 (b) city that is authorized to impose an agreement sales and use tax; or

2503 (c) town that is authorized to impose an agreement sales and use tax.

2504 (64) "Manufactured home" means the same as that term is defined in Section

2505 [15A-1-302](#).

2506 (65) "Manufacturing facility" means:

2507 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
2508 Industrial Classification Manual of the federal Executive Office of the President, Office of
2509 Management and Budget;

2510 (b) a scrap recycler if:

2511 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
2512 one or more of the following items into prepared grades of processed materials for use in new
2513 products:

2514 (A) iron;

2515 (B) steel;

2516 (C) nonferrous metal;

2517 (D) paper;

2518 (E) glass;

2519 (F) plastic;

2520 (G) textile; or

2521 (H) rubber; and

2522 (ii) the new products under Subsection (65)(b)(i) would otherwise be made with
2523 nonrecycled materials; or

2524 (c) a cogeneration facility as defined in Section [54-2-1](#) if the cogeneration facility is
2525 placed in service on or after May 1, 2006.

2526 (66) "Member of the immediate family of the producer" means a person who is related
2527 to a producer described in Subsection [59-12-104\(20\)\(a\)](#) as a:

2528 (a) child or stepchild, regardless of whether the child or stepchild is:

2529 (i) an adopted child or adopted stepchild; or

2530 (ii) a foster child or foster stepchild;

2531 (b) grandchild or stepgrandchild;

2532 (c) grandparent or stepgrandparent;

2533 (d) nephew or stepnephew;

2534 (e) niece or stepniece;

2535 (f) parent or stepparent;

2536 (g) sibling or stepsibling;

2537 (h) spouse;
2538 (i) person who is the spouse of a person described in Subsections (66)(a) through (g);

2539 or

2540 (j) person similar to a person described in Subsections (66)(a) through (i) as
2541 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
2542 Administrative Rulemaking Act.

2543 (67) "Mobile home" means the same as that term is defined in Section [15A-1-302](#).

2544 (68) "Mobile telecommunications service" is as defined in the Mobile

2545 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2546 (69) (a) "Mobile wireless service" means a telecommunications service, regardless of
2547 the technology used, if:

- 2548 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 2549 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 2550 (iii) the origination point described in Subsection (69)(a)(i) and the termination point
2551 described in Subsection (69)(a)(ii) are not fixed.

2552 (b) "Mobile wireless service" includes a telecommunications service that is provided
2553 by a commercial mobile radio service provider.

2554 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2555 commission may by rule define "commercial mobile radio service provider."

2556 (70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment"
2557 means equipment that is:

2558 (i) primarily and customarily used to provide or increase the ability to move from one
2559 place to another;

2560 (ii) appropriate for use in a:

2561 (A) home; or

2562 (B) motor vehicle; and

2563 (iii) not generally used by persons with normal mobility.

2564 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
2565 the equipment described in Subsection (70)(a).

2566 (c) "Mobility enhancing equipment" does not include:

2567 (i) a motor vehicle;

2568 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
2569 vehicle manufacturer;

2570 (iii) durable medical equipment; or

2571 (iv) a prosthetic device.

2572 (71) "Model 1 seller" means a seller registered under the agreement that has selected a
2573 certified service provider as the seller's agent to perform all of the seller's sales and use tax
2574 functions for agreement sales and use taxes other than the seller's obligation under Section
2575 [59-12-124](#) to remit a tax on the seller's own purchases.

2576 (72) "Model 2 seller" means a seller registered under the agreement that:

2577 (a) except as provided in Subsection (72)(b), has selected a certified automated system
2578 to perform the seller's sales tax functions for agreement sales and use taxes; and

2579 (b) retains responsibility for remitting all of the sales tax:

2580 (i) collected by the seller; and

2581 (ii) to the appropriate local taxing jurisdiction.

2582 (73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under
2583 the agreement that has:

2584 (i) sales in at least five states that are members of the agreement;

2585 (ii) total annual sales revenues of at least \$500,000,000;

2586 (iii) a proprietary system that calculates the amount of tax:

2587 (A) for an agreement sales and use tax; and

2588 (B) due to each local taxing jurisdiction; and

2589 (iv) entered into a performance agreement with the governing board of the agreement.

2590 (b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of
2591 sellers using the same proprietary system.

2592 (74) "Model 4 seller" means a seller that is registered under the agreement and is not a
2593 model 1 seller, model 2 seller, or model 3 seller.

2594 (75) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

2595 (76) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).

2596 (77) "Oil sands" means impregnated bituminous sands that:

2597 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
2598 other hydrocarbons, or otherwise treated;

2599 (b) yield mixtures of liquid hydrocarbon; and
2600 (c) require further processing other than mechanical blending before becoming finished
2601 petroleum products.

2602 (78) "Oil shale" means a group of fine black to dark brown shales containing kerogen
2603 material that yields petroleum upon heating and distillation.

2604 (79) "Optional computer software maintenance contract" means a computer software
2605 maintenance contract that a customer is not obligated to purchase as a condition to the retail
2606 sale of computer software.

2607 (80) (a) "Other fuels" means products that burn independently to produce heat or
2608 energy.

2609 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
2610 personal property.

2611 (81) (a) "Paging service" means a telecommunications service that provides
2612 transmission of a coded radio signal for the purpose of activating a specific pager.

2613 (b) For purposes of Subsection (81)(a), the transmission of a coded radio signal
2614 includes a transmission by message or sound.

2615 (82) "Pawnbroker" means the same as that term is defined in Section [13-32a-102](#).

2616 (83) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).

2617 (84) (a) "Permanently attached to real property" means that for tangible personal
2618 property attached to real property:

2619 (i) the attachment of the tangible personal property to the real property:

2620 (A) is essential to the use of the tangible personal property; and

2621 (B) suggests that the tangible personal property will remain attached to the real
2622 property in the same place over the useful life of the tangible personal property; or

2623 (ii) if the tangible personal property is detached from the real property, the detachment
2624 would:

2625 (A) cause substantial damage to the tangible personal property; or

2626 (B) require substantial alteration or repair of the real property to which the tangible
2627 personal property is attached.

2628 (b) "Permanently attached to real property" includes:

2629 (i) the attachment of an accessory to the tangible personal property if the accessory is:

- 2630 (A) essential to the operation of the tangible personal property; and
- 2631 (B) attached only to facilitate the operation of the tangible personal property;
- 2632 (ii) a temporary detachment of tangible personal property from real property for a
- 2633 repair or renovation if the repair or renovation is performed where the tangible personal
- 2634 property and real property are located; or
- 2635 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
- 2636 Subsection (84)(c)(iii) or (iv).
- 2637 (c) "Permanently attached to real property" does not include:
- 2638 (i) the attachment of portable or movable tangible personal property to real property if
- 2639 that portable or movable tangible personal property is attached to real property only for:
- 2640 (A) convenience;
- 2641 (B) stability; or
- 2642 (C) for an obvious temporary purpose;
- 2643 (ii) the detachment of tangible personal property from real property except for the
- 2644 detachment described in Subsection (84)(b)(ii);
- 2645 (iii) an attachment of the following tangible personal property to real property if the
- 2646 attachment to real property is only through a line that supplies water, electricity, gas,
- 2647 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 2648 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 2649 (A) a computer;
- 2650 (B) a telephone;
- 2651 (C) a television; or
- 2652 (D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as
- 2653 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 2654 Administrative Rulemaking Act; or
- 2655 (iv) an item listed in Subsection (125)(c).
- 2656 (85) "Person" includes any individual, firm, partnership, joint venture, association,
- 2657 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
- 2658 municipality, district, or other local governmental entity of the state, or any group or
- 2659 combination acting as a unit.
- 2660 (86) "Place of primary use":

2661 (a) for telecommunications service other than mobile telecommunications service,
2662 means the street address representative of where the customer's use of the telecommunications
2663 service primarily occurs, which shall be:

2664 (i) the residential street address of the customer; or

2665 (ii) the primary business street address of the customer; or

2666 (b) for mobile telecommunications service, is as defined in the Mobile
2667 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2668 (87) (a) "Postpaid calling service" means a telecommunications service a person
2669 obtains by making a payment on a call-by-call basis:

2670 (i) through the use of a:

2671 (A) bank card;

2672 (B) credit card;

2673 (C) debit card; or

2674 (D) travel card; or

2675 (ii) by a charge made to a telephone number that is not associated with the origination
2676 or termination of the telecommunications service.

2677 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
2678 service, that would be a prepaid wireless calling service if the service were exclusively a
2679 telecommunications service.

2680 (88) "Postproduction" means an activity related to the finishing or duplication of a
2681 medium described in Subsection [59-12-104\(54\)\(a\)](#).

2682 (89) "Prepaid calling service" means a telecommunications service:

2683 (a) that allows a purchaser access to telecommunications service that is exclusively
2684 telecommunications service;

2685 (b) that:

2686 (i) is paid for in advance; and

2687 (ii) enables the origination of a call using an:

2688 (A) access number; or

2689 (B) authorization code;

2690 (c) that is dialed:

2691 (i) manually; or

- 2692 (ii) electronically; and
- 2693 (d) sold in predetermined units or dollars that decline:
- 2694 (i) by a known amount; and
- 2695 (ii) with use.
- 2696 (90) "Prepaid wireless calling service" means a telecommunications service:
- 2697 (a) that provides the right to utilize:
- 2698 (i) mobile wireless service; and
- 2699 (ii) other service that is not a telecommunications service, including:
- 2700 (A) the download of a product transferred electronically;
- 2701 (B) a content service; or
- 2702 (C) an ancillary service;
- 2703 (b) that:
- 2704 (i) is paid for in advance; and
- 2705 (ii) enables the origination of a call using an:
- 2706 (A) access number; or
- 2707 (B) authorization code;
- 2708 (c) that is dialed:
- 2709 (i) manually; or
- 2710 (ii) electronically; and
- 2711 (d) sold in predetermined units or dollars that decline:
- 2712 (i) by a known amount; and
- 2713 (ii) with use.
- 2714 (91) (a) "Prepared food" means:
- 2715 (i) food:
- 2716 (A) sold in a heated state; or
- 2717 (B) heated by a seller;
- 2718 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 2719 item; or
- 2720 (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided
- 2721 by the seller, including a:
- 2722 (A) plate;

- 2723 (B) knife;
- 2724 (C) fork;
- 2725 (D) spoon;
- 2726 (E) glass;
- 2727 (F) cup;
- 2728 (G) napkin; or
- 2729 (H) straw.
- 2730 (b) "Prepared food" does not include:
- 2731 (i) food that a seller only:
- 2732 (A) cuts;
- 2733 (B) repackages; or
- 2734 (C) pasteurizes; or
- 2735 (ii) (A) the following:
- 2736 (I) raw egg;
- 2737 (II) raw fish;
- 2738 (III) raw meat;
- 2739 (IV) raw poultry; or
- 2740 (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);
- 2741 and
- 2742 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 2743 Food and Drug Administration's Food Code that a consumer cook the items described in
- 2744 Subsection (91)(b)(ii)(A) to prevent food borne illness; or
- 2745 (iii) the following if sold without eating utensils provided by the seller:
- 2746 (A) food and food ingredients sold by a seller if the seller's proper primary
- 2747 classification under the 2002 North American Industry Classification System of the federal
- 2748 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 2749 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 2750 Manufacturing;
- 2751 (B) food and food ingredients sold in an unheated state:
- 2752 (I) by weight or volume; and
- 2753 (II) as a single item; or

- 2754 (C) a bakery item, including:
- 2755 (I) a bagel;
- 2756 (II) a bar;
- 2757 (III) a biscuit;
- 2758 (IV) bread;
- 2759 (V) a bun;
- 2760 (VI) a cake;
- 2761 (VII) a cookie;
- 2762 (VIII) a croissant;
- 2763 (IX) a danish;
- 2764 (X) a donut;
- 2765 (XI) a muffin;
- 2766 (XII) a pastry;
- 2767 (XIII) a pie;
- 2768 (XIV) a roll;
- 2769 (XV) a tart;
- 2770 (XVI) a torte; or
- 2771 (XVII) a tortilla.
- 2772 (c) An eating utensil provided by the seller does not include the following used to
- 2773 transport the food:
- 2774 (i) a container; or
- 2775 (ii) packaging.
- 2776 (92) "Prescription" means an order, formula, or recipe that is issued:
- 2777 (a) (i) orally;
- 2778 (ii) in writing;
- 2779 (iii) electronically; or
- 2780 (iv) by any other manner of transmission; and
- 2781 (b) by a licensed practitioner authorized by the laws of a state.
- 2782 (93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer
- 2783 software" means computer software that is not designed and developed:
- 2784 (i) by the author or other creator of the computer software; and

- 2785 (ii) to the specifications of a specific purchaser.
- 2786 (b) "Prewritten computer software" includes:
- 2787 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 2788 software is not designed and developed:
- 2789 (A) by the author or other creator of the computer software; and
- 2790 (B) to the specifications of a specific purchaser;
- 2791 (ii) computer software designed and developed by the author or other creator of the
- 2792 computer software to the specifications of a specific purchaser if the computer software is sold
- 2793 to a person other than the purchaser; or
- 2794 (iii) except as provided in Subsection (93)(c), prewritten computer software or a
- 2795 prewritten portion of prewritten computer software:
- 2796 (A) that is modified or enhanced to any degree; and
- 2797 (B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is
- 2798 designed and developed to the specifications of a specific purchaser.
- 2799 (c) "Prewritten computer software" does not include a modification or enhancement
- 2800 described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:
- 2801 (i) reasonable; and
- 2802 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
- 2803 invoice or other statement of price provided to the purchaser at the time of sale or later, as
- 2804 demonstrated by:
- 2805 (A) the books and records the seller keeps at the time of the transaction in the regular
- 2806 course of business, including books and records the seller keeps at the time of the transaction in
- 2807 the regular course of business for nontax purposes;
- 2808 (B) a preponderance of the facts and circumstances at the time of the transaction; and
- 2809 (C) the understanding of all of the parties to the transaction.
- 2810 (94) (a) "Private communications service" means a telecommunications service:
- 2811 (i) that entitles a customer to exclusive or priority use of one or more communications
- 2812 channels between or among termination points; and
- 2813 (ii) regardless of the manner in which the one or more communications channels are
- 2814 connected.
- 2815 (b) "Private communications service" includes the following provided in connection

2816 with the use of one or more communications channels:

2817 (i) an extension line;

2818 (ii) a station;

2819 (iii) switching capacity; or

2820 (iv) another associated service that is provided in connection with the use of one or

2821 more communications channels as defined in Section 59-12-215.

2822 (95) (a) Except as provided in Subsection (95)(b), "product transferred electronically"

2823 means a product transferred electronically that would be subject to a tax under this chapter if

2824 that product was transferred in a manner other than electronically.

2825 (b) "Product transferred electronically" does not include:

2826 (i) an ancillary service;

2827 (ii) computer software; or

2828 (iii) a telecommunications service.

2829 (96) (a) "Prosthetic device" means a device that is worn on or in the body to:

2830 (i) artificially replace a missing portion of the body;

2831 (ii) prevent or correct a physical deformity or physical malfunction; or

2832 (iii) support a weak or deformed portion of the body.

2833 (b) "Prosthetic device" includes:

2834 (i) parts used in the repairs or renovation of a prosthetic device;

2835 (ii) replacement parts for a prosthetic device;

2836 (iii) a dental prosthesis; or

2837 (iv) a hearing aid.

2838 (c) "Prosthetic device" does not include:

2839 (i) corrective eyeglasses; or

2840 (ii) contact lenses.

2841 (97) (a) "Protective equipment" means an item:

2842 (i) for human wear; and

2843 (ii) that is:

2844 (A) designed as protection:

2845 (I) to the wearer against injury or disease; or

2846 (II) against damage or injury of other persons or property; and

2847 (B) not suitable for general use.

2848 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2849 commission shall make rules:

2850 (i) listing the items that constitute "protective equipment"; and

2851 (ii) that are consistent with the list of items that constitute "protective equipment"
2852 under the agreement.

2853 (98) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
2854 printed matter, other than a photocopy:

2855 (i) regardless of:

2856 (A) characteristics;

2857 (B) copyright;

2858 (C) form;

2859 (D) format;

2860 (E) method of reproduction; or

2861 (F) source; and

2862 (ii) made available in printed or electronic format.

2863 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2864 commission may by rule define the term "photocopy."

2865 (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:

2866 (i) valued in money; and

2867 (ii) for which tangible personal property, a product transferred electronically, or
2868 services are:

2869 (A) sold;

2870 (B) leased; or

2871 (C) rented.

2872 (b) "Purchase price" and "sales price" include:

2873 (i) the seller's cost of the tangible personal property, a product transferred
2874 electronically, or services sold;

2875 (ii) expenses of the seller, including:

2876 (A) the cost of materials used;

2877 (B) a labor cost;

- 2878 (C) a service cost;
- 2879 (D) interest;
- 2880 (E) a loss;
- 2881 (F) the cost of transportation to the seller; or
- 2882 (G) a tax imposed on the seller;
- 2883 (iii) a charge by the seller for any service necessary to complete the sale; or
- 2884 (iv) consideration a seller receives from a person other than the purchaser if:
- 2885 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 2886 and
- 2887 (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a
- 2888 price reduction or discount on the sale;
- 2889 (B) the seller has an obligation to pass the price reduction or discount through to the
- 2890 purchaser;
- 2891 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 2892 the seller at the time of the sale to the purchaser; and
- 2893 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 2894 seller to claim a price reduction or discount; and
- 2895 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 2896 coupon, or other documentation with the understanding that the person other than the seller
- 2897 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 2898 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 2899 organization allowed a price reduction or discount, except that a preferred customer card that is
- 2900 available to any patron of a seller does not constitute membership in a group or organization
- 2901 allowed a price reduction or discount; or
- 2902 (III) the price reduction or discount is identified as a third party price reduction or
- 2903 discount on the:
- 2904 (Aa) invoice the purchaser receives; or
- 2905 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 2906 (c) "Purchase price" and "sales price" do not include:
- 2907 (i) a discount:
- 2908 (A) in a form including:

- 2909 (I) cash;
- 2910 (II) term; or
- 2911 (III) coupon;
- 2912 (B) that is allowed by a seller;
- 2913 (C) taken by a purchaser on a sale; and
- 2914 (D) that is not reimbursed by a third party; or
- 2915 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
- 2916 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
- 2917 sale or later, as demonstrated by the books and records the seller keeps at the time of the
- 2918 transaction in the regular course of business, including books and records the seller keeps at the
- 2919 time of the transaction in the regular course of business for nontax purposes, by a
- 2920 preponderance of the facts and circumstances at the time of the transaction, and by the
- 2921 understanding of all of the parties to the transaction:
 - 2922 (A) the following from credit extended on the sale of tangible personal property or
 - 2923 services:
 - 2924 (I) a carrying charge;
 - 2925 (II) a financing charge; or
 - 2926 (III) an interest charge;
 - 2927 (B) a delivery charge;
 - 2928 (C) an installation charge;
 - 2929 (D) a manufacturer rebate on a motor vehicle; or
 - 2930 (E) a tax or fee legally imposed directly on the consumer.
 - 2931 (100) "Purchaser" means a person to whom:
 - 2932 (a) a sale of tangible personal property is made;
 - 2933 (b) a product is transferred electronically; or
 - 2934 (c) a service is furnished.
 - 2935 (101) "Qualifying enterprise data center" means an establishment that will:
 - 2936 (a) own and operate a data center facility that will house a group of networked server
 - 2937 computers in one physical location in order to centralize the dissemination, management, and
 - 2938 storage of data and information;
 - 2939 (b) be located in the state;

- 2940 (c) be a new operation constructed on or after July 1, 2016;
- 2941 (d) consist of one or more buildings that total 150,000 or more square feet;
- 2942 (e) be owned or leased by:
 - 2943 (i) the establishment; or
 - 2944 (ii) a person under common ownership, as defined in Section 59-7-101, of the
 - 2945 establishment; and
- 2946 (f) be located on one or more parcels of land that are owned or leased by:
 - 2947 (i) the establishment; or
 - 2948 (ii) a person under common ownership, as defined in Section 59-7-101, of the
 - 2949 establishment.
- 2950 (102) "Regularly rented" means:
 - 2951 (a) rented to a guest for value three or more times during a calendar year; or
 - 2952 (b) advertised or held out to the public as a place that is regularly rented to guests for
 - 2953 value.
- 2954 (103) "Rental" means the same as that term is defined in Subsection (59).
- 2955 (104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible
- 2956 personal property" means:
 - 2957 (i) a repair or renovation of tangible personal property that is not permanently attached
 - 2958 to real property; or
 - 2959 (ii) attaching tangible personal property or a product transferred electronically to other
 - 2960 tangible personal property or detaching tangible personal property or a product transferred
 - 2961 electronically from other tangible personal property if:
 - 2962 (A) the other tangible personal property to which the tangible personal property or
 - 2963 product transferred electronically is attached or from which the tangible personal property or
 - 2964 product transferred electronically is detached is not permanently attached to real property; and
 - 2965 (B) the attachment of tangible personal property or a product transferred electronically
 - 2966 to other tangible personal property or detachment of tangible personal property or a product
 - 2967 transferred electronically from other tangible personal property is made in conjunction with a
 - 2968 repair or replacement of tangible personal property or a product transferred electronically.
 - 2969 (b) "Repairs or renovations of tangible personal property" does not include:
 - 2970 (i) attaching prewritten computer software to other tangible personal property if the

2971 other tangible personal property to which the prewritten computer software is attached is not
2972 permanently attached to real property; or

2973 (ii) detaching prewritten computer software from other tangible personal property if the
2974 other tangible personal property from which the prewritten computer software is detached is
2975 not permanently attached to real property.

2976 (105) "Research and development" means the process of inquiry or experimentation
2977 aimed at the discovery of facts, devices, technologies, or applications and the process of
2978 preparing those devices, technologies, or applications for marketing.

2979 (106) (a) "Residential telecommunications services" means a telecommunications
2980 service or an ancillary service that is provided to an individual for personal use:

2981 (i) at a residential address; or

2982 (ii) at an institution, including a nursing home or a school, if the telecommunications
2983 service or ancillary service is provided to and paid for by the individual residing at the
2984 institution rather than the institution.

2985 (b) For purposes of Subsection (106)(a)(i), a residential address includes an:

2986 (i) apartment; or

2987 (ii) other individual dwelling unit.

2988 (107) "Residential use" means the use in or around a home, apartment building,
2989 sleeping quarters, and similar facilities or accommodations.

2990 (108) (a) "Retailer" means any person engaged in a regularly organized business in
2991 tangible personal property or any other taxable transaction under Subsection [59-12-103\(1\)](#), and
2992 who is selling to the user or consumer and not for resale.

