

Representative Mike Schultz 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;
- 33 ▶ reduces funds allocated from the General Fund into the Transportation Investment
- 34 Fund of 2005 and deposits funds from the General Fund into the Transit
- 35 Transportation Investment Fund;
- 36 ▶ allocates revenue from increased vehicle registration fees to the Transportation
- 37 Investment Fund of 2005;
- 38 ▶ creates the "Transit Transportation Investment Fund" within the Transportation
- 39 Investment Fund of 2005;
- 40 ▶ imposes a deadline for certain local governments to impose certain local option
- 41 sales and use taxes;
- 42 ▶ allows a county, city, or town to impose certain local option sales and use taxes
- 43 without submitting the question to the county's, city's, or town's registered voters;
- 44 ▶ allows a city to impose certain local option sales and use taxes not imposed by the
- 45 county;
- 46 ▶ requires counties to create a county transportation committee;
- 47 ▶ amends provisions related to the expenditure of certain local option sales and use
- 48 taxes;
- 49 ▶ modifies certain responsibilities of the Department of Transportation and the
- 50 executive director of the Department of Transportation related to supervision and
- 51 oversight of certain projects and cooperation with other entities involved in a
- 52 project;
- 53 ▶ modifies governance of the Department of Transportation, including:
- 54 • requiring a second deputy director;
- 55 • describing the qualifications for each deputy; and
- 56 • describing the responsibilities of each deputy director;

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

72 **Money Appropriated in this Bill:**

73 None

74 **Other Special Clauses:**

75 This bill provides a special effective date.

76 **Utah Code Sections Affected:**

77 AMENDS:

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

- 88 [17B-2a-808](#), as last amended by Laws of Utah 2010, Chapter 281
- 89 [17B-2a-810](#), as last amended by Laws of Utah 2016, Chapter 56
- 90 [17B-2a-811](#), as last amended by Laws of Utah 2010, Chapter 281
- 91 [17B-2a-826](#), as enacted by Laws of Utah 2017, Chapter 427
- 92 [41-1a-102](#), as last amended by Laws of Utah 2016, Chapter 40
- 93 [41-1a-1201](#), as last amended by Laws of Utah 2017, Chapters 261 and 406
- 94 [41-1a-1206](#), as last amended by Laws of Utah 2017, Chapters 261, 406 and last
- 95 amended by Coordination Clause, Laws of Utah 2017, Chapter 261
- 96 [41-1a-1221](#), as last amended by Laws of Utah 2012, Chapter 397
- 97 [52-4-103](#), as last amended by Laws of Utah 2017, Chapters 196, 277, and 441
- 98 [59-12-102](#), as last amended by Laws of Utah 2017, Chapters 181, 382, and 422
- 99 [59-12-103](#), as last amended by Laws of Utah 2017, Chapters 234, 421, and 422
- 100 [59-12-2202](#), as enacted by Laws of Utah 2010, Chapter 263
- 101 [59-12-2217](#), as last amended by Laws of Utah 2017, Chapter 240
- 102 [59-12-2218](#), as last amended by Laws of Utah 2017, Chapter 240
- 103 [59-12-2219](#), as last amended by Laws of Utah 2016, Chapter 373
- 104 [63G-6a-1402](#), as last amended by Laws of Utah 2017, Chapter 348
- 105 [72-1-102](#), as last amended by Laws of Utah 2001, Chapter 372
- 106 [72-1-202](#), as last amended by Laws of Utah 2013, Chapter 78
- 107 [72-1-203](#), as last amended by Laws of Utah 2006, Chapter 139
- 108 [72-1-204](#), as last amended by Laws of Utah 2017, Chapter 97
- 109 [72-1-208](#), as last amended by Laws of Utah 2016, Chapter 350
- 110 [72-1-211](#), as last amended by Laws of Utah 2008, Chapter 382
- 111 [72-1-213](#), as enacted by Laws of Utah 2015, Chapter 275
- 112 [72-1-214](#), as enacted by Laws of Utah 2017, Chapter 160
- 113 [72-1-303](#), as last amended by Laws of Utah 2011, Chapter 256
- 114 [72-1-304](#), as last amended by Laws of Utah 2008, Chapter 382
- 115 [72-1-305](#), as last amended by Laws of Utah 2009, Chapter 364
- 116 [72-2-117.5](#), as last amended by Laws of Utah 2017, Chapter 240
- 117 [72-2-121](#), as last amended by Laws of Utah 2017, Chapter 436
- 118 [72-2-124](#), as last amended by Laws of Utah 2017, Chapter 436

119 72-5-401, as last amended by Laws of Utah 2005, Chapter 254

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

121 ENACTS:

122 11-13-227, Utah Code Annotated 1953

123 17B-2a-803.1, Utah Code Annotated 1953

124 17B-2a-807.1, Utah Code Annotated 1953

125 17B-2a-808.1, Utah Code Annotated 1953

126 17B-2a-808.2, Utah Code Annotated 1953

127 17B-2a-811.1, Utah Code Annotated 1953

128 59-12-2220, Utah Code Annotated 1953

129 REPEALS:

130 17B-2a-807.5, as enacted by Laws of Utah 2009, Chapter 364



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

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

134 **11-13-103. Definitions.**

135 As used in this chapter:

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

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

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

144 (b) "Additional project capacity" does not mean or include replacement project
145 capacity.

146 (2) "Board" means the Permanent Community Impact Fund Board created by Section
147 35A-8-304, and its successors.

148 (3) "Candidate" means one or more of:

149 (a) the state;

150 (b) a county, municipality, school district, local district, special service district, or other
151 political subdivision of the state; and

152 (c) a prosecution district.

153 (4) "Commercial project entity" means a project entity, defined in Subsection (18),
154 that:

155 (a) has no taxing authority; and

156 (b) is not supported in whole or in part by and does not expend or disburse tax
157 revenues.

158 (5) "Direct impacts" means an increase in the need for public facilities or services that
159 is attributable to the project or facilities providing additional project capacity, except impacts
160 resulting from the construction or operation of a facility that is:

161 (a) owned by an owner other than the owner of the project or of the facilities providing
162 additional project capacity; and

163 (b) used to furnish fuel, construction, or operation materials for use in the project.

164 (6) "Electric interlocal entity" means an interlocal entity described in Subsection
165 11-13-203(3).

166 (7) "Energy services interlocal entity" means an interlocal entity that is described in
167 Subsection 11-13-203(4).

168 (8) (a) "Estimated electric requirements," when used with respect to a qualified energy
169 services interlocal entity, includes any of the following that meets the requirements of
170 Subsection (8)(b):

171 (i) generation capacity;

172 (ii) generation output; or

173 (iii) an electric energy production facility.

174 (b) An item listed in Subsection (8)(a) is included in "estimated electric requirements"
175 if it is needed by the qualified energy services interlocal entity to perform the qualified energy
176 services interlocal entity's contractual or legal obligations to any of its members.

177 (9) (a) "Facilities providing replacement project capacity" means facilities that have
178 been, are being, or are proposed to be constructed, reconstructed, converted, repowered,
179 acquired, leased, used, or installed to provide replacement project capacity.

180 (b) "Facilities providing replacement project capacity" includes facilities that have

181 been, are being, or are proposed to be constructed, reconstructed, converted, repowered,
182 acquired, leased, used, or installed:

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

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

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

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

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

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

194 (12) "Interlocal entity" means:

195 (a) a Utah interlocal entity, an electric interlocal entity, or an energy services interlocal
196 entity; or

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

198 (13) "Joint administrator" means an administrator or joint board described in Section
199 11-13-207 to administer a joint or cooperative undertaking.

200 (14) "Joint or cooperative undertaking" means an undertaking described in Section
201 11-13-207 that is not conducted by an interlocal entity.

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

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

206 (17) (a) "Project":

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

209 (ii) includes fuel or fuel transportation facilities and water facilities owned by that Utah
210 interlocal entity or electric interlocal entity and required for the generation and transmission
211 facility.

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

213 (i) facilities that provide additional project capacity;

214 (ii) facilities providing replacement project capacity; and

215 (iii) additional generating, transmission, fuel, fuel transportation, water, or other

216 facilities added to a project.

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

219 (19) "Public agency" means:

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

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

223 (c) any agency of the United States;

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

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

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

233 (21) "Replacement project capacity" means electric generating capacity or transmission
234 capacity that:

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

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

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

242 (ii) the capacity replacing existing capacity is owned by the project entity that is the

243 owner of the project, a segment established by the project entity, or a person with whom the
244 project entity or a segment established by the project entity has contracted; or

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

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

251 [~~22~~] (23) "Utah interlocal entity":

252 (a) means an interlocal entity described in Subsection [11-13-203\(2\)](#); and

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

255 [~~23~~] (24) "Utah public agency" means a public agency under Subsection (19)(a) or
256 (b).

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

258 **11-13-202. Agreements for joint or cooperative undertaking, for providing or**
259 **exchanging services, or for law enforcement services -- Effective date of agreement --**
260 **Public agencies may restrict their authority or exempt each other regarding permits and**
261 **fees.**

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

264 (a) for joint or cooperative action;

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

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

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

272 (e) to create a transportation reinvestment zone as defined in Section [11-13-103](#); or

273 [~~e~~] (f) to do anything else that they are each authorized by statute to do.

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

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

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

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

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

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

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

291 **11-13-206. Requirements for agreements for joint or cooperative action.**

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

294 (a) its duration;

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

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

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

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

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

301 (c) its purpose or purposes;

302 (d) the manner of financing the joint or cooperative action and of establishing and
303 maintaining a budget for it;

304 (e) the permissible method or methods to be employed in accomplishing the partial or

305 complete termination of the agreement and for disposing of property upon such partial or
306 complete termination;

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

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

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

312 (h) any other necessary and proper matters.

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

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

318 **11-13-207. Additional requirements for agreement not establishing interlocal**
319 **entity.**

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

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

324 (i) an administrator; or

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

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

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

330 (d) the powers of the joint administrator.

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

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

334 **11-13-227. Transportation reinvestment zones.**

335 (1) Subject to the provisions of this part, any two or more public agencies may enter

336 into an agreement with one another to create a transportation reinvestment zone as described in
337 this section.

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

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

341 (b) define the boundaries of the zone;

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

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

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

346 and

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

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

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

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

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

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

360 **17B-1-301. Board of trustees duties and powers.**

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

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

365 (2) The board of trustees may:

366 (a) fix the location of the local district's principal place of business and the location of

367 all offices and departments, if any;

368 (b) fix the times of meetings of the board of trustees;

369 (c) select and use an official district seal;

370 (d) subject to Subsections (3) and (4), employ employees and agents, or delegate to
371 district officers power to employ employees and agents, for the operation of the local district
372 and its properties and prescribe or delegate to district officers the power to prescribe the duties,
373 compensation, and terms and conditions of employment of those employees and agents;

374 (e) require district officers and employees charged with the handling of district funds to
375 provide surety bonds in an amount set by the board or provide a blanket surety bond to cover
376 officers and employees;

377 (f) contract for or employ professionals to perform work or services for the local
378 district that cannot satisfactorily be performed by the officers or employees of the district;

379 (g) through counsel, prosecute on behalf of or defend the local district in all court
380 actions or other proceedings in which the district is a party or is otherwise involved;

381 (h) adopt bylaws for the orderly functioning of the board;

382 (i) adopt and enforce rules and regulations for the orderly operation of the local district
383 or for carrying out the district's purposes;

384 (j) prescribe a system of civil service for district employees;

385 (k) on behalf of the local district, enter into contracts that the board considers to be for
386 the benefit of the district;

387 (l) acquire, construct or cause to be constructed, operate, occupy, control, and use
388 buildings, works, or other facilities for carrying out the purposes of the local district;

389 (m) on behalf of the local district, acquire, use, hold, manage, occupy, and possess
390 property necessary to carry out the purposes of the district, dispose of property when the board
391 considers it appropriate, and institute and maintain in the name of the district any action or
392 proceeding to enforce, maintain, protect, or preserve rights or privileges associated with district
393 property;

394 (n) delegate to a district officer the exercise of a district duty; and

395 (o) exercise all powers and perform all functions in the operation of the local district
396 and its properties as are ordinarily exercised by the governing body of a political subdivision of
397 the state and as are necessary to accomplish the purposes of the district.

398 (3) (a) As used in this Subsection (3), "interim vacancy period" means:
399 (i) if any member of the local district board is elected, the period of time that:
400 (A) begins on the day on which an election is held to elect a local district board
401 member; and
402 (B) ends on the day on which the local district board member-elect begins the
403 member's term; or
404 (ii) if any member of the local district board is appointed, the period of time that:
405 (A) begins on the day on which an appointing authority posts a notice of vacancy in
406 accordance with Section 17B-1-304; and
407 (B) ends on the day on which the person who is appointed by the local district board to
408 fill the vacancy begins the person's term.
409 (b) (i) The local district may not hire during an interim vacancy period a manager, a
410 chief executive officer, a chief administrative officer, an executive director, or a similar
411 position to perform executive and administrative duties or functions.
412 (ii) Notwithstanding Subsection (3)(b)(i):
413 (A) the local district may hire an interim manager, a chief executive officer, a chief
414 administrative officer, an executive director, or a similar position during an interim vacancy
415 period; and
416 (B) the interim manager's, chief executive officer's, chief administrative officer's, or
417 similar position's employment shall terminate once a new manager, chief executive officer,
418 chief administrative officer, or similar position is hired by the new local district board after the
419 interim vacancy period has ended.
420 (c) Subsection (3)(b) does not apply if:
421 (i) all the elected local district board members who held office on the day of the
422 election for the local district board members, whose term of office was vacant for the election
423 are re-elected to the local district board; and
424 (ii) all the appointed local district board members who were appointed whose term of
425 appointment was expiring are re-appointed to the local district board.
426 (4) A local district board that hires an interim manager, a chief executive officer, a
427 chief administrative officer, an executive director, or a similar position in accordance with this
428 section may not, on or after May 10, 2011, enter into an employment contract that contains an

429 automatic renewal provision with the interim manager, chief executive officer, chief
430 administrative officer, executive director, or similar position.

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

432 **17B-1-702. Local districts to submit budgets.**

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

- 437 (i) each of its constituent entities that has in writing requested a copy; and
- 438 (ii) to each of its customer agencies that has in writing requested a copy.

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

- 443 (i) each of its constituent entities;
- 444 (ii) each of its customer agencies that has in writing requested a copy;
- 445 (iii) the governor; and
- 446 (iv) the Legislature.

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

- 449 (i) language that the constituent entity or customer agency received the tentative budget
450 and has no objection to it; and
- 451 (ii) a place for the chairperson or other designee of the constituent entity or customer
452 agency to sign.

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

- 455 (a) sign the signature sheet and return it to the district; or
- 456 (b) attend the budget hearing or other meeting scheduled by the district to discuss the
457 objections to the proposed budget.

458 (3) (a) If any constituent entity or customer agency that received the tentative budget
459 has not returned the signature sheet to the local district within 15 calendar days after the

460 tentative budget was mailed, the local district shall send a written notice of the budget hearing
461 to each constituent entity or customer agency that did not return a signature sheet and invite
462 them to attend that hearing.

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

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

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

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

470 (iii) seek to resolve the objections.

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

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

475 **17B-1-703. Local districts to submit audit reports.**

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

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

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

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

484 (i) each of its constituent entities; and

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

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

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

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

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

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

493 **17B-2a-802. Definitions.**

494 As used in this part:

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

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

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

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

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

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

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

515 [~~4~~] (5) "Department" means the Department of Transportation created in Section
516 [72-1-201](#).

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

519 [~~5~~] (7) (a) "General manager" means a person appointed by the board of trustees of a
520 small public transit district to serve as general manager.

521 (b) "General manager" shall enjoy all the rights, duties, and responsibilities defined in

522 Sections [17B-2a-810](#) and [17B-2a-811](#) prescribed by the board of trustees of a small public
523 transit district.

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

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

528 (b) two or more counties.

529 [~~6~~] (9) (a) "Locally elected public official" means a person who holds an elected
530 position with a county or municipality.

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

533 [~~7~~] (10) "Metropolitan planning organization" means the same as that term is defined
534 in Section [72-1-208.5](#).

535 [~~8~~] (11) "Multicounty district" means a public transit district located in more than one
536 county.

537 [~~9~~] (12) "Operator" means a public entity or other person engaged in the
538 transportation of passengers for hire.

539 [~~10~~] (13) "Public transit" means the transportation of passengers only and their
540 incidental baggage by means other than:

541 (a) chartered bus;

542 (b) sightseeing bus; or

543 (c) taxi.

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

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

547 [~~11~~] (16) "Transit facility" means a transit vehicle, transit station, depot, passenger
548 loading or unloading zone, parking lot, or other facility:

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

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

551 (i) railway or other right-of-way;

552 (ii) railway line; and

553 (iii) a reasonable area immediately adjacent to a designated stop on a route traveled by
554 a transit vehicle.

555 ~~[(14)]~~ (17) "Transit vehicle" means a passenger bus, coach, railcar, van, or other
556 vehicle operated as public transportation by a public transit district.

557 ~~[(12)]~~ (18) "Transit-oriented development" means a mixed use residential or
558 commercial area that is designed to maximize access to public transit and includes the
559 development of land owned by a public transit district that serves a county of the first class.

560 ~~[(13)]~~ (19) "Transit-supportive development" means a mixed use residential or
561 commercial area that is designed to maximize access to public transit and does not include the
562 development of land owned by a public transit district.

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

564 **17B-2a-803.1. Authority to name a large public transit district.**

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

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

570 (b) The board of trustees of the large public transit district described in Subsection
571 (2)(a) shall implement the name change over time and as resources permit.

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\(5\)](#), 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 ~~[(11)]~~ (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) subject to Subsection (8), create and approve an annual budget, including the
1001 issuance of bonds and other financial instruments, after consultation with the local advisory
1002 board;

1003 (d) approve any interlocal agreement with a local jurisdiction;

1004 (e) in consultation with the local advisory board, approve contracts and overall
1005 property acquisitions and dispositions for transit-oriented development;

1006 (f) in consultation with constituent counties, municipalities, metropolitan planning
1007 organizations, and the local advisory board:

1008 (i) develop and approve a strategic plan for development and operations on at least a
1009 four-year basis; and

1010 (ii) create and pursue funding opportunities for transit capital and service initiatives to
1011 meet anticipated growth within the public transit district;

1012 (g) annually report the public transit district's long-term financial plan to the State
1013 Bonding Commission;

1014 (h) annually report the public transit district's progress and expenditures related to state
1015 resources to the Executive Appropriations Committee and the Infrastructure and General
1016 Government Appropriations Subcommittee;

1017 (i) (A) in partnership with the Department of Transportation, study and evaluate the

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

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

1080 (i) contract or expense exceeding \$200,000; or
1081 (ii) proposed change order to an existing contract if the value of the change order
1082 exceeds:
1083 (A) 15% of the total contract; or
1084 (B) \$200,000.
1085 (3) A board of trustees of a large public transit district may:
1086 (a) subject to Subsection (5), make and pass ordinances, resolutions, and orders that
1087 are:
1088 (i) not repugnant to the United States Constitution, the Utah Constitution, or the
1089 provisions of this part; and
1090 (ii) necessary for:
1091 (A) the governance and management of the affairs of the district;
1092 (B) the execution of district powers; and
1093 (C) carrying into effect the provisions of this part;
1094 (b) provide by resolution, under terms and conditions the board considers fit, for the
1095 payment of demands against the district without prior specific approval by the board, if the
1096 payment is:
1097 (i) for a purpose for which the expenditure has been previously approved by the board;
1098 (ii) in an amount no greater than the amount authorized; and
1099 (iii) approved by the executive director or other officer or deputy as the board
1100 prescribes;
1101 (c) in consultation with the local advisory board created in Section [17B-2a-808.2](#):
1102 (i) hold public hearings and subpoena witnesses; and
1103 (ii) appoint district officers to conduct a hearing and require the officers to make
1104 findings and conclusions and report them to the board; and
1105 (d) appoint a custodian for the funds and securities under its control, subject to
1106 Subsection (2)(n).
1107 (4) For a large public transit district in existence as of May 8, 2018, on or before
1108 September 30, 2019, the board of trustees of a large public transit district shall present a report
1109 to the Transportation Interim Committee regarding retirement benefits of the district, including:
1110 (a) the feasibility of becoming a participating employer and having retirement benefits

1111 of eligible employees and officials covered in applicable systems and plans administered under
1112 Title 49, Utah State Retirement and Insurance Benefit Act;

1113 (b) any legal or contractual restrictions on any employees that are party to a collectively
1114 bargained retirement plan; and

1115 (c) a comparison of retirement plans offered by the large public transit district and
1116 similarly situated public employees, including the costs of each plan and the value of the
1117 benefit offered.

1118 (5) The board of trustees may not issue a bond unless the board of trustees has
1119 consulted and received approval from the State Bonding Commission created in Section
1120 [63B-1-201](#).

1121 (6) A member of the board of trustees of a large public transit district or a hearing
1122 officer designated by the board may administer oaths and affirmations in a district investigation
1123 or proceeding.

1124 (7) (a) The vote of the board of trustees on each ordinance or resolution shall be by roll
1125 call vote with each affirmative and negative vote recorded.

1126 (b) The board of trustees of a large public transit district may not adopt an ordinance
1127 unless it is introduced at least 24 hours before the board of trustees adopts it.

1128 (c) Each ordinance adopted by a large public transit district's board of trustees shall
1129 take effect upon adoption, unless the ordinance provides otherwise.

1130 (8) (a) For a large public transit district in existence on May 8, 2018, for the budget for
1131 calendar year 2019, the board in place on May 8, 2018 shall create the tentative annual budget.

1132 (b) The budget described in Subsection (8)(a) shall include setting the salary of each of
1133 the members of the board of trustees that will assume control on or before November 1, 2018,
1134 which salary may not exceed \$150,000, plus additional retirement and other standard benefits.

1135 (c) For a large public transit district in existence on May 8, 2018, the board of trustees
1136 that assumes control of the large public transit district on or before November 2, 2018 shall
1137 approve the calendar year 2019 budget on or before December 31, 2018.

1138 Section 16. Section **17B-2a-808.2** is enacted to read:

1139 **17B-2a-808.2. Large public transit district local advisory board -- Powers and**
1140 **duties.**

1141 (1) A large public transit district shall create and consult with a local advisory board.

1142 (2) (a) The local advisory board shall have membership selected as described in
1143 Subsection (2)(b) on or before November 1, 2018.

1144 (b) (i) The council of governments of a county of the first class within a large public
1145 transit district shall appoint three members to the local advisory board.

1146 (ii) The chief executive officer of a city that is the county seat within a county of the
1147 first class within a large public transit district shall appoint one member to the local advisory
1148 board.

1149 (iii) The council of governments of a county of the second class with a population of
1150 500,000 or more within a large public transit district shall appoint two members to the local
1151 advisory board.

1152 (iv) The council of governments of a county of the second class with a population
1153 under 500,000 within a large public transit district shall each appoint one member to the local
1154 advisory board.

1155 (v) The councils of governments of any counties of the third or smaller class or smaller
1156 within a large public transit district shall jointly appoint one member to the local advisory
1157 board.

1158 (c) The population numbers used to apportion appointment powers described in
1159 Subsection (2)(b) shall be based on the most recent official census or census estimate of the
1160 United States Census Bureau.

1161 (3) The local advisory board shall meet at least quarterly in a meeting open to the
1162 public for comment to discuss the service, operations, and any concerns with the public transit
1163 district operations and functionality.

1164 (4) The duties of the local advisory board shall include:

1165 (a) setting the compensation packages of the board of trustees;

1166 (b) reviewing, approving, and recommending final adoption by the board of trustees of
1167 the large public transit district service plans at least every two and one-half years;

1168 (c) reviewing, approving, and recommending final adoption by the board of trustees of
1169 project development plans, including funding, of all new capital development projects;

1170 (d) reviewing, approving, and recommending final adoption by the board of trustees of
1171 any plan for a transit-oriented development where a large public transit district is involved;

1172 (e) at least annually, engaging with the safety and security team of the large public

1173 transit district to ensure coordination with local municipalities and counties;
 1174 (f) assisting with coordinated mobility and constituent services provided by the public
 1175 transit district;

1176 (g) representing and advocating the concerns of citizens within the public transit
 1177 district to the board of trustees; and

1178 (h) other duties described in Section 17B-2a-808.1.