2993 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
2994 engaged in the business of selling to users or consumers within the state.

2995 (109) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
2996 than:

2997 (a) resale;

2998 (b) sublease; or

2999 (c) subrent.

3000 (110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
3001 otherwise, in any manner, of tangible personal property or any other taxable transaction under

3002 Subsection 59-12-103(1), for consideration.

3003 (b) "Sale" includes:

3004 (i) installment and credit sales;

3005 (ii) any closed transaction constituting a sale;

3006 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
3007 chapter;

3008 (iv) any transaction if the possession of property is transferred but the seller retains the
3009 title as security for the payment of the price; and

3010 (v) any transaction under which right to possession, operation, or use of any article of
3011 tangible personal property is granted under a lease or contract and the transfer of possession
3012 would be taxable if an outright sale were made.

3013 (111) "Sale at retail" means the same as that term is defined in Subsection (109).

3014 (112) "Sale-leaseback transaction" means a transaction by which title to tangible
3015 personal property or a product transferred electronically that is subject to a tax under this
3016 chapter is transferred:

3017 (a) by a purchaser-lessee;

3018 (b) to a lessor;

3019 (c) for consideration; and

3020 (d) if:

3021 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
3022 of the tangible personal property or product transferred electronically;

3023 (ii) the sale of the tangible personal property or product transferred electronically to the
3024 lessor is intended as a form of financing:

3025 (A) for the tangible personal property or product transferred electronically; and

3026 (B) to the purchaser-lessee; and

3027 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
3028 is required to:

3029 (A) capitalize the tangible personal property or product transferred electronically for
3030 financial reporting purposes; and

3031 (B) account for the lease payments as payments made under a financing arrangement.

3032 (113) "Sales price" means the same as that term is defined in Subsection (99).

3033 (114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
3034 amounts charged by a school:

3035 (i) sales that are directly related to the school's educational functions or activities
3036 including:

3037 (A) the sale of:

3038 (I) textbooks;

3039 (II) textbook fees;

3040 (III) laboratory fees;

3041 (IV) laboratory supplies; or

3042 (V) safety equipment;

3043 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

3044 that:

3045 (I) a student is specifically required to wear as a condition of participation in a
3046 school-related event or school-related activity; and

3047 (II) is not readily adaptable to general or continued usage to the extent that it takes the
3048 place of ordinary clothing;

3049 (C) sales of the following if the net or gross revenues generated by the sales are
3050 deposited into a school district fund or school fund dedicated to school meals:

3051 (I) food and food ingredients; or

3052 (II) prepared food; or

3053 (D) transportation charges for official school activities; or

3054 (ii) amounts paid to or amounts charged by a school for admission to a school-related
3055 event or school-related activity.

3056 (b) "Sales relating to schools" does not include:

3057 (i) bookstore sales of items that are not educational materials or supplies;

3058 (ii) except as provided in Subsection (114)(a)(i)(B):

3059 (A) clothing;

3060 (B) clothing accessories or equipment;

3061 (C) protective equipment; or

3062 (D) sports or recreational equipment; or

3063 (iii) amounts paid to or amounts charged by a school for admission to a school-related

3064 event or school-related activity if the amounts paid or charged are passed through to a person:

3065 (A) other than a:

3066 (I) school;

3067 (II) nonprofit organization authorized by a school board or a governing body of a

3068 private school to organize and direct a competitive secondary school activity; or

3069 (III) nonprofit association authorized by a school board or a governing body of a

3070 private school to organize and direct a competitive secondary school activity; and

3071 (B) that is required to collect sales and use taxes under this chapter.

3072 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3073 commission may make rules defining the term "passed through."

3074 (115) For purposes of this section and Section [59-12-104](#), "school":

3075 (a) means:

3076 (i) an elementary school or a secondary school that:

3077 (A) is a:

3078 (I) public school; or

3079 (II) private school; and

3080 (B) provides instruction for one or more grades kindergarten through 12; or

3081 (ii) a public school district; and

3082 (b) includes the Electronic High School as defined in Section [53A-15-1002](#).

3083 (116) "Seller" means a person that makes a sale, lease, or rental of:

3084 (a) tangible personal property;

3085 (b) a product transferred electronically; or

3086 (c) a service.

3087 (117) (a) "Semiconductor fabricating, processing, research, or development materials"

3088 means tangible personal property or a product transferred electronically if the tangible personal

3089 property or product transferred electronically is:

3090 (i) used primarily in the process of:

3091 (A) (I) manufacturing a semiconductor;

3092 (II) fabricating a semiconductor; or

3093 (III) research or development of a:

3094 (Aa) semiconductor; or

- 3095 (Bb) semiconductor manufacturing process; or
- 3096 (B) maintaining an environment suitable for a semiconductor; or
- 3097 (ii) consumed primarily in the process of:
- 3098 (A) (I) manufacturing a semiconductor;
- 3099 (II) fabricating a semiconductor; or
- 3100 (III) research or development of a:
- 3101 (Aa) semiconductor; or
- 3102 (Bb) semiconductor manufacturing process; or
- 3103 (B) maintaining an environment suitable for a semiconductor.
- 3104 (b) "Semiconductor fabricating, processing, research, or development materials"
- 3105 includes:
- 3106 (i) parts used in the repairs or renovations of tangible personal property or a product
- 3107 transferred electronically described in Subsection (117)(a); or
- 3108 (ii) a chemical, catalyst, or other material used to:
- 3109 (A) produce or induce in a semiconductor a:
- 3110 (I) chemical change; or
- 3111 (II) physical change;
- 3112 (B) remove impurities from a semiconductor; or
- 3113 (C) improve the marketable condition of a semiconductor.
- 3114 (118) "Senior citizen center" means a facility having the primary purpose of providing
- 3115 services to the aged as defined in Section [62A-3-101](#).
- 3116 (119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable"
- 3117 means tangible personal property that:
- 3118 (i) a business that provides accommodations and services described in Subsection
- 3119 [59-12-103\(1\)\(i\)](#) purchases as part of a transaction to provide the accommodations and services
- 3120 to a purchaser;
- 3121 (ii) is intended to be consumed by the purchaser; and
- 3122 (iii) is:
- 3123 (A) included in the purchase price of the accommodations and services; and
- 3124 (B) not separately stated on an invoice, bill of sale, or other similar document provided
- 3125 to the purchaser.

- 3126 (b) "Short-term lodging consumable" includes:
- 3127 (i) a beverage;
- 3128 (ii) a brush or comb;
- 3129 (iii) a cosmetic;
- 3130 (iv) a hair care product;
- 3131 (v) lotion;
- 3132 (vi) a magazine;
- 3133 (vii) makeup;
- 3134 (viii) a meal;
- 3135 (ix) mouthwash;
- 3136 (x) nail polish remover;
- 3137 (xi) a newspaper;
- 3138 (xii) a notepad;
- 3139 (xiii) a pen;
- 3140 (xiv) a pencil;
- 3141 (xv) a razor;
- 3142 (xvi) saline solution;
- 3143 (xvii) a sewing kit;
- 3144 (xviii) shaving cream;
- 3145 (xix) a shoe shine kit;
- 3146 (xx) a shower cap;
- 3147 (xxi) a snack item;
- 3148 (xxii) soap;
- 3149 (xxiii) toilet paper;
- 3150 (xxiv) a toothbrush;
- 3151 (xxv) toothpaste; or
- 3152 (xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may
- 3153 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 3154 Rulemaking Act.
- 3155 (c) "Short-term lodging consumable" does not include:
- 3156 (i) tangible personal property that is cleaned or washed to allow the tangible personal

3157 property to be reused; or

3158 (ii) a product transferred electronically.

3159 (120) "Simplified electronic return" means the electronic return:

3160 (a) described in Section 318(C) of the agreement; and

3161 (b) approved by the governing board of the agreement.

3162 (121) "Solar energy" means the sun used as the sole source of energy for producing
3163 electricity.

3164 (122) (a) "Sports or recreational equipment" means an item:

3165 (i) designed for human use; and

3166 (ii) that is:

3167 (A) worn in conjunction with:

3168 (I) an athletic activity; or

3169 (II) a recreational activity; and

3170 (B) not suitable for general use.

3171 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3172 commission shall make rules:

3173 (i) listing the items that constitute "sports or recreational equipment"; and

3174 (ii) that are consistent with the list of items that constitute "sports or recreational
3175 equipment" under the agreement.

3176 (123) "State" means the state of Utah, its departments, and agencies.

3177 (124) "Storage" means any keeping or retention of tangible personal property or any
3178 other taxable transaction under Subsection [59-12-103\(1\)](#), in this state for any purpose except
3179 sale in the regular course of business.

3180 (125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property"
3181 means personal property that:

3182 (i) may be:

3183 (A) seen;

3184 (B) weighed;

3185 (C) measured;

3186 (D) felt; or

3187 (E) touched; or

3188 (ii) is in any manner perceptible to the senses.

3189 (b) "Tangible personal property" includes:

3190 (i) electricity;

3191 (ii) water;

3192 (iii) gas;

3193 (iv) steam; or

3194 (v) prewritten computer software, regardless of the manner in which the prewritten
3195 computer software is transferred.

3196 (c) "Tangible personal property" includes the following regardless of whether the item
3197 is attached to real property:

3198 (i) a dishwasher;

3199 (ii) a dryer;

3200 (iii) a freezer;

3201 (iv) a microwave;

3202 (v) a refrigerator;

3203 (vi) a stove;

3204 (vii) a washer; or

3205 (viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the
3206 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3207 Rulemaking Act.

3208 (d) "Tangible personal property" does not include a product that is transferred
3209 electronically.

3210 (e) "Tangible personal property" does not include the following if attached to real
3211 property, regardless of whether the attachment to real property is only through a line that
3212 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
3213 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3214 Rulemaking Act:

3215 (i) a hot water heater;

3216 (ii) a water filtration system; or

3217 (iii) a water softener system.

3218 (126) (a) "Telecommunications enabling or facilitating equipment, machinery, or

3219 software" means an item listed in Subsection (126)(b) if that item is purchased or leased
3220 primarily to enable or facilitate one or more of the following to function:

- 3221 (i) telecommunications switching or routing equipment, machinery, or software; or
- 3222 (ii) telecommunications transmission equipment, machinery, or software.

3223 (b) The following apply to Subsection (126)(a):

- 3224 (i) a pole;
- 3225 (ii) software;
- 3226 (iii) a supplementary power supply;
- 3227 (iv) temperature or environmental equipment or machinery;
- 3228 (v) test equipment;
- 3229 (vi) a tower; or
- 3230 (vii) equipment, machinery, or software that functions similarly to an item listed in

3231 Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in
3232 accordance with Subsection (126)(c).

3233 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3234 commission may by rule define what constitutes equipment, machinery, or software that
3235 functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

3236 (127) "Telecommunications equipment, machinery, or software required for 911
3237 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
3238 Sec. 20.18.

3239 (128) "Telecommunications maintenance or repair equipment, machinery, or software"
3240 means equipment, machinery, or software purchased or leased primarily to maintain or repair
3241 one or more of the following, regardless of whether the equipment, machinery, or software is
3242 purchased or leased as a spare part or as an upgrade or modification to one or more of the
3243 following:

- 3244 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 3245 (b) telecommunications switching or routing equipment, machinery, or software; or
- 3246 (c) telecommunications transmission equipment, machinery, or software.

3247 (129) (a) "Telecommunications service" means the electronic conveyance, routing, or
3248 transmission of audio, data, video, voice, or any other information or signal to a point, or
3249 among or between points.

- 3250 (b) "Telecommunications service" includes:
- 3251 (i) an electronic conveyance, routing, or transmission with respect to which a computer
- 3252 processing application is used to act:
- 3253 (A) on the code, form, or protocol of the content;
- 3254 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 3255 (C) regardless of whether the service:
- 3256 (I) is referred to as voice over Internet protocol service; or
- 3257 (II) is classified by the Federal Communications Commission as enhanced or value
- 3258 added;
- 3259 (ii) an 800 service;
- 3260 (iii) a 900 service;
- 3261 (iv) a fixed wireless service;
- 3262 (v) a mobile wireless service;
- 3263 (vi) a postpaid calling service;
- 3264 (vii) a prepaid calling service;
- 3265 (viii) a prepaid wireless calling service; or
- 3266 (ix) a private communications service.
- 3267 (c) "Telecommunications service" does not include:
- 3268 (i) advertising, including directory advertising;
- 3269 (ii) an ancillary service;
- 3270 (iii) a billing and collection service provided to a third party;
- 3271 (iv) a data processing and information service if:
- 3272 (A) the data processing and information service allows data to be:
- 3273 (I) (Aa) acquired;
- 3274 (Bb) generated;
- 3275 (Cc) processed;
- 3276 (Dd) retrieved; or
- 3277 (Ee) stored; and
- 3278 (II) delivered by an electronic transmission to a purchaser; and
- 3279 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 3280 or information;

- 3281 (v) installation or maintenance of the following on a customer's premises:
- 3282 (A) equipment; or
- 3283 (B) wiring;
- 3284 (vi) Internet access service;
- 3285 (vii) a paging service;
- 3286 (viii) a product transferred electronically, including:
- 3287 (A) music;
- 3288 (B) reading material;
- 3289 (C) a ring tone;
- 3290 (D) software; or
- 3291 (E) video;
- 3292 (ix) a radio and television audio and video programming service:
- 3293 (A) regardless of the medium; and
- 3294 (B) including:
- 3295 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 3296 programming service by a programming service provider;
- 3297 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 3298 (III) audio and video programming services delivered by a commercial mobile radio
- 3299 service provider as defined in 47 C.F.R. Sec. 20.3;
- 3300 (x) a value-added nonvoice data service; or
- 3301 (xi) tangible personal property.
- 3302 (130) (a) "Telecommunications service provider" means a person that:
- 3303 (i) owns, controls, operates, or manages a telecommunications service; and
- 3304 (ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or
- 3305 resale to any person of the telecommunications service.
- 3306 (b) A person described in Subsection (130)(a) is a telecommunications service provider
- 3307 whether or not the Public Service Commission of Utah regulates:
- 3308 (i) that person; or
- 3309 (ii) the telecommunications service that the person owns, controls, operates, or
- 3310 manages.
- 3311 (131) (a) "Telecommunications switching or routing equipment, machinery, or

3312 software" means an item listed in Subsection (131)(b) if that item is purchased or leased
3313 primarily for switching or routing:

- 3314 (i) an ancillary service;
- 3315 (ii) data communications;
- 3316 (iii) voice communications; or
- 3317 (iv) telecommunications service.

3318 (b) The following apply to Subsection (131)(a):

- 3319 (i) a bridge;
- 3320 (ii) a computer;
- 3321 (iii) a cross connect;
- 3322 (iv) a modem;
- 3323 (v) a multiplexer;
- 3324 (vi) plug in circuitry;
- 3325 (vii) a router;
- 3326 (viii) software;
- 3327 (ix) a switch; or
- 3328 (x) equipment, machinery, or software that functions similarly to an item listed in
3329 Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in
3330 accordance with Subsection (131)(c).

3331 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3332 commission may by rule define what constitutes equipment, machinery, or software that
3333 functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

3334 (132) (a) "Telecommunications transmission equipment, machinery, or software"
3335 means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for
3336 sending, receiving, or transporting:

- 3337 (i) an ancillary service;
- 3338 (ii) data communications;
- 3339 (iii) voice communications; or
- 3340 (iv) telecommunications service.

3341 (b) The following apply to Subsection (132)(a):

- 3342 (i) an amplifier;

- 3343 (ii) a cable;
- 3344 (iii) a closure;
- 3345 (iv) a conduit;
- 3346 (v) a controller;
- 3347 (vi) a duplexer;
- 3348 (vii) a filter;
- 3349 (viii) an input device;
- 3350 (ix) an input/output device;
- 3351 (x) an insulator;
- 3352 (xi) microwave machinery or equipment;
- 3353 (xii) an oscillator;
- 3354 (xiii) an output device;
- 3355 (xiv) a pedestal;
- 3356 (xv) a power converter;
- 3357 (xvi) a power supply;
- 3358 (xvii) a radio channel;
- 3359 (xviii) a radio receiver;
- 3360 (xix) a radio transmitter;
- 3361 (xx) a repeater;
- 3362 (xxi) software;
- 3363 (xxii) a terminal;
- 3364 (xxiii) a timing unit;
- 3365 (xxiv) a transformer;
- 3366 (xxv) a wire; or
- 3367 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 3368 Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in
- 3369 accordance with Subsection (132)(c).

3370 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3371 commission may by rule define what constitutes equipment, machinery, or software that
3372 functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).

3373 (133) (a) "Textbook for a higher education course" means a textbook or other printed

3374 material that is required for a course:

3375 (i) offered by an institution of higher education; and

3376 (ii) that the purchaser of the textbook or other printed material attends or will attend.

3377 (b) "Textbook for a higher education course" includes a textbook in electronic format.

3378 (134) "Tobacco" means:

3379 (a) a cigarette;

3380 (b) a cigar;

3381 (c) chewing tobacco;

3382 (d) pipe tobacco; or

3383 (e) any other item that contains tobacco.

3384 (135) "Unassisted amusement device" means an amusement device, skill device, or
3385 ride device that is started and stopped by the purchaser or renter of the right to use or operate
3386 the amusement device, skill device, or ride device.

3387 (136) (a) "Use" means the exercise of any right or power over tangible personal
3388 property, a product transferred electronically, or a service under Subsection [59-12-103\(1\)](#),
3389 incident to the ownership or the leasing of that tangible personal property, product transferred
3390 electronically, or service.

3391 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
3392 property, a product transferred electronically, or a service in the regular course of business and
3393 held for resale.

3394 (137) "Value-added nonvoice data service" means a service:

3395 (a) that otherwise meets the definition of a telecommunications service except that a
3396 computer processing application is used to act primarily for a purpose other than conveyance,
3397 routing, or transmission; and

3398 (b) with respect to which a computer processing application is used to act on data or
3399 information:

3400 (i) code;

3401 (ii) content;

3402 (iii) form; or

3403 (iv) protocol.

3404 (138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are

3405 required to be titled, registered, or titled and registered:

3406 (i) an aircraft as defined in Section 72-10-102;

3407 (ii) a vehicle as defined in Section 41-1a-102;

3408 (iii) an off-highway vehicle as defined in Section 41-22-2; or

3409 (iv) a vessel as defined in Section 41-1a-102.

3410 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

3411 (i) a vehicle described in Subsection (138)(a); or

3412 (ii) (A) a locomotive;

3413 (B) a freight car;

3414 (C) railroad work equipment; or

3415 (D) other railroad rolling stock.

3416 (139) "Vehicle dealer" means a person engaged in the business of buying, selling, or

3417 exchanging a vehicle as defined in Subsection (138).

3418 (140) (a) "Vertical service" means an ancillary service that:

3419 (i) is offered in connection with one or more telecommunications services; and

3420 (ii) offers an advanced calling feature that allows a customer to:

3421 (A) identify a caller; and

3422 (B) manage multiple calls and call connections.

3423 (b) "Vertical service" includes an ancillary service that allows a customer to manage a

3424 conference bridging service.

3425 (141) (a) "Voice mail service" means an ancillary service that enables a customer to

3426 receive, send, or store a recorded message.

3427 (b) "Voice mail service" does not include a vertical service that a customer is required

3428 to have in order to utilize a voice mail service.

3429 (142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a

3430 facility that generates electricity:

3431 (i) using as the primary source of energy waste materials that would be placed in a

3432 landfill or refuse pit if it were not used to generate electricity, including:

3433 (A) tires;

3434 (B) waste coal;

3435 (C) oil shale; or

- 3436 (D) municipal solid waste; and
- 3437 (ii) in amounts greater than actually required for the operation of the facility.
- 3438 (b) "Waste energy facility" does not include a facility that incinerates:
- 3439 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 3440 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 3441 (143) "Watercraft" means a vessel as defined in Section [73-18-2](#).
- 3442 (144) "Wind energy" means wind used as the sole source of energy to produce
- 3443 electricity.
- 3444 (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
- 3445 location by the United States Postal Service.
- 3446 Section 26. Section **59-12-103** is amended to read:
- 3447 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
- 3448 **tax revenues.**
- 3449 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
- 3450 sales price for amounts paid or charged for the following transactions:
- 3451 (a) retail sales of tangible personal property made within the state;
- 3452 (b) amounts paid for:
- 3453 (i) telecommunications service, other than mobile telecommunications service, that
- 3454 originates and terminates within the boundaries of this state;
- 3455 (ii) mobile telecommunications service that originates and terminates within the
- 3456 boundaries of one state only to the extent permitted by the Mobile Telecommunications
- 3457 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
- 3458 (iii) an ancillary service associated with a:
- 3459 (A) telecommunications service described in Subsection (1)(b)(i); or
- 3460 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
- 3461 (c) sales of the following for commercial use:
- 3462 (i) gas;
- 3463 (ii) electricity;
- 3464 (iii) heat;
- 3465 (iv) coal;
- 3466 (v) fuel oil; or

- 3467 (vi) other fuels;
- 3468 (d) sales of the following for residential use:
 - 3469 (i) gas;
 - 3470 (ii) electricity;
 - 3471 (iii) heat;
 - 3472 (iv) coal;
 - 3473 (v) fuel oil; or
 - 3474 (vi) other fuels;
- 3475 (e) sales of prepared food;
- 3476 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 3477 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 3478 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 3479 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 3480 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 3481 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 3482 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 3483 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 3484 exhibition, cultural, or athletic activity;
- 3485 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 3486 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
 - 3487 (i) the tangible personal property; and
 - 3488 (ii) parts used in the repairs or renovations of the tangible personal property described
 - 3489 in Subsection (1)(g)(i), regardless of whether:
 - 3490 (A) any parts are actually used in the repairs or renovations of that tangible personal
 - 3491 property; or
 - 3492 (B) the particular parts used in the repairs or renovations of that tangible personal
 - 3493 property are exempt from a tax under this chapter;
 - 3494 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
 - 3495 assisted cleaning or washing of tangible personal property;
 - 3496 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
 - 3497 accommodations and services that are regularly rented for less than 30 consecutive days;

- 3498 (j) amounts paid or charged for laundry or dry cleaning services;
- 3499 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 3500 this state the tangible personal property is:
 - 3501 (i) stored;
 - 3502 (ii) used; or
 - 3503 (iii) otherwise consumed;
- 3504 (l) amounts paid or charged for tangible personal property if within this state the
- 3505 tangible personal property is:
 - 3506 (i) stored;
 - 3507 (ii) used; or
 - 3508 (iii) consumed; and
 - 3509 (m) amounts paid or charged for a sale:
 - 3510 (i) (A) of a product transferred electronically; or
 - 3511 (B) of a repair or renovation of a product transferred electronically; and
 - 3512 (ii) regardless of whether the sale provides:
 - 3513 (A) a right of permanent use of the product; or
 - 3514 (B) a right to use the product that is less than a permanent use, including a right:
 - 3515 (I) for a definite or specified length of time; and
 - 3516 (II) that terminates upon the occurrence of a condition.
 - 3517 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
 - 3518 is imposed on a transaction described in Subsection (1) equal to the sum of:
 - 3519 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
 - 3520 (A) [~~4.70%~~] 4.85%; and
 - 3521 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
 - 3522 and Use Tax Act, if the location of the transaction as determined under Sections [59-12-211](#)
 - 3523 through [59-12-215](#) is in a county in which the state imposes the tax under Part 18, Additional
 - 3524 State Sales and Use Tax Act; and
 - 3525 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
 - 3526 and Use Tax Act, if the location of the transaction as determined under Sections [59-12-211](#)
 - 3527 through [59-12-215](#) is in a city, town, or the unincorporated area of a county in which the state
 - 3528 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3529 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3530 transaction under this chapter other than this part.

3531 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
3532 on a transaction described in Subsection (1)(d) equal to the sum of:

3533 (i) a state tax imposed on the transaction at a tax rate of 2%; and

3534 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3535 transaction under this chapter other than this part.

3536 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
3537 on amounts paid or charged for food and food ingredients equal to the sum of:

3538 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
3539 a tax rate of 1.75%; and

3540 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3541 amounts paid or charged for food and food ingredients under this chapter other than this part.

3542 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
3543 tangible personal property other than food and food ingredients, a state tax and a local tax is
3544 imposed on the entire bundled transaction equal to the sum of:

3545 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

3546 (I) the tax rate described in Subsection (2)(a)(i)(A); and

3547 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
3548 Sales and Use Tax Act, if the location of the transaction as determined under Sections
3549 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
3550 Additional State Sales and Use Tax Act; and

3551 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
3552 Sales and Use Tax Act, if the location of the transaction as determined under Sections
3553 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
3554 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3555 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
3556 described in Subsection (2)(a)(ii).

3557 (ii) If an optional computer software maintenance contract is a bundled transaction that
3558 consists of taxable and nontaxable products that are not separately itemized on an invoice or
3559 similar billing document, the purchase of the optional computer software maintenance contract

3560 is 40% taxable under this chapter and 60% nontaxable under this chapter.

3561 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
3562 transaction described in Subsection (2)(d)(i) or (ii):

3563 (A) if the sales price of the bundled transaction is attributable to tangible personal
3564 property, a product, or a service that is subject to taxation under this chapter and tangible
3565 personal property, a product, or service that is not subject to taxation under this chapter, the
3566 entire bundled transaction is subject to taxation under this chapter unless:

3567 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3568 personal property, product, or service that is not subject to taxation under this chapter from the
3569 books and records the seller keeps in the seller's regular course of business; or

3570 (II) state or federal law provides otherwise; or

3571 (B) if the sales price of a bundled transaction is attributable to two or more items of
3572 tangible personal property, products, or services that are subject to taxation under this chapter
3573 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
3574 higher tax rate unless:

3575 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3576 personal property, product, or service that is subject to taxation under this chapter at the lower
3577 tax rate from the books and records the seller keeps in the seller's regular course of business; or

3578 (II) state or federal law provides otherwise.

3579 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
3580 seller's regular course of business includes books and records the seller keeps in the regular
3581 course of business for nontax purposes.

3582 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
3583 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
3584 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
3585 of tangible personal property, other property, a product, or a service that is not subject to
3586 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
3587 the seller, at the time of the transaction:

3588 (A) separately states the portion of the transaction that is not subject to taxation under
3589 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

3590 (B) is able to identify by reasonable and verifiable standards, from the books and

3591 records the seller keeps in the seller's regular course of business, the portion of the transaction
3592 that is not subject to taxation under this chapter.

3593 (ii) A purchaser and a seller may correct the taxability of a transaction if:

3594 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
3595 the transaction that is not subject to taxation under this chapter was not separately stated on an
3596 invoice, bill of sale, or similar document provided to the purchaser because of an error or
3597 ignorance of the law; and

3598 (B) the seller is able to identify by reasonable and verifiable standards, from the books
3599 and records the seller keeps in the seller's regular course of business, the portion of the
3600 transaction that is not subject to taxation under this chapter.

3601 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
3602 in the seller's regular course of business includes books and records the seller keeps in the
3603 regular course of business for nontax purposes.

3604 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
3605 personal property, products, or services that are subject to taxation under this chapter at
3606 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
3607 unless the seller, at the time of the transaction:

3608 (A) separately states the items subject to taxation under this chapter at each of the
3609 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

3610 (B) is able to identify by reasonable and verifiable standards the tangible personal
3611 property, product, or service that is subject to taxation under this chapter at the lower tax rate
3612 from the books and records the seller keeps in the seller's regular course of business.

3613 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
3614 seller's regular course of business includes books and records the seller keeps in the regular
3615 course of business for nontax purposes.

3616 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
3617 rate imposed under the following shall take effect on the first day of a calendar quarter:

3618 (i) Subsection (2)(a)(i)(A);

3619 (ii) Subsection (2)(b)(i);

3620 (iii) Subsection (2)(c)(i); or

3621 (iv) Subsection (2)(d)(i)(A)(I).

3622 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
3623 begins on or after the effective date of the tax rate increase if the billing period for the
3624 transaction begins before the effective date of a tax rate increase imposed under:

- 3625 (A) Subsection (2)(a)(i)(A);
- 3626 (B) Subsection (2)(b)(i);
- 3627 (C) Subsection (2)(c)(i); or
- 3628 (D) Subsection (2)(d)(i)(A)(I).

3629 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
3630 statement for the billing period is rendered on or after the effective date of the repeal of the tax
3631 or the tax rate decrease imposed under:

- 3632 (A) Subsection (2)(a)(i)(A);
- 3633 (B) Subsection (2)(b)(i);
- 3634 (C) Subsection (2)(c)(i); or
- 3635 (D) Subsection (2)(d)(i)(A)(I).

3636 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
3637 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
3638 change in a tax rate takes effect:

- 3639 (A) on the first day of a calendar quarter; and
- 3640 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

3641 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

- 3642 (A) Subsection (2)(a)(i)(A);
- 3643 (B) Subsection (2)(b)(i);
- 3644 (C) Subsection (2)(c)(i); or
- 3645 (D) Subsection (2)(d)(i)(A)(I).

3646 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
3647 the commission may by rule define the term "catalogue sale."

3648 (3) (a) The following state taxes shall be deposited into the General Fund:

- 3649 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 3650 (ii) the tax imposed by Subsection (2)(b)(i);
- 3651 (iii) the tax imposed by Subsection (2)(c)(i); or
- 3652 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

3653 (b) The following local taxes shall be distributed to a county, city, or town as provided
3654 in this chapter:

- 3655 (i) the tax imposed by Subsection (2)(a)(ii);
3656 (ii) the tax imposed by Subsection (2)(b)(ii);
3657 (iii) the tax imposed by Subsection (2)(c)(ii); and
3658 (iv) the tax imposed by Subsection (2)(d)(i)(B).

3659 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3660 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
3661 through (g):

3662 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

- 3663 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
3664 (B) for the fiscal year; or

3665 (ii) \$17,500,000.

3666 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
3667 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
3668 Department of Natural Resources to:

3669 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
3670 protect sensitive plant and animal species; or

3671 (B) award grants, up to the amount authorized by the Legislature in an appropriations
3672 act, to political subdivisions of the state to implement the measures described in Subsections
3673 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

3674 (ii) Money transferred to the Department of Natural Resources under Subsection
3675 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
3676 person to list or attempt to have listed a species as threatened or endangered under the
3677 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

3678 (iii) At the end of each fiscal year:

3679 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
3680 Conservation and Development Fund created in Section 73-10-24;

3681 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
3682 Program Subaccount created in Section 73-10c-5; and

3683 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

3684 Program Subaccount created in Section 73-10c-5.

3685 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
3686 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
3687 created in Section 4-18-106.

3688 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
3689 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
3690 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
3691 water rights.

3692 (ii) At the end of each fiscal year:

3693 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
3694 Conservation and Development Fund created in Section 73-10-24;

3695 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
3696 Program Subaccount created in Section 73-10c-5; and

3697 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
3698 Program Subaccount created in Section 73-10c-5.

3699 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
3700 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
3701 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

3702 (ii) In addition to the uses allowed of the Water Resources Conservation and
3703 Development Fund under Section 73-10-24, the Water Resources Conservation and
3704 Development Fund may also be used to:

3705 (A) conduct hydrologic and geotechnical investigations by the Division of Water
3706 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
3707 quantifying surface and ground water resources and describing the hydrologic systems of an
3708 area in sufficient detail so as to enable local and state resource managers to plan for and
3709 accommodate growth in water use without jeopardizing the resource;

3710 (B) fund state required dam safety improvements; and

3711 (C) protect the state's interest in interstate water compact allocations, including the
3712 hiring of technical and legal staff.

3713 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
3714 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount

3715 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

3716 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
3717 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
3718 created in Section 73-10c-5 for use by the Division of Drinking Water to:

3719 (i) provide for the installation and repair of collection, treatment, storage, and
3720 distribution facilities for any public water system, as defined in Section 19-4-102;

3721 (ii) develop underground sources of water, including springs and wells; and

3722 (iii) develop surface water sources.

3723 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3724 2006, the difference between the following amounts shall be expended as provided in this
3725 Subsection (5), if that difference is greater than \$1:

3726 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
3727 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

3728 (ii) \$17,500,000.

3729 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

3730 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
3731 credits; and

3732 (B) expended by the Department of Natural Resources for watershed rehabilitation or
3733 restoration.

3734 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
3735 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
3736 created in Section 73-10-24.

3737 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
3738 remaining difference described in Subsection (5)(a) shall be:

3739 (A) transferred each fiscal year to the Division of Water Resources as dedicated
3740 credits; and

3741 (B) expended by the Division of Water Resources for cloud-seeding projects
3742 authorized by Title 73, Chapter 15, Modification of Weather.

3743 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
3744 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
3745 created in Section 73-10-24.

3746 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
3747 remaining difference described in Subsection (5)(a) shall be deposited into the Water
3748 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
3749 Division of Water Resources for:

3750 (i) preconstruction costs:

3751 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
3752 26, Bear River Development Act; and

3753 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
3754 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

3755 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
3756 Chapter 26, Bear River Development Act;

3757 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
3758 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

3759 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
3760 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

3761 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
3762 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be
3763 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
3764 incurred for employing additional technical staff for the administration of water rights.

3765 (f) At the end of each fiscal year, any unexpended dedicated credits described in
3766 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
3767 Fund created in Section 73-10-24.

3768 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
3769 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
3770 (1) for the fiscal year shall be deposited as follows:

3771 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)
3772 shall be deposited into the Transportation Investment Fund of 2005 created by Section
3773 72-2-124;

3774 (b) for fiscal year 2017-18 only:

3775 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the
3776 Transportation Investment Fund of 2005 created by Section 72-2-124; and

- 3777 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the
3778 Water Infrastructure Restricted Account created by Section 73-10g-103;
- 3779 (c) for fiscal year 2018-19 only:
- 3780 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the
3781 Transportation Investment Fund of 2005 created by Section 72-2-124; and
- 3782 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the
3783 Water Infrastructure Restricted Account created by Section 73-10g-103;
- 3784 (d) for fiscal year 2019-20 only:
- 3785 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the
3786 Transportation Investment Fund of 2005 created by Section 72-2-124; and
- 3787 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the
3788 Water Infrastructure Restricted Account created by Section 73-10g-103;
- 3789 (e) for fiscal year 2020-21 only:
- 3790 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
3791 Transportation Investment Fund of 2005 created by Section 72-2-124; and
- 3792 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
3793 Water Infrastructure Restricted Account created by Section 73-10g-103; and
- 3794 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
3795 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
3796 created by Section 73-10g-103.
- 3797 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
3798 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
3799 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
3800 created by Section 72-2-124:
- 3801 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
3802 the revenues collected from the following taxes, which represents a portion of the
3803 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
3804 on vehicles and vehicle-related products:
- 3805 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% tax rate;
- 3806 (B) the tax imposed by Subsection (2)(b)(i);
- 3807 (C) the tax imposed by Subsection (2)(c)(i); and

3808 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus
3809 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
3810 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
3811 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
3812 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

3813 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
3814 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total
3815 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
3816 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
3817 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
3818 (7)(a) equal to the product of:

3819 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
3820 previous fiscal year; and

3821 (B) the total sales and use tax revenue generated by the taxes described in Subsections
3822 (7)(a)(i)(A) through (D) in the current fiscal year.

3823 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
3824 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes
3825 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of
3826 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
3827 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

3828 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
3829 from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited
3830 under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues
3831 collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the
3832 current fiscal year under Subsection (7)(a).

3833 (8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited
3834 under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall
3835 deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into
3836 the Transportation Investment Fund of 2005 created by Section [72-2-124](#).

3837 (b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
3838 Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit

3839 \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the
3840 Transportation Investment Fund of 2005 created by Section 72-2-124.

3841 (c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under
3842 Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning on or
3843 after July 1, 2018, the commission shall annually deposit into the Transportation Investment
3844 Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a)
3845 in an amount equal to 3.68% of the revenues collected from the following taxes:

3846 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% tax rate;

3847 (B) the tax imposed by Subsection (2)(b)(i);

3848 (C) the tax imposed by Subsection (2)(c)(i); and

3849 (D) the tax imposed by Subsection (2)(d)(i)(A)(I).

3850 (ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually
3851 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i)
3852 by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year
3853 by the portion of the tax imposed on motor and special fuel that is sold, used, or received for
3854 sale or use in this state that exceeds 29.4 cents per gallon.

3855 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
3856 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
3857 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

3858 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),
3859 in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17
3860 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund
3861 of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on
3862 the transactions described in Subsection (1).

3863 (b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in
3864 addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance
3865 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
3866 amount of revenue described as follows:

3867 (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%
3868 tax rate on the transactions described in Subsection (1);

3869 (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05%

3870 tax rate on the transactions described in Subsection (1);

3871 (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%

3872 tax rate on the transactions described in Subsection (1);

3873 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a

3874 .05% tax rate on the transactions described in Subsection (1); and

3875 (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%

3876 tax rate on the transactions described in Subsection (1).

3877 (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not

3878 deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts

3879 paid or charged for food and food ingredients, except for tax revenue generated by a bundled

3880 transaction attributable to food and food ingredients and tangible personal property other than

3881 food and food ingredients described in Subsection (2)(d).

3882 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the

3883 fiscal year during which the Division of Finance receives notice under Section [63N-2-510](#) that

3884 construction on a qualified hotel, as defined in Section [63N-2-502](#), has begun, the Division of

3885 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue

3886 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,

3887 created in Section [63N-2-512](#).

3888 (12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the

3889 Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed

3890 under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section [35A-8-308](#).

3891 (b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of

3892 Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under

3893 Subsection (3)(a) into the Throughput Infrastructure Fund created by Section [35A-8-308](#).

3894 (13) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,

3895 2018, an amount equal to the tax revenue generated by a .15% tax rate on the transactions

3896 described in Subsection (1) shall be deposited into the Transit Transportation Investment Fund

3897 created in Section [72-2-124](#).

3898 [~~13~~] (14) Notwithstanding Subsections (4) through [~~12~~] (13), an amount required to

3899 be expended or deposited in accordance with Subsections (4) through [~~12~~] (13) may not

3900 include an amount the Division of Finance deposits in accordance with Section [59-12-103.2](#).

3901 Section 27. Section **59-12-2202** is amended to read:

3902 **59-12-2202. Definitions.**

3903 As used in this part:

3904 (1) "Airline" [~~is as~~] means the same as that term is defined in Section 59-2-102.

3905 (2) "Airport facility" [~~is as~~] means the same as that term is defined in Section
3906 59-12-602.

3907 (3) "Airport of regional significance" means an airport identified by the Federal
3908 Aviation Administration in the most current National Plan of Integrated Airport Systems or an
3909 update to the National Plan of Integrated Airport Systems.

3910 (4) "Annexation" means an annexation to:

3911 (a) a county under Title 17, Chapter 2, County Consolidations and Annexations; or

3912 (b) a city or town under Title 10, Chapter 2, Part 4, Annexation.

3913 (5) "Annexing area" means an area that is annexed into a county, city, or town.

3914 (6) "Council of governments" [~~is as~~] means the same as that term is defined in Section
3915 72-2-117.5.

3916 (7) "Fixed guideway" [~~is as~~] means the same as that term is defined in Section
3917 59-12-102.

3918 (8) "Large public transit district" means the same as that term is defined in Section
3919 17B-2a-802.

3920 [~~(8)~~] (9) "Major collector highway" [~~is as~~] means the same as that term is defined in
3921 Section 72-4-102.5.

3922 [~~(9)~~] (10) "Metropolitan planning organization" [~~is as~~] means the same as that term is
3923 defined in Section 72-1-208.5.

3924 [~~(10)~~] (11) "Minor arterial highway" [~~is as~~] means the same as that term is defined in
3925 Section 72-4-102.5.

3926 [~~(11)~~] (12) "Minor collector road" [~~is as~~] means the same as that term is defined in
3927 Section 72-4-102.5.

3928 [~~(12)~~] (13) "Principal arterial highway" [~~is as~~] means the same as that term is defined
3929 in Section 72-4-102.5.

3930 [~~(13)~~] (14) "Regionally significant transportation facility" means:

3931 (a) in a county of the first or second class:

- 3932 (i) a principal arterial highway;
- 3933 (ii) a minor arterial highway;
- 3934 (iii) a fixed guideway that:
 - 3935 (A) extends across two or more cities or unincorporated areas; or
 - 3936 (B) is an extension to an existing fixed guideway; or
 - 3937 (iv) an airport of regional significance; or
- 3938 (b) in a county of the third, fourth, fifth, or sixth class:
 - 3939 (i) a principal arterial highway;
 - 3940 (ii) a minor arterial highway;
 - 3941 (iii) a major collector highway;
 - 3942 (iv) a minor collector road; or
 - 3943 (v) an airport of regional significance.
- 3944 [~~(14)~~] (15) "State highway" means a highway designated as a state highway under Title
- 3945 72, Chapter 4, Designation of State Highways Act.
- 3946 [~~(15)~~] (16) (a) Subject to Subsection [~~(15)~~] (16)(b), "system for public transit" [~~has the~~
- 3947 ~~same meaning as~~] means the same as the term "public transit" [as] is defined in Section
- 3948 17B-2a-802.
- 3949 (b) "System for public transit" includes:
 - 3950 (i) the following costs related to public transit:
 - 3951 (A) maintenance costs; or
 - 3952 (B) operating costs;
 - 3953 (ii) a fixed guideway;
 - 3954 (iii) a park and ride facility;
 - 3955 (iv) a passenger station or passenger terminal;
 - 3956 (v) a right-of-way for public transit; or
 - 3957 (vi) the following that serve a public transit facility:
 - 3958 (A) a maintenance facility;
 - 3959 (B) a platform;
 - 3960 (C) a repair facility;
 - 3961 (D) a roadway;
 - 3962 (E) a storage facility;

3963 (F) a utility line; or

3964 (G) a facility or item similar to Subsections (15)(b)(vi)(A) through (F).

3965 Section 28. Section **59-12-2203** is amended to read:

3966 **59-12-2203. Authority to impose a sales and use tax under this part --**

3967 **Restrictions on expenditure of revenue.**

3968 (1) As provided in this Subsection (1), one of the following sales and use taxes may be
3969 imposed within the boundaries of a local taxing jurisdiction:

3970 (a) a county, city, or town may impose the sales and use tax authorized by Section

3971 [59-12-2213](#) in accordance with Section [59-12-2213](#); or

3972 (b) a city or town may impose the sales and use tax authorized by Section [59-12-2215](#)

3973 in accordance with Section [59-12-2215](#).

3974 (2) As provided in this Subsection (2), one of the following sales and use taxes may be
3975 imposed within the boundaries of a local taxing jurisdiction:

3976 (a) a county, city, or town may impose the sales and use tax authorized by Section

3977 [59-12-2214](#) in accordance with Section [59-12-2214](#); or

3978 (b) a county may impose the sales and use tax authorized by Section [59-12-2216](#) in

3979 accordance with Section [59-12-2216](#).

3980 (3) As provided in this Subsection (3), one of the following sales and use taxes may be
3981 imposed within the boundaries of a local taxing jurisdiction:

3982 (a) a county may impose the sales and use tax authorized by Section [59-12-2217](#) in

3983 accordance with Section [59-12-2217](#); or

3984 (b) a county, city, or town may impose the sales and use tax authorized by Section

3985 [59-12-2218](#) in accordance with Section [59-12-2218](#).

3986 (4) A county may impose the sales and use tax authorized by Section [59-12-2219](#) in

3987 accordance with Section [59-12-2219](#).

3988 (5) A county, city, or town may impose the sales and use tax authorized by Section

3989 [59-12-2220](#) in accordance with Section [59-12-2220](#).

3990 (6) (a) A large public transit district that receives revenue from a sales and use tax

3991 imposed by a county, city, or town authorized by one or more of the following sections is

3992 subject to the restriction in Subsection (6)(b):

3993 (i) Section [59-12-2213](#);

- 3994 (ii) Section 59-12-2214;
3995 (iii) Section 59-12-2215;
3996 (iv) Section 59-12-2216;
3997 (v) Section 59-12-2217;
3998 (vi) Section 59-12-2218;
3999 (vii) Section 59-12-2219; and
4000 (viii) Section 59-12-2220.

4001 (b) A large public transit district may not expend more than an amount equal to the
4002 revenue generated by a .7% tax rate on the transactions described in Subsection 59-12-103(1)
4003 of the sales and use tax imposed by each county, city, or town described in Subsection (6)(a) to
4004 pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve
4005 requirements for any bonds issued by the large public transit district on or before June 30,
4006 2018, if any portion of the county, city, or town is annexed into a large public transit district.

4007 Section 29. Section 59-12-2213 is amended to read:

4008 **59-12-2213. County, city, or town option sales and use tax to fund a system for**
4009 **public transit -- Base -- Rate.**

4010 (1) Subject to the other provisions of this part, but no later than June 30, 2022, a
4011 county, city, or town may impose a sales and use tax under this section of up to:

4012 (a) for a county, city, or town other than a county, city, or town described in Subsection
4013 (1)(b), .25% on the transactions described in Subsection 59-12-103(1) located within the
4014 county, city, or town to fund a system for public transit; or

4015 (b) for a county, city, or town within which a tax is not imposed under Section
4016 59-12-2216, .30% on the transactions described in Subsection 59-12-103(1) located within the
4017 county, city, or town, to fund a system for public transit.