1179 (5) The local advisory board shall meet at least quarterly with and consult with the
 1180 board of trustees and advise regarding the operation and management of the public transit
 1181 district.

1182 Section 17. Section **17B-2a-810** is amended to read:

1183 **17B-2a-810. Officers of a public transit district.**

1184 (1) (a) The officers of a public transit district shall consist of:

1185 (i) the members of the board of trustees;

1186 (ii) for a small public transit district, a chair and vice chair, appointed by the board of
 1187 trustees, subject to Subsection (1)(c);

1188 (iii) a secretary, appointed by the board of trustees;

1189 (iv) (A) for a small public transit district, a general manager, appointed by the board of
 1190 trustees as provided in Section 17B-2a-811, whose duties may be allocated by the board of
 1191 trustees, at the board of trustees' discretion, to a chief executive officer, or both; or

1192 (B) for a large public transit district, an executive director appointed by the board of
 1193 trustees as provided in Section 17B-2a-811.1;

1194 (v) for a small public transit district, a chief executive officer appointed by the board of
 1195 trustees, as provided in Section 17B-2a-811;

1196 (vi) a general counsel, appointed by the board of trustees, subject to Subsection (1)(d);

1197 (vii) a treasurer, appointed as provided in Section 17B-1-633;

1198 (viii) a comptroller, appointed by the board of trustees, subject to Subsection (1)(e);

1199 (ix) for a [~~public transit district with more than 200,000 people residing within the~~
 1200 ~~boundaries of the~~] large public transit district, an internal auditor, appointed by the board of
 1201 trustees, subject to Subsection (1)(f); and

1202 (x) other officers, assistants, and deputies that the board of trustees considers
 1203 necessary.

1204 (b) The board of trustees of a small public transit district may, at its discretion, appoint
1205 a president, who shall also be considered an officer of a public transit district.

1206 (c) The district chair and vice chair of a small public transit district shall be members
1207 of the board of trustees.

1208 (d) The person appointed as general counsel shall:

1209 (i) be admitted to practice law in the state; and

1210 (ii) have been actively engaged in the practice of law for at least seven years next
1211 preceding the appointment.

1212 (e) The person appointed as comptroller shall have been actively engaged in the
1213 practice of accounting for at least seven years next preceding the appointment.

1214 (f) The person appointed as internal auditor shall be a licensed certified internal auditor
1215 or certified public accountant with at least five years experience in the auditing or public
1216 accounting profession, or the equivalent, prior to appointment.

1217 (2) (a) [~~The~~] For a small public transit district, the district's general manager or chief
1218 executive officer, as the board prescribes, or for a large public transit district, the executive
1219 director, shall appoint all officers and employees not specified in Subsection (1).

1220 (b) Each officer and employee appointed by the district's general manager or chief
1221 executive officer of a small public transit district, or the executive director of a large public
1222 transit district, serves at the pleasure of the appointing general manager [~~or~~], chief executive
1223 officer, or executive director.

1224 (3) The board of trustees shall by ordinance or resolution fix the compensation of all
1225 district officers and employees, except as otherwise provided in this part.

1226 (4) (a) Each officer appointed by the board of trustees or by the district's general
1227 manager [~~or~~], chief executive officer, or executive director shall take the oath of office
1228 specified in Utah Constitution, Article IV, Section 10.

1229 (b) Each oath under Subsection (4)(a) shall be subscribed and filed with the district
1230 secretary no later than 15 days after the commencement of the officer's term of office.

1231 Section 18. Section **17B-2a-811** is amended to read:

1232 **17B-2a-811. General manager or chief executive officer of a small public transit**
1233 **district.**

1234 (1) (a) The board of trustees of a small public transit district shall appoint a person as a

1235 general manager.

1236 (b) The board of trustees of a small public transit district may, at its discretion, appoint
1237 a person as a chief executive officer.

1238 (c) The board of trustees of a small public transit district shall allocate the
1239 responsibilities defined in Subsection (2) between the general manager and the chief executive
1240 officer, if the board of trustees appoints a chief executive officer.

1241 (d) The chief executive officer shall have the same rights allocated to the general
1242 manager under Subsections (3) and (4).

1243 (e) The appointment of a general manager, chief executive officer, or both, shall be by
1244 the affirmative vote of a majority of all members of the board of trustees.

1245 (f) The board's appointment of a person as general manager, chief executive officer, or
1246 both, shall be based on the person's qualifications, with special reference to the person's actual
1247 experience in or knowledge of accepted practices with respect to the duties of the office.

1248 (g) A person appointed as general manager or chief executive officer of a small public
1249 transit district is not required to be a resident of the state at the time of appointment.

1250 (2) A general manager or chief executive officer of a small public transit district shall
1251 have the following responsibilities as allocated by the board of trustees:

1252 (a) be a full-time officer and devote full time to the district's business;

1253 (b) ensure that all district ordinances are enforced;

1254 (c) prepare and submit to the board of trustees, as soon as practical but not less than 45
1255 days after the end of each fiscal year, a complete report on the district's finances and
1256 administrative activities for the preceding year;

1257 (d) keep the board of trustees advised as to the district's needs;

1258 (e) prepare or cause to be prepared all plans and specifications for the construction of
1259 district works;

1260 (f) cause to be installed and maintained a system of auditing and accounting that
1261 completely shows the district's financial condition at all times; and

1262 (g) attend meetings of the board of trustees.

1263 (3) A general manager of a small public transit district:

1264 (a) serves at the pleasure of the board of trustees;

1265 (b) holds office for an indefinite term;

1266 (c) may be removed by the board of trustees upon the adoption of a resolution by the
1267 affirmative vote of a majority of all members of the board, subject to Subsection (5);
1268 (d) has full charge of:
1269 (i) the acquisition, construction, maintenance, and operation of district facilities; and
1270 (ii) the administration of the district's business affairs;
1271 (e) is entitled to participate in the deliberations of the board of trustees as to any matter
1272 before the board; and
1273 (f) may not vote at a meeting of the board of trustees.
1274 (4) The board of trustees may not reduce the general manager's salary below the
1275 amount fixed at the time of original appointment unless:
1276 (a) the board adopts a resolution by a vote of a majority of all members; and
1277 (b) if the general manager demands in writing, the board gives the general manager the
1278 opportunity to be publicly heard at a meeting of the board before the final vote on the
1279 resolution reducing the general manager's salary.
1280 (5) (a) Before adopting a resolution providing for a general manager's removal as
1281 provided in Subsection (3)(c), the board shall, if the manager makes a written demand:
1282 (i) give the general manager a written statement of the reasons alleged for the general
1283 manager's removal; and
1284 (ii) allow the general manager to be publicly heard at a meeting of the board of
1285 trustees.
1286 (b) Notwithstanding Subsection (5)(a), the board of trustees of a public transit district
1287 may suspend a general manager from office pending and during a hearing under Subsection
1288 (5)(a)(ii).
1289 (6) The action of a board of trustees suspending or removing a general manager or
1290 reducing the general manager's salary is final.
1291 Section 19. Section **17B-2a-811.1** is enacted to read:
1292 **17B-2a-811.1. Executive director of a large public transit district.**
1293 **(1) (a) The board of trustees of a large public transit district shall appoint a person as**
1294 **an executive director.**
1295 **(b) The appointment of an executive director shall be by the affirmative vote of a**
1296 **majority of the board of trustees.**

1297 (c) The board's appointment of a person as executive director shall be based on the
1298 person's qualifications, with special reference to the person's actual experience in or knowledge
1299 of accepted practices with respect to the duties of the office.

1300 (d) A person appointed as executive director of a large public transit district is not
1301 required to be a resident of the state at the time of appointment.

1302 (2) An executive director of a large public transit district shall:

1303 (a) be a full-time officer and devote full time to the district's business;

1304 (b) serve at the pleasure of the board of trustees;

1305 (c) hold office for an indefinite term;

1306 (d) ensure that all district ordinances are enforced;

1307 (e) prepare and submit to the board of trustees, as soon as practical but not less than 45
1308 days after the end of each fiscal year, a complete report on the district's finances and

1309 administrative activities for the preceding year;

1310 (f) advise the board of trustees regarding the needs of the district;

1311 (g) in consultation with the board of trustees, prepare or cause to be prepared all plans
1312 and specifications for the construction of district works;

1313 (h) cause to be installed and maintained a system of auditing and accounting that
1314 completely shows the district's financial condition at all times;

1315 (i) attend meetings of the board of trustees;

1316 (j) in consultation with the board of trustees, have charge of:

1317 (i) the acquisition, construction, maintenance, and operation of district facilities; and

1318 (ii) the administration of the district's business affairs; and

1319 (k) be entitled to participate in the deliberations of the board of trustees as to any
1320 matter before the board.

1321 (3) The board of trustees may not remove the executive director or reduce the
1322 executive director's salary below the amount fixed at the time of original appointment unless:

1323 (a) the board adopts a resolution by a vote of a majority of all members; and

1324 (b) if the executive director demands in writing, the board gives the executive director
1325 the opportunity to be publicly heard at a meeting of the board before the final vote on the
1326 resolution removing the executive director or reducing the executive director's salary.

1327 (4) (a) Before adopting a resolution providing for the removal of the executive director

1328 or a reduction in the executive director's salary as provided in Subsection (3), the board shall, if
1329 the executive director makes a written demand:

1330 (i) give the executive director a written statement of the reasons alleged for the removal
1331 or reduction in salary; and

1332 (ii) allow the executive director to be publicly heard at a meeting of the board of
1333 trustees.

1334 (b) Notwithstanding Subsection (4)(a), the board of trustees of a public transit district
1335 may suspend an executive director from office pending and during a hearing under Subsection
1336 (4)(a)(ii).

1337 (5) The action of a board of trustees suspending or removing an executive director or
1338 reducing the executive director's salary is final.

1339 Section 20. Section **17B-2a-826** is amended to read:

1340 **17B-2a-826. Public transit district office of constituent services and office of**
1341 **coordinated mobility.**

1342 (1) (a) The board of trustees of a large public transit district [~~servicing a population over~~
1343 ~~200,000 people~~] shall create and employ an office of constituent services.

1344 (b) The duties of the office of constituent services described in Subsection (1)(a) shall
1345 include:

1346 (i) establishing a central call number to hear and respond to complaints, requests,
1347 comments, concerns, and other communications from customers and citizens within the
1348 district;

1349 (ii) keeping a log of the complaints, comments, concerns, and other communications
1350 from customers and citizens within the district; and

1351 (iii) reporting complaints, comments, concerns, and other communications to
1352 management and to the [~~citizens'~~] local advisory board created in [~~Subsection (2)~~] Section
1353 17B-2a-808.2.

1354 [~~(2) (a) A public transit district serving a population over 200,000 people shall create~~
1355 ~~and oversee a citizens' advisory board.~~]

1356 [~~(b) (i) The board of trustees of the public transit district shall select up to 12 members~~
1357 ~~for the public transit district citizens' advisory board with membership representing the~~
1358 ~~diversity of the public transit district area.~~]

1359 ~~[(ii) The board of trustees shall ensure that each member of the citizens' advisory board~~
1360 ~~regularly uses the public transit district services.]~~

1361 ~~[(c) The public transit district citizens' advisory board shall meet as needed or quarterly~~
1362 ~~in a meeting open to the public for comment, to discuss the service, operations, and any~~
1363 ~~concerns with the public transit district operations and functionality.]~~

1364 ~~[(d) The public transit district management shall meet at least quarterly with and~~
1365 ~~consult with the citizens' advisory board and take into consideration the input of the citizens'~~
1366 ~~advisory board in managing and operating the public transit district.]~~

1367 ~~[(3)]~~ (2) (a) A large public transit district [~~serving a population over 200,000 people~~]
1368 shall create and employ an office of coordinated mobility.

1369 (b) The duties of the office of coordinated mobility shall include:

1370 (i) establishing a central call number to facilitate human services transportation;

1371 (ii) coordinating all human services transportation needs within the public transit
1372 district;

1373 (iii) receiving requests and other communications regarding human services
1374 transportation;

1375 (iv) receiving requests and other communications regarding vans, buses, and other
1376 vehicles available for use from the public transit district to maximize the utility of and
1377 investment in those vehicles; and

1378 (v) supporting local efforts and applications for additional funding.

1379 Section 21. Section **41-1a-102** is amended to read:

1380 **41-1a-102. Definitions.**

1381 As used in this chapter:

1382 (1) "Actual miles" means the actual distance a vehicle has traveled while in operation.

1383 (2) "Actual weight" means the actual unladen weight of a vehicle or combination of
1384 vehicles as operated and certified to by a weighmaster.

1385 (3) "All-terrain type I vehicle" [~~has the same meaning provided~~] means the same as that
1386 term is defined in Section 41-22-2.

1387 (4) "All-terrain type II vehicle" [~~has the same meaning provided~~] means the same as
1388 that term is defined in Section 41-22-2.

1389 (5) "Alternative fuel vehicle" means:

- 1390 (a) an electric vehicle;
- 1391 (b) a hybrid electric vehicle;
- 1392 (c) a plug-in hybrid electric vehicle; or
- 1393 (d) a motor vehicle powered by a fuel other than:
 - 1394 (i) motor fuel;
 - 1395 (ii) diesel fuel;
 - 1396 (iii) natural gas; or
 - 1397 (iv) propane.
- 1398 [~~5~~] (6) "Amateur radio operator" means any person licensed by the Federal
- 1399 Communications Commission to engage in private and experimental two-way radio operation
- 1400 on the amateur band radio frequencies.
- 1401 [~~6~~] (7) "Autocycle" means the same as that term is defined in Section [53-3-102](#).
- 1402 [~~7~~] (8) "Branded title" means a title certificate that is labeled:
 - 1403 (a) rebuilt and restored to operation;
 - 1404 (b) flooded and restored to operation; or
 - 1405 (c) not restored to operation.
- 1406 [~~8~~] (9) "Camper" means any structure designed, used, and maintained primarily to be
- 1407 mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a
- 1408 mobile dwelling, sleeping place, commercial space, or facilities for human habitation or for
- 1409 camping.
- 1410 [~~9~~] (10) "Certificate of title" means a document issued by a jurisdiction to establish a
- 1411 record of ownership between an identified owner and the described vehicle, vessel, or outboard
- 1412 motor.
- 1413 [~~10~~] (11) "Certified scale weigh ticket" means a weigh ticket that has been issued by
- 1414 a weighmaster.
- 1415 [~~11~~] (12) "Commercial vehicle" means a motor vehicle, trailer, or semitrailer used or
- 1416 maintained for the transportation of persons or property that operates:
 - 1417 (a) as a carrier for hire, compensation, or profit; or
 - 1418 (b) as a carrier to transport the vehicle owner's goods or property in furtherance of the
 - 1419 owner's commercial enterprise.
- 1420 [~~12~~] (13) "Commission" means the State Tax Commission.

1421 (14) "Consumer price index" means the same as that term is defined in Section
1422 59-13-102.

1423 ~~[(13)]~~ (15) "Dealer" means a person engaged or licensed to engage in the business of
1424 buying, selling, or exchanging new or used vehicles, vessels, or outboard motors either outright
1425 or on conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an
1426 established place of business for the sale, lease, trade, or display of vehicles, vessels, or
1427 outboard motors.

1428 (16) "Diesel fuel" means the same as that term is defined in Section 59-13-102.

1429 ~~[(14)]~~ (17) "Division" means the Motor Vehicle Division of the commission, created in
1430 Section 41-1a-106.

1431 (18) "Electric motor vehicle" means a motor vehicle that is powered solely by an
1432 electric motor drawing current from a rechargeable energy storage system.

1433 ~~[(15)]~~ (19) "Essential parts" means all integral and body parts of a vehicle of a type
1434 required to be registered in this state, the removal, alteration, or substitution of which would
1435 tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or
1436 mode of operation.

1437 ~~[(16)]~~ (20) "Farm tractor" means every motor vehicle designed and used primarily as a
1438 farm implement for drawing plows, mowing machines, and other implements of husbandry.

1439 ~~[(17)]~~ (21) (a) "Farm truck" means a truck used by the owner or operator of a farm
1440 solely for his own use in the transportation of:

1441 (i) farm products, including livestock and its products, poultry and its products,
1442 floricultural and horticultural products;

1443 (ii) farm supplies, including tile, fence, and every other thing or commodity used in
1444 agricultural, floricultural, horticultural, livestock, and poultry production; and

1445 (iii) livestock, poultry, and other animals and things used for breeding, feeding, or
1446 other purposes connected with the operation of a farm.

1447 (b) "Farm truck" does not include the operation of trucks by commercial processors of
1448 agricultural products.

1449 ~~[(18)]~~ (22) "Fleet" means one or more commercial vehicles.

1450 ~~[(19)]~~ (23) "Foreign vehicle" means a vehicle of a type required to be registered,
1451 brought into this state from another state, territory, or country other than in the ordinary course

1452 of business by or through a manufacturer or dealer, and not registered in this state.

1453 ~~[(20)]~~ (24) "Gross laden weight" means the actual weight of a vehicle or combination
1454 of vehicles, equipped for operation, to which shall be added the maximum load to be carried.

1455 ~~[(21)]~~ (25) "Highway" or "street" means the entire width between property lines of
1456 every way or place of whatever nature when any part of it is open to the public, as a matter of
1457 right, for purposes of vehicular traffic.

1458 (26) "Hybrid electric motor vehicle" means a motor vehicle that draws propulsion
1459 energy from onboard sources of stored energy that are both:

1460 (a) an internal combustion engine or heat engine using consumable fuel; and

1461 (b) a rechargeable energy storage system where energy for the storage system comes
1462 solely from sources onboard the vehicle.

1463 ~~[(22)]~~ (27) (a) "Identification number" means the identifying number assigned by the
1464 manufacturer or by the division for the purpose of identifying the vehicle, vessel, or outboard
1465 motor.

1466 (b) "Identification number" includes a vehicle identification number, state assigned
1467 identification number, hull identification number, and motor serial number.

1468 ~~[(23)]~~ (28) "Implement of husbandry" means every vehicle designed or adapted and
1469 used exclusively for an agricultural operation and only incidentally operated or moved upon the
1470 highways.

1471 ~~[(24)]~~ (29) (a) "In-state miles" means the total number of miles operated in this state
1472 during the preceding year by fleet power units.

1473 (b) If fleets are composed entirely of trailers or semitrailers, "in-state miles" means the
1474 total number of miles that those vehicles were towed on Utah highways during the preceding
1475 year.

1476 ~~[(25)]~~ (30) "Interstate vehicle" means any commercial vehicle operated in more than
1477 one state, province, territory, or possession of the United States or foreign country.

1478 ~~[(26)]~~ (31) "Jurisdiction" means a state, district, province, political subdivision,
1479 territory, or possession of the United States or any foreign country.

1480 ~~[(27)]~~ (32) "Lienholder" means a person with a security interest in particular property.

1481 ~~[(28)]~~ (33) "Manufactured home" means a transportable factory built housing unit
1482 constructed on or after June 15, 1976, according to the Federal Home Construction and Safety

1483 Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is
1484 eight body feet or more in width or 40 body feet or more in length, or when erected on site, is
1485 400 or more square feet, and which is built on a permanent chassis and designed to be used as a
1486 dwelling with or without a permanent foundation when connected to the required utilities, and
1487 includes the plumbing, heating, air-conditioning, and electrical systems.

1488 ~~[(29)]~~ (34) "Manufacturer" means a person engaged in the business of constructing,
1489 manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or
1490 outboard motors for the purpose of sale or trade.

1491 ~~[(30)]~~ (35) "Mobile home" means a transportable factory built housing unit built prior
1492 to June 15, 1976, in accordance with a state mobile home code which existed prior to the
1493 Federal Manufactured Housing and Safety Standards Act (HUD Code).

1494 (36) "Motor fuel" means the same as that term is defined in Section [59-13-102](#).

1495 ~~[(33)]~~ (37) (a) "Motor vehicle" means a self-propelled vehicle intended primarily for
1496 use and operation on the highways.

1497 (b) "Motor vehicle" does not include an off-highway vehicle.

1498 ~~[(31)]~~ (38) "Motorboat" ~~[has the same meaning as provided]~~ means the same as that
1499 term is defined in Section [73-18-2](#).

1500 ~~[(32)]~~ (39) "Motorcycle" means:

1501 (a) a motor vehicle having a saddle for the use of the rider and designed to travel on not
1502 more than three wheels in contact with the ground; or

1503 (b) an auticycle.

1504 (40) "Natural gas" means a fuel of which the primary constituent is methane.

1505 ~~[(34)]~~ (41) (a) "Nonresident" means a person who is not a resident of this state as
1506 defined by Section [41-1a-202](#), and who does not engage in intrastate business within this state
1507 and does not operate in that business any motor vehicle, trailer, or semitrailer within this state.

1508 (b) A person who engages in intrastate business within this state and operates in that
1509 business any motor vehicle, trailer, or semitrailer in this state or who, even though engaging in
1510 interstate commerce, maintains any vehicle in this state as the home station of that vehicle is
1511 considered a resident of this state, insofar as that vehicle is concerned in administering this
1512 chapter.

1513 ~~[(35)]~~ (42) "Odometer" means a device for measuring and recording the actual distance

1514 a vehicle travels while in operation, but does not include any auxiliary odometer designed to be
1515 periodically reset.

1516 ~~[(36)]~~ (43) "Off-highway implement of husbandry" ~~[has the same meaning as~~
1517 ~~provided]~~ means the same as that term is defined in Section 41-22-2.

1518 ~~[(37)]~~ (44) "Off-highway vehicle" ~~[has the same meaning as provided]~~ means the same
1519 as that term is defined in Section 41-22-2.

1520 ~~[(38)]~~ (45) "Operate" means to drive or be in actual physical control of a vehicle or to
1521 navigate a vessel.

1522 ~~[(39)]~~ (46) "Outboard motor" means a detachable self-contained propulsion unit,
1523 excluding fuel supply, used to propel a vessel.

1524 ~~[(40)]~~ (47) (a) "Owner" means a person, other than a lienholder, holding title to a
1525 vehicle, vessel, or outboard motor whether or not the vehicle, vessel, or outboard motor is
1526 subject to a security interest.

1527 (b) If a vehicle is the subject of an agreement for the conditional sale or installment
1528 sale or mortgage of the vehicle with the right of purchase upon performance of the conditions
1529 stated in the agreement and with an immediate right of possession vested in the conditional
1530 vendee or mortgagor, or if the vehicle is the subject of a security agreement, then the
1531 conditional vendee, mortgagor, or debtor is considered the owner for the purposes of this
1532 chapter.

1533 (c) If a vehicle is the subject of an agreement to lease, the lessor is considered the
1534 owner until the lessee exercises his option to purchase the vehicle.

1535 ~~[(41)]~~ (48) "Park model recreational vehicle" means a unit that:

1536 (a) is designed and marketed as temporary living quarters for recreational, camping,
1537 travel, or seasonal use;

1538 (b) is not permanently affixed to real property for use as a permanent dwelling;

1539 (c) requires a special highway movement permit for transit; and

1540 (d) is built on a single chassis mounted on wheels with a gross trailer area not
1541 exceeding 400 square feet in the setup mode.

1542 ~~[(42)]~~ (49) "Personalized license plate" means a license plate that has displayed on it a
1543 combination of letters, numbers, or both as requested by the owner of the vehicle and assigned
1544 to the vehicle by the division.

1545 [(43)] (50) (a) "Pickup truck" means a two-axle motor vehicle with motive power
1546 manufactured, remanufactured, or materially altered to provide an open cargo area.

1547 (b) "Pickup truck" includes motor vehicles with the open cargo area covered with a
1548 camper, camper shell, tarp, removable top, or similar structure.

1549 (51) "Plug-in hybrid electric motor vehicle" means a hybrid electric motor vehicle that
1550 has the capability to charge the battery or batteries used for vehicle propulsion from an
1551 off-vehicle electric source, such that the off-vehicle source cannot be connected to the vehicle
1552 while the vehicle is in motion.

1553 [(44)] (52) "Pneumatic tire" means every tire in which compressed air is designed to
1554 support the load.