4018 (2) Notwithstanding Section 59-12-2208, a county, city, or town legislative body is not
4019 required to submit an opinion question to the county's, city's, or town's registered voters in
4020 accordance with Section 59-12-2208 to impose a sales and use tax under this section if the
4021 county, city, or town imposes the sales and use tax under Section 59-12-2216 on or before July
4022 1, 2011.

4023 (3) Notwithstanding the deadline described in Subsection (1), any tax imposed under
4024 this section before July 1, 2022, may remain in effect.

4025 Section 30. Section **59-12-2214** is amended to read:

4026 **59-12-2214. County, city, or town option sales and use tax to fund a system for**
4027 **public transit, an airport facility, a water conservation project, or to be deposited into the**
4028 **County of the First Class Highway Projects Fund -- Base -- Rate -- Voter approval**
4029 **exception.**

4030 (1) Subject to the other provisions of this part, but no later than June 30, 2022, a
4031 county, city, or town may impose a sales and use tax of .25% on the transactions described in
4032 Subsection **59-12-103**(1) located within the county, city, or town.

4033 (2) Subject to Subsection (3), a county, city, or town that imposes a sales and use tax
4034 under this section shall expend the revenues collected from the sales and use tax:

4035 (a) to fund a system for public transit;

4036 (b) to fund a project or service related to an airport facility for the portion of the project
4037 or service that is performed within the county, city, or town within which the sales and use tax
4038 is imposed:

4039 (i) for a county that imposes the sales and use tax, if the airport facility is part of the
4040 regional transportation plan of the area metropolitan planning organization if a metropolitan
4041 planning organization exists for the area; or

4042 (ii) for a city or town that imposes the sales and use tax, if:

4043 (A) that city or town is located within a county of the second class;

4044 (B) that city or town owns or operates the airport facility; and

4045 (C) an airline is headquartered in that city or town; or

4046 (c) for a combination of Subsections (2)(a) and (b).

4047 (3) A county of the first class that imposes a sales and use tax under this section shall
4048 expend the revenues collected from the sales and use tax as follows:

4049 (a) 80% of the revenues collected from the sales and use tax shall be expended to fund
4050 a system for public transit; and

4051 (b) 20% of the revenues collected from the sales and use tax shall be deposited into the
4052 County of the First Class Highway Projects Fund created by Section **72-2-121**.

4053 (4) Notwithstanding Section **59-12-2208**, a county, city, or town legislative body is not
4054 required to submit an opinion question to the county's, city's, or town's registered voters in
4055 accordance with Section **59-12-2208** to impose a sales and use tax under this section if:

4056 (a) the county, city, or town imposes the sales and use tax under this section on or after
4057 July 1, 2010, but on or before July 1, 2011;

4058 (b) on July 1, 2010, the county, city, or town imposes a sales and use tax under:

4059 (i) Section 59-12-2213; or

4060 (ii) Section 59-12-2215; and

4061 (c) the county, city, or town obtained voter approval to impose the sales and use tax
4062 under:

4063 (i) Section 59-12-2213; or

4064 (ii) Section 59-12-2215.

4065 (5) Notwithstanding the deadline described in Subsection (1), any tax imposed under
4066 this section before July 1, 2022, may remain in effect.

4067 Section 31. Section 59-12-2215 is amended to read:

4068 **59-12-2215. City or town option sales and use tax for highways or to fund a**
4069 **system for public transit -- Base -- Rate.**

4070 (1) Subject to the other provisions of this part, but no later than June 30, 2022, a city or
4071 town may impose a sales and use tax of up to .30% on the transactions described in Subsection
4072 59-12-103(1) located within the city or town.

4073 (2) A city or town imposing a sales and use tax under this section shall expend the
4074 revenues collected from the sales and use tax:

4075 (a) for the construction and maintenance of highways under the jurisdiction of the city
4076 or town imposing the tax;

4077 (b) to fund a system for public transit; or

4078 (c) for a combination of Subsections (2)(a) and (b).

4079 (3) Notwithstanding the deadline described in Subsection (1), any tax imposed under
4080 this section before July 1, 2022, may remain in effect.

4081 Section 32. Section 59-12-2216 is amended to read:

4082 **59-12-2216. County option sales and use tax for a fixed guideway, to fund a**
4083 **system for public transit, or for highways -- Base -- Rate -- Allocation and expenditure of**
4084 **revenues.**

4085 (1) Subject to the other provisions of this part, but no later than June 30, 2022, a county
4086 legislative body may impose a sales and use tax of up to .30% on the transactions described in

4087 Subsection 59-12-103(1) within the county, including the cities and towns within the county.

4088 (2) Subject to Subsection (3), before obtaining voter approval in accordance with
4089 Section 59-12-2208, a county legislative body shall adopt a resolution specifying the
4090 percentage of revenues the county will receive from the sales and use tax under this section that
4091 will be allocated to fund one or more of the following:

4092 (a) a project or service relating to a fixed guideway for the portion of the project or
4093 service that is performed within the county;

4094 (b) a project or service relating to a system for public transit, except for a fixed
4095 guideway, for the portion of the project or service that is performed within the county;

4096 (c) the following relating to a state highway within the county:

4097 (i) a project within the county if the project:

4098 (A) begins on or after the day on which a county legislative body imposes a tax under
4099 this section; and

4100 (B) involves an environmental study, an improvement, new construction, or a
4101 renovation;

4102 (ii) debt service on a project described in Subsection (2)(c)(i); or

4103 (iii) bond issuance costs related to a project described in Subsection (2)(c)(i); or

4104 (d) a project, debt service, or bond issuance cost described in Subsection (2)(c) relating
4105 to a highway that is:

4106 (i) a principal arterial highway or minor arterial highway;

4107 (ii) included in a metropolitan planning organization's regional transportation plan; and

4108 (iii) not a state highway.

4109 (3) A county legislative body shall in the resolution described in Subsection (2)
4110 allocate 100% of the revenues the county will receive from the sales and use tax under this
4111 section for one or more of the purposes described in Subsection (2).

4112 (4) Notwithstanding Section 59-12-2208, the opinion question required by Section
4113 59-12-2208 shall state the allocations the county legislative body makes in accordance with this
4114 section.

4115 (5) The revenues collected from a sales and use tax under this section shall be:

4116 (a) allocated in accordance with the allocations specified in the resolution under
4117 Subsection (2); and

4118 (b) expended as provided in this section.

4119 (6) If a county legislative body allocates revenues collected from a sales and use tax
4120 under this section for a state highway project described in Subsection (2)(c)(i), before
4121 beginning the state highway project within the county, the county legislative body shall:

4122 (a) obtain approval from the Transportation Commission to complete the project; and

4123 (b) enter into an interlocal agreement established in accordance with Title 11, Chapter
4124 13, Interlocal Cooperation Act, with the Department of Transportation to complete the project.

4125 (7) If after a county legislative body imposes a sales and use tax under this section the
4126 county legislative body seeks to change an allocation specified in the resolution under
4127 Subsection (2), the county legislative body may change the allocation by:

4128 (a) adopting a resolution in accordance with Subsection (2) specifying the percentage
4129 of revenues the county will receive from the sales and use tax under this section that will be
4130 allocated to fund one or more of the items described in Subsection (2);

4131 (b) obtaining approval to change the allocation of the sales and use tax by a majority of
4132 all of the members of the county legislative body; and

4133 (c) subject to Subsection (8):

4134 (i) in accordance with Section [59-12-2208](#), submitting an opinion question to the
4135 county's registered voters voting on changing the allocation so that each registered voter has the
4136 opportunity to express the registered voter's opinion on whether the allocation should be
4137 changed; and

4138 (ii) in accordance with Section [59-12-2208](#), obtaining approval to change the allocation
4139 from a majority of the county's registered voters voting on changing the allocation.

4140 (8) Notwithstanding Section [59-12-2208](#), the opinion question required by Subsection
4141 (7)(c)(i) shall state the allocations specified in the resolution adopted in accordance with
4142 Subsection (7)(a) and approved by the county legislative body in accordance with Subsection
4143 (7)(b).

4144 (9) Revenues collected from a sales and use tax under this section that a county
4145 allocates for a purpose described in Subsection (2)(c) shall be:

4146 (a) deposited into the Highway Projects Within Counties Fund created by Section
4147 [72-2-121.1](#); and

4148 (b) expended as provided in Section [72-2-121.1](#).

4149 (10) (a) Notwithstanding Section 59-12-2206 and subject to Subsection (10)(b),
4150 revenues collected from a sales and use tax under this section that a county allocates for a
4151 purpose described in Subsection (2)(d) shall be transferred to the Department of Transportation
4152 if the transfer of the revenues is required under an interlocal agreement:

- 4153 (i) entered into on or before January 1, 2010; and
- 4154 (ii) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

4155 (b) The Department of Transportation shall expend the revenues described in
4156 Subsection (10)(a) as provided in the interlocal agreement described in Subsection (10)(a).

4157 (11) Notwithstanding the deadline described in Subsection (1), any tax imposed under
4158 this section before July 1, 2022, may remain in effect.

4159 Section 33. Section 59-12-2217 is amended to read:

4160 **59-12-2217. County option sales and use tax for transportation -- Base -- Rate --**
4161 **Written prioritization process -- Approval by county legislative body.**

4162 (1) Subject to the other provisions of this part, but no later than June 30, 2022, a county
4163 legislative body may impose a sales and use tax of up to .25% on the transactions described in
4164 Subsection 59-12-103(1) within the county, including the cities and towns within the county.

4165 (2) Subject to Subsections (3) through (8) and Section 59-12-2207, the revenues
4166 collected from a sales and use tax under this section may only be expended for:

- 4167 (a) a project or service:
 - 4168 (i) relating to a regionally significant transportation facility for the portion of the
 - 4169 project or service that is performed within the county;
 - 4170 (ii) for new capacity or congestion mitigation if the project or service is performed
 - 4171 within a county:

- 4172 (A) of the first or second class; or
- 4173 (B) if that county is part of an area metropolitan planning organization; and
- 4174 (iii) that is on a priority list:
 - 4175 (A) created by the county's council of governments in accordance with Subsection (7);

4176 and

- 4177 (B) approved by the county legislative body in accordance with Subsection (7);
- 4178 (b) [~~corridor preservation for~~] a project or service described in Subsection (2)(a) as
- 4179 provided in Subsection (8); or

4180 (c) debt service or bond issuance costs related to a project or service described in
4181 Subsection (2)(a)(i) or (ii).

4182 (3) If a project or service described in Subsection (2) is for:

4183 (a) a principal arterial highway or a minor arterial highway in a county of the first or
4184 second class or a collector road in a county of the second class, that project or service shall be
4185 part of the:

4186 (i) county and municipal master plan; and

4187 (ii) (A) statewide long-range plan; or

4188 (B) regional transportation plan of the area metropolitan planning organization if a
4189 metropolitan planning organization exists for the area; or

4190 (b) a fixed guideway or an airport, that project or service shall be part of the regional
4191 transportation plan of the area metropolitan planning organization if a metropolitan planning
4192 organization exists for the area.

4193 (4) In a county of the first or second class, a regionally significant transportation
4194 facility project or service described in Subsection (2)(a)(i) shall have a funded year priority
4195 designation on a Statewide Transportation Improvement Program and Transportation
4196 Improvement Program if the project or service described in Subsection (2)(a)(i) is:

4197 (a) a principal arterial highway;

4198 (b) a minor arterial highway;

4199 (c) a collector road in a county of the second class; or

4200 (d) a major collector highway in a rural area.

4201 (5) Of the revenues collected from a sales and use tax imposed under this section
4202 within a county of the first [~~or second~~] class, 25% or more shall be expended for the purpose
4203 described in Subsection (2)(b).

4204 (6) (a) As provided in this Subsection (6), a council of governments shall:

4205 (i) develop a written prioritization process for the prioritization of projects to be funded
4206 by revenues collected from a sales and use tax under this section;

4207 (ii) create a priority list of regionally significant transportation facility projects or
4208 services described in Subsection (2)(a)(i) in accordance with Subsection (7); and

4209 (iii) present the priority list to the county legislative body for approval in accordance
4210 with Subsection (7).

4211 (b) The written prioritization process described in Subsection (6)(a)(i) shall include:

4212 (i) a definition of the type of projects to which the written prioritization process

4213 applies;

4214 (ii) subject to Subsection (6)(c), the specification of a weighted criteria system that the

4215 council of governments will use to rank proposed projects and how that weighted criteria

4216 system will be used to determine which proposed projects will be prioritized;

4217 (iii) the specification of data that is necessary to apply the weighted criteria system;

4218 (iv) application procedures for a project to be considered for prioritization by the

4219 council of governments; and

4220 (v) any other provision the council of governments considers appropriate.

4221 (c) The weighted criteria system described in Subsection (6)(b)(ii) shall include the

4222 following:

4223 (i) the cost effectiveness of a project;

4224 (ii) the degree to which a project will mitigate regional congestion;

4225 (iii) the compliance requirements of applicable federal laws or regulations;

4226 (iv) the economic impact of a project;

4227 (v) the degree to which a project will require tax revenues to fund maintenance and

4228 operation expenses; and

4229 (vi) any other provision the council of governments considers appropriate.

4230 (d) A council of governments of a county of the first or second class shall submit the

4231 written prioritization process described in Subsection (6)(a)(i) to the Executive Appropriations

4232 Committee for approval prior to taking final action on:

4233 (i) the written prioritization process; or

4234 (ii) any proposed amendment to the written prioritization process.

4235 (7) (a) A council of governments shall use the weighted criteria system adopted in the

4236 written prioritization process developed in accordance with Subsection (6) to create a priority

4237 list of regionally significant transportation facility projects or services for which revenues

4238 collected from a sales and use tax under this section may be expended.

4239 (b) Before a council of governments may finalize a priority list or the funding level of a

4240 project, the council of governments shall conduct a public meeting on:

4241 (i) the written prioritization process; and

4242 (ii) the merits of the projects that are prioritized as part of the written prioritization
4243 process.

4244 (c) A council of governments shall make the weighted criteria system ranking for each
4245 project prioritized as part of the written prioritization process publicly available before the
4246 public meeting required by Subsection (7)(b) is held.

4247 (d) If a council of governments prioritizes a project over another project with a higher
4248 rank under the weighted criteria system, the council of governments shall:

4249 (i) identify the reasons for prioritizing the project over another project with a higher
4250 rank under the weighted criteria system at the public meeting required by Subsection (7)(b);
4251 and

4252 (ii) make the reasons described in Subsection (7)(d)(i) publicly available.

4253 (e) Subject to Subsections (7)(f) and (g), after a council of governments finalizes a
4254 priority list in accordance with this Subsection (7), the council of governments shall:

4255 (i) submit the priority list to the county legislative body for approval; and

4256 (ii) obtain approval of the priority list from a majority of the members of the county
4257 legislative body.

4258 (f) A council of governments may only submit one priority list per calendar year to the
4259 county legislative body.

4260 (g) A county legislative body may only consider and approve one priority list submitted
4261 under Subsection (7)(e) per calendar year.

4262 [~~(8) (a) Except as provided in Subsection (8)(b), revenues collected from a sales and
4263 use tax under this section that a county allocates for a purpose described in Subsection (2)(b)
4264 shall be:~~]

4265 [~~(i) deposited in or transferred to the Local Highway and Transportation Corridor
4266 Preservation Fund created by Section 72-2-117.5; and]~~

4267 [~~(ii) expended as provided in Section 72-2-117.5:]~~

4268 [~~(b)~~] (8) In a county of the first class, revenues collected from a sales and use tax under
4269 this section that a county allocates for a purpose described in Subsection (2)(b) shall be:

4270 [~~(i)~~] (a) deposited in or transferred to the County of the First Class Highway Projects
4271 Fund created by Section 72-2-121; and

4272 [~~(ii)~~] (b) expended as provided in Section 72-2-121.

4273 (9) Notwithstanding Section 59-12-2208, a county legislative body may, but is not
4274 required to, submit an opinion question to the county's registered voters in accordance with
4275 Section 59-12-2208 to impose a sales and use tax under this section.

4276 (10) Notwithstanding the deadline described in Subsection (1), any tax imposed under
4277 this section before July 1, 2022, may remain in effect.

4278 Section 34. Section 59-12-2218 is amended to read:

4279 **59-12-2218. County, city, or town option sales and use tax for airports, highways,**
4280 **and systems for public transit -- Base -- Rate -- Administration of sales and use tax --**
4281 **Voter approval exception.**

4282 (1) Subject to the other provisions of this part, but no later than June 30, 2022, the
4283 following may impose a sales and use tax under this section:

4284 (a) if, on April 1, 2009, a county legislative body of a county of the second class
4285 imposes a sales and use tax under this section, the county legislative body of the county of the
4286 second class may impose the sales and use tax on the transactions:

4287 (i) described in Subsection 59-12-103(1); and

4288 (ii) within the county, including the cities and towns within the county; or

4289 (b) if, on April 1, 2009, a county legislative body of a county of the second class does
4290 not impose a sales and use tax under this section:

4291 (i) a city legislative body of a city within the county of the second class may impose a
4292 sales and use tax under this section on the transactions described in Subsection 59-12-103(1)
4293 within that city;

4294 (ii) a town legislative body of a town within the county of the second class may impose
4295 a sales and use tax under this section on the transactions described in Subsection 59-12-103(1)
4296 within that town; and

4297 (iii) the county legislative body of the county of the second class may impose a sales
4298 and use tax on the transactions described in Subsection 59-12-103(1):

4299 (A) within the county, including the cities and towns within the county, if on the date
4300 the county legislative body provides the notice described in Section 59-12-2209 to the
4301 commission stating that the county will enact a sales and use tax under this section, no city or
4302 town within that county imposes a sales and use tax under this section or has provided the
4303 notice described in Section 59-12-2209 to the commission stating that the city or town will

4304 enact a sales and use tax under this section; or

4305 (B) within the county, except for within a city or town within that county, if, on the
4306 date the county legislative body provides the notice described in Section 59-12-2209 to the
4307 commission stating that the county will enact a sales and use tax under this section, that city or
4308 town imposes a sales and use tax under this section or has provided the notice described in
4309 Section 59-12-2209 to the commission stating that the city or town will enact a sales and use
4310 tax under this section.

4311 (2) For purposes of Subsection (1) and subject to the other provisions of this section, a
4312 county, city, or town legislative body that imposes a sales and use tax under this section may
4313 impose the tax at a rate of:

4314 (a) .10%; or

4315 (b) .25%.

4316 (3) A sales and use tax imposed at a rate described in Subsection (2)(a) shall be
4317 expended as determined by the county, city, or town legislative body as follows:

4318 (a) deposited as provided in Subsection (9)(b) into the County of the Second Class
4319 State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in
4320 Section 72-2-121.2;

4321 (b) expended for a project or service relating to an airport facility for the portion of the
4322 project or service that is performed within the county, city, or town within which the tax is
4323 imposed:

4324 (i) for a county legislative body that imposes the sales and use tax, if that airport
4325 facility is part of the regional transportation plan of the area metropolitan planning organization
4326 if a metropolitan planning organization exists for the area; or

4327 (ii) for a city or town legislative body that imposes the sales and use tax, if:

4328 (A) that city or town owns or operates the airport facility; and

4329 (B) an airline is headquartered in that city or town; or

4330 (c) deposited or expended for a combination of Subsections (3)(a) and (b).

4331 (4) Subject to Subsections (5) through (7), a sales and use tax imposed at a rate
4332 described in Subsection (2)(b) shall be expended as determined by the county, city, or town
4333 legislative body as follows:

4334 (a) deposited as provided in Subsection (9)(b) into the County of the Second Class

- 4335 State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in
4336 Section 72-2-121.2;
- 4337 (b) expended for:
- 4338 (i) a state highway designated under Title 72, Chapter 4, Part 1, State Highways;
- 4339 (ii) a local highway that is a principal arterial highway, minor arterial highway, major
4340 collector highway, or minor collector road; or
- 4341 (iii) a combination of Subsections (4)(b)(i) and (ii);
- 4342 (c) expended for a project or service relating to a system for public transit for the
4343 portion of the project or service that is performed within the county, city, or town within which
4344 the sales and use tax is imposed;
- 4345 (d) expended for a project or service relating to an airport facility for the portion of the
4346 project or service that is performed within the county, city, or town within which the sales and
4347 use tax is imposed:
- 4348 (i) for a county legislative body that imposes the sales and use tax, if that airport
4349 facility is part of the regional transportation plan of the area metropolitan planning organization
4350 if a metropolitan planning organization exists for the area; or
- 4351 (ii) for a city or town legislative body that imposes the sales and use tax, if:
- 4352 (A) that city or town owns or operates the airport facility; and
- 4353 (B) an airline is headquartered in that city or town;
- 4354 (e) expended for:
- 4355 (i) a class B road, as defined in Section 72-3-103;
- 4356 (ii) a class C road, as defined in Section 72-3-104; or
- 4357 (iii) a combination of Subsections (4)(e)(i) and (ii);
- 4358 (f) expended for traffic and pedestrian safety, including:
- 4359 (i) for a class B road, as defined in Section 72-3-103, or class C road, as defined in
4360 Section 72-3-104, for:
- 4361 (A) a sidewalk;
- 4362 (B) curb and gutter;
- 4363 (C) a safety feature;
- 4364 (D) a traffic sign;
- 4365 (E) a traffic signal;

- 4366 (F) street lighting; or
- 4367 (G) a combination of Subsections (4)(f)(i)(A) through (F);
- 4368 (ii) the construction of an active transportation facility that:
- 4369 (A) is for nonmotorized vehicles and multimodal transportation; and
- 4370 (B) connects an origin with a destination; or
- 4371 (iii) a combination of Subsections (4)(f)(i) and (ii); or
- 4372 (g) deposited or expended for a combination of Subsections (4)(a) through (f).
- 4373 (5) A county, city, or town legislative body may not expend revenue collected within a
- 4374 county, city, or town from a tax under this section for a purpose described in Subsections (4)(b)
- 4375 through (f) unless the purpose is recommended by:
- 4376 (a) for a county that is part of a metropolitan planning organization, the metropolitan
- 4377 planning organization of which the county is a part; or
- 4378 (b) for a county that is not part of a metropolitan planning organization, the council of
- 4379 governments of which the county is a part.
- 4380 (6) (a) (i) Except as provided in Subsection (6)(b), a county, city, or town that imposes
- 4381 a tax described in Subsection (2)(b) shall deposit the revenue collected from a tax rate of .05%
- 4382 as provided in Subsection (9)(b)(i) into the Local Highway and Transportation Corridor
- 4383 Preservation Fund created by Section [72-2-117.5](#).
- 4384 (ii) Revenue deposited in accordance with Subsection (6)(a)(i) shall be expended and
- 4385 distributed in accordance with Section [72-2-117.5](#).
- 4386 (b) A county, city, or town is not required to make the deposit required by Subsection
- 4387 (6)(a)(i) if the county, city, or town:
- 4388 (i) imposed a tax described in Subsection (2)(b) on July 1, 2010; or
- 4389 (ii) has continuously imposed a tax described in Subsection (2)(b):
- 4390 (A) beginning after July 1, 2010; and
- 4391 (B) for a five-year period.
- 4392 (7) (a) Subject to the other provisions of this Subsection (7), a city or town within
- 4393 which a sales and use tax is imposed at the tax rate described in Subsection (2)(b) may:
- 4394 (i) expend the revenues in accordance with Subsection (4); or
- 4395 (ii) expend the revenues in accordance with Subsections (7)(b) through (d) if:
- 4396 (A) that city or town owns or operates an airport facility; and

4397 (B) an airline is headquartered in that city or town.

4398 (b) (i) A city or town legislative body of a city or town within which a sales and use tax
4399 is imposed at the tax rate described in Subsection (2)(b) may expend the revenues collected
4400 from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of
4401 .25% for a purpose described in Subsection (7)(b)(ii) if:

4402 (A) that city or town owns or operates an airport facility; and

4403 (B) an airline is headquartered in that city or town.

4404 (ii) A city or town described in Subsection (7)(b)(i) may expend the revenues collected
4405 from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of
4406 .25% for:

4407 (A) a project or service relating to the airport facility; and

4408 (B) the portion of the project or service that is performed within the city or town
4409 imposing the sales and use tax.

4410 (c) If a city or town legislative body described in Subsection (7)(b)(i) determines to
4411 expend the revenues collected from a tax rate of greater than .10% but not to exceed the
4412 revenues collected from a tax rate of .25% for a project or service relating to an airport facility
4413 as allowed by Subsection (7)(b), any remaining revenue that is collected from the sales and use
4414 tax imposed at the tax rate described in Subsection (2)(b) that is not expended for the project or
4415 service relating to an airport facility as allowed by Subsection (7)(b) shall be expended as
4416 follows:

4417 (i) 75% of the remaining revenues shall be deposited as provided in Subsection (9)(c)
4418 into the County of the Second Class State Highway Projects Fund created by Section
4419 [72-2-121.2](#) and expended as provided in Section [72-2-121.2](#); and

4420 (ii) 25% of the remaining revenues shall be deposited as provided in Subsection (9)(c)
4421 into the Local Highway and Transportation Corridor Preservation Fund created by Section
4422 [72-2-117.5](#) and expended and distributed in accordance with Section [72-2-117.5](#).

4423 (d) A city or town legislative body that expends the revenues collected from a sales and
4424 use tax imposed at the tax rate described in Subsection (2)(b) in accordance with Subsections
4425 (7)(b) and (c):

4426 (i) shall, on or before the date the city or town legislative body provides the notice
4427 described in Section [59-12-2209](#) to the commission stating that the city or town will enact a

4428 sales and use tax under this section:

4429 (A) determine the tax rate, the percentage of which is greater than .10% but does not
4430 exceed .25%, the collections from which the city or town legislative body will expend for a
4431 project or service relating to an airport facility as allowed by Subsection (7)(b); and

4432 (B) notify the commission in writing of the tax rate the city or town legislative body
4433 determines in accordance with Subsection (7)(d)(i)(A);

4434 (ii) shall, on or before the April 1 immediately following the date the city or town
4435 legislative body provides the notice described in Subsection (7)(d)(i) to the commission:

4436 (A) determine the tax rate, the percentage of which is greater than .10% but does not
4437 exceed .25%, the collections from which the city or town legislative body will expend for a
4438 project or service relating to an airport facility as allowed by Subsection (7)(b); and

4439 (B) notify the commission in writing of the tax rate the city or town legislative body
4440 determines in accordance with Subsection (7)(d)(ii)(A);

4441 (iii) shall, on or before April 1 of each year after the April 1 described in Subsection
4442 (7)(d)(ii):

4443 (A) determine the tax rate, the percentage of which is greater than .10% but does not
4444 exceed .25%, the collections from which the city or town legislative body will expend for a
4445 project or service relating to an airport facility as allowed by Subsection (7)(b); and

4446 (B) notify the commission in writing of the tax rate the city or town legislative body
4447 determines in accordance with Subsection (7)(d)(iii)(A); and

4448 (iv) may not change the tax rate the city or town legislative body determines in
4449 accordance with Subsections (7)(d)(i) through (iii) more frequently than as prescribed by
4450 Subsections (7)(d)(i) through (iii).

4451 (8) Before a city or town legislative body may impose a sales and use tax under this
4452 section, the city or town legislative body shall provide a copy of the notice described in Section
4453 [59-12-2209](#) that the city or town legislative body provides to the commission:

4454 (a) to the county legislative body within which the city or town is located; and

4455 (b) at the same time as the city or town legislative body provides the notice to the
4456 commission.

4457 (9) (a) Subject to Subsections (9)(b) through (e) and Section [59-12-2207](#), the
4458 commission shall transmit revenues collected within a county, city, or town from a tax under

4459 this part that will be expended for a purpose described in Subsection (3)(b) or Subsections
4460 (4)(b) through (f) to the county, city, or town legislative body in accordance with Section
4461 [59-12-2206](#).

4462 (b) Except as provided in Subsection (9)(c) and subject to Section [59-12-2207](#), the
4463 commission shall deposit revenues collected within a county, city, or town from a sales and use
4464 tax under this section that:

4465 (i) are required to be expended for a purpose described in Subsection (6)(a) into the
4466 Local Transportation Corridor Preservation Fund created by Section [72-2-117.5](#); or

4467 (ii) a county, city, or town legislative body determines to expend for a purpose
4468 described in Subsection (3)(a) or (4)(a) into the County of the Second Class State Highway
4469 Projects Fund created by Section [72-2-121.2](#) if the county, city, or town legislative body
4470 provides written notice to the commission requesting the deposit.

4471 (c) Subject to Subsection (9)(d) or (e), if a city or town legislative body provides notice
4472 to the commission in accordance with Subsection (7)(d), the commission shall:

4473 (i) transmit the revenues collected from the tax rate stated on the notice to the city or
4474 town legislative body monthly by electronic funds transfer; and

4475 (ii) deposit any remaining revenues described in Subsection (7)(c) in accordance with
4476 Subsection (7)(c).

4477 (d) (i) If a city or town legislative body provides the notice described in Subsection
4478 (7)(d)(i) to the commission, the commission shall transmit or deposit the revenues collected
4479 from the sales and use tax:

4480 (A) in accordance with Subsection (9)(c);

4481 (B) beginning on the date the city or town legislative body enacts the sales and use tax;
4482 and

4483 (C) ending on the earlier of the June 30 immediately following the date the city or town
4484 legislative body provides the notice described in Subsection (7)(d)(ii) to the commission or the
4485 date the city or town legislative body repeals the sales and use tax.

4486 (ii) If a city or town legislative body provides the notice described in Subsection
4487 (7)(d)(ii) or (iii) to the commission, the commission shall transmit or deposit the revenues
4488 collected from the sales and use tax:

4489 (A) in accordance with Subsection (9)(c);

4490 (B) beginning on the July 1 immediately following the date the city or town legislative
4491 body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission; and

4492 (C) ending on the earlier of the June 30 of the year after the date the city or town
4493 legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission
4494 or the date the city or town legislative body repeals the sales and use tax.

4495 (e) (i) If a city or town legislative body that is required to provide the notice described
4496 in Subsection (7)(d)(i) does not provide the notice described in Subsection (7)(d)(i) to the
4497 commission on or before the date required by Subsection (7)(d) for providing the notice, the
4498 commission shall transmit, transfer, or deposit the revenues collected from the sales and use
4499 tax within the city or town in accordance with Subsections (9)(a) and (b).

4500 (ii) If a city or town legislative body that is required to provide the notice described in
4501 Subsection (7)(d)(ii) or (iii) does not provide the notice described in Subsection (7)(d)(ii) or
4502 (iii) to the commission on or before the date required by Subsection (7)(d) for providing the
4503 notice, the commission shall transmit or deposit the revenues collected from the sales and use
4504 tax within the city or town in accordance with:

4505 (A) Subsection (9)(c); and

4506 (B) the most recent notice the commission received from the city or town legislative
4507 body under Subsection (7)(d).

4508 (10) Notwithstanding Section 59-12-2208, a county, city, or town legislative body may,
4509 but is not required to, submit an opinion question to the county's, city's, or town's registered
4510 voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

4511 (11) Notwithstanding the deadline described in Subsection (1), any tax imposed under
4512 this section before July 1, 2022, may remain in effect.

4513 Section 35. Section 59-12-2219 is amended to read:

4514 **59-12-2219. County option sales and use tax for highways and public transit --**
4515 **Base -- Rate -- Distribution and expenditure of revenue -- Revenue may not supplant**
4516 **existing budgeted transportation revenue.**

4517 (1) As used in this section:

4518 (a) "Class B road" means the same as that term is defined in Section 72-3-103.

4519 (b) "Class C road" means the same as that term is defined in Section 72-3-104.

4520 (c) "Eligible political subdivision" means a political subdivision that:

4521 (i) (A) on May 12, 2015, provides public transit services; or
4522 (B) after May 12, 2015, provides written notice to the commission in accordance with
4523 Subsection (10)(b) that it intends to provide public transit service within a county;

4524 (ii) is not a public transit district; and

4525 (iii) is not annexed into a public transit district.

4526 (d) "Public transit district" means a public transit district organized under Title 17B,
4527 Chapter 2a, Part 8, Public Transit District Act.

4528 (2) (a) Subject to the other provisions of this part and Subsection (2)(b), but no later
4529 than June 30, 2022, a county legislative body may impose a sales and use tax of .25% on the
4530 transactions described in Subsection 59-12-103(1) within the county, including the cities and
4531 towns within the county.

4532 (b) (i) If on December 1, 2019, a county legislative body of a county of the second
4533 class has not imposed a sales and use tax under this section, subject to the provisions of this
4534 part, but no later than June 30, 2022, the legislative body of a city or town within a county of
4535 the second class may impose a sales and use tax of .10% on the transactions described in
4536 Subsection 59-12-103(1) within that city or town.

4537 (ii) Except as provided in Subsection (2)(b)(iv), the commission shall distribute the
4538 sales and use tax revenue collected in a city or town described in Subsection (2)(b)(i) to the city
4539 or town to be used in accordance with Subsection (11).

4540 (iii) If a city or town imposes the sales and use tax described in Subsection (2)(b)(i), a
4541 county may subsequently impose a sales and use tax for that portion of the county within that
4542 city or town at a tax rate of .15%.

4543 (iv) If a city or town imposes the sales and use tax described in Subsection (2)(b)(i),
4544 and the respective county subsequently imposes a sales and use tax as described in Subsection
4545 (2)(b)(iii), the commission shall distribute the sales and use tax revenue in accordance with the
4546 following, as applicable:

4547 (A) Subsection (4)(b);

4548 (B) Subsection (5)(a)(ii);

4549 (C) Subsection (5)(b)(ii);

4550 (D) Subsection (6)(a)(ii); or

4551 (E) Subsection (6)(b)(ii).

4552 (v) If the county subsequently imposes a sales and use tax as described in Subsection
4553 (2)(b)(iii), the commission shall distribute the sales and use tax revenue from the county
4554 imposition of a .15% rate in accordance with the following, as applicable:

4555 (A) Subsections (4)(a) and (c);

4556 (B) Subsections (5)(a)(i) and (iii);

4557 (C) Subsections (5)(b)(i) and (iii);

4558 (D) Subsections (6)(a)(i) and (iii); and

4559 (E) Subsections (6)(b)(i) and (iii).

4560 (3) The commission shall distribute sales and use tax revenue collected under this
4561 section as provided in Subsections (4) through (10).

4562 (4) If the entire boundary of a county that imposes a sales and use tax under this section
4563 is annexed into a single public transit district, the commission shall distribute the sales and use
4564 tax revenue collected within the county as follows:

4565 (a) .10% shall be transferred to the public transit district in accordance with Section
4566 [59-12-2206](#);

4567 (b) .10% shall be distributed as provided in Subsection (8); and

4568 (c) .05% shall be distributed to the county legislative body.

4569 (5) If the entire boundary of a county that imposes a sales and use tax under this section
4570 is not annexed into a single public transit district, but a city or town within the county is
4571 annexed into a single public transit district that also has a county of the first class annexed into
4572 the same public transit district, the commission shall distribute the sales and use tax revenue
4573 collected within the county as follows:

4574 (a) for a city or town within the county that is annexed into a single public transit
4575 district, the commission shall distribute the sales and use tax revenue collected within that city
4576 or town as follows:

4577 (i) .10% shall be transferred to the public transit district in accordance with Section
4578 [59-12-2206](#);

4579 (ii) .10% shall be distributed as provided in Subsection (8); and

4580 (iii) .05% shall be distributed to the county legislative body;

4581 (b) for an eligible political subdivision within the county, the commission shall
4582 distribute the sales and use tax revenue collected within that eligible political subdivision as

4583 follows:

4584 (i) .10% shall be transferred to the eligible political subdivision in accordance with
4585 Section [59-12-2206](#);

4586 (ii) .10% shall be distributed as provided in Subsection (8); and

4587 (iii) .05% shall be distributed to the county legislative body; and

4588 (c) the commission shall distribute the sales and use tax revenue, except for the sales
4589 and use tax revenue described in Subsections (5)(a) and (b), as follows:

4590 (i) .10% shall be distributed as provided in Subsection (8); and

4591 (ii) .15% shall be distributed to the county legislative body.

4592 (6) For a county not described in Subsection (4) or (5), if the entire boundary of a
4593 county of the first or second class that imposes a sales and use tax under this section is not
4594 annexed into a single public transit district, or if there is not a public transit district within the
4595 county, the commission shall distribute the sales and use tax revenue collected within the
4596 county as follows:

4597 (a) for a city or town within the county that is annexed into a single public transit
4598 district, the commission shall distribute the sales and use tax revenue collected within that city
4599 or town as follows:

4600 (i) .10% shall be transferred to the public transit district in accordance with Section
4601 [59-12-2206](#);

4602 (ii) .10% shall be distributed as provided in Subsection (8); and

4603 (iii) .05% shall be distributed to the county legislative body;

4604 (b) for an eligible political subdivision within the county, the commission shall
4605 distribute the sales and use tax revenue collected within that eligible political subdivision as
4606 follows:

4607 (i) .10% shall be transferred to the eligible political subdivision in accordance with
4608 Section [59-12-2206](#);

4609 (ii) .10% shall be distributed as provided in Subsection (8); and

4610 (iii) .05% shall be distributed to the county legislative body; and

4611 (c) the commission shall distribute the sales and use tax revenue, except for the sales
4612 and use tax revenue described in Subsections (6)(a) and (b), as follows:

4613 (i) .10% shall be distributed as provided in Subsection (8); and

4614 (ii) .15% shall be distributed to the county legislative body.

4615 (7) For a county not described in Subsection (4) or (5), if the entire boundary of a
4616 county of the third, fourth, fifth, or sixth class that imposes a sales and use tax under this
4617 section is not annexed into a single public transit district, or if there is not a public transit
4618 district within the county, the commission shall distribute the sales and use tax revenue
4619 collected within the county as follows:

4620 (a) for a city or town within the county that is annexed into a single public transit
4621 district, the commission shall distribute the sales and use tax revenue collected within that city
4622 or town as follows:

4623 (i) .10% shall be distributed as provided in Subsection (8);

4624 (ii) .10% shall be distributed as provided in Subsection (9); and

4625 (iii) .05% shall be distributed to the county legislative body;

4626 (b) for an eligible political subdivision within the county, the commission shall
4627 distribute the sales and use tax revenue collected within that eligible political subdivision as
4628 follows:

4629 (i) .10% shall be distributed as provided in Subsection (8);

4630 (ii) .10% shall be distributed as provided in Subsection (9); and

4631 (iii) .05% shall be distributed to the county legislative body; and

4632 (c) the commission shall distribute the sales and use tax revenue, except for the sales
4633 and use tax revenue described in Subsections (7)(a) and (b), as follows:

4634 (i) .10% shall be distributed as provided in Subsection (8); and

4635 (ii) .15% shall be distributed to the county legislative body.

4636 (8) (a) Subject to Subsection (8)(b), the commission shall make the distributions
4637 required by Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i),
4638 (7)(a)(i), (7)(b)(i), (7)(c)(i), and (9)(d)(ii)(A) as follows:

4639 (i) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii),
4640 (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), and (9)(d)(ii)(A) within the
4641 counties that impose a tax under this section shall be distributed to the unincorporated areas,
4642 cities, and towns within those counties on the basis of the percentage that the population of
4643 each unincorporated area, city, or town bears to the total population of all of the counties that
4644 impose a tax under this section; and

4645 (ii) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii),
4646 (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), and (9)(d)(ii)(A) within the
4647 counties that impose a tax under this section shall be distributed to the unincorporated areas,
4648 cities, and towns within those counties on the basis of the location of the transaction as
4649 determined under Sections [59-12-211](#) through [59-12-215](#).

4650 (b) (i) Population for purposes of this Subsection (8) shall be determined on the basis
4651 of the most recent official census or census estimate of the United States Census Bureau.

4652 (ii) If a needed population estimate is not available from the United States Census
4653 Bureau, population figures shall be derived from an estimate from the Utah Population
4654 Estimates Committee created by executive order of the governor.

4655 (9) (a) (i) Subject to the requirements in Subsections (9)(b) and (c), a county legislative
4656 body:

4657 (A) for a county that obtained approval from a majority of the county's registered
4658 voters voting on the imposition of a sales and use tax under this section prior to May 10, 2016,
4659 may, in consultation with any cities, towns, or eligible political subdivisions within the county,
4660 and in compliance with the requirements for changing an allocation under Subsection (9)(e),
4661 allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) by adopting a resolution specifying
4662 the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a
4663 public transit district or an eligible political subdivision; or

4664 (B) for a county that obtains approval from a majority of the county's registered voters
4665 voting on the imposition of a sales and use tax under this section on or after May 10, 2016,
4666 shall, in consultation with any cities, towns, or eligible political subdivisions within the county,
4667 allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) by adopting a resolution specifying
4668 the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a
4669 public transit district or an eligible political subdivision.

4670 (ii) If a county described in Subsection (9)(a)(i)(A) does not allocate the revenue under
4671 Subsection (7)(a)(ii) or (7)(b)(ii) in accordance with Subsection (9)(a)(i)(A), the commission
4672 shall distribute 100% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to:

4673 (A) a public transit district for a city or town within the county that is annexed into a
4674 single public transit district; or

4675 (B) an eligible political subdivision within the county.

4676 (b) If a county legislative body allocates the revenue as described in Subsection
4677 (9)(a)(i), the county legislative body shall allocate not less than 25% of the revenue under
4678 Subsection (7)(a)(ii) or (7)(b)(ii) to:

4679 (i) a public transit district for a city or town within the county that is annexed into a
4680 single public transit district; or

4681 (ii) an eligible political subdivision within the county.

4682 (c) Notwithstanding Section 59-12-2208, the opinion question required by Section
4683 59-12-2208 shall state the allocations the county legislative body makes in accordance with this
4684 Subsection (9).

4685 (d) The commission shall make the distributions required by Subsection (7)(a)(ii) or
4686 (7)(b)(ii) as follows:

4687 (i) the percentage specified by a county legislative body shall be distributed in
4688 accordance with a resolution adopted by a county legislative body under Subsection (9)(a) to an
4689 eligible political subdivision or a public transit district within the county; and

4690 (ii) except as provided in Subsection (9)(a)(ii), if a county legislative body allocates
4691 less than 100% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to a public transit district
4692 or an eligible political subdivision, the remainder of the revenue under Subsection (7)(a)(ii) or
4693 (7)(b)(ii) not allocated by a county legislative body through a resolution under Subsection
4694 (9)(a) shall be distributed as follows:

4695 (A) 50% of the revenue as provided in Subsection (8); and

4696 (B) 50% of the revenue to the county legislative body.

4697 (e) If a county legislative body seeks to change an allocation specified in a resolution
4698 under Subsection (9)(a), the county legislative body may change the allocation by:

4699 (i) adopting a resolution in accordance with Subsection (9)(a) specifying the percentage
4700 of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit
4701 district or an eligible political subdivision;

4702 (ii) obtaining approval to change the allocation of the sales and use tax by a majority of
4703 all the members of the county legislative body; and

4704 (iii) subject to Subsection (9)(f):

4705 (A) in accordance with Section 59-12-2208, submitting an opinion question to the
4706 county's registered voters voting on changing the allocation so that each registered voter has the

4707 opportunity to express the registered voter's opinion on whether the allocation should be
4708 changed; and

4709 (B) in accordance with Section 59-12-2208, obtaining approval to change the
4710 allocation from a majority of the county's registered voters voting on changing the allocation.

4711 (f) Notwithstanding Section 59-12-2208, the opinion question required by Subsection
4712 (9)(e)(iii)(A) shall state the allocations specified in the resolution adopted in accordance with
4713 Subsection (9)(e) and approved by the county legislative body in accordance with Subsection
4714 (9)(e)(ii).

4715 (g) (i) If a county makes an allocation by adopting a resolution under Subsection (9)(a)
4716 or changes an allocation by adopting a resolution under Subsection (9)(e), the allocation shall
4717 take effect on the first distribution the commission makes under this section after a 90-day
4718 period that begins on the date the commission receives written notice meeting the requirements
4719 of Subsection (9)(g)(ii) from the county.

4720 (ii) The notice described in Subsection (9)(g)(i) shall state:

4721 (A) that the county will make or change the percentage of an allocation under
4722 Subsection (9)(a) or (e); and

4723 (B) the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be
4724 allocated to a public transit district or an eligible political subdivision.

4725 (10) (a) If a public transit district is organized after the date a county legislative body
4726 first imposes a tax under this section, a change in a distribution required by this section may
4727 not take effect until the first distribution the commission makes under this section after a
4728 90-day period that begins on the date the commission receives written notice from the public
4729 transit district of the organization of the public transit district.