1555 [(45)] (53) "Preceding year" means a period of 12 consecutive months fixed by the
1556 division that is within 16 months immediately preceding the commencement of the registration
1557 or license year in which proportional registration is sought. The division in fixing the period
1558 shall conform it to the terms, conditions, and requirements of any applicable agreement or
1559 arrangement for the proportional registration of vehicles.

1560 [(46)] (54) "Public garage" means every building or other place where vehicles or
1561 vessels are kept and stored and where a charge is made for the storage and keeping of vehicles
1562 and vessels.

1563 [(47)] (55) "Receipt of surrender of ownership documents" means the receipt of
1564 surrender of ownership documents described in Section [41-1a-503](#).

1565 [(48)] (56) "Reconstructed vehicle" means every vehicle of a type required to be
1566 registered in this state that is materially altered from its original construction by the removal,
1567 addition, or substitution of essential parts, new or used.

1568 [(49)] (57) "Recreational vehicle" [~~has the same meaning as provided~~] means the same
1569 as that term is defined in Section [13-14-102](#).

1570 [(50)] (58) "Registration" means a document issued by a jurisdiction that allows
1571 operation of a vehicle or vessel on the highways or waters of this state for the time period for
1572 which the registration is valid and that is evidence of compliance with the registration
1573 requirements of the jurisdiction.

1574 [(51)] (59) (a) "Registration year" means a 12 consecutive month period commencing
1575 with the completion of all applicable registration criteria.

1576 (b) For administration of a multistate agreement for proportional registration the
1577 division may prescribe a different 12-month period.

1578 [~~(52)~~] (60) "Repair or replacement" means the restoration of vehicles, vessels, or
1579 outboard motors to a sound working condition by substituting any inoperative part of the
1580 vehicle, vessel, or outboard motor, or by correcting the inoperative part.

1581 [~~(53)~~] (61) "Replica vehicle" means:

1582 (a) a street rod that meets the requirements under Subsection 41-21-1(3)(a)(i)(B); or

1583 (b) a custom vehicle that meets the requirements under Subsection

1584 41-6a-1507(1)(a)(i)(B).

1585 [~~(54)~~] (62) "Road tractor" means every motor vehicle designed and used for drawing
1586 other vehicles and constructed so it does not carry any load either independently or any part of
1587 the weight of a vehicle or load that is drawn.

1588 [~~(55)~~] (63) "Sailboat" means the same as that term is defined in Section 73-18-2.

1589 [~~(56)~~] (64) "Security interest" means an interest that is reserved or created by a security
1590 agreement to secure the payment or performance of an obligation and that is valid against third
1591 parties.

1592 [~~(57)~~] (65) "Semitrailer" means every vehicle without motive power designed for
1593 carrying persons or property and for being drawn by a motor vehicle and constructed so that
1594 some part of its weight and its load rests or is carried by another vehicle.

1595 [~~(58)~~] (66) "Special group license plate" means a type of license plate designed for a
1596 particular group of people or a license plate authorized and issued by the division in accordance
1597 with Section 41-1a-418.

1598 [~~(59)~~] (67) (a) "Special interest vehicle" means a vehicle used for general
1599 transportation purposes and that is:

1600 (i) 20 years or older from the current year; or

1601 (ii) a make or model of motor vehicle recognized by the division director as having
1602 unique interest or historic value.

1603 (b) In making a determination under Subsection [~~(59)~~] (67)(a), the division director
1604 shall give special consideration to:

1605 (i) a make of motor vehicle that is no longer manufactured;

1606 (ii) a make or model of motor vehicle produced in limited or token quantities;

1607 (iii) a make or model of motor vehicle produced as an experimental vehicle or one
1608 designed exclusively for educational purposes or museum display; or

1609 (iv) a motor vehicle of any age or make that has not been substantially altered or
1610 modified from original specifications of the manufacturer and because of its significance is
1611 being collected, preserved, restored, maintained, or operated by a collector or hobbyist as a
1612 leisure pursuit.

1613 [~~(60)~~] (68) (a) "Special mobile equipment" means every vehicle:

1614 (i) not designed or used primarily for the transportation of persons or property;

1615 (ii) not designed to operate in traffic; and

1616 (iii) only incidentally operated or moved over the highways.

1617 (b) "Special mobile equipment" includes:

1618 (i) farm tractors;

1619 (ii) off-road motorized construction or maintenance equipment including backhoes,
1620 bulldozers, compactors, graders, loaders, road rollers, tractors, and trenchers; and

1621 (iii) ditch-digging apparatus.

1622 (c) "Special mobile equipment" does not include a commercial vehicle as defined
1623 under Section [72-9-102](#).

1624 [~~(61)~~] (69) "Specially constructed vehicle" means every vehicle of a type required to be
1625 registered in this state, not originally constructed under a distinctive name, make, model, or
1626 type by a generally recognized manufacturer of vehicles, and not materially altered from its
1627 original construction.

1628 [~~(62)~~] (70) "Title" means the right to or ownership of a vehicle, vessel, or outboard
1629 motor.

1630 [~~(63)~~] (71) (a) "Total fleet miles" means the total number of miles operated in all
1631 jurisdictions during the preceding year by power units.

1632 (b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means
1633 the number of miles that those vehicles were towed on the highways of all jurisdictions during
1634 the preceding year.

1635 [~~(64)~~] (72) "Trailer" means a vehicle without motive power designed for carrying
1636 persons or property and for being drawn by a motor vehicle and constructed so that no part of
1637 its weight rests upon the towing vehicle.

1638 [~~(65)~~] (73) "Transferee" means a person to whom the ownership of property is
1639 conveyed by sale, gift, or any other means except by the creation of a security interest.

1640 [~~(66)~~] (74) "Transferor" means a person who transfers his ownership in property by
1641 sale, gift, or any other means except by creation of a security interest.

1642 [~~(67)~~] (75) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable
1643 vehicle without motive power, designed as a temporary dwelling for travel, recreational, or
1644 vacation use that does not require a special highway movement permit when drawn by a
1645 self-propelled motor vehicle.

1646 [~~(68)~~] (76) "Truck tractor" means a motor vehicle designed and used primarily for
1647 drawing other vehicles and not constructed to carry a load other than a part of the weight of the
1648 vehicle and load that is drawn.

1649 [~~(69)~~] (77) "Vehicle" includes a motor vehicle, trailer, semitrailer, off-highway vehicle,
1650 camper, park model recreational vehicle, manufactured home, and mobile home.

1651 [~~(70)~~] (78) "Vessel" means the same as that term is defined in Section 73-18-2.

1652 [~~(71)~~] (79) "Vintage vehicle" means the same as that term is defined in Section
1653 41-21-1.

1654 [~~(72)~~] (80) "Waters of this state" means the same as that term is defined in Section
1655 73-18-2.

1656 [~~(73)~~] (81) "Weighmaster" means a person, association of persons, or corporation
1657 permitted to weigh vehicles under this chapter.

1658 Section 22. Section **41-1a-1201** is amended to read:

1659 **41-1a-1201. Disposition of fees.**

1660 (1) All fees received and collected under this part shall be transmitted daily to the state
1661 treasurer.

1662 (2) Except as provided in Subsections (3), (6), (7), (8), and (9) and Sections 41-1a-422,
1663 41-1a-1220, 41-1a-1221, and 41-1a-1223 all fees collected under this part shall be deposited in
1664 the Transportation Fund.

1665 (3) Funds generated under Subsections 41-1a-1211(1)(b)(ii), (6)(b)(ii), and (7) and
1666 Section 41-1a-1212 may be used by the commission to cover the costs incurred in issuing
1667 license plates under Part 4, License Plates and Registration Indicia.

1668 (4) In accordance with Section 63J-1-602.2, all funds available to the commission for

1669 the purchase and distribution of license plates and decals are nonlapsing.

1670 (5) (a) Except as provided in Subsections (3) and (5)(b) and Section 41-1a-1205, the
1671 expenses of the commission in enforcing and administering this part shall be provided for by
1672 legislative appropriation from the revenues of the Transportation Fund.

1673 (b) Three dollars of the registration fees imposed under Subsections 41-1a-1206(2)(a)
1674 and (b) for each vehicle registered for a six-month registration period under Section
1675 41-1a-215.5 may be used by the commission to cover the costs incurred in enforcing and
1676 administering this part.

1677 (6) (a) The following portions of the registration fees imposed under Section
1678 41-1a-1206 for each vehicle shall be deposited in the Transportation Investment Fund of 2005
1679 created under Section 72-2-124:

1680 (i) [~~\$30~~] \$40 of the registration fees imposed under Subsections 41-1a-1206(1)(a),
1681 (1)(b), (1)(f), [~~(3)~~, and ~~(6)~~] (4), and (7);

1682 (ii) [~~\$21~~] \$31 of the registration fees imposed under Subsections 41-1a-1206(1)(c)(i)
1683 and (1)(c)(ii);

1684 (iii) \$2.50 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(ii);

1685 (iv) [~~\$23~~] \$33 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(i);

1686 (v) [~~\$24.50~~] \$34.50 of the registration fee imposed under Subsection

1687 41-1a-1206(1)(e)(i); [~~and~~]

1688 (vi) \$1 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(ii)[-]; and

1689 (vii) \$10 of the registration fee imposed under Subsection 41-1a-1206(1)(g).

1690 (b) The following portions of the registration fees collected for each vehicle registered
1691 for a six-month registration period under Section 41-1a-215.5 shall be deposited in the
1692 Transportation Investment Fund of 2005 created by Section 72-2-124:

1693 (i) [~~\$23.25~~] \$28.50 of each registration fee collected under Subsection
1694 41-1a-1206(2)(a)(i); and

1695 (ii) [~~\$23~~] \$28.50 of each registration fee collected under Subsection
1696 41-1a-1206(2)[~~(b)~~](a)(ii).

1697 (7) (a) Ninety-four cents of each registration fee imposed under Subsections
1698 41-1a-1206(1)(a) and (b) for each vehicle shall be deposited in the Public Safety Restricted
1699 Account created in Section 53-3-106.

1700 (b) Seventy-one cents of each registration fee imposed under Subsections
1701 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under
1702 Section 41-1a-215.5 shall be deposited in the Public Safety Restricted Account created in
1703 Section 53-3-106.

1704 (8) (a) One dollar of each registration fee imposed under Subsections 41-1a-1206(1)(a)
1705 and (b) for each vehicle shall be deposited into the Motor Vehicle Safety Impact Restricted
1706 Account created in Section 53-8-214.

1707 (b) One dollar of each registration fee imposed under Subsections 41-1a-1206(2)(a)
1708 and (b) for each vehicle registered for a six-month registration period under Section
1709 41-1a-215.5 shall be deposited into the Motor Vehicle Safety Impact Restricted Account
1710 created in Section 53-8-214.

1711 (9) Fifty cents of each registration fee imposed under Subsection 41-1a-1206(1)(a) for
1712 each motorcycle shall be deposited in the Spinal Cord and Brain Injury Rehabilitation Fund
1713 created in Section 26-54-102.

1714 Section 23. Section 41-1a-1206 is amended to read:

1715 **41-1a-1206. Registration fees -- Fees by gross laden weight.**

1716 (1) Except as provided in Subsections (2) and (3), at the time application is made for
1717 registration or renewal of registration of a vehicle or combination of vehicles under this
1718 chapter, a registration fee shall be paid to the division as follows:

1719 (a) [~~\$46.00~~] \$56 for each motorcycle;

1720 (b) [~~\$44~~] \$54 for each motor vehicle of 12,000 pounds or less gross laden weight,
1721 excluding motorcycles;

1722 (c) unless the semitrailer or trailer is exempt from registration under Section 41-1a-202
1723 or is registered under Section 41-1a-301:

1724 (i) [~~\$31~~] \$41 for each trailer or semitrailer over 750 pounds gross unladen weight; or

1725 (ii) [~~\$28.50~~] \$38.50 for each commercial trailer or commercial semitrailer of 750
1726 pounds or less gross unladen weight;

1727 (d) (i) [~~\$53~~] \$63 for each farm truck over 12,000 pounds, but not exceeding 14,000
1728 pounds gross laden weight; plus

1729 (ii) \$9 for each 2,000 pounds over 14,000 pounds gross laden weight;

1730 (e) (i) [~~\$69.50~~] \$79.50 for each motor vehicle or combination of motor vehicles,

1731 excluding farm trucks, over 12,000 pounds, but not exceeding 14,000 pounds gross laden
 1732 weight; plus

1733 (ii) \$19 for each 2,000 pounds over 14,000 pounds gross laden weight;

1734 (f) (i) [~~\$69.50~~] \$79.50 for each park model recreational vehicle over 12,000 pounds,
 1735 but not exceeding 14,000 pounds gross laden weight; plus

1736 (ii) \$19 for each 2,000 pounds over 14,000 pounds gross laden weight; [~~and~~]

1737 (g) [~~\$45~~] \$55 for each vintage vehicle that is less than 40 years old[-]; and

1738 (h) in addition to the fee described in Subsection (1)(b):

1739 (i) for each electric motor vehicle:

1740 (A) \$60 during calendar year 2019;

1741 (B) \$90 during calendar year 2020;

1742 (C) \$120 beginning January 1, 2021 and thereafter;

1743 (ii) for each hybrid electric motor vehicle;

1744 (A) \$10 during calendar year 2019;

1745 (B) \$15 during calendar year 2020;

1746 (C) \$20 beginning January 1, 2021 and thereafter;

1747 (iii) for each plug-in hybrid electric motor vehicle; or

1748 (A) \$26 during calendar year 2019;

1749 (B) \$39 during calendar year 2020;

1750 (C) \$52 beginning January 1, 2021 and thereafter;

1751 (iv) for any motor vehicle not described in Subsections (1)(h)(i) through (iii) that is
 1752 fuelled by a source other than motor fuel, diesel fuel, natural gas, or propane:

1753 (A) \$60 during calendar year 2019;

1754 (B) \$90 during calendar year 2020;

1755 (C) \$120 beginning January 1, 2021 and thereafter;

1756 (2) (a) At the time application is made for registration or renewal of registration of a
 1757 vehicle under this chapter for a six-month registration period under Section [41-1a-215.5](#), a
 1758 registration fee shall be paid to the division as follows:

1759 [~~(a) \$34.50~~] (i) \$42 for each motorcycle; and

1760 [~~(b) \$33.50~~] (ii) \$41.25 for each motor vehicle of 12,000 pounds or less gross laden
 1761 weight, excluding motorcycles.

1762 (b) In addition to the fee described in Subsection (2)(a), for registration or renewal of
1763 registration of a vehicle under this chapter for a six-month registration period under Section
1764 41-1a-215.5 a registration fee shall be paid to the division as follows:

1765 (i) for each electric motor vehicle;

1766 (A) \$46.50 during calendar year 2019;

1767 (B) \$69.75 during calendar year 2020;

1768 (C) \$93 beginning January 1, 2021 and thereafter;

1769 (ii) for each hybrid electric motor vehicle;

1770 (A) \$7.50 during calendar year 2019;

1771 (B) \$11.25 during calendar year 2020;

1772 (C) \$15 beginning January 1, 2021 and thereafter;

1773 (iii) for each plug-in hybrid electric motor vehicle; or

1774 (A) \$20 during calendar year 2019;

1775 (B) \$30 during calendar year 2020;

1776 (C) \$40 beginning January 1, 2021 and thereafter;

1777 (iv) for each motor vehicle not described in Subsections (2)(b)(i) through (iii) that is
1778 fueled by a source other than motor fuel, diesel fuel, natural gas, or propane:

1779 (A) \$46.50 during calendar year 2019;

1780 (B) \$69.75 during calendar year 2020;

1781 (C) \$93 beginning January 1, 2021 and thereafter;

1782 (3) (a) Beginning on January 1, 2020, the commission shall, on January 1, annually
1783 adjust the registration fees described in Subsections (1)(a), (1)(b), (1)(c)(i), (1)(d)(i), (1)(e)(i),
1784 (1)(f)(i), (1)(g), (1)(h)(i)(C), (1)(h)(ii)(C), (1)(h)(iii)(C), (1)(h)(iv)(C), (2)(a), (2)(b)(i)(C),
1785 (2)(b)(ii)(C), (2)(b)(iii)(C), (2)(b)(iv)(C), (4)(a), and (7), by taking the registration fee rate for
1786 the previous year and adding an amount equal to the greater of:

1787 (i) an amount calculated by multiplying the registration fee of the previous year by the
1788 actual percentage change during the previous fiscal year in the Consumer Price Index; and

1789 (ii) 0.

1790 (b) The amount calculated as described in Subsection (3)(a) shall be rounded up to the
1791 nearest 25 cents.

1792 [~~(3)~~] (4) (a) The initial registration fee for a vintage vehicle that is 40 years old or older

1793 is [~~\$40~~] \$50.

1794 (b) A vintage vehicle that is 40 years old or older is exempt from the renewal of
1795 registration fees under Subsection (1).

1796 (c) A vehicle with a Purple Heart special group license plate issued in accordance with
1797 Section [41-1a-421](#) is exempt from the registration fees under Subsection (1).

1798 (d) A camper is exempt from the registration fees under Subsection (1).

1799 [~~(4)~~] (5) If a motor vehicle is operated in combination with a semitrailer or trailer, each
1800 motor vehicle shall register for the total gross laden weight of all units of the combination if the
1801 total gross laden weight of the combination exceeds 12,000 pounds.

1802 [~~(5)~~] (6) (a) Registration fee categories under this section are based on the gross laden
1803 weight declared in the licensee's application for registration.

1804 (b) Gross laden weight shall be computed in units of 2,000 pounds. A fractional part
1805 of 2,000 pounds is a full unit.

1806 [~~(6)~~] (7) The owner of a commercial trailer or commercial semitrailer may, as an
1807 alternative to registering under Subsection (1)(c), apply for and obtain a special registration and
1808 license plate for a fee of [~~\$130~~] \$140.

1809 [~~(7)~~] (8) Except as provided in Section [41-6a-1642](#), a truck may not be registered as a
1810 farm truck unless:

1811 (a) the truck meets the definition of a farm truck under Section [41-1a-102](#); and

1812 (b) (i) the truck has a gross vehicle weight rating of more than 12,000 pounds; or

1813 (ii) the truck has a gross vehicle weight rating of 12,000 pounds or less and the owner
1814 submits to the division a certificate of emissions inspection or a waiver in compliance with
1815 Section [41-6a-1642](#).

1816 [~~(8)~~] (9) A violation of Subsection [~~(7)~~] (8) is an infraction that shall be punished by a
1817 fine of not less than \$200.

1818 [~~(9)~~] (10) Trucks used exclusively to pump cement, bore wells, or perform crane
1819 services with a crane lift capacity of five or more tons, are exempt from 50% of the amount of
1820 the fees required for those vehicles under this section.

1821 Section 24. Section [41-1a-1221](#) is amended to read:

1822 **41-1a-1221. Fees to cover the cost of electronic payments.**

1823 (1) As used in this section:

1824 (a) "Electronic payment" means use of any form of payment processed through
1825 electronic means, including credit cards, debit cards, and automatic clearinghouse transactions.

1826 (b) "Electronic payment fee" means the fee assessed to defray:

1827 (i) the charge, discount fee, or processing fee charged by credit card companies or
1828 processing agents to process an electronic payment; or

1829 (ii) costs associated with the purchase of equipment necessary for processing electronic
1830 payments.

1831 (2) (a) The Motor Vehicle Division may collect an electronic payment fee on all
1832 registrations and renewals of registration under Subsections 41-1a-1206(1)(a), (1)(b), (2)(a),
1833 (2)(b), and ~~(3)~~ (4).

1834 (b) The fee described in Subsection (2)(a):

1835 (i) shall be imposed regardless of the method of payment for a particular transaction;
1836 and

1837 (ii) need not be separately identified from the fees imposed for registration and
1838 renewals of registration under Subsections 41-1a-1206(1)(a), (1)(b), (2)(a), (2)(b), and ~~(3)~~ (4).

1839 (3) The division shall establish the fee according to the procedures and requirements of
1840 Section 63J-1-504.

1841 (4) A fee imposed under this section:

1842 (a) shall be deposited in the Electronic Payment Fee Restricted Account created by
1843 Section 41-1a-121; and

1844 (b) is not subject to Subsection 63J-2-202(2).

1845 Section 25. Section 52-4-103 is amended to read:

1846 **52-4-103. Definitions.**

1847 As used in this chapter:

1848 (1) "Anchor location" means the physical location from which:

1849 (a) an electronic meeting originates; or

1850 (b) the participants are connected.

1851 (2) "Capitol hill complex" means the grounds and buildings within the area bounded by
1852 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake
1853 City.

1854 (3) (a) "Convening" means the calling together of a public body by a person authorized

1855 to do so for the express purpose of discussing or acting upon a subject over which that public
1856 body has jurisdiction or advisory power.

1857 (b) "Convening" does not include the initiation of a routine conversation between
1858 members of a three-member public body if the members involved in the conversation do not,
1859 during the conversation, take a tentative or final vote on the matter that is the subject of the
1860 conversation.

1861 (4) "Electronic meeting" means a public meeting convened or conducted by means of a
1862 conference using electronic communications.

1863 (5) "Electronic message" means a communication transmitted electronically, including:

1864 (a) electronic mail;

1865 (b) instant messaging;

1866 (c) electronic chat;

1867 (d) text messaging as defined in Section 76-4-401; or

1868 (e) any other method that conveys a message or facilitates communication
1869 electronically.

1870 (6) (a) "Meeting" means the convening of a public body or a specified body, with a
1871 quorum present, including a workshop or an executive session, whether in person or by means
1872 of electronic communications, for the purpose of discussing, receiving comments from the
1873 public about, or acting upon a matter over which the public body or specific body has
1874 jurisdiction or advisory power.

1875 (b) "Meeting" does not mean:

1876 (i) a chance gathering or social gathering; [or]

1877 (ii) a convening of the State Tax Commission to consider a confidential tax matter in
1878 accordance with Section 59-1-405[-]; or

1879 (iii) a convening of a three-member board of trustees of a large public transit district as
1880 defined in Section 17B-2a-802 if:

1881 (A) the board members do not, during the conversation, take a tentative or final vote on
1882 the matter that is the subject of the conversation; or

1883 (B) the conversation pertains only to day-to-day management and operation of the
1884 public transit district.

1885 (c) "Meeting" does not mean the convening of a public body that has both legislative

1886 and executive responsibilities if:

1887 (i) no public funds are appropriated for expenditure during the time the public body is
1888 convened; and

1889 (ii) the public body is convened solely for the discussion or implementation of
1890 administrative or operational matters:

1891 (A) for which no formal action by the public body is required; or

1892 (B) that would not come before the public body for discussion or action.

1893 (7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the
1894 public statements of each member of the public body who is participating in a meeting.

1895 (8) "Participate" means the ability to communicate with all of the members of a public
1896 body, either verbally or electronically, so that each member of the public body can hear or
1897 observe the communication.

1898 (9) (a) "Public body" means:

1899 (i) any administrative, advisory, executive, or legislative body of the state or its
1900 political subdivisions that:

1901 (A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

1902 (B) consists of two or more persons;

1903 (C) expends, disburses, or is supported in whole or in part by tax revenue; and

1904 (D) is vested with the authority to make decisions regarding the public's business; or

1905 (ii) any administrative, advisory, executive, or policymaking body of an association, as
1906 defined in Section [53A-1-1601](#), that:

1907 (A) consists of two or more persons;

1908 (B) expends, disburses, or is supported in whole or in part by dues paid by a public

1909 school or whose employees participate in a benefit or program described in Title 49, Utah State
1910 Retirement and Insurance Benefit Act; and

1911 (C) is vested with authority to make decisions regarding the participation of a public
1912 school or student in an interscholastic activity as defined in Section [53A-1-1601](#).

1913 (b) "Public body" includes:

1914 (i) as defined in Section [11-13-103](#), an interlocal entity or joint or cooperative
1915 undertaking; and

1916 (ii) as defined in Section [11-13a-102](#), a governmental nonprofit corporation.

- 1917 (c) "Public body" does not include:
- 1918 (i) a political party, a political group, or a political caucus;
- 1919 (ii) a conference committee, a rules committee, or a sifting committee of the
- 1920 Legislature;
- 1921 (iii) a school community council or charter trust land council as defined in Section
- 1922 [53A-1a-108.1](#); or
- 1923 (iv) the Economic Development Legislative Liaison Committee created in Section
- 1924 [36-30-201](#).
- 1925 (10) "Public statement" means a statement made in the ordinary course of business of
- 1926 the public body with the intent that all other members of the public body receive it.
- 1927 (11) (a) "Quorum" means a simple majority of the membership of a public body, unless
- 1928 otherwise defined by applicable law.
- 1929 (b) "Quorum" does not include a meeting of two elected officials by themselves when
- 1930 no action, either formal or informal, is taken on a subject over which these elected officials
- 1931 have advisory power.
- 1932 (12) "Recording" means an audio, or an audio and video, record of the proceedings of a
- 1933 meeting that can be used to review the proceedings of the meeting.
- 1934 (13) "Specified body":
- 1935 (a) means an administrative, advisory, executive, or legislative body that:
- 1936 (i) is not a public body;
- 1937 (ii) consists of three or more members; and
- 1938 (iii) includes at least one member who is:
- 1939 (A) a legislator; and
- 1940 (B) officially appointed to the body by the president of the Senate, speaker of the
- 1941 House of Representatives, or governor; and
- 1942 (b) does not include a body listed in Subsection (9)(c)(ii).
- 1943 (14) "Transmit" means to send, convey, or communicate an electronic message by
- 1944 electronic means.
- 1945 Section 26. Section **59-12-102** is amended to read:
- 1946 **59-12-102. Definitions.**
- 1947 As used in this chapter:

- 1948 (1) "800 service" means a telecommunications service that:
- 1949 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and
- 1950 (b) is typically marketed:
- 1951 (i) under the name 800 toll-free calling;
- 1952 (ii) under the name 855 toll-free calling;
- 1953 (iii) under the name 866 toll-free calling;
- 1954 (iv) under the name 877 toll-free calling;
- 1955 (v) under the name 888 toll-free calling; or
- 1956 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
- 1957 Federal Communications Commission.
- 1958 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 1959 (i) a subscriber purchases;
- 1960 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 1961 the subscriber's:
- 1962 (A) prerecorded announcement; or
- 1963 (B) live service; and
- 1964 (iii) is typically marketed:
- 1965 (A) under the name 900 service; or
- 1966 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 1967 Communications Commission.
- 1968 (b) "900 service" does not include a charge for:
- 1969 (i) a collection service a seller of a telecommunications service provides to a
- 1970 subscriber; or
- 1971 (ii) the following a subscriber sells to the subscriber's customer:
- 1972 (A) a product; or
- 1973 (B) a service.
- 1974 (3) (a) "Admission or user fees" includes season passes.
- 1975 (b) "Admission or user fees" does not include annual membership dues to private
- 1976 organizations.
- 1977 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 1978 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax

- 1979 Agreement after November 12, 2002.
- 1980 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 1981 (a) listed under Subsection (6); and
- 1982 (b) that are imposed within a local taxing jurisdiction.
- 1983 (6) "Agreement sales and use tax" means a tax imposed under:
- 1984 (a) Subsection [59-12-103\(2\)\(a\)\(i\)\(A\)](#);
- 1985 (b) Subsection [59-12-103\(2\)\(b\)\(i\)](#);
- 1986 (c) Subsection [59-12-103\(2\)\(c\)\(i\)](#);
- 1987 (d) Subsection [59-12-103\(2\)\(d\)\(i\)\(A\)\(I\)](#);
- 1988 (e) Section [59-12-204](#);
- 1989 (f) Section [59-12-401](#);
- 1990 (g) Section [59-12-402](#);
- 1991 (h) Section [59-12-402.1](#);
- 1992 (i) Section [59-12-703](#);
- 1993 (j) Section [59-12-802](#);
- 1994 (k) Section [59-12-804](#);
- 1995 (l) Section [59-12-1102](#);
- 1996 (m) Section [59-12-1302](#);
- 1997 (n) Section [59-12-1402](#);
- 1998 (o) Section [59-12-1802](#);
- 1999 (p) Section [59-12-2003](#);
- 2000 (q) Section [59-12-2103](#);
- 2001 (r) Section [59-12-2213](#);
- 2002 (s) Section [59-12-2214](#);
- 2003 (t) Section [59-12-2215](#);
- 2004 (u) Section [59-12-2216](#);
- 2005 (v) Section [59-12-2217](#);
- 2006 (w) Section [59-12-2218](#); ~~[or]~~
- 2007 (x) Section [59-12-2219](#)~~[;]~~; or
- 2008 (y) Section [59-12-2220](#).
- 2009 (7) "Aircraft" means the same as that term is defined in Section [72-10-102](#).

- 2010 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 2011 (a) except for:
- 2012 (i) an airline as defined in Section 59-2-102; or
- 2013 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 2014 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 2015 state, of an airline; and
- 2016 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 2017 whether the business entity performs the following in this state:
- 2018 (i) check, diagnose, overhaul, and repair:
- 2019 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 2020 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 2021 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 2022 engine;
- 2023 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 2024 aircraft:
- 2025 (A) an inspection;
- 2026 (B) a repair, including a structural repair or modification;
- 2027 (C) changing landing gear; and
- 2028 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 2029 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 2030 completely apply new paint to the fixed wing turbine powered aircraft; and
- 2031 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 2032 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 2033 authority that certifies the fixed wing turbine powered aircraft.
- 2034 (9) "Alcoholic beverage" means a beverage that:
- 2035 (a) is suitable for human consumption; and
- 2036 (b) contains .5% or more alcohol by volume.
- 2037 (10) "Alternative energy" means:
- 2038 (a) biomass energy;
- 2039 (b) geothermal energy;
- 2040 (c) hydroelectric energy;

- 2041 (d) solar energy;
- 2042 (e) wind energy; or
- 2043 (f) energy that is derived from:
 - 2044 (i) coal-to-liquids;
 - 2045 (ii) nuclear fuel;
 - 2046 (iii) oil-impregnated diatomaceous earth;
 - 2047 (iv) oil sands;
 - 2048 (v) oil shale;
 - 2049 (vi) petroleum coke; or
 - 2050 (vii) waste heat from:
 - 2051 (A) an industrial facility; or
 - 2052 (B) a power station in which an electric generator is driven through a process in which
 - 2053 water is heated, turns into steam, and spins a steam turbine.
- 2054 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 2055 facility" means a facility that:
 - 2056 (i) uses alternative energy to produce electricity; and
 - 2057 (ii) has a production capacity of two megawatts or greater.
- 2058 (b) A facility is an alternative energy electricity production facility regardless of
- 2059 whether the facility is:
 - 2060 (i) connected to an electric grid; or
 - 2061 (ii) located on the premises of an electricity consumer.
- 2062 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
- 2063 provision of telecommunications service.
 - 2064 (b) "Ancillary service" includes:
 - 2065 (i) a conference bridging service;
 - 2066 (ii) a detailed communications billing service;
 - 2067 (iii) directory assistance;
 - 2068 (iv) a vertical service; or
 - 2069 (v) a voice mail service.
- 2070 (13) "Area agency on aging" means the same as that term is defined in Section
- 2071 [62A-3-101](#).

2072 (14) "Assisted amusement device" means an amusement device, skill device, or ride
2073 device that is started and stopped by an individual:

2074 (a) who is not the purchaser or renter of the right to use or operate the amusement
2075 device, skill device, or ride device; and

2076 (b) at the direction of the seller of the right to use the amusement device, skill device,
2077 or ride device.

2078 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
2079 washing of tangible personal property if the cleaning or washing labor is primarily performed
2080 by an individual:

2081 (a) who is not the purchaser of the cleaning or washing of the tangible personal
2082 property; and

2083 (b) at the direction of the seller of the cleaning or washing of the tangible personal
2084 property.

2085 (16) "Authorized carrier" means:

2086 (a) in the case of vehicles operated over public highways, the holder of credentials
2087 indicating that the vehicle is or will be operated pursuant to both the International Registration
2088 Plan and the International Fuel Tax Agreement;

2089 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
2090 certificate or air carrier's operating certificate; or

2091 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
2092 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
2093 stock in more than one state.

2094 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the
2095 following that is used as the primary source of energy to produce fuel or electricity:

2096 (i) material from a plant or tree; or

2097 (ii) other organic matter that is available on a renewable basis, including:

2098 (A) slash and brush from forests and woodlands;

2099 (B) animal waste;

2100 (C) waste vegetable oil;

2101 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
2102 wastewater residuals, or through the conversion of a waste material through a nonincineration,

- 2103 thermal conversion process;
- 2104 (E) aquatic plants; and
- 2105 (F) agricultural products.
- 2106 (b) "Biomass energy" does not include:
- 2107 (i) black liquor; or
- 2108 (ii) treated woods.
- 2109 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 2110 property, products, or services if the tangible personal property, products, or services are:
- 2111 (i) distinct and identifiable; and
- 2112 (ii) sold for one nonitemized price.
- 2113 (b) "Bundled transaction" does not include:
- 2114 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 2115 the basis of the selection by the purchaser of the items of tangible personal property included in
- 2116 the transaction;
- 2117 (ii) the sale of real property;
- 2118 (iii) the sale of services to real property;
- 2119 (iv) the retail sale of tangible personal property and a service if:
- 2120 (A) the tangible personal property:
- 2121 (I) is essential to the use of the service; and
- 2122 (II) is provided exclusively in connection with the service; and
- 2123 (B) the service is the true object of the transaction;
- 2124 (v) the retail sale of two services if:
- 2125 (A) one service is provided that is essential to the use or receipt of a second service;
- 2126 (B) the first service is provided exclusively in connection with the second service; and
- 2127 (C) the second service is the true object of the transaction;
- 2128 (vi) a transaction that includes tangible personal property or a product subject to
- 2129 taxation under this chapter and tangible personal property or a product that is not subject to
- 2130 taxation under this chapter if the:
- 2131 (A) seller's purchase price of the tangible personal property or product subject to
- 2132 taxation under this chapter is de minimis; or
- 2133 (B) seller's sales price of the tangible personal property or product subject to taxation

2134 under this chapter is de minimis; and

2135 (vii) the retail sale of tangible personal property that is not subject to taxation under
2136 this chapter and tangible personal property that is subject to taxation under this chapter if:

2137 (A) that retail sale includes:

2138 (I) food and food ingredients;

2139 (II) a drug;

2140 (III) durable medical equipment;

2141 (IV) mobility enhancing equipment;

2142 (V) an over-the-counter drug;

2143 (VI) a prosthetic device; or

2144 (VII) a medical supply; and

2145 (B) subject to Subsection (18)(f):

2146 (I) the seller's purchase price of the tangible personal property subject to taxation under
2147 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

2148 (II) the seller's sales price of the tangible personal property subject to taxation under
2149 this chapter is 50% or less of the seller's total sales price of that retail sale.

2150 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
2151 service that is distinct and identifiable does not include:

2152 (A) packaging that:

2153 (I) accompanies the sale of the tangible personal property, product, or service; and

2154 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
2155 service;

2156 (B) tangible personal property, a product, or a service provided free of charge with the
2157 purchase of another item of tangible personal property, a product, or a service; or

2158 (C) an item of tangible personal property, a product, or a service included in the
2159 definition of "purchase price."

2160 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
2161 product, or a service is provided free of charge with the purchase of another item of tangible
2162 personal property, a product, or a service if the sales price of the purchased item of tangible
2163 personal property, product, or service does not vary depending on the inclusion of the tangible
2164 personal property, product, or service provided free of charge.

2165 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
2166 does not include a price that is separately identified by tangible personal property, product, or
2167 service on the following, regardless of whether the following is in paper format or electronic
2168 format:

2169 (A) a binding sales document; or

2170 (B) another supporting sales-related document that is available to a purchaser.

2171 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
2172 supporting sales-related document that is available to a purchaser includes:

2173 (A) a bill of sale;

2174 (B) a contract;

2175 (C) an invoice;

2176 (D) a lease agreement;

2177 (E) a periodic notice of rates and services;

2178 (F) a price list;

2179 (G) a rate card;

2180 (H) a receipt; or

2181 (I) a service agreement.

2182 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
2183 property or a product subject to taxation under this chapter is de minimis if:

2184 (A) the seller's purchase price of the tangible personal property or product is 10% or
2185 less of the seller's total purchase price of the bundled transaction; or

2186 (B) the seller's sales price of the tangible personal property or product is 10% or less of
2187 the seller's total sales price of the bundled transaction.

2188 (ii) For purposes of Subsection (18)(b)(vi), a seller:

2189 (A) shall use the seller's purchase price or the seller's sales price to determine if the
2190 purchase price or sales price of the tangible personal property or product subject to taxation
2191 under this chapter is de minimis; and

2192 (B) may not use a combination of the seller's purchase price and the seller's sales price
2193 to determine if the purchase price or sales price of the tangible personal property or product
2194 subject to taxation under this chapter is de minimis.

2195 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service

2196 contract to determine if the sales price of tangible personal property or a product is de minimis.

2197 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
2198 the seller's purchase price and the seller's sales price to determine if tangible personal property
2199 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
2200 price of that retail sale.

2201 (19) "Certified automated system" means software certified by the governing board of
2202 the agreement that:

2203 (a) calculates the agreement sales and use tax imposed within a local taxing
2204 jurisdiction:

2205 (i) on a transaction; and

2206 (ii) in the states that are members of the agreement;

2207 (b) determines the amount of agreement sales and use tax to remit to a state that is a
2208 member of the agreement; and

2209 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

2210 (20) "Certified service provider" means an agent certified:

2211 (a) by the governing board of the agreement; and

2212 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
2213 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
2214 own purchases.

2215 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel
2216 suitable for general use.

2217 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2218 commission shall make rules:

2219 (i) listing the items that constitute "clothing"; and

2220 (ii) that are consistent with the list of items that constitute "clothing" under the
2221 agreement.

2222 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

2223 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
2224 fuels that does not constitute industrial use under Subsection (56) or residential use under
2225 Subsection (106).

2226 (24) (a) "Common carrier" means a person engaged in or transacting the business of

2227 transporting passengers, freight, merchandise, or other property for hire within this state.

2228 (b) (i) "Common carrier" does not include a person who, at the time the person is
2229 traveling to or from that person's place of employment, transports a passenger to or from the
2230 passenger's place of employment.

2231 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
2232 Utah Administrative Rulemaking Act, the commission may make rules defining what
2233 constitutes a person's place of employment.

2234 (c) "Common carrier" does not include a person that provides transportation network
2235 services, as defined in Section [13-51-102](#).

2236 (25) "Component part" includes:

2237 (a) poultry, dairy, and other livestock feed, and their components;

2238 (b) baling ties and twine used in the baling of hay and straw;

2239 (c) fuel used for providing temperature control of orchards and commercial
2240 greenhouses doing a majority of their business in wholesale sales, and for providing power for
2241 off-highway type farm machinery; and

2242 (d) feed, seeds, and seedlings.

2243 (26) "Computer" means an electronic device that accepts information:

2244 (a) (i) in digital form; or

2245 (ii) in a form similar to digital form; and

2246 (b) manipulates that information for a result based on a sequence of instructions.

2247 (27) "Computer software" means a set of coded instructions designed to cause:

2248 (a) a computer to perform a task; or

2249 (b) automatic data processing equipment to perform a task.

2250 (28) "Computer software maintenance contract" means a contract that obligates a seller
2251 of computer software to provide a customer with:

2252 (a) future updates or upgrades to computer software;

2253 (b) support services with respect to computer software; or

2254 (c) a combination of Subsections (28)(a) and (b).

2255 (29) (a) "Conference bridging service" means an ancillary service that links two or
2256 more participants of an audio conference call or video conference call.

2257 (b) "Conference bridging service" may include providing a telephone number as part of

2258 the ancillary service described in Subsection (29)(a).

2259 (c) "Conference bridging service" does not include a telecommunications service used
2260 to reach the ancillary service described in Subsection (29)(a).

2261 (30) "Construction materials" means any tangible personal property that will be
2262 converted into real property.

2263 (31) "Delivered electronically" means delivered to a purchaser by means other than
2264 tangible storage media.

2265 (32) (a) "Delivery charge" means a charge:

2266 (i) by a seller of:

2267 (A) tangible personal property;

2268 (B) a product transferred electronically; or

2269 (C) services; and

2270 (ii) for preparation and delivery of the tangible personal property, product transferred
2271 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
2272 purchaser.

2273 (b) "Delivery charge" includes a charge for the following:

2274 (i) transportation;

2275 (ii) shipping;

2276 (iii) postage;

2277 (iv) handling;

2278 (v) crating; or

2279 (vi) packing.

2280 (33) "Detailed telecommunications billing service" means an ancillary service of
2281 separately stating information pertaining to individual calls on a customer's billing statement.

2282 (34) "Dietary supplement" means a product, other than tobacco, that:

2283 (a) is intended to supplement the diet;

2284 (b) contains one or more of the following dietary ingredients:

2285 (i) a vitamin;

2286 (ii) a mineral;

2287 (iii) an herb or other botanical;

2288 (iv) an amino acid;

2289 (v) a dietary substance for use by humans to supplement the diet by increasing the total
2290 dietary intake; or

2291 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
2292 described in Subsections (34)(b)(i) through (v);

2293 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:

2294 (A) tablet form;

2295 (B) capsule form;

2296 (C) powder form;

2297 (D) softgel form;

2298 (E) gelcap form; or

2299 (F) liquid form; or

2300 (ii) if the product is not intended for ingestion in a form described in Subsections

2301 (34)(c)(i)(A) through (F), is not represented:

2302 (A) as conventional food; and

2303 (B) for use as a sole item of:

2304 (I) a meal; or

2305 (II) the diet; and

2306 (d) is required to be labeled as a dietary supplement:

2307 (i) identifiable by the "Supplemental Facts" box found on the label; and

2308 (ii) as required by 21 C.F.R. Sec. 101.36.

2309 (35) "Digital audio-visual work" means a series of related images which, when shown
2310 in succession, imparts an impression of motion, together with accompanying sounds, if any.

2311 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
2312 musical, spoken, or other sounds.

2313 (b) "Digital audio work" includes a ringtone.

2314 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
2315 sense as a book.

2316 (38) (a) "Direct mail" means printed material delivered or distributed by United States
2317 mail or other delivery service:

2318 (i) to:

2319 (A) a mass audience; or

- 2320 (B) addressees on a mailing list provided:
- 2321 (I) by a purchaser of the mailing list; or
- 2322 (II) at the discretion of the purchaser of the mailing list; and
- 2323 (ii) if the cost of the printed material is not billed directly to the recipients.
- 2324 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 2325 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 2326 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 2327 single address.
- 2328 (39) "Directory assistance" means an ancillary service of providing:
- 2329 (a) address information; or
- 2330 (b) telephone number information.
- 2331 (40) (a) "Disposable home medical equipment or supplies" means medical equipment
- 2332 or supplies that:
- 2333 (i) cannot withstand repeated use; and
- 2334 (ii) are purchased by, for, or on behalf of a person other than:
- 2335 (A) a health care facility as defined in Section [26-21-2](#);
- 2336 (B) a health care provider as defined in Section [78B-3-403](#);
- 2337 (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or
- 2338 (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).
- 2339 (b) "Disposable home medical equipment or supplies" does not include:
- 2340 (i) a drug;
- 2341 (ii) durable medical equipment;
- 2342 (iii) a hearing aid;
- 2343 (iv) a hearing aid accessory;
- 2344 (v) mobility enhancing equipment; or
- 2345 (vi) tangible personal property used to correct impaired vision, including:
- 2346 (A) eyeglasses; or
- 2347 (B) contact lenses.
- 2348 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2349 commission may by rule define what constitutes medical equipment or supplies.
- 2350 (41) "Drilling equipment manufacturer" means a facility:

- 2351 (a) located in the state;
- 2352 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 2353 consist of manufacturing component parts of drilling equipment;
- 2354 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 2355 manufacturing process; and
- 2356 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 2357 manufacturing process.
- 2358 (42) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 2359 compound, substance, or preparation that is:
- 2360 (i) recognized in:
- 2361 (A) the official United States Pharmacopoeia;
- 2362 (B) the official Homeopathic Pharmacopoeia of the United States;
- 2363 (C) the official National Formulary; or
- 2364 (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);
- 2365 (ii) intended for use in the:
- 2366 (A) diagnosis of disease;
- 2367 (B) cure of disease;
- 2368 (C) mitigation of disease;
- 2369 (D) treatment of disease; or
- 2370 (E) prevention of disease; or
- 2371 (iii) intended to affect:
- 2372 (A) the structure of the body; or
- 2373 (B) any function of the body.
- 2374 (b) "Drug" does not include:
- 2375 (i) food and food ingredients;
- 2376 (ii) a dietary supplement;
- 2377 (iii) an alcoholic beverage; or
- 2378 (iv) a prosthetic device.
- 2379 (43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means
- 2380 equipment that:
- 2381 (i) can withstand repeated use;

- 2382 (ii) is primarily and customarily used to serve a medical purpose;
- 2383 (iii) generally is not useful to a person in the absence of illness or injury; and
- 2384 (iv) is not worn in or on the body.
- 2385 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 2386 equipment described in Subsection (43)(a).
- 2387 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 2388 (44) "Electronic" means:
- 2389 (a) relating to technology; and
- 2390 (b) having:
- 2391 (i) electrical capabilities;
- 2392 (ii) digital capabilities;
- 2393 (iii) magnetic capabilities;
- 2394 (iv) wireless capabilities;
- 2395 (v) optical capabilities;
- 2396 (vi) electromagnetic capabilities; or
- 2397 (vii) capabilities similar to Subsections (44)(b)(i) through (vi).
- 2398 (45) "Electronic financial payment service" means an establishment:
- 2399 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 2400 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 2401 federal Executive Office of the President, Office of Management and Budget; and
- 2402 (b) that performs electronic financial payment services.
- 2403 (46) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 2404 (47) "Fixed guideway" means a public transit facility that uses and occupies:
- 2405 (a) rail for the use of public transit; or
- 2406 (b) a separate right-of-way for the use of public transit.
- 2407 (48) "Fixed wing turbine powered aircraft" means an aircraft that:
- 2408 (a) is powered by turbine engines;
- 2409 (b) operates on jet fuel; and
- 2410 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 2411 (49) "Fixed wireless service" means a telecommunications service that provides radio
- 2412 communication between fixed points.

- 2413 (50) (a) "Food and food ingredients" means substances:
- 2414 (i) regardless of whether the substances are in:
- 2415 (A) liquid form;
- 2416 (B) concentrated form;
- 2417 (C) solid form;
- 2418 (D) frozen form;
- 2419 (E) dried form; or
- 2420 (F) dehydrated form; and
- 2421 (ii) that are:
- 2422 (A) sold for:
- 2423 (I) ingestion by humans; or
- 2424 (II) chewing by humans; and
- 2425 (B) consumed for the substance's:
- 2426 (I) taste; or
- 2427 (II) nutritional value.
- 2428 (b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).
- 2429 (c) "Food and food ingredients" does not include:
- 2430 (i) an alcoholic beverage;
- 2431 (ii) tobacco; or
- 2432 (iii) prepared food.
- 2433 (51) (a) "Fundraising sales" means sales:
- 2434 (i) (A) made by a school; or
- 2435 (B) made by a school student;
- 2436 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 2437 materials, or provide transportation; and
- 2438 (iii) that are part of an officially sanctioned school activity.
- 2439 (b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity"
- 2440 means a school activity:
- 2441 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 2442 district governing the authorization and supervision of fundraising activities;
- 2443 (ii) that does not directly or indirectly compensate an individual teacher or other

2444 educational personnel by direct payment, commissions, or payment in kind; and

2445 (iii) the net or gross revenues from which are deposited in a dedicated account

2446 controlled by the school or school district.

2447 (52) "Geothermal energy" means energy contained in heat that continuously flows

2448 outward from the earth that is used as the sole source of energy to produce electricity.

2449 (53) "Governing board of the agreement" means the governing board of the agreement

2450 that is:

2451 (a) authorized to administer the agreement; and

2452 (b) established in accordance with the agreement.