4730 (b) If an eligible political subdivision intends to provide public transit service within a
4731 county after the date a county legislative body first imposes a tax under this section, a change
4732 in a distribution required by this section may not take effect until the first distribution the
4733 commission makes under this section after a 90-day period that begins on the date the
4734 commission receives written notice from the eligible political subdivision stating that the
4735 eligible political subdivision intends to provide public transit service within the county.

4736 (11) A county, city, or town may expend revenue collected from a tax under this
4737 section, except for revenue the commission distributes in accordance with Subsection (4)(a),

4738 (5)(a)(i), (5)(b)(i), or (9)(d)(i) for:

4739 (a) a class B road;

4740 (b) a class C road;

4741 (c) traffic and pedestrian safety, including for a class B road or class C road, for:

4742 (i) a sidewalk;

4743 (ii) curb and gutter;

4744 (iii) a safety feature;

4745 (iv) a traffic sign;

4746 (v) a traffic signal;

4747 (vi) street lighting; or

4748 (vii) a combination of Subsections (11)(c)(i) through (vi);

4749 (d) the construction, maintenance, or operation of an active transportation facility that
4750 is for nonmotorized vehicles and multimodal transportation and connects an origin with a
4751 destination;

4752 (e) public transit system services; or

4753 (f) a combination of Subsections (11)(a) through (e).

4754 (12) A public transit district or an eligible political subdivision may expend revenue
4755 the commission distributes in accordance with Subsection (4)(a), (5)(a)(i), (5)(b)(i), or (9)(d)(i)
4756 for capital expenses and service delivery expenses of the public transit district or eligible
4757 political subdivision.

4758 (13) (a) Revenue collected from a sales and use tax under this section may not be used
4759 to supplant existing general fund appropriations that a county, city, or town has budgeted for
4760 transportation as of the date the tax becomes effective for a county, city, or town.

4761 (b) The limitation under Subsection (13)(a) does not apply to a designated
4762 transportation capital or reserve account a county, city, or town may have established prior to
4763 the date the tax becomes effective.

4764 (14) Notwithstanding Section 59-12-2208, a county, city, or town legislative body may,
4765 but is not required to, submit an opinion question to the county's, city's, or town's registered
4766 voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

4767 (15) Notwithstanding the deadline described in Subsection (2), any tax imposed under
4768 this section before July 1, 2022, may remain in effect.

4769 Section 36. Section **59-12-2220** is enacted to read:

4770 **59-12-2220. County, city, or town option sales and use tax to fund a system for**
4771 **public transit or highways -- Base -- Rate.**

4772 (1) Subject to the other provisions of this part and subject to the requirements of this
4773 section, beginning on July 1, 2019, but no later than June 30, 2022, the following may impose a
4774 sales and use tax under this section:

4775 (a) if the county, city, or town is annexed into a large public transit district:

4776 (i) (A) a county legislative body may impose the sales and use tax on the transactions
4777 described in Subsection [59-12-103\(1\)](#) located within the county, including the cities and towns
4778 within the county; or

4779 (B) a city or town legislative body may impose the sales and use tax on the transactions
4780 described in Subsection [59-12-103\(1\)](#) located within the city or town;

4781 (ii) the county, city, or town legislative body may impose the sales and use tax if the
4782 county, city, or town has imposed the maximum amount of sales and use tax authorizations
4783 allowed pursuant to Section [59-12-2203](#) and authorized under the following sections:

4784 (A) Section [59-12-2213](#);

4785 (B) Section [59-12-2214](#);

4786 (C) Section [59-12-2215](#);

4787 (D) Section [59-12-2216](#);

4788 (E) Section [59-12-2217](#);

4789 (F) Section [59-12-2218](#); and

4790 (G) Section [59-12-2219](#); and

4791 (iii) the county, city, or town legislative body may impose the sales and use tax if the
4792 county, city, or town imposes the sales and use tax under this section on or before June 30,
4793 2022; or

4794 (b) if the county, city, or town is not annexed into a large public transit district:

4795 (i) a county legislative body may impose the sales and use tax on the transactions
4796 described in Subsection [59-12-103\(1\)](#) located within the county, including the cities and town
4797 within the county; or

4798 (ii) a city or town legislative body may impose the sales and use tax on the transactions
4799 described in Subsection [59-12-103\(1\)](#) located within the city or town.

4800 (2) For purposes of Subsection (1) and subject to the other provisions of this section, a
4801 county, city, or town legislative body that imposes a sales and use tax under this section may
4802 impose the tax at a rate of up to .25%.

4803 (3) Subject to Subsections (4) and (5), a county, city, or town imposing a sales and use
4804 tax under this section shall expend the revenues collected from the sales and use tax for:

4805 (a) the construction, maintenance, or operation of a highway;

4806 (b) traffic and pedestrian safety, including for a highway:

4807 (i) a sidewalk;

4808 (ii) curb and gutter;

4809 (iii) a safety feature;

4810 (iv) a traffic sign;

4811 (v) a traffic signal;

4812 (vi) street lighting; or

4813 (vii) a combination of Subsections (3)(b)(i) through (vi);

4814 (c) to fund a public transit system; or

4815 (d) for a combination of Subsections (3)(a) through (c).

4816 (4) If the county, city, or town is annexed into a large public transit district, the county,
4817 city, or town may expend an amount not to exceed an amount equal to the revenue generated
4818 from a .45% tax rate on the transactions described in Subsection 59-12-103(1) from the total
4819 revenue generated by all the sales and use taxes authorized and imposed under this part by the
4820 county, city, or town for a purpose described in Subsection (3)(a) or (b).

4821 (5) A county shall allocate revenue generated by the sales and use tax imposed under
4822 this section in accordance with the requirements of Section 59-12-2221.

4823 (6) Notwithstanding Section 59-12-2208, a county, city, or town legislative body may,
4824 but is not required to, submit an opinion question to the county's, city's, or town's registered
4825 voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

4826 (7) Notwithstanding the deadline described in Subsection (1), any tax imposed under
4827 this section before July 1, 2022, may remain in effect.

4828 (8) (a) Revenue collected from a sales and use tax under this section may not be used
4829 to supplant existing general fund appropriations that a county, city, or town has budgeted for
4830 transportation or public transit as of the date the tax becomes effective for a county, city, or

4831 town.

4832 (b) The limitation under Subsection (8)(a) does not apply to a designated transportation
4833 or public transit capital or reserve account a county, city, or town may have established prior to
4834 the date the tax becomes effective.

4835 Section 37. Section **59-12-2221** is enacted to read:

4836 **59-12-2221. Allocation and prioritization of sales and use tax revenue imposed by**
4837 **a county.**

4838 (1) Subject to the restriction in Subsection 59-12-2220(4), and subject to Subsection
4839 59-12-2203(6), for any revenue generated by a sales and use tax imposed by a county under this
4840 part, the allocation of which is not otherwise specifically described and in this part, the revenue
4841 shall be deposited into a fund within the county in which the tax was imposed and allocated as
4842 described in this section.

4843 (2) Each county imposing a sales and use tax authorized in this section shall create a
4844 county transportation committee as described in Subsection (3) to review proposed
4845 transportation, and, as applicable, public transit projects, and rank projects for allocation of
4846 funds.

4847 (3) (a) Under the direction of the county legislative body, each county shall create a
4848 county transportation committee composed of members selected from:

4849 (i) chief executive officers of cities and towns within the county;

4850 (ii) city managers of cities and towns within the county; and

4851 (iii) members of the county legislative body.

4852 (b) In addition to the individuals described in Subsection (3)(a), a county legislative
4853 body may appoint to the county transportation committee other parties with expertise in
4854 transportation planning and funding.

4855 (4) The county transportation committee shall evaluate and rank each proposed public
4856 transit project and regionally significant transportation facility project according to criteria
4857 developed pursuant to Subsection 59-12-2217(6).

4858 (5) (a) After the review and ranking of each project as described in this section, the
4859 county transportation committee shall report and recommend the ranked list of projects to the
4860 county legislative body.

4861 (b) After review of the recommended list of projects, the county legislative body shall

4862 review the list of projects and, as funds are available, vote to approve funding for the proposed
4863 projects.

4864 Section 38. Section **63G-6a-1402** is amended to read:

4865 **63G-6a-1402. Procurement of design-build transportation project contracts.**

4866 (1) As used in this section:

4867 (a) "Design-build transportation project contract" means the procurement of both the
4868 design and construction of a transportation project in a single contract with a company or
4869 combination of companies capable of providing the necessary engineering services and
4870 construction.

4871 (b) "Transportation agency" means:

4872 (i) the Department of Transportation;

4873 (ii) a county of the first or second class, as defined in Section [17-50-501](#);

4874 (iii) a municipality of the first class, as defined in Section [10-2-301](#);

4875 (iv) a large public transit district [~~that has more than 200,000 people residing within its~~
4876 ~~boundaries~~] as defined in Section [17B-2a-802](#); and

4877 (v) a public airport authority.

4878 (2) Except as provided in Subsection (3), a transportation agency may award a
4879 design-build transportation project contract for any transportation project that has an estimated
4880 cost of at least \$50,000,000 by following the requirements of this section.

4881 (3) (a) The Department of Transportation:

4882 (i) may award a design-build transportation project contract for any transportation
4883 project by following the requirements of this section; and

4884 (ii) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
4885 Rulemaking Act, establishing requirements for the procurement of its design-build
4886 transportation project contracts in addition to those required by this section.

4887 (b) A public transit district that has more than 200,000 people residing within its
4888 boundaries:

4889 (i) may award a design-build transportation project contract for any transportation
4890 project by following the requirements of this section; and

4891 (ii) shall pass ordinances or a resolution establishing requirements for the procurement
4892 of its design-build transportation project contracts in addition to those required by this section.

4893 (c) A design-build transportation project contract authorized under this Subsection (3)
4894 is not subject to the estimated cost threshold described in Subsection (2).

4895 (d) A design-build transportation project contract may include provision by the
4896 contractor of operations, maintenance, or financing.

4897 (4) (a) Before entering into a design-build transportation project contract, a
4898 transportation agency may issue a request for qualifications to prequalify potential contractors.

4899 (b) Public notice of the request for qualifications shall be given in accordance with
4900 board rules.

4901 (c) A transportation agency shall require, as part of the qualifications specified in the
4902 request for qualifications, that potential contractors at least demonstrate their:

4903 (i) construction experience;

4904 (ii) design experience;

4905 (iii) financial, manpower, and equipment resources available for the project; and

4906 (iv) experience in other design-build transportation projects with attributes similar to
4907 the project being procured.

4908 (d) The request for qualifications shall identify the number of eligible competing
4909 proposers that the transportation agency will select to submit a proposal, which may not be less
4910 than two.

4911 (5) The transportation agency shall:

4912 (a) evaluate the responses received from the request for qualifications;

4913 (b) select from their number those qualified to submit proposals; and

4914 (c) invite those respondents to submit proposals based upon the transportation agency's
4915 request for proposals.

4916 (6) If the transportation agency fails to receive at least two qualified eligible competing
4917 proposals, the transportation agency shall readvertise the project.

4918 (7) The transportation agency shall issue a request for proposals to those qualified
4919 respondents that:

4920 (a) includes a scope of work statement constituting an information for proposal that
4921 may include:

4922 (i) preliminary design concepts;

4923 (ii) design criteria, needs, and objectives;

- 4924 (iii) warranty and quality control requirements;
- 4925 (iv) applicable standards;
- 4926 (v) environmental documents;
- 4927 (vi) constraints;
- 4928 (vii) time expectations or limitations;
- 4929 (viii) incentives or disincentives; and
- 4930 (ix) other special considerations;
- 4931 (b) requires submitters to provide:
- 4932 (i) a sealed cost proposal;
- 4933 (ii) a critical path matrix schedule, including cash flow requirements;
- 4934 (iii) proposal security; and
- 4935 (iv) other items required by the department for the project; and
- 4936 (c) may include award of a stipulated fee to be paid to offerors who submit
- 4937 unsuccessful proposals.
- 4938 (8) The transportation agency shall:
- 4939 (a) evaluate the submissions received in response to the request for proposals from the
- 4940 prequalified offerors;
- 4941 (b) comply with rules relating to discussion of proposals, best and final offers, and
- 4942 evaluations of the proposals submitted; and
- 4943 (c) after considering price and other identified factors, award the contract to the
- 4944 responsible offeror whose responsive proposal is most advantageous to the transportation
- 4945 agency or the state.
- 4946 Section 39. Section **72-1-102** is amended to read:
- 4947 **72-1-102. Definitions.**
- 4948 As used in this title:
- 4949 (1) "Commission" means the Transportation Commission created under Section
- 4950 [72-1-301](#).
- 4951 (2) "Construction" means the construction, reconstruction, replacement, and
- 4952 improvement of the highways, including the acquisition of rights-of-way and material sites.
- 4953 (3) "Department" means the Department of Transportation created in Section [72-1-201](#).
- 4954 (4) "Executive director" means the executive director of the department appointed

4955 under Section [72-1-202](#).

4956 (5) "Farm tractor" has the meaning set forth in Section [41-1a-102](#).

4957 (6) "Federal aid primary highway" means that portion of connected main highways
4958 located within this state officially designated by the department and approved by the United
4959 States Secretary of Transportation under Title 23, Highways, U.S.C.

4960 (7) "Highway" means any public road, street, alley, lane, court, place, viaduct, tunnel,
4961 culvert, bridge, or structure laid out or erected for public use, or dedicated or abandoned to the
4962 public, or made public in an action for the partition of real property, including the entire area
4963 within the right-of-way.

4964 (8) "Highway authority" means the department or the legislative, executive, or
4965 governing body of a county or municipality.

4966 (9) "Implement of husbandry" has the meaning set forth in Section [41-1a-102](#).

4967 (10) "Interstate system" means any highway officially designated by the department
4968 and included as part of the national interstate and defense highways, as provided in the Federal
4969 Aid Highway Act of 1956 and any supplemental acts or amendments.

4970 (11) "Limited-access facility" means a highway especially designated for through
4971 traffic, and over, from, or to which neither owners nor occupants of abutting lands nor other
4972 persons have any right or easement, or have only a limited right or easement of access, light,
4973 air, or view.

4974 (12) "Motor vehicle" has the same meaning set forth in Section [41-1a-102](#).

4975 (13) "Municipality" has the same meaning set forth in Section [10-1-104](#).

4976 (14) "National highway systems highways" means that portion of connected main
4977 highways located within this state officially designated by the department and approved by the
4978 United States Secretary of Transportation under Title 23, Highways, U.S.C.

4979 (15) (a) "Port-of-entry" means a fixed or temporary facility constructed, operated, and
4980 maintained by the department where drivers, vehicles, and vehicle loads are checked or
4981 inspected for compliance with state and federal laws as specified in Section [72-9-501](#).

4982 (b) "Port-of-entry" includes inspection and checking stations and weigh stations.

4983 (16) "Port-of-entry agent" means a person employed at a port-of-entry to perform the
4984 duties specified in Section [72-9-501](#).

4985 (17) "Public transit facility" means a transit vehicle, transit station, depot, passenger

4986 loading or unloading zone, parking lot, or other facility:

4987 (a) leased by or operated by or on behalf of a public transit district; and

4988 (b) related to the public transit services provided by the district, including:

4989 (i) railway or other right-of-way;

4990 (ii) railway line; and

4991 (iii) a reasonable area immediately adjacent to a designated stop on a route traveled by

4992 a transit vehicle.

4993 [~~17~~] (18) "Right-of-way" means real property or an interest in real property, usually

4994 in a strip, acquired for or devoted to a highway.

4995 [~~18~~] (19) "Sealed" does not preclude acceptance of electronically sealed and submitted

4996 bids or proposals in addition to bids or proposals manually sealed and submitted.

4997 [~~19~~] (20) "Semitrailer" has the meaning set forth in Section 41-1a-102.

4998 [~~20~~] (21) "SR" means state route and has the same meaning as state highway as

4999 defined in this section.

5000 [~~21~~] (22) "State highway" means those highways designated as state highways in

5001 Title 72, Chapter 4, Designation of State Highways Act.

5002 [~~22~~] (23) "State highway purposes" has the meaning set forth in Section 72-5-102.

5003 [~~23~~] (24) "State transportation systems" means all streets, alleys, roads, highways,

5004 and thoroughfares of any kind, including connected structures, airports, spaceports, public

5005 transit facilities, and all other modes and forms of conveyance used by the public.

5006 [~~24~~] (25) "Trailer" has the meaning set forth in Section 41-1a-102.

5007 [~~25~~] (26) "Truck tractor" has the meaning set forth in Section 41-1a-102.

5008 [~~26~~] (27) "UDOT" means the Utah Department of Transportation.

5009 [~~27~~] (28) "Vehicle" has the same meaning set forth in Section 41-1a-102.

5010 Section 40. Section 72-1-202 is amended to read:

5011 **72-1-202. Executive director of department -- Appointment -- Qualifications --**

5012 **Term -- Responsibility -- Power to bring suits -- Salary.**

5013 (1) (a) The governor, after consultation with the commission and with the consent of

5014 the Senate, shall appoint an executive director to be the chief executive officer of the

5015 department.

5016 (b) The executive director shall be a qualified executive with technical and

5017 administrative experience and training appropriate for the position.

5018 (c) The executive director shall remain in office until a successor is appointed.

5019 (d) The executive director may be removed by the governor.

5020 (2) In addition to the other functions, powers, duties, rights, and responsibilities

5021 prescribed in this chapter, the executive director shall:

5022 (a) have responsibility for the administrative supervision of the state transportation
5023 systems and the various operations of the department;

5024 (b) have the responsibility for the implementation of rules, priorities, and policies
5025 established by the department and the commission;

5026 (c) have the responsibility for the oversight and supervision of any transportation
5027 project for which state funds are expended;

5028 ~~[(e)]~~ (d) have full power to bring suit in courts of competent jurisdiction in the name of
5029 the department as the executive director considers reasonable and necessary for the proper
5030 attainment of the goals of this chapter;

5031 ~~[(d)]~~ (e) receive a salary, to be established by the governor within the salary range fixed
5032 by the Legislature in Title 67, Chapter 22, State Officer Compensation, together with actual
5033 traveling expenses while away from the executive director's office on official business; and

5034 ~~[(e)]~~ (f) purchase all necessary equipment and supplies for the department.

5035 Section 41. Section **72-1-203** is amended to read:

5036 **72-1-203. Deputy director -- Appointment -- Qualifications -- Other assistants**
5037 **and advisers -- Salaries.**

5038 (1) The executive director shall appoint ~~[a deputy director, who shall be a registered~~
5039 ~~professional engineer in the state and]~~ two deputy directors, who shall serve at the discretion of
5040 the executive director.

5041 (2) (a) The deputy director of engineering and operations shall be a registered
5042 professional engineer in the state and is the chief engineer of the department. The deputy
5043 director of engineering and operations shall assist the executive director ~~[and is responsible for]~~
5044 with areas of responsibility including:

5045 ~~[(a) program and project development; and]~~

5046 ~~[(b) operation and maintenance of the state transportation systems.]~~

5047 (i) project development;

5048 (ii) oversight of the management of the region offices described in Section [72-1-205](#);

5049 (iii) management of operations; and

5050 (iv) oversight of operations of motor carriers and ports.

5051 (b) The deputy director of planning and investment shall assist the executive director

5052 with areas of responsibility including:

5053 (i) oversight and coordination of planning, including:

5054 (A) development of statewide strategic initiatives for planning across all modes of

5055 transportation;

5056 (B) coordination with metropolitan planning organizations and local governments; and

5057 (C) corridor and area planning;

5058 (ii) asset management;

5059 (iii) programming and prioritization of transportation projects;

5060 (iv) fulfilling requirements for environmental studies and impact statements; and

5061 (v) resource investment, including identification and development of public-private

5062 partnership opportunities.

5063 (3) The executive director may also appoint assistants to administer the divisions of the
5064 department. These assistants shall serve at the discretion of the executive director.

5065 (4) In addition, the executive director may employ other assistants and advisers as the
5066 executive director finds necessary and fix salaries in accordance with the salary standards
5067 adopted by the Department of Human Resource Management.

5068 Section 42. Section **72-1-204** is amended to read:

5069 **72-1-204. Divisions enumerated -- Duties.**

5070 The divisions of the department are:

5071 (1) the Comptroller Division responsible for:

5072 (a) all financial aspects of the department, including budgeting, accounting, and
5073 contracting;

5074 (b) providing all material data and documentation necessary for effective fiscal
5075 planning and programming; and

5076 (c) procuring administrative supplies;

5077 (2) the Internal Audit Division responsible for:

5078 (a) conducting and verifying all internal audits and reviews within the department;

- 5079 (b) performing financial and compliance audits to determine the allowability and
5080 reasonableness of proposals, accounting records, and final costs of consultants, contractors,
5081 utility companies, and other entities used by the department; and
- 5082 (c) implementing audit procedures that meet or exceed generally accepted auditing
5083 standards relating to revenues, expenditures, and funding;
- 5084 (3) the Communications Division responsible for:
- 5085 (a) developing, managing, and implementing the department's public hearing processes
5086 and programs;
- 5087 (b) responding to public complaints, requests, and input;
- 5088 (c) assisting the divisions and regions in the department's public involvement
5089 programs;
- 5090 (d) developing and managing internal department communications; and
- 5091 (e) managing and overseeing department media relations;
- 5092 (4) the Program Development Division responsible for:
- 5093 (a) developing transportation plans for state transportation systems;
- 5094 (b) collecting, processing, and storing transportation data to support department's
5095 engineering functions;
- 5096 (c) maintaining and operating the asset management systems;
- 5097 (d) designating state transportation systems qualifications;
- 5098 (e) developing a statewide transportation improvement program for approval by the
5099 commission;
- 5100 (f) providing cartographic services to the department;
- 5101 (g) assisting local governments in participating in federal-aid transportation programs;
5102 and
- 5103 (h) providing research services associated with transportation programs;
- 5104 (5) the Project Development Division responsible for:
- 5105 (a) developing statewide standards for project design and construction;
- 5106 (b) providing support for project development in the areas of design environment,
5107 right-of-way, materials testing, structures, value engineering, and construction; and
- 5108 (c) designing specialty projects; [and]
- 5109 (6) the Operations Division responsible for:

- 5110 (a) maintaining the state transportation systems;
- 5111 (b) state transportation systems safety;
- 5112 (c) operating state ports-of-entry;
- 5113 (d) operating state motor carrier safety programs in accordance with this title and
- 5114 federal law;
- 5115 (e) aeronautical operations;
- 5116 (f) providing equipment for department engineering and maintenance functions; and
- 5117 (g) risk management[-]; and
- 5118 (7) the Planning and Investment Division responsible for:
- 5119 (a) creating and managing an intermodal terminal facility to promote economic
- 5120 development and investment;
- 5121 (b) promoting strategies to synergize development of an intermodal inland port; and
- 5122 (c) overseeing and coordinating public-private partnerships.