2453 (54) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

2454 (i) the executive branch of the state, including all departments, institutions, boards,
2455 divisions, bureaus, offices, commissions, and committees;

2456 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
2457 Office of the Court Administrator, and similar administrative units in the judicial branch;

2458 (iii) the legislative branch of the state, including the House of Representatives, the
2459 Senate, the Legislative Printing Office, the Office of Legislative Research and General

2460 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
2461 Analyst;

2462 (iv) the National Guard;

2463 (v) an independent entity as defined in Section 63E-1-102; or

2464 (vi) a political subdivision as defined in Section 17B-1-102.

2465 (b) "Governmental entity" does not include the state systems of public and higher
2466 education, including:

2467 (i) a school;

2468 (ii) the State Board of Education;

2469 (iii) the State Board of Regents; or

2470 (iv) an institution of higher education described in Section 53B-1-102.

2471 (55) "Hydroelectric energy" means water used as the sole source of energy to produce
2472 electricity.

2473 (56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
2474 other fuels:

- 2475 (a) in mining or extraction of minerals;
- 2476 (b) in agricultural operations to produce an agricultural product up to the time of
- 2477 harvest or placing the agricultural product into a storage facility, including:
- 2478 (i) commercial greenhouses;
- 2479 (ii) irrigation pumps;
- 2480 (iii) farm machinery;
- 2481 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
- 2482 under Title 41, Chapter 1a, Part 2, Registration; and
- 2483 (v) other farming activities;
- 2484 (c) in manufacturing tangible personal property at an establishment described in SIC
- 2485 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 2486 Executive Office of the President, Office of Management and Budget;
- 2487 (d) by a scrap recycler if:
- 2488 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 2489 one or more of the following items into prepared grades of processed materials for use in new
- 2490 products:
- 2491 (A) iron;
- 2492 (B) steel;
- 2493 (C) nonferrous metal;
- 2494 (D) paper;
- 2495 (E) glass;
- 2496 (F) plastic;
- 2497 (G) textile; or
- 2498 (H) rubber; and
- 2499 (ii) the new products under Subsection (56)(d)(i) would otherwise be made with
- 2500 nonrecycled materials; or
- 2501 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
- 2502 cogeneration facility as defined in Section 54-2-1.
- 2503 (57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge
- 2504 for installing:
- 2505 (i) tangible personal property; or

- 2506 (ii) a product transferred electronically.
- 2507 (b) "Installation charge" does not include a charge for:
- 2508 (i) repairs or renovations of:
- 2509 (A) tangible personal property; or
- 2510 (B) a product transferred electronically; or
- 2511 (ii) attaching tangible personal property or a product transferred electronically:
- 2512 (A) to other tangible personal property; and
- 2513 (B) as part of a manufacturing or fabrication process.
- 2514 (58) "Institution of higher education" means an institution of higher education listed in
- 2515 Section [53B-2-101](#).
- 2516 (59) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 2517 personal property or a product transferred electronically for:
- 2518 (i) (A) a fixed term; or
- 2519 (B) an indeterminate term; and
- 2520 (ii) consideration.
- 2521 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
- 2522 amount of consideration may be increased or decreased by reference to the amount realized
- 2523 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
- 2524 Code.
- 2525 (c) "Lease" or "rental" does not include:
- 2526 (i) a transfer of possession or control of property under a security agreement or
- 2527 deferred payment plan that requires the transfer of title upon completion of the required
- 2528 payments;
- 2529 (ii) a transfer of possession or control of property under an agreement that requires the
- 2530 transfer of title:
- 2531 (A) upon completion of required payments; and
- 2532 (B) if the payment of an option price does not exceed the greater of:
- 2533 (I) \$100; or
- 2534 (II) 1% of the total required payments; or
- 2535 (iii) providing tangible personal property along with an operator for a fixed period of
- 2536 time or an indeterminate period of time if the operator is necessary for equipment to perform as

2537 designed.

2538 (d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to
2539 perform as designed if the operator's duties exceed the:

2540 (i) set-up of tangible personal property;

2541 (ii) maintenance of tangible personal property; or

2542 (iii) inspection of tangible personal property.

2543 (60) "Life science establishment" means an establishment in this state that is classified
2544 under the following NAICS codes of the 2007 North American Industry Classification System

2545 of the federal Executive Office of the President, Office of Management and Budget:

2546 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

2547 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
2548 Manufacturing; or

2549 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

2550 (61) "Life science research and development facility" means a facility owned, leased,
2551 or rented by a life science establishment if research and development is performed in 51% or
2552 more of the total area of the facility.

2553 (62) "Load and leave" means delivery to a purchaser by use of a tangible storage media
2554 if the tangible storage media is not physically transferred to the purchaser.

2555 (63) "Local taxing jurisdiction" means a:

2556 (a) county that is authorized to impose an agreement sales and use tax;

2557 (b) city that is authorized to impose an agreement sales and use tax; or

2558 (c) town that is authorized to impose an agreement sales and use tax.

2559 (64) "Manufactured home" means the same as that term is defined in Section
2560 [15A-1-302](#).

2561 (65) "Manufacturing facility" means:

2562 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
2563 Industrial Classification Manual of the federal Executive Office of the President, Office of
2564 Management and Budget;

2565 (b) a scrap recycler if:

2566 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
2567 one or more of the following items into prepared grades of processed materials for use in new

2568 products:

2569 (A) iron;

2570 (B) steel;

2571 (C) nonferrous metal;

2572 (D) paper;

2573 (E) glass;

2574 (F) plastic;

2575 (G) textile; or

2576 (H) rubber; and

2577 (ii) the new products under Subsection (65)(b)(i) would otherwise be made with

2578 nonrecycled materials; or

2579 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is

2580 placed in service on or after May 1, 2006.

2581 (66) "Member of the immediate family of the producer" means a person who is related

2582 to a producer described in Subsection 59-12-104(20)(a) as a:

2583 (a) child or stepchild, regardless of whether the child or stepchild is:

2584 (i) an adopted child or adopted stepchild; or

2585 (ii) a foster child or foster stepchild;

2586 (b) grandchild or stepgrandchild;

2587 (c) grandparent or stepgrandparent;

2588 (d) nephew or stepnephew;

2589 (e) niece or stepniece;

2590 (f) parent or stepparent;

2591 (g) sibling or stepsibling;

2592 (h) spouse;

2593 (i) person who is the spouse of a person described in Subsections (66)(a) through (g);

2594 or

2595 (j) person similar to a person described in Subsections (66)(a) through (i) as

2596 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

2597 Administrative Rulemaking Act.

2598 (67) "Mobile home" means the same as that term is defined in Section 15A-1-302.

2599 (68) "Mobile telecommunications service" is as defined in the Mobile
2600 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2601 (69) (a) "Mobile wireless service" means a telecommunications service, regardless of
2602 the technology used, if:

- 2603 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 2604 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 2605 (iii) the origination point described in Subsection (69)(a)(i) and the termination point
2606 described in Subsection (69)(a)(ii) are not fixed.

2607 (b) "Mobile wireless service" includes a telecommunications service that is provided
2608 by a commercial mobile radio service provider.

2609 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2610 commission may by rule define "commercial mobile radio service provider."

2611 (70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment"
2612 means equipment that is:

- 2613 (i) primarily and customarily used to provide or increase the ability to move from one
2614 place to another;
- 2615 (ii) appropriate for use in a:
 - 2616 (A) home; or
 - 2617 (B) motor vehicle; and
 - 2618 (iii) not generally used by persons with normal mobility.

2619 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
2620 the equipment described in Subsection (70)(a).

2621 (c) "Mobility enhancing equipment" does not include:

- 2622 (i) a motor vehicle;
- 2623 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
2624 vehicle manufacturer;
- 2625 (iii) durable medical equipment; or
- 2626 (iv) a prosthetic device.

2627 (71) "Model 1 seller" means a seller registered under the agreement that has selected a
2628 certified service provider as the seller's agent to perform all of the seller's sales and use tax
2629 functions for agreement sales and use taxes other than the seller's obligation under Section

2630 [59-12-124](#) to remit a tax on the seller's own purchases.

2631 (72) "Model 2 seller" means a seller registered under the agreement that:

2632 (a) except as provided in Subsection (72)(b), has selected a certified automated system
2633 to perform the seller's sales tax functions for agreement sales and use taxes; and

2634 (b) retains responsibility for remitting all of the sales tax:

2635 (i) collected by the seller; and

2636 (ii) to the appropriate local taxing jurisdiction.

2637 (73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under
2638 the agreement that has:

2639 (i) sales in at least five states that are members of the agreement;

2640 (ii) total annual sales revenues of at least \$500,000,000;

2641 (iii) a proprietary system that calculates the amount of tax:

2642 (A) for an agreement sales and use tax; and

2643 (B) due to each local taxing jurisdiction; and

2644 (iv) entered into a performance agreement with the governing board of the agreement.

2645 (b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of
2646 sellers using the same proprietary system.

2647 (74) "Model 4 seller" means a seller that is registered under the agreement and is not a
2648 model 1 seller, model 2 seller, or model 3 seller.

2649 (75) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

2650 (76) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).

2651 (77) "Oil sands" means impregnated bituminous sands that:

2652 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
2653 other hydrocarbons, or otherwise treated;

2654 (b) yield mixtures of liquid hydrocarbon; and

2655 (c) require further processing other than mechanical blending before becoming finished
2656 petroleum products.

2657 (78) "Oil shale" means a group of fine black to dark brown shales containing kerogen
2658 material that yields petroleum upon heating and distillation.

2659 (79) "Optional computer software maintenance contract" means a computer software
2660 maintenance contract that a customer is not obligated to purchase as a condition to the retail

2661 sale of computer software.

2662 (80) (a) "Other fuels" means products that burn independently to produce heat or
2663 energy.

2664 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
2665 personal property.

2666 (81) (a) "Paging service" means a telecommunications service that provides
2667 transmission of a coded radio signal for the purpose of activating a specific pager.

2668 (b) For purposes of Subsection (81)(a), the transmission of a coded radio signal
2669 includes a transmission by message or sound.

2670 (82) "Pawnbroker" means the same as that term is defined in Section [13-32a-102](#).

2671 (83) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).

2672 (84) (a) "Permanently attached to real property" means that for tangible personal
2673 property attached to real property:

2674 (i) the attachment of the tangible personal property to the real property:

2675 (A) is essential to the use of the tangible personal property; and

2676 (B) suggests that the tangible personal property will remain attached to the real
2677 property in the same place over the useful life of the tangible personal property; or

2678 (ii) if the tangible personal property is detached from the real property, the detachment
2679 would:

2680 (A) cause substantial damage to the tangible personal property; or

2681 (B) require substantial alteration or repair of the real property to which the tangible
2682 personal property is attached.

2683 (b) "Permanently attached to real property" includes:

2684 (i) the attachment of an accessory to the tangible personal property if the accessory is:

2685 (A) essential to the operation of the tangible personal property; and

2686 (B) attached only to facilitate the operation of the tangible personal property;

2687 (ii) a temporary detachment of tangible personal property from real property for a
2688 repair or renovation if the repair or renovation is performed where the tangible personal

2689 property and real property are located; or

2690 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
2691 Subsection (84)(c)(iii) or (iv).

2692 (c) "Permanently attached to real property" does not include:
2693 (i) the attachment of portable or movable tangible personal property to real property if
2694 that portable or movable tangible personal property is attached to real property only for:
2695 (A) convenience;
2696 (B) stability; or
2697 (C) for an obvious temporary purpose;
2698 (ii) the detachment of tangible personal property from real property except for the
2699 detachment described in Subsection (84)(b)(ii);
2700 (iii) an attachment of the following tangible personal property to real property if the
2701 attachment to real property is only through a line that supplies water, electricity, gas,
2702 telecommunications, cable, or supplies a similar item as determined by the commission by rule
2703 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
2704 (A) a computer;
2705 (B) a telephone;
2706 (C) a television; or
2707 (D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as
2708 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
2709 Administrative Rulemaking Act; or
2710 (iv) an item listed in Subsection (125)(c).
2711 (85) "Person" includes any individual, firm, partnership, joint venture, association,
2712 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
2713 municipality, district, or other local governmental entity of the state, or any group or
2714 combination acting as a unit.
2715 (86) "Place of primary use":
2716 (a) for telecommunications service other than mobile telecommunications service,
2717 means the street address representative of where the customer's use of the telecommunications
2718 service primarily occurs, which shall be:
2719 (i) the residential street address of the customer; or
2720 (ii) the primary business street address of the customer; or
2721 (b) for mobile telecommunications service, is as defined in the Mobile
2722 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

- 2723 (87) (a) "Postpaid calling service" means a telecommunications service a person
2724 obtains by making a payment on a call-by-call basis:
- 2725 (i) through the use of a:
- 2726 (A) bank card;
- 2727 (B) credit card;
- 2728 (C) debit card; or
- 2729 (D) travel card; or
- 2730 (ii) by a charge made to a telephone number that is not associated with the origination
2731 or termination of the telecommunications service.
- 2732 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
2733 service, that would be a prepaid wireless calling service if the service were exclusively a
2734 telecommunications service.
- 2735 (88) "Postproduction" means an activity related to the finishing or duplication of a
2736 medium described in Subsection [59-12-104\(54\)\(a\)](#).
- 2737 (89) "Prepaid calling service" means a telecommunications service:
- 2738 (a) that allows a purchaser access to telecommunications service that is exclusively
2739 telecommunications service;
- 2740 (b) that:
- 2741 (i) is paid for in advance; and
- 2742 (ii) enables the origination of a call using an:
- 2743 (A) access number; or
- 2744 (B) authorization code;
- 2745 (c) that is dialed:
- 2746 (i) manually; or
- 2747 (ii) electronically; and
- 2748 (d) sold in predetermined units or dollars that decline:
- 2749 (i) by a known amount; and
- 2750 (ii) with use.
- 2751 (90) "Prepaid wireless calling service" means a telecommunications service:
- 2752 (a) that provides the right to utilize:
- 2753 (i) mobile wireless service; and

- 2754 (ii) other service that is not a telecommunications service, including:
- 2755 (A) the download of a product transferred electronically;
- 2756 (B) a content service; or
- 2757 (C) an ancillary service;
- 2758 (b) that:
- 2759 (i) is paid for in advance; and
- 2760 (ii) enables the origination of a call using an:
- 2761 (A) access number; or
- 2762 (B) authorization code;
- 2763 (c) that is dialed:
- 2764 (i) manually; or
- 2765 (ii) electronically; and
- 2766 (d) sold in predetermined units or dollars that decline:
- 2767 (i) by a known amount; and
- 2768 (ii) with use.
- 2769 (91) (a) "Prepared food" means:
- 2770 (i) food:
- 2771 (A) sold in a heated state; or
- 2772 (B) heated by a seller;
- 2773 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 2774 item; or
- 2775 (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided
- 2776 by the seller, including a:
- 2777 (A) plate;
- 2778 (B) knife;
- 2779 (C) fork;
- 2780 (D) spoon;
- 2781 (E) glass;
- 2782 (F) cup;
- 2783 (G) napkin; or
- 2784 (H) straw.

- 2785 (b) "Prepared food" does not include:
2786 (i) food that a seller only:
2787 (A) cuts;
2788 (B) repackages; or
2789 (C) pasteurizes; or
2790 (ii) (A) the following:
2791 (I) raw egg;
2792 (II) raw fish;
2793 (III) raw meat;
2794 (IV) raw poultry; or
2795 (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);
2796 and
2797 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
2798 Food and Drug Administration's Food Code that a consumer cook the items described in
2799 Subsection (91)(b)(ii)(A) to prevent food borne illness; or
2800 (iii) the following if sold without eating utensils provided by the seller:
2801 (A) food and food ingredients sold by a seller if the seller's proper primary
2802 classification under the 2002 North American Industry Classification System of the federal
2803 Executive Office of the President, Office of Management and Budget, is manufacturing in
2804 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
2805 Manufacturing;
2806 (B) food and food ingredients sold in an unheated state:
2807 (I) by weight or volume; and
2808 (II) as a single item; or
2809 (C) a bakery item, including:
2810 (I) a bagel;
2811 (II) a bar;
2812 (III) a biscuit;
2813 (IV) bread;
2814 (V) a bun;
2815 (VI) a cake;

- 2816 (VII) a cookie;
- 2817 (VIII) a croissant;
- 2818 (IX) a danish;
- 2819 (X) a donut;
- 2820 (XI) a muffin;
- 2821 (XII) a pastry;
- 2822 (XIII) a pie;
- 2823 (XIV) a roll;
- 2824 (XV) a tart;
- 2825 (XVI) a torte; or
- 2826 (XVII) a tortilla.
- 2827 (c) An eating utensil provided by the seller does not include the following used to
- 2828 transport the food:
 - 2829 (i) a container; or
 - 2830 (ii) packaging.
- 2831 (92) "Prescription" means an order, formula, or recipe that is issued:
 - 2832 (a) (i) orally;
 - 2833 (ii) in writing;
 - 2834 (iii) electronically; or
 - 2835 (iv) by any other manner of transmission; and
 - 2836 (b) by a licensed practitioner authorized by the laws of a state.
- 2837 (93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer
- 2838 software" means computer software that is not designed and developed:
 - 2839 (i) by the author or other creator of the computer software; and
 - 2840 (ii) to the specifications of a specific purchaser.
- 2841 (b) "Prewritten computer software" includes:
 - 2842 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
 - 2843 software is not designed and developed:
 - 2844 (A) by the author or other creator of the computer software; and
 - 2845 (B) to the specifications of a specific purchaser;
 - 2846 (ii) computer software designed and developed by the author or other creator of the

2847 computer software to the specifications of a specific purchaser if the computer software is sold
2848 to a person other than the purchaser; or

2849 (iii) except as provided in Subsection (93)(c), prewritten computer software or a
2850 prewritten portion of prewritten computer software:

2851 (A) that is modified or enhanced to any degree; and

2852 (B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is
2853 designed and developed to the specifications of a specific purchaser.

2854 (c) "Prewritten computer software" does not include a modification or enhancement
2855 described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:

2856 (i) reasonable; and

2857 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
2858 invoice or other statement of price provided to the purchaser at the time of sale or later, as
2859 demonstrated by:

2860 (A) the books and records the seller keeps at the time of the transaction in the regular
2861 course of business, including books and records the seller keeps at the time of the transaction in
2862 the regular course of business for nontax purposes;

2863 (B) a preponderance of the facts and circumstances at the time of the transaction; and

2864 (C) the understanding of all of the parties to the transaction.

2865 (94) (a) "Private communications service" means a telecommunications service:

2866 (i) that entitles a customer to exclusive or priority use of one or more communications
2867 channels between or among termination points; and

2868 (ii) regardless of the manner in which the one or more communications channels are
2869 connected.

2870 (b) "Private communications service" includes the following provided in connection
2871 with the use of one or more communications channels:

2872 (i) an extension line;

2873 (ii) a station;

2874 (iii) switching capacity; or

2875 (iv) another associated service that is provided in connection with the use of one or
2876 more communications channels as defined in Section 59-12-215.

2877 (95) (a) Except as provided in Subsection (95)(b), "product transferred electronically"

2878 means a product transferred electronically that would be subject to a tax under this chapter if
2879 that product was transferred in a manner other than electronically.

2880 (b) "Product transferred electronically" does not include:

- 2881 (i) an ancillary service;
- 2882 (ii) computer software; or
- 2883 (iii) a telecommunications service.

2884 (96) (a) "Prosthetic device" means a device that is worn on or in the body to:

- 2885 (i) artificially replace a missing portion of the body;
- 2886 (ii) prevent or correct a physical deformity or physical malfunction; or
- 2887 (iii) support a weak or deformed portion of the body.

2888 (b) "Prosthetic device" includes:

- 2889 (i) parts used in the repairs or renovation of a prosthetic device;
- 2890 (ii) replacement parts for a prosthetic device;
- 2891 (iii) a dental prosthesis; or
- 2892 (iv) a hearing aid.

2893 (c) "Prosthetic device" does not include:

- 2894 (i) corrective eyeglasses; or
- 2895 (ii) contact lenses.

2896 (97) (a) "Protective equipment" means an item:

- 2897 (i) for human wear; and
- 2898 (ii) that is:
 - 2899 (A) designed as protection:
 - 2900 (I) to the wearer against injury or disease; or
 - 2901 (II) against damage or injury of other persons or property; and
 - 2902 (B) not suitable for general use.

2903 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2904 commission shall make rules:

- 2905 (i) listing the items that constitute "protective equipment"; and
- 2906 (ii) that are consistent with the list of items that constitute "protective equipment"
2907 under the agreement.

2908 (98) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or

2909 printed matter, other than a photocopy:

2910 (i) regardless of:

2911 (A) characteristics;

2912 (B) copyright;

2913 (C) form;

2914 (D) format;

2915 (E) method of reproduction; or

2916 (F) source; and

2917 (ii) made available in printed or electronic format.

2918 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2919 commission may by rule define the term "photocopy."

2920 (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:

2921 (i) valued in money; and

2922 (ii) for which tangible personal property, a product transferred electronically, or

2923 services are:

2924 (A) sold;

2925 (B) leased; or

2926 (C) rented.

2927 (b) "Purchase price" and "sales price" include:

2928 (i) the seller's cost of the tangible personal property, a product transferred

2929 electronically, or services sold;

2930 (ii) expenses of the seller, including:

2931 (A) the cost of materials used;

2932 (B) a labor cost;

2933 (C) a service cost;

2934 (D) interest;

2935 (E) a loss;

2936 (F) the cost of transportation to the seller; or

2937 (G) a tax imposed on the seller;

2938 (iii) a charge by the seller for any service necessary to complete the sale; or

2939 (iv) consideration a seller receives from a person other than the purchaser if:

2940 (A) (I) the seller actually receives consideration from a person other than the purchaser;
2941 and

2942 (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a
2943 price reduction or discount on the sale;

2944 (B) the seller has an obligation to pass the price reduction or discount through to the
2945 purchaser;

2946 (C) the amount of the consideration attributable to the sale is fixed and determinable by
2947 the seller at the time of the sale to the purchaser; and

2948 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
2949 seller to claim a price reduction or discount; and

2950 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
2951 coupon, or other documentation with the understanding that the person other than the seller
2952 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

2953 (II) the purchaser identifies that purchaser to the seller as a member of a group or
2954 organization allowed a price reduction or discount, except that a preferred customer card that is
2955 available to any patron of a seller does not constitute membership in a group or organization
2956 allowed a price reduction or discount; or

2957 (III) the price reduction or discount is identified as a third party price reduction or
2958 discount on the:

2959 (Aa) invoice the purchaser receives; or

2960 (Bb) certificate, coupon, or other documentation the purchaser presents.

2961 (c) "Purchase price" and "sales price" do not include:

2962 (i) a discount:

2963 (A) in a form including:

2964 (I) cash;

2965 (II) term; or

2966 (III) coupon;

2967 (B) that is allowed by a seller;

2968 (C) taken by a purchaser on a sale; and

2969 (D) that is not reimbursed by a third party; or

2970 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately

2971 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
2972 sale or later, as demonstrated by the books and records the seller keeps at the time of the
2973 transaction in the regular course of business, including books and records the seller keeps at the
2974 time of the transaction in the regular course of business for nontax purposes, by a
2975 preponderance of the facts and circumstances at the time of the transaction, and by the
2976 understanding of all of the parties to the transaction:

2977 (A) the following from credit extended on the sale of tangible personal property or
2978 services:

2979 (I) a carrying charge;

2980 (II) a financing charge; or

2981 (III) an interest charge;

2982 (B) a delivery charge;

2983 (C) an installation charge;

2984 (D) a manufacturer rebate on a motor vehicle; or

2985 (E) a tax or fee legally imposed directly on the consumer.

2986 (100) "Purchaser" means a person to whom:

2987 (a) a sale of tangible personal property is made;

2988 (b) a product is transferred electronically; or

2989 (c) a service is furnished.

2990 (101) "Qualifying enterprise data center" means an establishment that will:

2991 (a) own and operate a data center facility that will house a group of networked server
2992 computers in one physical location in order to centralize the dissemination, management, and
2993 storage of data and information;

2994 (b) be located in the state;

2995 (c) be a new operation constructed on or after July 1, 2016;

2996 (d) consist of one or more buildings that total 150,000 or more square feet;

2997 (e) be owned or leased by:

2998 (i) the establishment; or

2999 (ii) a person under common ownership, as defined in Section [59-7-101](#), of the
3000 establishment; and

3001 (f) be located on one or more parcels of land that are owned or leased by:

3002 (i) the establishment; or
3003 (ii) a person under common ownership, as defined in Section 59-7-101, of the
3004 establishment.

3005 (102) "Regularly rented" means:
3006 (a) rented to a guest for value three or more times during a calendar year; or
3007 (b) advertised or held out to the public as a place that is regularly rented to guests for
3008 value.

3009 (103) "Rental" means the same as that term is defined in Subsection (59).

3010 (104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible
3011 personal property" means:
3012 (i) a repair or renovation of tangible personal property that is not permanently attached
3013 to real property; or
3014 (ii) attaching tangible personal property or a product transferred electronically to other
3015 tangible personal property or detaching tangible personal property or a product transferred
3016 electronically from other tangible personal property if:
3017 (A) the other tangible personal property to which the tangible personal property or
3018 product transferred electronically is attached or from which the tangible personal property or
3019 product transferred electronically is detached is not permanently attached to real property; and
3020 (B) the attachment of tangible personal property or a product transferred electronically
3021 to other tangible personal property or detachment of tangible personal property or a product
3022 transferred electronically from other tangible personal property is made in conjunction with a
3023 repair or replacement of tangible personal property or a product transferred electronically.

3024 (b) "Repairs or renovations of tangible personal property" does not include:
3025 (i) attaching prewritten computer software to other tangible personal property if the
3026 other tangible personal property to which the prewritten computer software is attached is not
3027 permanently attached to real property; or
3028 (ii) detaching prewritten computer software from other tangible personal property if the
3029 other tangible personal property from which the prewritten computer software is detached is
3030 not permanently attached to real property.

3031 (105) "Research and development" means the process of inquiry or experimentation
3032 aimed at the discovery of facts, devices, technologies, or applications and the process of

3033 preparing those devices, technologies, or applications for marketing.

3034 (106) (a) "Residential telecommunications services" means a telecommunications
3035 service or an ancillary service that is provided to an individual for personal use:

3036 (i) at a residential address; or

3037 (ii) at an institution, including a nursing home or a school, if the telecommunications
3038 service or ancillary service is provided to and paid for by the individual residing at the
3039 institution rather than the institution.

3040 (b) For purposes of Subsection (106)(a)(i), a residential address includes an:

3041 (i) apartment; or

3042 (ii) other individual dwelling unit.

3043 (107) "Residential use" means the use in or around a home, apartment building,
3044 sleeping quarters, and similar facilities or accommodations.

3045 (108) (a) "Retailer" means any person engaged in a regularly organized business in
3046 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
3047 who is selling to the user or consumer and not for resale.

3048 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
3049 engaged in the business of selling to users or consumers within the state.

3050 (109) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
3051 than:

3052 (a) resale;

3053 (b) sublease; or

3054 (c) subrent.

3055 (110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
3056 otherwise, in any manner, of tangible personal property or any other taxable transaction under
3057 Subsection 59-12-103(1), for consideration.

3058 (b) "Sale" includes:

3059 (i) installment and credit sales;

3060 (ii) any closed transaction constituting a sale;

3061 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
3062 chapter;

3063 (iv) any transaction if the possession of property is transferred but the seller retains the

3064 title as security for the payment of the price; and

3065 (v) any transaction under which right to possession, operation, or use of any article of
3066 tangible personal property is granted under a lease or contract and the transfer of possession
3067 would be taxable if an outright sale were made.

3068 (111) "Sale at retail" means the same as that term is defined in Subsection (109).

3069 (112) "Sale-leaseback transaction" means a transaction by which title to tangible
3070 personal property or a product transferred electronically that is subject to a tax under this
3071 chapter is transferred:

3072 (a) by a purchaser-lessee;

3073 (b) to a lessor;

3074 (c) for consideration; and

3075 (d) if:

3076 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
3077 of the tangible personal property or product transferred electronically;

3078 (ii) the sale of the tangible personal property or product transferred electronically to the
3079 lessor is intended as a form of financing:

3080 (A) for the tangible personal property or product transferred electronically; and

3081 (B) to the purchaser-lessee; and

3082 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
3083 is required to:

3084 (A) capitalize the tangible personal property or product transferred electronically for
3085 financial reporting purposes; and

3086 (B) account for the lease payments as payments made under a financing arrangement.

3087 (113) "Sales price" means the same as that term is defined in Subsection (99).

3088 (114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
3089 amounts charged by a school:

3090 (i) sales that are directly related to the school's educational functions or activities
3091 including:

3092 (A) the sale of:

3093 (I) textbooks;

3094 (II) textbook fees;

- 3095 (III) laboratory fees;
- 3096 (IV) laboratory supplies; or
- 3097 (V) safety equipment;
- 3098 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 3099 that:
- 3100 (I) a student is specifically required to wear as a condition of participation in a
- 3101 school-related event or school-related activity; and
- 3102 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 3103 place of ordinary clothing;
- 3104 (C) sales of the following if the net or gross revenues generated by the sales are
- 3105 deposited into a school district fund or school fund dedicated to school meals:
- 3106 (I) food and food ingredients; or
- 3107 (II) prepared food; or
- 3108 (D) transportation charges for official school activities; or
- 3109 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 3110 event or school-related activity.
- 3111 (b) "Sales relating to schools" does not include:
- 3112 (i) bookstore sales of items that are not educational materials or supplies;
- 3113 (ii) except as provided in Subsection (114)(a)(i)(B):
- 3114 (A) clothing;
- 3115 (B) clothing accessories or equipment;
- 3116 (C) protective equipment; or
- 3117 (D) sports or recreational equipment; or
- 3118 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 3119 event or school-related activity if the amounts paid or charged are passed through to a person:
- 3120 (A) other than a:
- 3121 (I) school;
- 3122 (II) nonprofit organization authorized by a school board or a governing body of a
- 3123 private school to organize and direct a competitive secondary school activity; or
- 3124 (III) nonprofit association authorized by a school board or a governing body of a
- 3125 private school to organize and direct a competitive secondary school activity; and

- 3126 (B) that is required to collect sales and use taxes under this chapter.
- 3127 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3128 commission may make rules defining the term "passed through."
- 3129 (115) For purposes of this section and Section [59-12-104](#), "school":
- 3130 (a) means:
- 3131 (i) an elementary school or a secondary school that:
- 3132 (A) is a:
- 3133 (I) public school; or
- 3134 (II) private school; and
- 3135 (B) provides instruction for one or more grades kindergarten through 12; or
- 3136 (ii) a public school district; and
- 3137 (b) includes the Electronic High School as defined in Section [53A-15-1002](#).
- 3138 (116) "Seller" means a person that makes a sale, lease, or rental of:
- 3139 (a) tangible personal property;
- 3140 (b) a product transferred electronically; or
- 3141 (c) a service.
- 3142 (117) (a) "Semiconductor fabricating, processing, research, or development materials"
- 3143 means tangible personal property or a product transferred electronically if the tangible personal
- 3144 property or product transferred electronically is:
- 3145 (i) used primarily in the process of:
- 3146 (A) (I) manufacturing a semiconductor;
- 3147 (II) fabricating a semiconductor; or
- 3148 (III) research or development of a:
- 3149 (Aa) semiconductor; or
- 3150 (Bb) semiconductor manufacturing process; or
- 3151 (B) maintaining an environment suitable for a semiconductor; or
- 3152 (ii) consumed primarily in the process of:
- 3153 (A) (I) manufacturing a semiconductor;
- 3154 (II) fabricating a semiconductor; or
- 3155 (III) research or development of a:
- 3156 (Aa) semiconductor; or

- 3157 (Bb) semiconductor manufacturing process; or
3158 (B) maintaining an environment suitable for a semiconductor.
3159 (b) "Semiconductor fabricating, processing, research, or development materials"
3160 includes:
3161 (i) parts used in the repairs or renovations of tangible personal property or a product
3162 transferred electronically described in Subsection (117)(a); or
3163 (ii) a chemical, catalyst, or other material used to:
3164 (A) produce or induce in a semiconductor a:
3165 (I) chemical change; or
3166 (II) physical change;
3167 (B) remove impurities from a semiconductor; or
3168 (C) improve the marketable condition of a semiconductor.
3169 (118) "Senior citizen center" means a facility having the primary purpose of providing
3170 services to the aged as defined in Section [62A-3-101](#).
3171 (119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable"
3172 means tangible personal property that:
3173 (i) a business that provides accommodations and services described in Subsection
3174 [59-12-103\(1\)\(i\)](#) purchases as part of a transaction to provide the accommodations and services
3175 to a purchaser;
3176 (ii) is intended to be consumed by the purchaser; and
3177 (iii) is:
3178 (A) included in the purchase price of the accommodations and services; and
3179 (B) not separately stated on an invoice, bill of sale, or other similar document provided
3180 to the purchaser.
3181 (b) "Short-term lodging consumable" includes:
3182 (i) a beverage;
3183 (ii) a brush or comb;
3184 (iii) a cosmetic;
3185 (iv) a hair care product;
3186 (v) lotion;
3187 (vi) a magazine;

- 3188 (vii) makeup;
- 3189 (viii) a meal;
- 3190 (ix) mouthwash;
- 3191 (x) nail polish remover;
- 3192 (xi) a newspaper;
- 3193 (xii) a notepad;
- 3194 (xiii) a pen;
- 3195 (xiv) a pencil;
- 3196 (xv) a razor;
- 3197 (xvi) saline solution;
- 3198 (xvii) a sewing kit;
- 3199 (xviii) shaving cream;
- 3200 (xix) a shoe shine kit;
- 3201 (xx) a shower cap;
- 3202 (xxi) a snack item;
- 3203 (xxii) soap;
- 3204 (xxiii) toilet paper;
- 3205 (xxiv) a toothbrush;
- 3206 (xxv) toothpaste; or
- 3207 (xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may
- 3208 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 3209 Rulemaking Act.
- 3210 (c) "Short-term lodging consumable" does not include:
- 3211 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 3212 property to be reused; or
- 3213 (ii) a product transferred electronically.
- 3214 (120) "Simplified electronic return" means the electronic return:
- 3215 (a) described in Section 318(C) of the agreement; and
- 3216 (b) approved by the governing board of the agreement.
- 3217 (121) "Solar energy" means the sun used as the sole source of energy for producing
- 3218 electricity.

- 3219 (122) (a) "Sports or recreational equipment" means an item:
- 3220 (i) designed for human use; and
- 3221 (ii) that is:
- 3222 (A) worn in conjunction with:
- 3223 (I) an athletic activity; or
- 3224 (II) a recreational activity; and
- 3225 (B) not suitable for general use.
- 3226 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3227 commission shall make rules:
- 3228 (i) listing the items that constitute "sports or recreational equipment"; and
- 3229 (ii) that are consistent with the list of items that constitute "sports or recreational
- 3230 equipment" under the agreement.
- 3231 (123) "State" means the state of Utah, its departments, and agencies.
- 3232 (124) "Storage" means any keeping or retention of tangible personal property or any
- 3233 other taxable transaction under Subsection [59-12-103\(1\)](#), in this state for any purpose except
- 3234 sale in the regular course of business.
- 3235 (125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property"
- 3236 means personal property that:
- 3237 (i) may be:
- 3238 (A) seen;
- 3239 (B) weighed;
- 3240 (C) measured;
- 3241 (D) felt; or
- 3242 (E) touched; or
- 3243 (ii) is in any manner perceptible to the senses.
- 3244 (b) "Tangible personal property" includes:
- 3245 (i) electricity;
- 3246 (ii) water;
- 3247 (iii) gas;
- 3248 (iv) steam; or
- 3249 (v) prewritten computer software, regardless of the manner in which the prewritten

3250 computer software is transferred.

3251 (c) "Tangible personal property" includes the following regardless of whether the item
3252 is attached to real property:

3253 (i) a dishwasher;

3254 (ii) a dryer;

3255 (iii) a freezer;

3256 (iv) a microwave;

3257 (v) a refrigerator;

3258 (vi) a stove;

3259 (vii) a washer; or

3260 (viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the
3261 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3262 Rulemaking Act.

3263 (d) "Tangible personal property" does not include a product that is transferred
3264 electronically.

3265 (e) "Tangible personal property" does not include the following if attached to real
3266 property, regardless of whether the attachment to real property is only through a line that
3267 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
3268 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3269 Rulemaking Act:

3270 (i) a hot water heater;

3271 (ii) a water filtration system; or

3272 (iii) a water softener system.

3273 (126) (a) "Telecommunications enabling or facilitating equipment, machinery, or
3274 software" means an item listed in Subsection (126)(b) if that item is purchased or leased
3275 primarily to enable or facilitate one or more of the following to function:

3276 (i) telecommunications switching or routing equipment, machinery, or software; or

3277 (ii) telecommunications transmission equipment, machinery, or software.

3278 (b) The following apply to Subsection (126)(a):

3279 (i) a pole;

3280 (ii) software;

- 3281 (iii) a supplementary power supply;
- 3282 (iv) temperature or environmental equipment or machinery;
- 3283 (v) test equipment;
- 3284 (vi) a tower; or
- 3285 (vii) equipment, machinery, or software that functions similarly to an item listed in
- 3286 Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in
- 3287 accordance with Subsection (126)(c).

3288 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3289 commission may by rule define what constitutes equipment, machinery, or software that

3290 functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

3291 (127) "Telecommunications equipment, machinery, or software required for 911

3292 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.

3293 Sec. 20.18.

3294 (128) "Telecommunications maintenance or repair equipment, machinery, or software"

3295 means equipment, machinery, or software purchased or leased primarily to maintain or repair

3296 one or more of the following, regardless of whether the equipment, machinery, or software is

3297 purchased or leased as a spare part or as an upgrade or modification to one or more of the

3298 following:

- 3299 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 3300 (b) telecommunications switching or routing equipment, machinery, or software; or
- 3301 (c) telecommunications transmission equipment, machinery, or software.

3302 (129) (a) "Telecommunications service" means the electronic conveyance, routing, or

3303 transmission of audio, data, video, voice, or any other information or signal to a point, or

3304 among or between points.

3305 (b) "Telecommunications service" includes:

3306 (i) an electronic conveyance, routing, or transmission with respect to which a computer

3307 processing application is used to act:

- 3308 (A) on the code, form, or protocol of the content;
- 3309 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 3310 (C) regardless of whether the service:
- 3311 (I) is referred to as voice over Internet protocol service; or

- 3312 (II) is classified by the Federal Communications Commission as enhanced or value
- 3313 added;
- 3314 (ii) an 800 service;
- 3315 (iii) a 900 service;
- 3316 (iv) a fixed wireless service;
- 3317 (v) a mobile wireless service;
- 3318 (vi) a postpaid calling service;
- 3319 (vii) a prepaid calling service;
- 3320 (viii) a prepaid wireless calling service; or
- 3321 (ix) a private communications service.
- 3322 (c) "Telecommunications service" does not include:
- 3323 (i) advertising, including directory advertising;
- 3324 (ii) an ancillary service;
- 3325 (iii) a billing and collection service provided to a third party;
- 3326 (iv) a data processing and information service if:
- 3327 (A) the data processing and information service allows data to be:
- 3328 (I) (Aa) acquired;
- 3329 (Bb) generated;
- 3330 (Cc) processed;
- 3331 (Dd) retrieved; or
- 3332 (Ee) stored; and
- 3333 (II) delivered by an electronic transmission to a purchaser; and
- 3334 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 3335 or information;
- 3336 (v) installation or maintenance of the following on a customer's premises:
- 3337 (A) equipment; or
- 3338 (B) wiring;
- 3339 (vi) Internet access service;
- 3340 (vii) a paging service;
- 3341 (viii) a product transferred electronically, including:
- 3342 (A) music;

- 3343 (B) reading material;
- 3344 (C) a ring tone;
- 3345 (D) software; or
- 3346 (E) video;
- 3347 (ix) a radio and television audio and video programming service:
- 3348 (A) regardless of the medium; and
- 3349 (B) including:
 - 3350 (I) furnishing conveyance, routing, or transmission of a television audio and video
 - 3351 programming service by a programming service provider;
 - 3352 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
 - 3353 (III) audio and video programming services delivered by a commercial mobile radio
 - 3354 service provider as defined in 47 C.F.R. Sec. 20.3;
 - 3355 (x) a value-added nonvoice data service; or
 - 3356 (xi) tangible personal property.
- 3357 (130) (a) "Telecommunications service provider" means a person that:
 - 3358 (i) owns, controls, operates, or manages a telecommunications service; and
 - 3359 (ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or
 - 3360 resale to any person of the telecommunications service.
- 3361 (b) A person described in Subsection (130)(a) is a telecommunications service provider
- 3362 whether or not the Public Service Commission of Utah regulates:
 - 3363 (i) that person; or
 - 3364 (ii) the telecommunications service that the person owns, controls, operates, or
 - 3365 manages.
- 3366 (131) (a) "Telecommunications switching or routing equipment, machinery, or
- 3367 software" means an item listed in Subsection (131)(b) if that item is purchased or leased
- 3368 primarily for switching or routing:
 - 3369 (i) an ancillary service;
 - 3370 (ii) data communications;
 - 3371 (iii) voice communications; or
 - 3372 (iv) telecommunications service.
- 3373 (b) The following apply to Subsection (131)(a):

- 3374 (i) a bridge;
- 3375 (ii) a computer;
- 3376 (iii) a cross connect;
- 3377 (iv) a modem;
- 3378 (v) a multiplexer;
- 3379 (vi) plug in circuitry;
- 3380 (vii) a router;
- 3381 (viii) software;
- 3382 (ix) a switch; or
- 3383 (x) equipment, machinery, or software that functions similarly to an item listed in
- 3384 Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in
- 3385 accordance with Subsection (131)(c).

3386 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3387 commission may by rule define what constitutes equipment, machinery, or software that

3388 functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

3389 (132) (a) "Telecommunications transmission equipment, machinery, or software"

3390 means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for

3391 sending, receiving, or transporting:

- 3392 (i) an ancillary service;
- 3393 (ii) data communications;
- 3394 (iii) voice communications; or
- 3395 (iv) telecommunications service.

3396 (b) The following apply to Subsection (132)(a):

- 3397 (i) an amplifier;
- 3398 (ii) a cable;
- 3399 (iii) a closure;
- 3400 (iv) a conduit;
- 3401 (v) a controller;
- 3402 (vi) a duplexer;
- 3403 (vii) a filter;
- 3404 (viii) an input device;

- 3405 (ix) an input/output device;
- 3406 (x) an insulator;
- 3407 (xi) microwave machinery or equipment;
- 3408 (xii) an oscillator;
- 3409 (xiii) an output device;
- 3410 (xiv) a pedestal;
- 3411 (xv) a power converter;
- 3412 (xvi) a power supply;
- 3413 (xvii) a radio channel;
- 3414 (xviii) a radio receiver;
- 3415 (xix) a radio transmitter;
- 3416 (xx) a repeater;
- 3417 (xxi) software;
- 3418 (xxii) a terminal;
- 3419 (xxiii) a timing unit;
- 3420 (xxiv) a transformer;
- 3421 (xxv) a wire; or
- 3422 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 3423 Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in
- 3424 accordance with Subsection (132)(c).
- 3425 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3426 commission may by rule define what constitutes equipment, machinery, or software that
- 3427 functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).
- 3428 (133) (a) "Textbook for a higher education course" means a textbook or other printed
- 3429 material that is required for a course:
- 3430 (i) offered by an institution of higher education; and
- 3431 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 3432 (b) "Textbook for a higher education course" includes a textbook in electronic format.
- 3433 (134) "Tobacco" means:
- 3434 (a) a cigarette;
- 3435 (b) a cigar;

3436 (c) chewing tobacco;

3437 (d) pipe tobacco; or

3438 (e) any other item that contains tobacco.

3439 (135) "Unassisted amusement device" means an amusement device, skill device, or
3440 ride device that is started and stopped by the purchaser or renter of the right to use or operate
3441 the amusement device, skill device, or ride device.

3442 (136) (a) "Use" means the exercise of any right or power over tangible personal
3443 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
3444 incident to the ownership or the leasing of that tangible personal property, product transferred
3445 electronically, or service.

3446 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
3447 property, a product transferred electronically, or a service in the regular course of business and
3448 held for resale.

3449 (137) "Value-added nonvoice data service" means a service:

3450 (a) that otherwise meets the definition of a telecommunications service except that a
3451 computer processing application is used to act primarily for a purpose other than conveyance,
3452 routing, or transmission; and

3453 (b) with respect to which a computer processing application is used to act on data or
3454 information:

3455 (i) code;

3456 (ii) content;

3457 (iii) form; or

3458 (iv) protocol.

3459 (138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are
3460 required to be titled, registered, or titled and registered:

3461 (i) an aircraft as defined in Section 72-10-102;

3462 (ii) a vehicle as defined in Section 41-1a-102;

3463 (iii) an off-highway vehicle as defined in Section 41-22-2; or

3464 (iv) a vessel as defined in Section 41-1a-102.

3465 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

3466 (i) a vehicle described in Subsection (138)(a); or

- 3467 (ii) (A) a locomotive;
3468 (B) a freight car;
3469 (C) railroad work equipment; or
3470 (D) other railroad rolling stock.
- 3471 (139) "Vehicle dealer" means a person engaged in the business of buying, selling, or
3472 exchanging a vehicle as defined in Subsection (138).
- 3473 (140) (a) "Vertical service" means an ancillary service that:
3474 (i) is offered in connection with one or more telecommunications services; and
3475 (ii) offers an advanced calling feature that allows a customer to:
3476 (A) identify a caller; and
3477 (B) manage multiple calls and call connections.
- 3478 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
3479 conference bridging service.
- 3480 (141) (a) "Voice mail service" means an ancillary service that enables a customer to
3481 receive, send, or store a recorded message.
- 3482 (b) "Voice mail service" does not include a vertical service that a customer is required
3483 to have in order to utilize a voice mail service.
- 3484 (142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a
3485 facility that generates electricity:
3486 (i) using as the primary source of energy waste materials that would be placed in a
3487 landfill or refuse pit if it were not used to generate electricity, including:
3488 (A) tires;
3489 (B) waste coal;
3490 (C) oil shale; or
3491 (D) municipal solid waste; and
3492 (ii) in amounts greater than actually required for the operation of the facility.
- 3493 (b) "Waste energy facility" does not include a facility that incinerates:
3494 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
3495 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 3496 (143) "Watercraft" means a vessel as defined in Section [73-18-2](#).
- 3497 (144) "Wind energy" means wind used as the sole source of energy to produce

3498 electricity.

3499 (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
3500 location by the United States Postal Service.

3501 Section 27. Section **59-12-103** is amended to read:

3502 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
3503 **tax revenues.**

3504 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
3505 sales price for amounts paid or charged for the following transactions:

3506 (a) retail sales of tangible personal property made within the state;

3507 (b) amounts paid for:

3508 (i) telecommunications service, other than mobile telecommunications service, that
3509 originates and terminates within the boundaries of this state;

3510 (ii) mobile telecommunications service that originates and terminates within the
3511 boundaries of one state only to the extent permitted by the Mobile Telecommunications
3512 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

3513 (iii) an ancillary service associated with a:

3514 (A) telecommunications service described in Subsection (1)(b)(i); or

3515 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

3516 (c) sales of the following for commercial use:

3517 (i) gas;

3518 (ii) electricity;

3519 (iii) heat;

3520 (iv) coal;

3521 (v) fuel oil; or

3522 (vi) other fuels;

3523 (d) sales of the following for residential use:

3524 (i) gas;

3525 (ii) electricity;

3526 (iii) heat;

3527 (iv) coal;

3528 (v) fuel oil; or

- 3529 (vi) other fuels;
- 3530 (e) sales of prepared food;
- 3531 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 3532 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 3533 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 3534 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 3535 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 3536 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 3537 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 3538 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 3539 exhibition, cultural, or athletic activity;
- 3540 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 3541 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 3542 (i) the tangible personal property; and
- 3543 (ii) parts used in the repairs or renovations of the tangible personal property described
- 3544 in Subsection (1)(g)(i), regardless of whether:
- 3545 (A) any parts are actually used in the repairs or renovations of that tangible personal
- 3546 property; or
- 3547 (B) the particular parts used in the repairs or renovations of that tangible personal
- 3548 property are exempt from a tax under this chapter;
- 3549 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 3550 assisted cleaning or washing of tangible personal property;
- 3551 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 3552 accommodations and services that are regularly rented for less than 30 consecutive days;
- 3553 (j) amounts paid or charged for laundry or dry cleaning services;
- 3554 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 3555 this state the tangible personal property is:
- 3556 (i) stored;
- 3557 (ii) used; or
- 3558 (iii) otherwise consumed;
- 3559 (l) amounts paid or charged for tangible personal property if within this state the

3560 tangible personal property is:

3561 (i) stored;

3562 (ii) used; or

3563 (iii) consumed; and

3564 (m) amounts paid or charged for a sale:

3565 (i) (A) of a product transferred electronically; or

3566 (B) of a repair or renovation of a product transferred electronically; and

3567 (ii) regardless of whether the sale provides:

3568 (A) a right of permanent use of the product; or

3569 (B) a right to use the product that is less than a permanent use, including a right:

3570 (I) for a definite or specified length of time; and

3571 (II) that terminates upon the occurrence of a condition.