5123 Section 43. Section **72-1-208** is amended to read:

5124 **72-1-208. Cooperation with counties, cities, towns, the federal government, and**
5125 **all state departments -- Inspection of work done by a public transit district.**

5126 (1) The department shall cooperate with the counties, cities, towns, and community
5127 reinvestment agencies in the construction, maintenance, and use of the highways and in all
5128 related matters, and may provide services to the counties, cities, towns, and community
5129 reinvestment agencies on terms mutually agreed upon.

5130 (2) The department, with the approval of the governor, shall cooperate with the federal
5131 government in all federal-aid projects and with all state departments in all matters in
5132 connection with the use of the highways.

5133 (3) The department:

5134 (a) shall inspect all work done by a public transit district under Title 17B, Chapter 2a,
5135 Part 8, Public Transit District Act, relating to safety appliances and procedures; and

5136 (b) may make further additions or changes necessary for the purpose of safety to
5137 employees and the general public.

5138 (4) (a) The department may assume responsibility for any public transit project that
5139 traverses any portion of the state highway systems.

5140 (b) To determine whether the department will assume responsibility for a public transit

5141 project, the executive director and the public transit agency proposing the development shall
5142 jointly determine whether the department will assume responsibility.

5143 Section 44. Section **72-1-211** is amended to read:

5144 **72-1-211. Department to develop strategic initiatives -- Report -- Rulemaking.**

5145 (1) (a) The executive director shall develop statewide strategic initiatives [~~for the~~
5146 ~~department~~] across all modes of transportation.

5147 (b) To develop the strategic initiatives described in Subsection (1)(a), the executive
5148 director shall consult with the commission and relevant stakeholders, including:

5149 (i) metropolitan planning organizations;

5150 (ii) county and municipal governments;

5151 (iii) transit districts; and

5152 (iv) other transportation stakeholders.

5153 (c) To develop the strategic initiatives described in Subsection (1)(a), the executive
5154 director shall consider:

5155 (i) regional transportation plans developed by metropolitan planning organizations;

5156 (ii) local transportation plans developed by county and municipal governments;

5157 (iii) public transit plans developed by public transit districts; and

5158 (iv) other relevant transportation plans developed by other stakeholders.

5159 (d) To develop the strategic initiatives described in Subsection (1)(a), the executive
5160 director shall consider projected major centers of economic activity, population growth, and
5161 job centers.

5162 (2) (a) The strategic initiatives developed under Subsection (1) shall include
5163 consideration of the following factors:

5164 [~~(a)~~] (i) corridor preservation;

5165 (ii) congestion reduction;

5166 (iii) economic development and job creation;

5167 (iv) asset management;

5168 (v) sustainability;

5169 (vi) optimization of return on investment;

5170 [~~(b)~~] (vii) development of new transportation capacity projects;

5171 [~~(c)~~] (viii) long-term maintenance and operations of the transportation system;

5172 ~~[(d)]~~ (ix) safety;

5173 ~~[(e)]~~ (x) incident management; ~~[and]~~

5174 ~~[(f)]~~ (xi) homeland security~~[:];~~

5175 (xii) mobility and access; and

5176 (xiii) transportation related air quality.

5177 (b) The strategic initiatives shall include an assessment of capacity needs and establish

5178 goals for corridors that meet all of the following:

5179 (i) high volume of travel and throughput;

5180 (ii) connection of projected major centers of economic activity, population growth, and

5181 future job centers;

5182 (iii) major freight corridors; and

5183 (iv) corridors accommodating multiple modes of travel.

5184 (3) (a) The executive director or the executive director's designee shall report the

5185 strategic initiatives of the department developed under Subsection (1) to the Transportation

5186 Commission and, before December 1 of each year, the Transportation Interim Committee.

5187 (b) The report required under Subsection (3)(a) shall include the measure that will be

5188 used to determine whether the strategic initiatives have been achieved.

5189 (4) After compliance with Subsection (3) and in accordance with Title 63G, Chapter 3,

5190 Utah Administrative Rulemaking Act, the department shall make rules establishing the

5191 strategic initiatives developed under this part.

5192 (5) The executive director shall ensure that the strategic initiatives developed under

5193 Subsection (1):

5194 (a) are reviewed and updated as needed, but no less frequent than every four years; and

5195 (b) cover at least a 20-year horizon.

5196 Section 45. Section **72-1-213** is amended to read:

5197 **72-1-213. Road usage charge study -- Recommendations.**

5198 (1) (a) The department shall~~[:-(1)-continue to]~~ study a road usage charge mileage-based

5199 revenue system, including a ~~[potential]~~ demonstration program, as an alternative to the motor

5200 and special tax~~[:and]~~.

5201 ~~[(2) make recommendations to the Legislature and other policymaking bodies on the~~

5202 ~~potential use and future implementation of a road usage charge within the state.]~~

- 5203 (b) The demonstration program may consider:
- 5204 (i) the necessity of protecting all personally identifiable information used in reporting
- 5205 highway use;
- 5206 (ii) alternatives to recording and reporting highway use;
- 5207 (iii) alternatives to administration of a road usage charge program; and
- 5208 (iv) other factors as determined by the department.
- 5209 (2) (a) The department shall create a Road Usage Charge Advisory Committee to assist
- 5210 the department to conduct a road usage charge demonstration program.
- 5211 (b) The executive director shall appoint members of the committee, considering
- 5212 individuals with experience and expertise in the following areas:
- 5213 (i) telecommunications;
- 5214 (ii) data security and privacy;
- 5215 (iii) privacy rights advocacy organizations;
- 5216 (iv) transportation agencies with technical expertise;
- 5217 (v) national research;
- 5218 (vi) members of the Legislature;
- 5219 (vii) representatives from the State Tax Commission; and
- 5220 (viii) other relevant stakeholders as determined by the executive director.
- 5221 (c) The executive director or the executive director's designee shall serve as chair of the
- 5222 committee.
- 5223 (d) A member of the committee may not receive compensation or benefits for the
- 5224 member's service, but may receive per diem and travel expenses in accordance with:
- 5225 (i) Section [63A-3-106](#);
- 5226 (ii) Section [63A-3-107](#); and
- 5227 (iii) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
- 5228 [63A-3-107](#).
- 5229 (e) The department shall provide staff support to the committee.
- 5230 (3) (a) Beginning in 2019, and no later than September 30 of each year, the department
- 5231 shall prepare and submit a report of its findings based on the results of the road usage charge
- 5232 demonstration program to the:
- 5233 (i) Road Usage Charge Advisory Committee created under Subsection (2);

5234 (ii) Transportation Commission;
5235 (iii) Transportation Interim Committee of the Legislature; and
5236 (iv) Revenue and Taxation Interim Committee of the Legislature.
5237 (b) The report shall review the following issues:
5238 (i) cost;
5239 (ii) privacy, including recommendations regarding public and private access, including
5240 by law enforcement, to data collected and stored for purposes of the road usage charge to
5241 ensure individual privacy rights are protected;
5242 (iii) jurisdictional issues;
5243 (iv) feasibility;
5244 (v) complexity;
5245 (vi) acceptance;
5246 (vii) use of revenues;
5247 (viii) security and compliance, including a discussion of processes and security
5248 measures necessary to minimize fraud and tax evasion rates;
5249 (ix) data collection technology, including a discussion of the advantages and
5250 disadvantages of various types of data collection equipment and the privacy implications and
5251 considerations of the equipment;
5252 (x) potential for additional driver services;
5253 (xi) evaluation of necessary framework and strategy, upon full implementation of a
5254 road user charge program, to offer the option to an owner of an alternative fuel vehicle as
5255 defined in Section [41-1a-102](#) to:
5256 (A) pay an increased motor vehicle registration fee required in Section [41-1a-1206](#); or
5257 (B) participate in a road user charge program; and
5258 (xii) implementation issues.
5259 (c) The report may make recommendations to the Legislature and other policymaking
5260 bodies on the potential use and future implementation of a road usage charge within the state.
5261 Section 46. Section **72-1-214** is amended to read:
5262 **72-1-214. Department designated as state safety oversight agency for rail fixed**
5263 **guideway public transportation safety -- Powers and duties -- Rulemaking.**
5264 (1) (a) Except as provided in Subsection (1)(b), as used in this section, "fixed

5265 guideway" means the same as that term is defined in Section 59-12-102.

5266 (b) For purposes of this section, "fixed guideway" does not include a rail system
5267 subject to regulation by the Federal Railroad Administration.

5268 (2) The department is designated as the state safety oversight agency for rail fixed
5269 guideway public transportation safety in accordance with 49 U.S.C. Sec. 5329(e)(4).

5270 (3) As the state safety oversight agency, the department may, to the extent necessary to
5271 fulfill the department's obligations under federal law:

5272 (a) enter into and inspect the property of a fixed guideway rail system receiving federal
5273 funds without prior notice to the operator;

5274 (b) audit an operator of a fixed guideway rail system receiving federal funds for
5275 compliance with:

5276 (i) federal and state laws regarding the safety of the fixed guideway rail system; and

5277 (ii) a public transportation agency safety plan adopted by a specific operator in
5278 accordance with 49 U.S.C. Sec. 5329(d);

5279 (c) direct the operator of a fixed guideway rail system to correct a safety hazard by a
5280 specified date and time;

5281 (d) prevent the operation of all or part of a fixed guideway rail system that the
5282 department has determined to be unsafe;

5283 (e) audit, review, approve, and oversee an operator of a fixed guideway rail system
5284 receiving federal funds for compliance with a plan adopted by the operator in compliance with
5285 49 U.S.C. Sec. 5329(d); and

5286 (f) enforce statutes, rules, regulations, and executive orders relating to the operation of
5287 a fixed guideway rail public transportation system in Utah.

5288 (4) The department shall, at least annually, provide a status report on the safety of the
5289 rail fixed guideway public transportation systems the department oversees to:

5290 (a) the Federal Transit Administration;

5291 (b) the governor; and

5292 (c) members of the board of any rail fixed guideway public transportation system that
5293 the department oversees in accordance with this section.

5294 (5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
5295 the department shall make rules necessary to administer and enforce this section[-], including

5296 rules providing for the legal and financial independence of state safety oversight agency
5297 activities and functions.

5298 (b) The rules made in accordance with Subsection (5)(a) shall conform to the
5299 requirements of and regulations enacted in accordance with 49 U.S.C. Sec. 5329.

5300 (6) (a) Notwithstanding any other agreement, a county, city, or town with fixed
5301 guideway rail transit service provided by a public transit district that is subject to safety
5302 oversight as provided in this section may request local option transit sales tax in accordance
5303 with Section 59-12-2206 and spend local option transit sales tax in the amount requested by the
5304 department to meet nonfederal match requirements for costs of safety oversight described in
5305 this section.

5306 (b) A county, city, or town that requests local option transit sales tax as described in
5307 Subsection (6)(a) shall transmit to the department all of the funds requested under Subsection
5308 (6)(a) and transmitted to the county, city, or town under Subsection 59-12-2206(5)(b).

5309 (c) A county, city, or town that requests local option transit sales tax as described in
5310 Subsection (6)(a) may not request more local option transit sales tax than is necessary to carry
5311 out the state safety oversight functions under this section and the amount shall only reflect a
5312 maximum of 20% nonfederal match requirement of eligible costs of state safety oversight.

5313 Section 47. Section 72-1-303 is amended to read:

5314 **72-1-303. Duties of commission.**

5315 (1) The commission has the following duties:

5316 (a) determining priorities and funding levels of projects in the state transportation
5317 systems and capital development of new public transit facilities for each fiscal year based on
5318 project lists compiled by the department and taking into consideration the strategic initiatives
5319 described in Section 72-1-211;

5320 (b) determining additions and deletions to state highways under Chapter 4, Designation
5321 of State Highways Act;

5322 (c) holding public hearings and otherwise providing for public input in transportation
5323 matters;

5324 (d) making policies and rules in accordance with Title 63G, Chapter 3, Utah
5325 Administrative Rulemaking Act, necessary to perform the commission's duties described under
5326 this section;

5327 (e) in accordance with Section 63G-4-301, reviewing orders issued by the executive
5328 director in adjudicative proceedings held in accordance with Title 63G, Chapter 4,
5329 Administrative Procedures Act;

5330 (f) advising the department in state transportation systems policy;

5331 (g) approving settlement agreements of condemnation cases subject to Section
5332 63G-10-401;

5333 (h) in accordance with Section 17B-2a-807, appointing a commissioner to serve as a
5334 nonvoting, ex officio member or a voting member on the board of trustees of a public transit
5335 district;

5336 (i) in accordance with Section 17B-2a-808, reviewing, at least annually, the short-term
5337 and long-range public transit plans; and

5338 (j) reviewing administrative rules made, amended, or repealed by the department.

5339 (2) (a) For projects prioritized with funding provided under Sections 72-2-124 and
5340 72-2-125, the commission shall annually report to a committee designated by the Legislative
5341 Management Committee:

5342 (i) a prioritized list of the new transportation capacity projects in the state
5343 transportation system and the funding levels available for those projects; and

5344 (ii) the unfunded highway construction and maintenance needs within the state.

5345 (b) The committee designated by the Legislative Management Committee under
5346 Subsection (2)(a) shall:

5347 (i) review the list reported by the Transportation Commission; and

5348 (ii) make a recommendation to the Legislature on:

5349 (A) the amount of additional funding to allocate to transportation; and

5350 (B) the source of revenue for the additional funding allocation under Subsection
5351 (2)(b)(ii)(A).

5352 (3) The commission shall review and may approve plans for the construction of a
5353 highway facility over sovereign lakebed lands in accordance with Chapter 6, Part 3, Approval
5354 of Highway Facilities on Sovereign Lands Act.

5355 Section 48. Section 72-1-304 is amended to read:

5356 **72-1-304. Written project prioritization process for new transportation capacity**
5357 **projects -- Rulemaking.**

5358 (1) (a) The Transportation Commission, in consultation with the department and the
5359 metropolitan planning organizations as defined in Section [72-1-208.5](#), shall develop a written
5360 prioritization process for the prioritization of new transportation capacity projects that are or
5361 will be part of the state highway system under Chapter 4, Part 1, State Highways, or public
5362 transit projects that add capacity to the public transit systems within the state.

5363 (b) (i) A local government or district may nominate a project for prioritization in
5364 accordance with the process established by the commission in rule.

5365 (ii) If a local government or district nominates a project for prioritization by the
5366 commission, the local government or district shall provide data and evidence to show that:

5367 (A) the project will advance the purposes and goals described in Section [72-1-211](#);

5368 (B) for a public transit project, the local government or district has an ongoing funding
5369 source for operations and maintenance of the proposed development; and

5370 (C) the local government or district will provide 40% of the funds for the project as
5371 required by Subsection [72-2-124\(7\)\(e\)](#).

5372 (2) The following shall be included in the written prioritization process under
5373 Subsection (1):

5374 (a) a description of how the strategic initiatives of the department adopted under
5375 Section [72-1-211](#) are advanced by the written prioritization process;

5376 (b) a definition of the type of projects to which the written prioritization process
5377 applies;

5378 (c) specification of a weighted criteria system that is used to rank proposed projects
5379 and how it will be used to determine which projects will be prioritized;

5380 (d) specification of the data that is necessary to apply the weighted ranking criteria; and

5381 (e) any other provisions the commission considers appropriate[-], which may include
5382 consideration of:

5383 (i) regional and statewide economic development impacts, including improved local
5384 access to:

5385 (A) employment;

5386 (B) recreation;

5387 (C) commerce; and

5388 (D) residential areas;

5389 (ii) the extent to which local land use plans relevant to a project support and
5390 accomplish the strategic initiatives adopted under Section 72-1-211; and

5391 (iii) any matching funds provided by a political subdivision or public transit district in
5392 addition to the 40% required by Subsection 72-2-124(7)(e).

5393 (3) In developing the written prioritization process, the commission:

5394 (a) shall seek and consider public comment by holding public meetings at locations
5395 throughout the state; and

5396 (b) may not consider local matching dollars as provided under Section 72-2-123 unless
5397 the state provides an equal opportunity to raise local matching dollars for state highway
5398 improvements within each county.

5399 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5400 Transportation Commission, in consultation with the department, shall make rules establishing
5401 the written prioritization process under Subsection (1).

5402 (5) The commission shall submit the proposed rules under this section to a committee
5403 or task force designated by the Legislative Management Committee for review prior to taking
5404 final action on the proposed rules or any proposed amendment to the rules described in
5405 Subsection (4).

5406 Section 49. Section 72-1-305 is amended to read:

5407 **72-1-305. Project selection using the written prioritization process -- Public**
5408 **comment -- Report.**

5409 (1) Except as provided in Subsection (4), in determining priorities and funding levels
5410 of projects in the state transportation system under Subsection 72-1-303(1)(a) that are new
5411 transportation capacity projects, the commission shall use the weighted criteria system adopted
5412 in the written prioritization process under Section 72-1-304.

5413 (2) Prior to finalizing priorities and funding levels of projects in the state transportation
5414 system, the commission shall conduct public hearings at locations around the state and accept
5415 public comments on:

5416 (a) the written prioritization process;

5417 (b) the merits of new transportation capacity projects that will be prioritized under this
5418 section; and

5419 (c) the merits of new transportation capacity projects as recommended by a consensus

5420 of local elected officials participating in a metropolitan planning organization as defined in
5421 Section [72-1-208.5](#).

5422 (3) The commission shall make the weighted criteria system ranking for each project
5423 publicly available prior to the public hearings held under Subsection (2).

5424 (4) (a) If the commission prioritizes a project over another project with a higher rank
5425 under the weighted criteria system, the commission shall identify the change and accept public
5426 comment at a hearing held under this section on the merits of prioritizing the project above
5427 higher ranked projects.

5428 (b) The commission shall make the reasons for the prioritization under Subsection
5429 (4)(a) publicly available.

5430 (5) The executive director or the executive director's designee shall report annually to
5431 the governor and a committee designated by the Legislative Management Committee no later
5432 than the last day of October:

5433 (a) the projects prioritized under this section during the year prior to the report; and

5434 (b) the status and progress of all projects prioritized under this section.

5435 (6) (a) The department may not delay a new transportation or public transit capacity
5436 project that was funded by the Legislature in an appropriations act to a different fiscal year than
5437 programmed by the commission due to an unavoidable shortfall in revenues unless the project
5438 delays are prioritized and approved by the Transportation Commission.

5439 (b) The Transportation Commission shall prioritize and approve any new
5440 transportation or public transit capacity project delays for projects that were funded by the
5441 Legislature in an appropriations act due to an unavoidable shortfall in revenues.

5442 Section 50. Section **72-2-117.5** is amended to read:

5443 **72-2-117.5. Definitions -- Local Highway and Transportation Corridor**

5444 **Preservation Fund -- Disposition of fund money.**

5445 (1) As used in this section:

5446 (a) "Council of governments" means a decision-making body in each county composed
5447 of membership including the county governing body and the mayors of each municipality in the
5448 county.

5449 (b) "Metropolitan planning organization" has the same meaning as defined in Section
5450 [72-1-208.5](#).

5451 (2) There is created the Local Highway and Transportation Corridor Preservation Fund
5452 within the Transportation Fund.

5453 (3) The fund shall be funded from the following sources:

5454 (a) a local option highway construction and transportation corridor preservation fee
5455 imposed under Section [41-1a-1222](#);

5456 (b) appropriations made to the fund by the Legislature;

5457 (c) contributions from other public and private sources for deposit into the fund;

5458 (d) all money collected from rents and sales of real property acquired with fund money;

5459 (e) proceeds from general obligation bonds, revenue bonds, or other obligations issued
5460 as authorized by Title 63B, Bonds;

5461 (f) the portion of the sales and use tax described in Subsection [59-12-2217](#)[(2)(b) and
5462 required by Subsection [59-12-2217](#)(8)(a) to be] deposited into the fund; and

5463 (g) sales and use tax revenues deposited into the fund in accordance with Section
5464 [59-12-2218](#).

5465 (4) (a) The fund shall earn interest.

5466 (b) All interest earned on fund money shall be deposited into the fund.

5467 (c) The State Tax Commission shall allocate the revenues:

5468 (i) provided under Subsection (3)(a) to each county imposing a local option highway
5469 construction and transportation corridor preservation fee under Section [41-1a-1222](#);

5470 (ii) provided under Subsection [59-12-2217](#)(2)(b) to each county imposing a county
5471 option sales and use tax for transportation; and

5472 (iii) provided under Subsection (3)(g) to each county of the second class or city or town
5473 within a county of the second class that imposes the sales and use tax authorized by Section
5474 [59-12-2218](#).

5475 (d) The department shall distribute the funds allocated to each county, city, or town
5476 under Subsection (4)(c) to each county, city, or town.

5477 (e) The money allocated and distributed under this Subsection (4):

5478 (i) shall be used for the purposes provided in this section for each county, city, or town;

5479 (ii) is allocated to each county, city, or town as provided in this section with the
5480 condition that the state will not be charged for any asset purchased with the money allocated
5481 and distributed under this Subsection (4), unless there is a written agreement in place with the

5482 department prior to the purchase of the asset stipulating a reimbursement by the state to the
5483 county, city, or town of no more than the original purchase price paid by the county, city, or
5484 town; and

5485 (iii) is considered a local matching contribution for the purposes described under
5486 Section [72-2-123](#) if used on a state highway.

5487 (f) Administrative costs of the department to implement this section shall be paid from
5488 the fund.

5489 (5) (a) A highway authority may acquire real property or any interests in real property
5490 for state, county, and municipal highway or public transit corridors subject to:

5491 (i) money available in the fund to each county under Subsection (4); and

5492 (ii) the provisions of this section.

5493 (b) Fund money may be used to pay interest on debts incurred in accordance with this
5494 section.

5495 (c) (i) (A) Fund money may be used to pay maintenance costs of properties acquired
5496 under this section but limited to a total of 5% of the purchase price of the property.

5497 (B) Any additional maintenance cost shall be paid from funds other than under this
5498 section.

5499 (C) Revenue generated by any property acquired under this section is excluded from
5500 the limitations under this Subsection (5)(c)(i).

5501 (ii) Fund money may be used to pay direct costs of acquisition of properties acquired
5502 under this section.

5503 (d) Fund money allocated and distributed under Subsection (4) may be used by a
5504 county highway authority for countywide transportation or public transit planning if:

5505 (i) the county's planning focus area is outside the boundaries of a metropolitan
5506 planning organization;

5507 (ii) the transportation planning is part of the county's continuing, cooperative, and
5508 comprehensive process for transportation or public transit planning, corridor preservation,
5509 right-of-way acquisition, and project programming;

5510 (iii) no more than four years allocation every 20 years to each county is used for
5511 transportation planning under this Subsection (5)(d); and

5512 (iv) the county otherwise qualifies to use the fund money as provided under this

5513 section.