3572 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
3573 is imposed on a transaction described in Subsection (1) equal to the sum of:

3574 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

3575 (A) 4.70%; and

3576 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
3577 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
3578 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
3579 State Sales and Use Tax Act; and

3580 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
3581 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
3582 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
3583 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3584 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3585 transaction under this chapter other than this part.

3586 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
3587 on a transaction described in Subsection (1)(d) equal to the sum of:

3588 (i) a state tax imposed on the transaction at a tax rate of 2%; and

3589 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3590 transaction under this chapter other than this part.

3591 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
3592 on amounts paid or charged for food and food ingredients equal to the sum of:

3593 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
3594 a tax rate of 1.75%; and

3595 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3596 amounts paid or charged for food and food ingredients under this chapter other than this part.

3597 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
3598 tangible personal property other than food and food ingredients, a state tax and a local tax is
3599 imposed on the entire bundled transaction equal to the sum of:

3600 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

3601 (I) the tax rate described in Subsection (2)(a)(i)(A); and

3602 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
3603 Sales and Use Tax Act, if the location of the transaction as determined under Sections
3604 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
3605 Additional State Sales and Use Tax Act; and

3606 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
3607 Sales and Use Tax Act, if the location of the transaction as determined under Sections
3608 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
3609 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3610 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
3611 described in Subsection (2)(a)(ii).

3612 (ii) If an optional computer software maintenance contract is a bundled transaction that
3613 consists of taxable and nontaxable products that are not separately itemized on an invoice or
3614 similar billing document, the purchase of the optional computer software maintenance contract
3615 is 40% taxable under this chapter and 60% nontaxable under this chapter.

3616 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
3617 transaction described in Subsection (2)(d)(i) or (ii):

3618 (A) if the sales price of the bundled transaction is attributable to tangible personal
3619 property, a product, or a service that is subject to taxation under this chapter and tangible
3620 personal property, a product, or service that is not subject to taxation under this chapter, the
3621 entire bundled transaction is subject to taxation under this chapter unless:

3622 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3623 personal property, product, or service that is not subject to taxation under this chapter from the
3624 books and records the seller keeps in the seller's regular course of business; or

3625 (II) state or federal law provides otherwise; or

3626 (B) if the sales price of a bundled transaction is attributable to two or more items of
3627 tangible personal property, products, or services that are subject to taxation under this chapter
3628 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
3629 higher tax rate unless:

3630 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3631 personal property, product, or service that is subject to taxation under this chapter at the lower
3632 tax rate from the books and records the seller keeps in the seller's regular course of business; or

3633 (II) state or federal law provides otherwise.

3634 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
3635 seller's regular course of business includes books and records the seller keeps in the regular
3636 course of business for nontax purposes.

3637 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
3638 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
3639 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
3640 of tangible personal property, other property, a product, or a service that is not subject to
3641 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
3642 the seller, at the time of the transaction:

3643 (A) separately states the portion of the transaction that is not subject to taxation under
3644 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

3645 (B) is able to identify by reasonable and verifiable standards, from the books and
3646 records the seller keeps in the seller's regular course of business, the portion of the transaction
3647 that is not subject to taxation under this chapter.

3648 (ii) A purchaser and a seller may correct the taxability of a transaction if:

3649 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
3650 the transaction that is not subject to taxation under this chapter was not separately stated on an
3651 invoice, bill of sale, or similar document provided to the purchaser because of an error or
3652 ignorance of the law; and

3653 (B) the seller is able to identify by reasonable and verifiable standards, from the books
3654 and records the seller keeps in the seller's regular course of business, the portion of the
3655 transaction that is not subject to taxation under this chapter.

3656 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
3657 in the seller's regular course of business includes books and records the seller keeps in the
3658 regular course of business for nontax purposes.

3659 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
3660 personal property, products, or services that are subject to taxation under this chapter at
3661 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
3662 unless the seller, at the time of the transaction:

3663 (A) separately states the items subject to taxation under this chapter at each of the
3664 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

3665 (B) is able to identify by reasonable and verifiable standards the tangible personal
3666 property, product, or service that is subject to taxation under this chapter at the lower tax rate
3667 from the books and records the seller keeps in the seller's regular course of business.

3668 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
3669 seller's regular course of business includes books and records the seller keeps in the regular
3670 course of business for nontax purposes.

3671 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
3672 rate imposed under the following shall take effect on the first day of a calendar quarter:

3673 (i) Subsection (2)(a)(i)(A);

3674 (ii) Subsection (2)(b)(i);

3675 (iii) Subsection (2)(c)(i); or

3676 (iv) Subsection (2)(d)(i)(A)(I).

3677 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
3678 begins on or after the effective date of the tax rate increase if the billing period for the
3679 transaction begins before the effective date of a tax rate increase imposed under:

3680 (A) Subsection (2)(a)(i)(A);

3681 (B) Subsection (2)(b)(i);

3682 (C) Subsection (2)(c)(i); or

3683 (D) Subsection (2)(d)(i)(A)(I).

3684 (ii) The repeal of a tax or a tax rate decrease applies to a billing
3685 statement for the billing period is rendered on or after the effective date of the repeal of the tax
3686 or the tax rate decrease imposed under:

- 3687 (A) Subsection (2)(a)(i)(A);
- 3688 (B) Subsection (2)(b)(i);
- 3689 (C) Subsection (2)(c)(i); or
- 3690 (D) Subsection (2)(d)(i)(A)(I).

3691 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
3692 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
3693 change in a tax rate takes effect:

- 3694 (A) on the first day of a calendar quarter; and
- 3695 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

3696 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

- 3697 (A) Subsection (2)(a)(i)(A);
- 3698 (B) Subsection (2)(b)(i);
- 3699 (C) Subsection (2)(c)(i); or
- 3700 (D) Subsection (2)(d)(i)(A)(I).

3701 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
3702 the commission may by rule define the term "catalogue sale."

3703 (3) (a) The following state taxes shall be deposited into the General Fund:

- 3704 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 3705 (ii) the tax imposed by Subsection (2)(b)(i);
- 3706 (iii) the tax imposed by Subsection (2)(c)(i); or
- 3707 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

3708 (b) The following local taxes shall be distributed to a county, city, or town as provided
3709 in this chapter:

- 3710 (i) the tax imposed by Subsection (2)(a)(ii);
- 3711 (ii) the tax imposed by Subsection (2)(b)(ii);
- 3712 (iii) the tax imposed by Subsection (2)(c)(ii); and
- 3713 (iv) the tax imposed by Subsection (2)(d)(i)(B).

3714 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,

3715 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
3716 through (g):

3717 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

3718 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

3719 (B) for the fiscal year; or

3720 (ii) \$17,500,000.

3721 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount

3722 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the

3723 Department of Natural Resources to:

3724 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to

3725 protect sensitive plant and animal species; or

3726 (B) award grants, up to the amount authorized by the Legislature in an appropriations

3727 act, to political subdivisions of the state to implement the measures described in Subsections

3728 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

3729 (ii) Money transferred to the Department of Natural Resources under Subsection

3730 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other

3731 person to list or attempt to have listed a species as threatened or endangered under the

3732 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

3733 (iii) At the end of each fiscal year:

3734 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources

3735 Conservation and Development Fund created in Section 73-10-24;

3736 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

3737 Program Subaccount created in Section 73-10c-5; and

3738 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

3739 Program Subaccount created in Section 73-10c-5.

3740 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in

3741 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund

3742 created in Section 4-18-106.

3743 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described

3744 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water

3745 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of

3746 water rights.

3747 (ii) At the end of each fiscal year:

3748 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
3749 Conservation and Development Fund created in Section 73-10-24;

3750 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
3751 Program Subaccount created in Section 73-10c-5; and

3752 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
3753 Program Subaccount created in Section 73-10c-5.

3754 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
3755 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
3756 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

3757 (ii) In addition to the uses allowed of the Water Resources Conservation and
3758 Development Fund under Section 73-10-24, the Water Resources Conservation and
3759 Development Fund may also be used to:

3760 (A) conduct hydrologic and geotechnical investigations by the Division of Water
3761 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
3762 quantifying surface and ground water resources and describing the hydrologic systems of an
3763 area in sufficient detail so as to enable local and state resource managers to plan for and
3764 accommodate growth in water use without jeopardizing the resource;

3765 (B) fund state required dam safety improvements; and

3766 (C) protect the state's interest in interstate water compact allocations, including the
3767 hiring of technical and legal staff.

3768 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
3769 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
3770 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

3771 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
3772 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
3773 created in Section 73-10c-5 for use by the Division of Drinking Water to:

3774 (i) provide for the installation and repair of collection, treatment, storage, and
3775 distribution facilities for any public water system, as defined in Section 19-4-102;

3776 (ii) develop underground sources of water, including springs and wells; and

3777 (iii) develop surface water sources.

3778 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3779 2006, the difference between the following amounts shall be expended as provided in this
3780 Subsection (5), if that difference is greater than \$1:

3781 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
3782 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

3783 (ii) \$17,500,000.

3784 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

3785 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
3786 credits; and

3787 (B) expended by the Department of Natural Resources for watershed rehabilitation or
3788 restoration.

3789 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
3790 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
3791 created in Section 73-10-24.

3792 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
3793 remaining difference described in Subsection (5)(a) shall be:

3794 (A) transferred each fiscal year to the Division of Water Resources as dedicated
3795 credits; and

3796 (B) expended by the Division of Water Resources for cloud-seeding projects
3797 authorized by Title 73, Chapter 15, Modification of Weather.

3798 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
3799 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
3800 created in Section 73-10-24.

3801 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
3802 remaining difference described in Subsection (5)(a) shall be deposited into the Water
3803 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
3804 Division of Water Resources for:

3805 (i) preconstruction costs:

3806 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
3807 26, Bear River Development Act; and

3808 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
3809 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

3810 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
3811 Chapter 26, Bear River Development Act;

3812 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
3813 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

3814 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
3815 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

3816 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
3817 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be
3818 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
3819 incurred for employing additional technical staff for the administration of water rights.

3820 (f) At the end of each fiscal year, any unexpended dedicated credits described in
3821 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
3822 Fund created in Section 73-10-24.

3823 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
3824 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
3825 (1) for the fiscal year shall be deposited as follows:

3826 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)
3827 shall be deposited into the Transportation Investment Fund of 2005 created by Section
3828 72-2-124;

3829 (b) for fiscal year 2017-18 only:

3830 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the
3831 Transportation Investment Fund of 2005 created by Section 72-2-124; and

3832 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the
3833 Water Infrastructure Restricted Account created by Section 73-10g-103;

3834 (c) for fiscal year 2018-19 only:

3835 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the
3836 Transportation Investment Fund of 2005 created by Section 72-2-124; and

3837 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the
3838 Water Infrastructure Restricted Account created by Section 73-10g-103;

- 3839 (d) for fiscal year 2019-20 only:
- 3840 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the
- 3841 Transportation Investment Fund of 2005 created by Section 72-2-124; and
- 3842 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the
- 3843 Water Infrastructure Restricted Account created by Section 73-10g-103;
- 3844 (e) for fiscal year 2020-21 only:
- 3845 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
- 3846 Transportation Investment Fund of 2005 created by Section 72-2-124; and
- 3847 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
- 3848 Water Infrastructure Restricted Account created by Section 73-10g-103; and
- 3849 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
- 3850 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
- 3851 created by Section 73-10g-103.
- 3852 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
- 3853 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
- 3854 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
- 3855 created by Section 72-2-124:
- 3856 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
- 3857 the revenues collected from the following taxes, which represents a portion of the
- 3858 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
- 3859 on vehicles and vehicle-related products:
- 3860 (A) the tax imposed by Subsection (2)(a)(i)(A);
- 3861 (B) the tax imposed by Subsection (2)(b)(i);
- 3862 (C) the tax imposed by Subsection (2)(c)(i); and
- 3863 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus
- 3864 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
- 3865 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
- 3866 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
- 3867 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.
- 3868 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
- 3869 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total

3870 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
3871 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
3872 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
3873 (7)(a) equal to the product of:

3874 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
3875 previous fiscal year; and

3876 (B) the total sales and use tax revenue generated by the taxes described in Subsections
3877 (7)(a)(i)(A) through (D) in the current fiscal year.

3878 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
3879 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes
3880 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of
3881 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
3882 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

3883 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
3884 from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited
3885 under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues
3886 collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the
3887 current fiscal year under Subsection (7)(a).

3888 (8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited
3889 under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall
3890 deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into
3891 the Transportation Investment Fund of 2005 created by Section [72-2-124](#).

3892 (b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
3893 Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit
3894 \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the
3895 Transportation Investment Fund of 2005 created by Section [72-2-124](#).

3896 (c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under
3897 Subsections (6) and (7), [~~and subject to Subsection (8)(c)(ii), for a fiscal year~~] beginning on or
3898 after [~~July 1, 2018~~] January 1, 2019, the commission shall annually deposit into the
3899 Transportation Investment Fund of 2005 created by Section [72-2-124](#) a portion of the taxes
3900 listed under Subsection (3)(a) in an amount equal to [~~3.68%~~] 2.6% of the revenues collected

3901 from the following taxes:

3902 (A) the tax imposed by Subsection (2)(a)(i)(A);

3903 (B) the tax imposed by Subsection (2)(b)(i);

3904 (C) the tax imposed by Subsection (2)(c)(i); and

3905 (D) the tax imposed by Subsection (2)(d)(i)(A)(I).

3906 ~~[(ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually~~
3907 ~~reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i)~~
3908 ~~by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year~~
3909 ~~by the portion of the tax imposed on motor and special fuel that is sold, used, or received for~~
3910 ~~sale or use in this state that exceeds 29.4 cents per gallon.]~~

3911 (ii) Notwithstanding Subsection (3)(a), beginning on or after January 1, 2019, the
3912 commission shall annually deposit into the Transit Transportation Investment Fund created in
3913 Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to
3914 1.08% of the revenues collected from the following taxes:

3915 (A) the tax imposed by Subsection (2)(a)(i)(A);

3916 (B) the tax imposed by Subsection (2)(b)(i);

3917 (C) the tax imposed by Subsection (2)(c)(i); and

3918 (D) the tax imposed by Subsection (2)(d)(i)(A)(I).

3919 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
3920 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
3921 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

3922 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),
3923 in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17
3924 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund
3925 of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on
3926 the transactions described in Subsection (1).

3927 (b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in
3928 addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance
3929 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
3930 amount of revenue described as follows:

3931 (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%

3932 tax rate on the transactions described in Subsection (1);
3933 (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05%
3934 tax rate on the transactions described in Subsection (1);
3935 (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%
3936 tax rate on the transactions described in Subsection (1);
3937 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
3938 .05% tax rate on the transactions described in Subsection (1); and
3939 (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%
3940 tax rate on the transactions described in Subsection (1).
3941 (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not
3942 deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts
3943 paid or charged for food and food ingredients, except for tax revenue generated by a bundled
3944 transaction attributable to food and food ingredients and tangible personal property other than
3945 food and food ingredients described in Subsection (2)(d).
3946 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
3947 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
3948 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
3949 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue
3950 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,
3951 created in Section 63N-2-512.
3952 (12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the
3953 Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed
3954 under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.
3955 (b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of
3956 Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under
3957 Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.
3958 (13) Notwithstanding Subsections (4) through (12), an amount required to be expended
3959 or deposited in accordance with Subsections (4) through (12) may not include an amount the
3960 Division of Finance deposits in accordance with Section 59-12-103.2.
3961 Section 28. Section 59-12-2202 is amended to read:
3962 **59-12-2202. Definitions.**

3963 As used in this part:

3964 (1) "Airline" [~~is as~~] means the same as that term is defined in Section 59-2-102.

3965 (2) "Airport facility" [~~is as~~] means the same as that term is defined in Section
3966 59-12-602.

3967 (3) "Airport of regional significance" means an airport identified by the Federal
3968 Aviation Administration in the most current National Plan of Integrated Airport Systems or an
3969 update to the National Plan of Integrated Airport Systems.

3970 (4) "Annexation" means an annexation to:

3971 (a) a county under Title 17, Chapter 2, County Consolidations and Annexations; or

3972 (b) a city or town under Title 10, Chapter 2, Part 4, Annexation.

3973 (5) "Annexing area" means an area that is annexed into a county, city, or town.

3974 (6) "Council of governments" [~~is as~~] means the same as that term is defined in Section
3975 72-2-117.5.

3976 (7) "Fixed guideway" [~~is as~~] means the same as that term is defined in Section
3977 59-12-102.

3978 (8) "Large public transit district" means the same as that term is defined in Section
3979 17B-2a-802.

3980 [~~(8)~~] (9) "Major collector highway" [~~is as~~] means the same as that term is defined in
3981 Section 72-4-102.5.

3982 [~~(9)~~] (10) "Metropolitan planning organization" [~~is as~~] means the same as that term is
3983 defined in Section 72-1-208.5.

3984 [~~(10)~~] (11) "Minor arterial highway" [~~is as~~] means the same as that term is defined in
3985 Section 72-4-102.5.

3986 [~~(11)~~] (12) "Minor collector road" [~~is as~~] means the same as that term is defined in
3987 Section 72-4-102.5.

3988 [~~(12)~~] (13) "Principal arterial highway" [~~is as~~] means the same as that term is defined
3989 in Section 72-4-102.5.

3990 [~~(13)~~] (14) "Regionally significant transportation facility" means:

3991 (a) in a county of the first or second class:

3992 (i) a principal arterial highway;

3993 (ii) a minor arterial highway;

- 3994 (iii) a fixed guideway that:
- 3995 (A) extends across two or more cities or unincorporated areas; or
- 3996 (B) is an extension to an existing fixed guideway; or
- 3997 (iv) an airport of regional significance; or
- 3998 (b) in a county of the third, fourth, fifth, or sixth class:
- 3999 (i) a principal arterial highway;
- 4000 (ii) a minor arterial highway;
- 4001 (iii) a major collector highway;
- 4002 (iv) a minor collector road; or
- 4003 (v) an airport of regional significance.
- 4004 [~~(14)~~] (15) "State highway" means a highway designated as a state highway under Title
- 4005 72, Chapter 4, Designation of State Highways Act.
- 4006 [~~(15)~~] (16) (a) Subject to Subsection [~~(15)~~] (16)(b), "system for public transit" [~~has the~~
- 4007 ~~same meaning as~~] means the same as the term "public transit" [~~as~~] is defined in Section
- 4008 [17B-2a-802](#).
- 4009 (b) "System for public transit" includes:
- 4010 (i) the following costs related to public transit:
- 4011 (A) maintenance costs; or
- 4012 (B) operating costs;
- 4013 (ii) a fixed guideway;
- 4014 (iii) a park and ride facility;
- 4015 (iv) a passenger station or passenger terminal;
- 4016 (v) a right-of-way for public transit; or
- 4017 (vi) the following that serve a public transit facility:
- 4018 (A) a maintenance facility;
- 4019 (B) a platform;
- 4020 (C) a repair facility;
- 4021 (D) a roadway;
- 4022 (E) a storage facility;
- 4023 (F) a utility line; or
- 4024 (G) a facility or item similar to Subsections [~~(15)~~] (16)(b)(vi)(A) through (F).

4025 Section 29. Section 59-12-2217 is amended to read:

4026 **59-12-2217. County option sales and use tax for transportation -- Base -- Rate --**
4027 **Written prioritization process -- Approval by county legislative body.**

4028 (1) Subject to the other provisions of this part, and subject to Subsection (10), a county
4029 legislative body may impose a sales and use tax of up to .25% on the transactions described in
4030 Subsection 59-12-103(1) within the county, including the cities and towns within the county.

4031 (2) Subject to Subsections (3) through (8) and Section 59-12-2207, the revenues
4032 collected from a sales and use tax under this section may only be expended for:

4033 (a) a project or service:

4034 (i) relating to a regionally significant transportation facility for the portion of the
4035 project or service that is performed within the county;

4036 (ii) for new capacity or congestion mitigation if the project or service is performed
4037 within a county:

4038 (A) of the first or second class; or

4039 (B) if that county is part of an area metropolitan planning organization; and

4040 (iii) that is on a priority list:

4041 (A) created by the county's council of governments in accordance with Subsection (7);

4042 and

4043 (B) approved by the county legislative body in accordance with Subsection (7);

4044 (b) corridor preservation for a project or service described in Subsection (2)(a) [~~as~~
4045 ~~provided in Subsection (8)~~]; or

4046 (c) debt service or bond issuance costs related to a project or service described in
4047 Subsection (2)(a)(i) or (ii).

4048 (3) If a project or service described in Subsection (2) is for:

4049 (a) a principal arterial highway or a minor arterial highway in a county of the first or
4050 second class or a collector road in a county of the second class, that project or service shall be
4051 part of the:

4052 (i) county and municipal master plan; and

4053 (ii) (A) statewide long-range plan; or

4054 (B) regional transportation plan of the area metropolitan planning organization if a
4055 metropolitan planning organization exists for the area; or

4056 (b) a fixed guideway or an airport, that project or service shall be part of the regional
4057 transportation plan of the area metropolitan planning organization if a metropolitan planning
4058 organization exists for the area.

4059 (4) In a county of the first or second class, a regionally significant transportation
4060 facility project or service described in Subsection (2)(a)(i) shall have a funded year priority
4061 designation on a Statewide Transportation Improvement Program and Transportation
4062 Improvement Program if the project or service described in Subsection (2)(a)(i) is:

- 4063 (a) a principal arterial highway;
- 4064 (b) a minor arterial highway;
- 4065 (c) a collector road in a county of the second class; or
- 4066 (d) a major collector highway in a rural area.

4067 (5) Of the revenues collected from a sales and use tax imposed under this section
4068 within a county of the first [~~or second~~] class, 25% or more shall be expended for the purpose
4069 described in Subsection (2)(b).

4070 (6) (a) As provided in this Subsection (6), a council of governments shall:

- 4071 (i) develop a written prioritization process for the prioritization of projects to be funded
4072 by revenues collected from a sales and use tax under this section;
- 4073 (ii) create a priority list of regionally significant transportation facility projects or
4074 services described in Subsection (2)(a)(i) in accordance with Subsection (7); and
- 4075 (iii) present the priority list to the county legislative body for approval in accordance
4076 with Subsection (7).

4077 (b) The written prioritization process described in Subsection (6)(a)(i) shall include:

- 4078 (i) a definition of the type of projects to which the written prioritization process
4079 applies;
- 4080 (ii) subject to Subsection (6)(c), the specification of a weighted criteria system that the
4081 council of governments will use to rank proposed projects and how that weighted criteria
4082 system will be used to determine which proposed projects will be prioritized;
- 4083 (iii) the specification of data that is necessary to apply the weighted criteria system;
- 4084 (iv) application procedures for a project to be considered for prioritization by the
4085 council of governments; and
- 4086 (v) any other provision the council of governments considers appropriate.

4087 (c) The weighted criteria system described in Subsection (6)(b)(ii) shall include the
4088 following:

- 4089 (i) the cost effectiveness of a project;
- 4090 (ii) the degree to which a project will mitigate regional congestion;
- 4091 (iii) the compliance requirements of applicable federal laws or regulations;
- 4092 (iv) the economic impact of a project;
- 4093 (v) the degree to which a project will require tax revenues to fund maintenance and
4094 operation expenses; and

4095 (vi) any other provision the council of governments considers appropriate.