5514 (e) (i) Subject to Subsection (11), fund money allocated and distributed under
5515 Subsection (4) may be used by a county highway authority for transportation or public transit
5516 corridor planning that is part of the corridor elements of an ongoing work program of
5517 transportation or public transit projects.

5518 (ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the
5519 direction of:

5520 (A) the metropolitan planning organization if the county is within the boundaries of a
5521 metropolitan planning organization; or

5522 (B) the department if the county is not within the boundaries of a metropolitan
5523 planning organization.

5524 (f) (i) A county, city, or town that imposes a local option highway construction and
5525 transportation corridor preservation fee under Section [41-1a-1222](#) may elect to administer the
5526 funds allocated and distributed to that county, city, or town under Subsection (4) as a revolving
5527 loan fund.

5528 (ii) If a county, city, or town elects to administer the funds allocated and distributed to
5529 that county, city, or town under Subsection (4) as a revolving loan fund, a local highway
5530 authority shall repay the fund money authorized for the project to the fund.

5531 (iii) A county, city, or town that elects to administer the funds allocated and distributed
5532 to that county, city, or town under Subsection (4) as a revolving loan fund shall establish
5533 repayment conditions of the money to the fund from the specified project funds.

5534 (g) (i) Subject to the restrictions in Subsections (5)(g)(ii) and (iii), fund money may be
5535 used by a county of the third, fourth, fifth, or sixth class or by a city or town within a county of
5536 the third, fourth, fifth, or sixth class for:

5537 (A) the construction, operation, or maintenance of a class B road or class C road; or

5538 (B) the restoration or repair of survey monuments associated with transportation
5539 infrastructure.

5540 (ii) A county, city, or town may not use more than 50% of the current balance of fund
5541 money allocated to the county, city, or town for the purposes described in Subsection (5)(g)(i).

5542 (iii) A county, city, or town may not use more than 50% of the fund revenue collections
5543 allocated to a county, city, or town in the current fiscal year for the purposes described in

5544 Subsection (5)(g)(i).

5545 (6) (a) (i) The Local Highway and Transportation Corridor Preservation Fund shall be
5546 used to preserve highway and public transit corridors, promote long-term statewide
5547 transportation planning, save on acquisition costs, and promote the best interests of the state in
5548 a manner which minimizes impact on prime agricultural land.

5549 (ii) The Local Highway and Transportation Corridor Preservation Fund shall only be
5550 used to preserve a highway or public transit corridor that is right-of-way:

5551 (A) in a county of the first or second class for:

5552 (I) a state highway;

5553 (II) a principal arterial highway as defined in Section [72-4-102.5](#);

5554 (III) a minor arterial highway as defined in Section [72-4-102.5](#); [~~or~~]

5555 (IV) a collector highway in an urban area as defined in Section [72-4-102.5](#); or

5556 (V) a transit facility as defined in Section [17B-2a-802](#); or

5557 (B) in a county of the third, fourth, fifth, or sixth class for:

5558 (I) a state highway;

5559 (II) a principal arterial highway as defined in Section [72-4-102.5](#);

5560 (III) a minor arterial highway as defined in Section [72-4-102.5](#);

5561 (IV) a major collector highway as defined in Section [72-4-102.5](#); [~~or~~]

5562 (V) a minor collector road as defined in Section [72-4-102.5](#)[~~;~~]; or

5563 (VI) a transit facility as defined in Section [17B-2a-802](#).

5564 (iii) The Local Highway and Transportation Corridor Preservation Fund may not be
5565 used for a highway corridor that is primarily a recreational trail as defined under Section
5566 [79-5-102](#).

5567 (b) A highway authority shall authorize the expenditure of fund money after
5568 determining that the expenditure is being made in accordance with this section from
5569 applications that are:

5570 (i) endorsed by the council of governments; and

5571 (ii) for a right-of-way purchase for a highway or public transit corridor authorized
5572 under Subsection (6)(a)(ii).

5573 (7) (a) (i) A council of governments shall establish a council of governments
5574 endorsement process which includes prioritization and application procedures for use of the

5575 money allocated to each county under this section.

5576 (ii) The endorsement process under Subsection (7)(a)(i) may include review or
5577 endorsement of the preservation project by:

5578 (A) the metropolitan planning organization if the county is within the boundaries of a
5579 metropolitan planning organization; or

5580 (B) the department if the county is not within the boundaries of a metropolitan
5581 planning organization.

5582 (b) All fund money shall be prioritized by each highway authority and council of
5583 governments based on considerations, including:

5584 (i) areas with rapidly expanding population;

5585 (ii) the willingness of local governments to complete studies and impact statements
5586 that meet department standards;

5587 (iii) the preservation of corridors by the use of local planning and zoning processes;

5588 (iv) the availability of other public and private matching funds for a project;

5589 (v) the cost-effectiveness of the preservation projects;

5590 (vi) long and short-term maintenance costs for property acquired; and

5591 (vii) whether the transportation or public transit corridor is included as part of:

5592 (A) the county and municipal master plan; and

5593 (B) (I) the statewide long range plan; or

5594 (II) the regional transportation plan of the area metropolitan planning organization if
5595 one exists for the area.

5596 (c) The council of governments shall:

5597 (i) establish a priority list of highway and public transit corridor preservation projects
5598 within the county;

5599 (ii) submit the list described in Subsection (7)(c)(i) to the county's legislative body for
5600 approval; and

5601 (iii) obtain approval of the list described in Subsection (7)(c)(i) from a majority of the
5602 members of the county legislative body.

5603 (d) A county's council of governments may only submit one priority list described in
5604 Subsection (7)(c)(i) per calendar year.

5605 (e) A county legislative body may only consider and approve one priority list described

5606 in Subsection (7)(c)(i) per calendar year.

5607 (8) (a) Unless otherwise provided by written agreement with another highway authority
5608 or public transit district, the highway authority that holds the deed to the property is responsible
5609 for maintenance of the property.

5610 (b) The transfer of ownership for property acquired under this section from one
5611 highway authority to another shall include a recorded deed for the property and a written
5612 agreement between the highway authorities or public transit district.

5613 (9) (a) The proceeds from any bonds or other obligations secured by revenues of the
5614 Local Highway and Transportation Corridor Preservation Fund shall be used for the purposes
5615 authorized for funds under this section.

5616 (b) The highway authority shall pledge the necessary part of the revenues of the Local
5617 Highway and Transportation Corridor Preservation Fund to the payment of principal and
5618 interest on the bonds or other obligations.

5619 (10) (a) A highway authority may not expend money under this section to purchase a
5620 right-of-way for a state highway unless the highway authority has:

5621 (i) a transportation corridor property acquisition policy or ordinance in effect that
5622 meets department requirements for the acquisition of real property or any interests in real
5623 property under this section; and

5624 (ii) an access management policy or ordinance in effect that meets the requirements
5625 under Subsection [72-2-117\(8\)](#).

5626 (b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a
5627 written agreement with the department for the department to acquire real property or any
5628 interests in real property on behalf of the local highway authority under this section.

5629 (11) The county shall ensure, to the extent possible, that the fund money allocated and
5630 distributed to a city or town in accordance with Subsection (4) is expended:

5631 (a) to fund a project or service as allowed by this section within the city or town to
5632 which the fund money is allocated;

5633 (b) to pay debt service, principal, or interest on a bond or other obligation as allowed
5634 by this section if that bond or other obligation is:

5635 (i) secured by money allocated to the city or town; and

5636 (ii) issued to finance a project or service as allowed by this section within the city or

5637 town to which the fund money is allocated;

5638 (c) to fund transportation planning as allowed by this section within the city or town to
5639 which the fund money is allocated; or

5640 (d) for another purpose allowed by this section within the city or town to which the
5641 fund money is allocated.

5642 (12) Notwithstanding any other provision in this section, any amounts within the fund
5643 allocated to a public transit district or for a public transit corridor may only be derived from the
5644 portion of the fund that does not include constitutionally restricted sources related to the
5645 operation of a motor vehicle on a public highway or proceeds from an excise tax on liquid
5646 motor fuel to propel a motor vehicle.

5647 Section 51. Section 72-2-121 is amended to read:

5648 **72-2-121. County of the First Class Highway Projects Fund.**

5649 (1) There is created a special revenue fund within the Transportation Fund known as
5650 the "County of the First Class Highway Projects Fund."

5651 (2) The fund consists of money generated from the following revenue sources:

5652 (a) any voluntary contributions received for new construction, major renovations, and
5653 improvements to highways within a county of the first class;

5654 (b) the portion of the sales and use tax described in Subsection 59-12-2214(3)(b)
5655 deposited in or transferred to the fund;

5656 (c) the portion of the sales and use tax described in Subsection 59-12-2217~~[(2)(b) and~~
5657 ~~required by Subsection 59-12-2217(8)(b) to be]~~ deposited in or transferred to the fund; and

5658 (d) a portion of the local option highway construction and transportation corridor
5659 preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited in or
5660 transferred to the fund.

5661 (3) (a) The fund shall earn interest.

5662 (b) All interest earned on fund money shall be deposited into the fund.

5663 (4) The executive director shall use the fund money only:

5664 (a) to pay debt service and bond issuance costs for bonds issued under Sections
5665 63B-16-102, 63B-18-402, and 63B-27-102;

5666 (b) for right-of-way acquisition, new construction, major renovations, and
5667 improvements to highways within a county of the first class and to pay any debt service and

5668 bond issuance costs related to those projects, including improvements to a highway located
5669 within a municipality in a county of the first class where the municipality is located within the
5670 boundaries of more than a single county;

5671 (c) for the construction, acquisition, use, maintenance, or operation of:

5672 (i) an active transportation facility for nonmotorized vehicles;

5673 (ii) multimodal transportation that connects an origin with a destination; or

5674 (iii) a facility that may include a:

5675 (A) pedestrian or nonmotorized vehicle trail;

5676 (B) nonmotorized vehicle storage facility;

5677 (C) pedestrian or vehicle bridge; or

5678 (D) vehicle parking lot or parking structure;

5679 (d) for fiscal year 2012-13 only, to pay for or to provide funds to a municipality or

5680 county to pay for a portion of right-of-way acquisition, construction, reconstruction,

5681 renovations, and improvements to highways described in Subsections [72-2-121.4\(7\)](#), (8), and

5682 (9);

5683 (e) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by

5684 Section [72-2-121.3](#) the amount required in Subsection [72-2-121.3\(4\)\(c\)](#) minus the amounts

5685 transferred in accordance with Subsection [72-2-124\(4\)\(a\)\(iv\)](#);

5686 (f) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond

5687 issuance costs for \$30,000,000 of the bonds issued under Section [63B-18-401](#) for the projects

5688 described in Subsection [63B-18-401\(4\)\(a\)](#);

5689 (g) for a fiscal year beginning on or after July 1, 2013, and after the department has

5690 verified that the amount required under Subsection [72-2-121.3\(4\)\(c\)](#) is available in the fund, to

5691 transfer an amount equal to 50% of the revenue generated by the local option highway

5692 construction and transportation corridor preservation fee imposed under Section [41-1a-1222](#) in

5693 a county of the first class:

5694 (i) to the legislative body of a county of the first class; and

5695 (ii) to be used by a county of the first class for:

5696 (A) highway construction, reconstruction, or maintenance projects; or

5697 (B) the enforcement of state motor vehicle and traffic laws;

5698 (h) for fiscal year 2015 only, and after the department has verified that the amount

5699 required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under
5700 Subsection (4)(f) has been made, to transfer an amount equal to the remainder of the revenue
5701 available in the fund for the 2015 fiscal year:

5702 (i) to the legislative body of a county of the first class; and

5703 (ii) to be used by a county of the first class for:

5704 (A) highway construction, reconstruction, or maintenance projects; or

5705 (B) the enforcement of state motor vehicle and traffic laws;

5706 (i) for fiscal year 2015-16 only, and after the department has verified that the amount

5707 required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under

5708 Subsection (4)(f) has been made, to transfer an amount equal to \$25,000,000:

5709 (i) to the legislative body of a county of the first class; and

5710 (ii) to be used by the county for the purposes described in this section;

5711 (j) for a fiscal year beginning on or after July 1, 2015, after the department has verified

5712 that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the

5713 transfer under Subsection (4)(f) has been made, to annually transfer an amount equal to up to

5714 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into

5715 the fund in accordance with Subsection 59-12-2214(3)(b) to:

5716 (i) the appropriate debt service or sinking fund for the repayment of bonds issued under

5717 Section 63B-27-102; and

5718 (ii) the Transportation Investment Fund of 2005 created in Section 72-2-124 until

5719 \$28,079,000 has been deposited into the Transportation Investment Fund of 2005; and

5720 (k) for a fiscal year beginning after the amount described in Subsection (4)(j) has been

5721 repaid to the Transportation Investment Fund of 2005 until fiscal year 2030, after the

5722 department has verified that the amount required under Subsection 72-2-121.3(4)(c) is

5723 available in the fund and the transfer under Subsection (4)(f) has been made, and after the

5724 bonds under Section 63B-27-102 have been repaid, to annually transfer an amount equal to up

5725 to 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited

5726 into the fund in accordance with Subsection 59-12-2214(3)(b):

5727 (i) to the legislative body of a county of the first class; and

5728 (ii) to be used by the county for the purposes described in this section.

5729 (5) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the

5730 fund and bond proceeds from bonds issued under Sections [63B-16-102](#), [63B-18-402](#), and
5731 [63B-27-102](#) are considered a local matching contribution for the purposes described under
5732 Section [72-2-123](#).

5733 (6) The additional administrative costs of the department to administer this fund shall
5734 be paid from money in the fund.

5735 (7) Notwithstanding any statutory or other restrictions on the use or expenditure of the
5736 revenue sources deposited into this fund, the Department of Transportation may use the money
5737 in this fund for any of the purposes detailed in Subsection (4).

5738 Section 52. Section [72-2-124](#) is amended to read:

5739 **[72-2-124. Transportation Investment Fund of 2005.](#)**

5740 (1) There is created a capital projects fund entitled the Transportation Investment Fund
5741 of 2005.

5742 (2) The fund consists of money generated from the following sources:

5743 (a) any voluntary contributions received for the maintenance, construction,
5744 reconstruction, or renovation of state and federal highways;

5745 (b) appropriations made to the fund by the Legislature;

5746 (c) registration fees designated under Section [41-1a-1201](#);

5747 ~~[(c)]~~ (d) the sales and use tax revenues deposited into the fund in accordance with
5748 Section [59-12-103](#); and

5749 ~~[(d) registration fees designated under Section [41-1a-1201](#); and]~~

5750 (e) revenues transferred to the fund in accordance with Section [72-2-106](#).

5751 (3) (a) The fund shall earn interest.

5752 (b) All interest earned on fund money shall be deposited into the fund.

5753 (4) (a) Except as provided in Subsection (4)(b), the executive director may use fund
5754 money only to pay:

5755 (i) the costs of maintenance, construction, reconstruction, or renovation to state and
5756 federal highways prioritized by the Transportation Commission through the prioritization
5757 process for new transportation capacity projects adopted under Section [72-1-304](#);

5758 (ii) the costs of maintenance, construction, reconstruction, or renovation to the highway
5759 projects described in Subsections [63B-18-401](#)(2), (3), and (4);

5760 (iii) principal, interest, and issuance costs of bonds authorized by Section [63B-18-401](#)

5761 minus the costs paid from the County of the First Class Highway Projects Fund in accordance
5762 with Subsection [72-2-121\(4\)\(f\)](#);

5763 (iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt
5764 Lake County Revenue Bond Sinking Fund created by Section [72-2-121.3](#) the amount certified
5765 by Salt Lake County in accordance with Subsection [72-2-121.3\(4\)\(c\)](#) as necessary to pay the
5766 debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;

5767 (v) principal, interest, and issuance costs of bonds authorized by Section [63B-16-101](#)
5768 for projects prioritized in accordance with Section [72-2-125](#);

5769 (vi) all highway general obligation bonds that are intended to be paid from revenues in
5770 the Centennial Highway Fund created by Section [72-2-118](#); and

5771 (vii) for fiscal year 2015-16 only, to transfer \$25,000,000 to the County of the First
5772 Class Highway Projects Fund created in Section [72-2-121](#) to be used for the purposes described
5773 in Section [72-2-121](#).

5774 (b) The executive director may use fund money to exchange for an equal or greater
5775 amount of federal transportation funds to be used as provided in Subsection (4)(a).

5776 (5) (a) Before bonds authorized by Section [63B-18-401](#) or [63B-27-101](#) may be issued
5777 in any fiscal year, the department and the commission shall appear before the Executive
5778 Appropriations Committee of the Legislature and present the amount of bond proceeds that the
5779 department needs to provide funding for the projects identified in Subsections [63B-18-401\(2\)](#),
5780 (3), and (4) or Subsection [63B-27-101\(2\)](#) for the current or next fiscal year.

5781 (b) The Executive Appropriations Committee of the Legislature shall review and
5782 comment on the amount of bond proceeds needed to fund the projects.

5783 (6) The Division of Finance shall, from money deposited into the fund, transfer the
5784 amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by
5785 Section [63B-18-401](#) or [63B-27-101](#) in the current fiscal year to the appropriate debt service or
5786 sinking fund.

5787 (7) (a) There is created in the Transportation Investment Fund of 2005 the Transit
5788 Transportation Investment Fund.

5789 (b) The fund shall be funded by:

5790 (i) contributions deposited into the fund in accordance with Section [59-12-103](#);

5791 (ii) appropriations into the account by the Legislature;

- 5792 (iii) private contributions; and
5793 (iv) donations or grants from public or private entities.
5794 (c) (i) The fund shall earn interest.
5795 (ii) All interest earned on fund money shall be deposited into the fund.
5796 (d) Subject to Subsection (7)(e), the Legislature may appropriate money from the fund
5797 for public transit capital development of new capacity projects to be used as prioritized by the
5798 commission.
5799 (e) (i) The Legislature may only appropriate money from the fund for a public transit
5800 capital development project if the public transit district or political subdivision provides funds
5801 of equal to or greater than 40% of the funds needed for the project.
5802 (ii) A public transit district or political subdivision may use money derived from a loan
5803 granted pursuant to Title 72, Chapter 2, Part 2, Transportation Infrastructure Loan Fund, to
5804 provide all or part of the 40% requirement described in Subsection (7)(e)(i) if:
5805 (A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2,
5806 Transportation Infrastructure Loan Fund; and
5807 (B) the proposed capital project has been prioritized by the commission pursuant to
5808 Section 72-1-303.
5809 Section 53. Section **72-5-401** is amended to read:
5810 **72-5-401. Definitions.**
5811 As used in this part:
5812 (1) "Corridor" means the path or proposed path of a transportation facility, including a
5813 public transit facility, that exists or that may exist in the future[~~—A corridor~~], and may include
5814 the land occupied or to be occupied by a transportation facility, and any other land that may be
5815 needed for expanding a transportation facility or for controlling access to it.
5816 (2) "Corridor preservation" means planning or acquisition processes intended to:
5817 (a) protect or enhance the capacity of existing corridors; and
5818 (b) protect the availability of proposed corridors in advance of the need for and the
5819 actual commencement of the transportation facility construction.
5820 (3) "Development" means:
5821 (a) the subdividing of land;
5822 (b) the construction of improvements, expansions, or additions; or

5823 (c) any other action that will appreciably increase the value of and the future
5824 acquisition cost of land.

5825 (4) "Official map" means a map, drawn by government authorities and recorded in
5826 county recording offices that:

5827 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
5828 highways and other transportation facilities;

5829 (b) provides a basis for restricting development in designated rights-of-way or between
5830 designated setbacks to allow the government authorities time to purchase or otherwise reserve
5831 the land; and

5832 (c) for counties and municipalities may be adopted as an element of the general plan,
5833 pursuant to Title 17, Chapter 27a, Part 4, General Plan, or Title 10, Chapter 9a, Part 4, General
5834 Plan.

5835 (5) "Taking" means an act or regulation, either by exercise of eminent domain or other
5836 police power, whereby government puts private property to public use or restrains use of
5837 private property for public purposes, and that requires compensation to be paid to private
5838 property owners.

5839 Section 54. Section **72-6-120** is amended to read:

5840 **72-6-120. Department authorized to participate in federal program assuming**
5841 **responsibility for environmental review of highway projects -- Rulemaking authority.**

5842 (1) The department may:

5843 (a) assume responsibilities under 23 U.S.C. Sec. 326 for:

5844 (i) determining whether state highway design and construction projects are
5845 categorically excluded from requirements for environmental assessments or environmental
5846 impact statements; and

5847 (ii) environmental review, consultation, or other actions required under federal law for
5848 categorically excluded projects;

5849 (b) assume responsibilities under 23 U.S.C. Sec. 327 with respect to one or more
5850 railroad, public transportation, highway [projects], or multimodal projects within the state
5851 under the National Environmental Policy Act of 1969 for environmental review, consultation,
5852 or other action required under any federal environmental law pertaining to the review or
5853 approval of a specific highway project;

5854 (c) enter one or more memoranda of understanding with the United States Department
5855 of Transportation related to federal highway programs as provided in 23 U.S.C. Secs. 326 and
5856 327 subject to the requirements of Subsection 72-1-207(5);

5857 (d) accept, receive, and administer grants, other money, or gifts from public and private
5858 agencies, including the federal government, for the purpose of carrying out the programs
5859 authorized under this section; and

5860 (e) cooperate with the federal government in implementing this section and any
5861 memorandum of understanding entered into under Subsection 72-1-207(5).

5862 (2) Notwithstanding any other provision of law, in implementing a program under this
5863 section that is approved by the United States Department of Transportation, the department is
5864 authorized to:

5865 (a) perform or conduct any of the activities described in a memorandum of
5866 understanding entered into under Subsection 72-1-207(5);

5867 (b) take actions necessary to implement the program; and

5868 (c) adopt relevant federal environmental standards as the standards for this state for
5869 categorically excluded projects.

5870 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5871 department may make rules to implement the provisions of this section.

5872 Section 55. **Repealer.**

5873 This bill repeals:

5874 Section 17B-2a-807.5, **Public transit district board of trustees -- Transitional**
5875 **provisions.**

5876 Section 56. **Effective date.**

5877 This bill takes effect on May 8, 2018, except that:

5878 (1) the amendments to Section 59-12-103 in this bill take effect on July 1, 2018; and

5879 (2) the amendments to Sections 41-1a-102, 41-1a-1201, and 41-1a-1206 in this bill

5880 take effect on January 1, 2019.