4096 (d) A council of governments of a county of the first or second class shall submit the
4097 written prioritization process described in Subsection (6)(a)(i) to the Executive Appropriations
4098 Committee for approval prior to taking final action on:

- 4099 (i) the written prioritization process; or
- 4100 (ii) any proposed amendment to the written prioritization process.

4101 (7) (a) A council of governments shall use the weighted criteria system adopted in the
4102 written prioritization process developed in accordance with Subsection (6) to create a priority
4103 list of regionally significant transportation facility projects or services for which revenues
4104 collected from a sales and use tax under this section may be expended.

4105 (b) Before a council of governments may finalize a priority list or the funding level of a
4106 project, the council of governments shall conduct a public meeting on:

- 4107 (i) the written prioritization process; and
- 4108 (ii) the merits of the projects that are prioritized as part of the written prioritization
4109 process.

4110 (c) A council of governments shall make the weighted criteria system ranking for each
4111 project prioritized as part of the written prioritization process publicly available before the
4112 public meeting required by Subsection (7)(b) is held.

4113 (d) If a council of governments prioritizes a project over another project with a higher
4114 rank under the weighted criteria system, the council of governments shall:

- 4115 (i) identify the reasons for prioritizing the project over another project with a higher
4116 rank under the weighted criteria system at the public meeting required by Subsection (7)(b);
4117 and

4118 (ii) make the reasons described in Subsection (7)(d)(i) publicly available.
4119 (e) Subject to Subsections (7)(f) and (g), after a council of governments finalizes a
4120 priority list in accordance with this Subsection (7), the council of governments shall:
4121 (i) submit the priority list to the county legislative body for approval; and
4122 (ii) obtain approval of the priority list from a majority of the members of the county
4123 legislative body.
4124 (f) A council of governments may only submit one priority list per calendar year to the
4125 county legislative body.
4126 (g) A county legislative body may only consider and approve one priority list submitted
4127 under Subsection (7)(e) per calendar year.
4128 ~~[(8) (a) Except as provided in Subsection (8)(b), revenues collected from a sales and~~
4129 ~~use tax under this section that a county allocates for a purpose described in Subsection (2)(b)~~
4130 ~~shall be:]~~
4131 ~~[(i) deposited in or transferred to the Local Highway and Transportation Corridor~~
4132 ~~Preservation Fund created by Section 72-2-117.5; and]~~
4133 ~~[(ii) expended as provided in Section 72-2-117.5:]~~
4134 ~~[(b)]~~ (8) In a county of the first class, revenues collected from a sales and use tax under
4135 this section that a county allocates for a purpose described in Subsection (2)(b) shall be:
4136 ~~[(i)]~~ (a) deposited in or transferred to the County of the First Class Highway Projects
4137 Fund created by Section 72-2-121; and
4138 ~~[(ii)]~~ (b) expended as provided in Section 72-2-121.
4139 (9) Notwithstanding Section 59-12-2208, a county legislative body may, but is not
4140 required to, submit an opinion question to the county's registered voters in accordance with
4141 Section 59-12-2208 to impose a sales and use tax under this section.
4142 (10) (a) (i) Notwithstanding any other provision in this section, if the entire boundary
4143 of a county is annexed into a large public transit district, to impose a sales and use tax under
4144 this section, the county legislative body shall pass the ordinance to impose a sales and use tax
4145 under this section on or before June 30, 2022.
4146 (ii) If the entire boundary of a county is annexed into a large public transit district, the
4147 county legislative body may not pass an ordinance to impose a sales and use tax under this
4148 section on or after July 1, 2022.

4149 (b) Notwithstanding the deadline described in Subsection (10)(a), any sales and use tax
4150 imposed under this section on or before June 30, 2022, may remain in effect.

4151 Section 30. Section **59-12-2218** is amended to read:

4152 **59-12-2218. County, city, or town option sales and use tax for airports, highways,**
4153 **and systems for public transit -- Base -- Rate -- Administration of sales and use tax --**
4154 **Voter approval exception.**

4155 (1) Subject to the other provisions of this part, and subject to Subsection (11), the
4156 following may impose a sales and use tax under this section:

4157 (a) if, on April 1, 2009, a county legislative body of a county of the second class
4158 imposes a sales and use tax under this section, the county legislative body of the county of the
4159 second class may impose the sales and use tax on the transactions:

4160 (i) described in Subsection **59-12-103**(1); and

4161 (ii) within the county, including the cities and towns within the county; or

4162 (b) if, on April 1, 2009, a county legislative body of a county of the second class does
4163 not impose a sales and use tax under this section:

4164 (i) a city legislative body of a city within the county of the second class may impose a
4165 sales and use tax under this section on the transactions described in Subsection **59-12-103**(1)
4166 within that city;

4167 (ii) a town legislative body of a town within the county of the second class may impose
4168 a sales and use tax under this section on the transactions described in Subsection **59-12-103**(1)
4169 within that town; and

4170 (iii) the county legislative body of the county of the second class may impose a sales
4171 and use tax on the transactions described in Subsection **59-12-103**(1):

4172 (A) within the county, including the cities and towns within the county, if on the date
4173 the county legislative body provides the notice described in Section **59-12-2209** to the
4174 commission stating that the county will enact a sales and use tax under this section, no city or
4175 town within that county imposes a sales and use tax under this section or has provided the
4176 notice described in Section **59-12-2209** to the commission stating that the city or town will
4177 enact a sales and use tax under this section; or

4178 (B) within the county, except for within a city or town within that county, if, on the
4179 date the county legislative body provides the notice described in Section **59-12-2209** to the

4180 commission stating that the county will enact a sales and use tax under this section, that city or
4181 town imposes a sales and use tax under this section or has provided the notice described in
4182 Section 59-12-2209 to the commission stating that the city or town will enact a sales and use
4183 tax under this section.

4184 (2) For purposes of Subsection (1) and subject to the other provisions of this section, a
4185 county, city, or town legislative body that imposes a sales and use tax under this section may
4186 impose the tax at a rate of:

4187 (a) .10%; or

4188 (b) .25%.

4189 (3) A sales and use tax imposed at a rate described in Subsection (2)(a) shall be
4190 expended as determined by the county, city, or town legislative body as follows:

4191 (a) deposited as provided in Subsection (9)(b) into the County of the Second Class
4192 State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in
4193 Section 72-2-121.2;

4194 (b) expended for a project or service relating to an airport facility for the portion of the
4195 project or service that is performed within the county, city, or town within which the tax is
4196 imposed:

4197 (i) for a county legislative body that imposes the sales and use tax, if that airport
4198 facility is part of the regional transportation plan of the area metropolitan planning organization
4199 if a metropolitan planning organization exists for the area; or

4200 (ii) for a city or town legislative body that imposes the sales and use tax, if:

4201 (A) that city or town owns or operates the airport facility; and

4202 (B) an airline is headquartered in that city or town; or

4203 (c) deposited or expended for a combination of Subsections (3)(a) and (b).

4204 (4) Subject to Subsections (5) through (7), a sales and use tax imposed at a rate
4205 described in Subsection (2)(b) shall be expended as determined by the county, city, or town
4206 legislative body as follows:

4207 (a) deposited as provided in Subsection (9)(b) into the County of the Second Class
4208 State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in
4209 Section 72-2-121.2;

4210 (b) expended for:

- 4211 (i) a state highway designated under Title 72, Chapter 4, Part 1, State Highways;
- 4212 (ii) a local highway that is a principal arterial highway, minor arterial highway, major
- 4213 collector highway, or minor collector road; or
- 4214 (iii) a combination of Subsections (4)(b)(i) and (ii);
- 4215 (c) expended for a project or service relating to a system for public transit for the
- 4216 portion of the project or service that is performed within the county, city, or town within which
- 4217 the sales and use tax is imposed;
- 4218 (d) expended for a project or service relating to an airport facility for the portion of the
- 4219 project or service that is performed within the county, city, or town within which the sales and
- 4220 use tax is imposed:
- 4221 (i) for a county legislative body that imposes the sales and use tax, if that airport
- 4222 facility is part of the regional transportation plan of the area metropolitan planning organization
- 4223 if a metropolitan planning organization exists for the area; or
- 4224 (ii) for a city or town legislative body that imposes the sales and use tax, if:
- 4225 (A) that city or town owns or operates the airport facility; and
- 4226 (B) an airline is headquartered in that city or town;
- 4227 (e) expended for:
- 4228 (i) a class B road, as defined in Section 72-3-103;
- 4229 (ii) a class C road, as defined in Section 72-3-104; or
- 4230 (iii) a combination of Subsections (4)(e)(i) and (ii);
- 4231 (f) expended for traffic and pedestrian safety, including:
- 4232 (i) for a class B road, as defined in Section 72-3-103, or class C road, as defined in
- 4233 Section 72-3-104, for:
- 4234 (A) a sidewalk;
- 4235 (B) curb and gutter;
- 4236 (C) a safety feature;
- 4237 (D) a traffic sign;
- 4238 (E) a traffic signal;
- 4239 (F) street lighting; or
- 4240 (G) a combination of Subsections (4)(f)(i)(A) through (F);
- 4241 (ii) the construction of an active transportation facility that:

4242 (A) is for nonmotorized vehicles and multimodal transportation; and
4243 (B) connects an origin with a destination; or
4244 (iii) a combination of Subsections (4)(f)(i) and (ii); or
4245 (g) deposited or expended for a combination of Subsections (4)(a) through (f).
4246 (5) A county, city, or town legislative body may not expend revenue collected within a
4247 county, city, or town from a tax under this section for a purpose described in Subsections (4)(b)
4248 through (f) unless the purpose is recommended by:
4249 (a) for a county that is part of a metropolitan planning organization, the metropolitan
4250 planning organization of which the county is a part; or
4251 (b) for a county that is not part of a metropolitan planning organization, the council of
4252 governments of which the county is a part.
4253 (6) (a) (i) Except as provided in Subsection (6)(b), a county, city, or town that imposes
4254 a tax described in Subsection (2)(b) shall deposit the revenue collected from a tax rate of .05%
4255 as provided in Subsection (9)(b)(i) into the Local Highway and Transportation Corridor
4256 Preservation Fund created by Section [72-2-117.5](#).
4257 (ii) Revenue deposited in accordance with Subsection (6)(a)(i) shall be expended and
4258 distributed in accordance with Section [72-2-117.5](#).
4259 (b) A county, city, or town is not required to make the deposit required by Subsection
4260 (6)(a)(i) if the county, city, or town:
4261 (i) imposed a tax described in Subsection (2)(b) on July 1, 2010; or
4262 (ii) has continuously imposed a tax described in Subsection (2)(b):
4263 (A) beginning after July 1, 2010; and
4264 (B) for a five-year period.
4265 (7) (a) Subject to the other provisions of this Subsection (7), a city or town within
4266 which a sales and use tax is imposed at the tax rate described in Subsection (2)(b) may:
4267 (i) expend the revenues in accordance with Subsection (4); or
4268 (ii) expend the revenues in accordance with Subsections (7)(b) through (d) if:
4269 (A) that city or town owns or operates an airport facility; and
4270 (B) an airline is headquartered in that city or town.
4271 (b) (i) A city or town legislative body of a city or town within which a sales and use tax
4272 is imposed at the tax rate described in Subsection (2)(b) may expend the revenues collected

4273 from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of
4274 .25% for a purpose described in Subsection (7)(b)(ii) if:

- 4275 (A) that city or town owns or operates an airport facility; and
- 4276 (B) an airline is headquartered in that city or town.

4277 (ii) A city or town described in Subsection (7)(b)(i) may expend the revenues collected
4278 from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of
4279 .25% for:

- 4280 (A) a project or service relating to the airport facility; and
- 4281 (B) the portion of the project or service that is performed within the city or town
4282 imposing the sales and use tax.

4283 (c) If a city or town legislative body described in Subsection (7)(b)(i) determines to
4284 expend the revenues collected from a tax rate of greater than .10% but not to exceed the
4285 revenues collected from a tax rate of .25% for a project or service relating to an airport facility
4286 as allowed by Subsection (7)(b), any remaining revenue that is collected from the sales and use
4287 tax imposed at the tax rate described in Subsection (2)(b) that is not expended for the project or
4288 service relating to an airport facility as allowed by Subsection (7)(b) shall be expended as
4289 follows:

4290 (i) 75% of the remaining revenues shall be deposited as provided in Subsection (9)(c)
4291 into the County of the Second Class State Highway Projects Fund created by Section
4292 [72-2-121.2](#) and expended as provided in Section [72-2-121.2](#); and

4293 (ii) 25% of the remaining revenues shall be deposited as provided in Subsection (9)(c)
4294 into the Local Highway and Transportation Corridor Preservation Fund created by Section
4295 [72-2-117.5](#) and expended and distributed in accordance with Section [72-2-117.5](#).

4296 (d) A city or town legislative body that expends the revenues collected from a sales and
4297 use tax imposed at the tax rate described in Subsection (2)(b) in accordance with Subsections
4298 (7)(b) and (c):

4299 (i) shall, on or before the date the city or town legislative body provides the notice
4300 described in Section [59-12-2209](#) to the commission stating that the city or town will enact a
4301 sales and use tax under this section:

4302 (A) determine the tax rate, the percentage of which is greater than .10% but does not
4303 exceed .25%, the collections from which the city or town legislative body will expend for a

4304 project or service relating to an airport facility as allowed by Subsection (7)(b); and
4305 (B) notify the commission in writing of the tax rate the city or town legislative body
4306 determines in accordance with Subsection (7)(d)(i)(A);
4307 (ii) shall, on or before the April 1 immediately following the date the city or town
4308 legislative body provides the notice described in Subsection (7)(d)(i) to the commission:
4309 (A) determine the tax rate, the percentage of which is greater than .10% but does not
4310 exceed .25%, the collections from which the city or town legislative body will expend for a
4311 project or service relating to an airport facility as allowed by Subsection (7)(b); and
4312 (B) notify the commission in writing of the tax rate the city or town legislative body
4313 determines in accordance with Subsection (7)(d)(ii)(A);
4314 (iii) shall, on or before April 1 of each year after the April 1 described in Subsection
4315 (7)(d)(ii):
4316 (A) determine the tax rate, the percentage of which is greater than .10% but does not
4317 exceed .25%, the collections from which the city or town legislative body will expend for a
4318 project or service relating to an airport facility as allowed by Subsection (7)(b); and
4319 (B) notify the commission in writing of the tax rate the city or town legislative body
4320 determines in accordance with Subsection (7)(d)(iii)(A); and
4321 (iv) may not change the tax rate the city or town legislative body determines in
4322 accordance with Subsections (7)(d)(i) through (iii) more frequently than as prescribed by
4323 Subsections (7)(d)(i) through (iii).
4324 (8) Before a city or town legislative body may impose a sales and use tax under this
4325 section, the city or town legislative body shall provide a copy of the notice described in Section
4326 [59-12-2209](#) that the city or town legislative body provides to the commission:
4327 (a) to the county legislative body within which the city or town is located; and
4328 (b) at the same time as the city or town legislative body provides the notice to the
4329 commission.
4330 (9) (a) Subject to Subsections (9)(b) through (e) and Section [59-12-2207](#), the
4331 commission shall transmit revenues collected within a county, city, or town from a tax under
4332 this part that will be expended for a purpose described in Subsection (3)(b) or Subsections
4333 (4)(b) through (f) to the county, city, or town legislative body in accordance with Section
4334 [59-12-2206](#).

4335 (b) Except as provided in Subsection (9)(c) and subject to Section 59-12-2207, the
4336 commission shall deposit revenues collected within a county, city, or town from a sales and use
4337 tax under this section that:

4338 (i) are required to be expended for a purpose described in Subsection (6)(a) into the
4339 Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or

4340 (ii) a county, city, or town legislative body determines to expend for a purpose
4341 described in Subsection (3)(a) or (4)(a) into the County of the Second Class State Highway
4342 Projects Fund created by Section 72-2-121.2 if the county, city, or town legislative body
4343 provides written notice to the commission requesting the deposit.

4344 (c) Subject to Subsection (9)(d) or (e), if a city or town legislative body provides notice
4345 to the commission in accordance with Subsection (7)(d), the commission shall:

4346 (i) transmit the revenues collected from the tax rate stated on the notice to the city or
4347 town legislative body monthly by electronic funds transfer; and

4348 (ii) deposit any remaining revenues described in Subsection (7)(c) in accordance with
4349 Subsection (7)(c).

4350 (d) (i) If a city or town legislative body provides the notice described in Subsection
4351 (7)(d)(i) to the commission, the commission shall transmit or deposit the revenues collected
4352 from the sales and use tax:

4353 (A) in accordance with Subsection (9)(c);

4354 (B) beginning on the date the city or town legislative body enacts the sales and use tax;

4355 and

4356 (C) ending on the earlier of the June 30 immediately following the date the city or town
4357 legislative body provides the notice described in Subsection (7)(d)(ii) to the commission or the
4358 date the city or town legislative body repeals the sales and use tax.

4359 (ii) If a city or town legislative body provides the notice described in Subsection
4360 (7)(d)(ii) or (iii) to the commission, the commission shall transmit or deposit the revenues
4361 collected from the sales and use tax:

4362 (A) in accordance with Subsection (9)(c);

4363 (B) beginning on the July 1 immediately following the date the city or town legislative
4364 body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission; and

4365 (C) ending on the earlier of the June 30 of the year after the date the city or town

4366 legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission
4367 or the date the city or town legislative body repeals the sales and use tax.

4368 (e) (i) If a city or town legislative body that is required to provide the notice described
4369 in Subsection (7)(d)(i) does not provide the notice described in Subsection (7)(d)(i) to the
4370 commission on or before the date required by Subsection (7)(d) for providing the notice, the
4371 commission shall transmit, transfer, or deposit the revenues collected from the sales and use
4372 tax within the city or town in accordance with Subsections (9)(a) and (b).

4373 (ii) If a city or town legislative body that is required to provide the notice described in
4374 Subsection (7)(d)(ii) or (iii) does not provide the notice described in Subsection (7)(d)(ii) or
4375 (iii) to the commission on or before the date required by Subsection (7)(d) for providing the
4376 notice, the commission shall transmit or deposit the revenues collected from the sales and use
4377 tax within the city or town in accordance with:

4378 (A) Subsection (9)(c); and

4379 (B) the most recent notice the commission received from the city or town legislative
4380 body under Subsection (7)(d).

4381 (10) Notwithstanding Section 59-12-2208, a county, city, or town legislative body may,
4382 but is not required to, submit an opinion question to the county's, city's, or town's registered
4383 voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

4384 (11) (a) (i) Notwithstanding any other provision in this section, if the entire boundary
4385 of a county, city, or town is annexed into a large public transit district, to impose a sales and
4386 use tax under this section, the county, city, or town legislative body shall pass the ordinance to
4387 impose a sales and use tax under this section on or before June 30, 2022.

4388 (ii) If the entire boundary of a county, city, or town is annexed into a large public
4389 transit district, the county, city, or town legislative body may not pass the ordinance to impose
4390 a sales and use tax under this section on or after July 1, 2022.

4391 (b) Notwithstanding the deadline described in Subsection (11)(a), any sales and use tax
4392 imposed under this section on or before June 30, 2022, may remain in effect.

4393 Section 31. Section 59-12-2219 is amended to read:

4394 **59-12-2219. County, city, and town option sales and use tax for highways and**
4395 **public transit -- Base -- Rate -- Distribution and expenditure of revenue -- Revenue may**
4396 **not supplant existing budgeted transportation revenue.**

4397 (1) As used in this section:

4398 (a) "Class B road" means the same as that term is defined in Section 72-3-103.

4399 (b) "Class C road" means the same as that term is defined in Section 72-3-104.

4400 (c) "Eligible political subdivision" means a political subdivision that:

4401 (i) (A) on May 12, 2015, provides public transit services; or

4402 (B) after May 12, 2015, provides written notice to the commission in accordance with

4403 Subsection (10)(b) that it intends to provide public transit service within a county;

4404 (ii) is not a public transit district; and

4405 (iii) is not annexed into a public transit district.

4406 (d) "Public transit district" means a public transit district organized under Title 17B,

4407 Chapter 2a, Part 8, Public Transit District Act.

4408 (2) Subject to the other provisions of this part, and subject to Subsection (17), a county

4409 legislative body may impose a sales and use tax of .25% on the transactions described in

4410 Subsection 59-12-103(1) within the county, including the cities and towns within the county.

4411 (3) ~~[The]~~ Subject to Subsections (11) and (12), the commission shall distribute sales

4412 and use tax revenue collected under this section as provided in Subsections (4) through (10).

4413 (4) If the entire boundary of a county that imposes a sales and use tax under this section

4414 is annexed into a single public transit district, the commission shall distribute the sales and use

4415 tax revenue collected within the county as follows:

4416 (a) .10% shall be transferred to the public transit district in accordance with Section

4417 59-12-2206;

4418 (b) .10% shall be distributed as provided in Subsection (8); and

4419 (c) .05% shall be distributed to the county legislative body.

4420 (5) If the entire boundary of a county that imposes a sales and use tax under this section

4421 is not annexed into a single public transit district, but a city or town within the county is

4422 annexed into a single public transit district that also has a county of the first class annexed into

4423 the same public transit district, the commission shall distribute the sales and use tax revenue

4424 collected within the county as follows:

4425 (a) for a city or town within the county that is annexed into a single public transit

4426 district, the commission shall distribute the sales and use tax revenue collected within that city

4427 or town as follows:

4428 (i) .10% shall be transferred to the public transit district in accordance with Section
4429 59-12-2206;

4430 (ii) .10% shall be distributed as provided in Subsection (8); and

4431 (iii) .05% shall be distributed to the county legislative body;

4432 (b) for an eligible political subdivision within the county, the commission shall
4433 distribute the sales and use tax revenue collected within that eligible political subdivision as
4434 follows:

4435 (i) .10% shall be transferred to the eligible political subdivision in accordance with
4436 Section 59-12-2206;

4437 (ii) .10% shall be distributed as provided in Subsection (8); and

4438 (iii) .05% shall be distributed to the county legislative body; and

4439 (c) the commission shall distribute the sales and use tax revenue, except for the sales
4440 and use tax revenue described in Subsections (5)(a) and (b), as follows:

4441 (i) .10% shall be distributed as provided in Subsection (8); and

4442 (ii) .15% shall be distributed to the county legislative body.

4443 (6) For a county not described in Subsection (4) or (5), if the entire boundary of a
4444 county of the first or second class that imposes a sales and use tax under this section is not
4445 annexed into a single public transit district, or if there is not a public transit district within the
4446 county, the commission shall distribute the sales and use tax revenue collected within the
4447 county as follows:

4448 (a) for a city or town within the county that is annexed into a single public transit
4449 district, the commission shall distribute the sales and use tax revenue collected within that city
4450 or town as follows:

4451 (i) .10% shall be transferred to the public transit district in accordance with Section
4452 59-12-2206;

4453 (ii) .10% shall be distributed as provided in Subsection (8); and

4454 (iii) .05% shall be distributed to the county legislative body;

4455 (b) for an eligible political subdivision within the county, the commission shall
4456 distribute the sales and use tax revenue collected within that eligible political subdivision as
4457 follows:

4458 (i) .10% shall be transferred to the eligible political subdivision in accordance with

4459 Section 59-12-2206;

4460 (ii) .10% shall be distributed as provided in Subsection (8); and

4461 (iii) .05% shall be distributed to the county legislative body; and

4462 (c) the commission shall distribute the sales and use tax revenue, except for the sales

4463 and use tax revenue described in Subsections (6)(a) and (b), as follows:

4464 (i) .10% shall be distributed as provided in Subsection (8); and

4465 (ii) .15% shall be distributed to the county legislative body.

4466 (7) For a county not described in Subsection (4) or (5), if the entire boundary of a

4467 county of the third, fourth, fifth, or sixth class that imposes a sales and use tax under this

4468 section is not annexed into a single public transit district, or if there is not a public transit

4469 district within the county, the commission shall distribute the sales and use tax revenue

4470 collected within the county as follows:

4471 (a) for a city or town within the county that is annexed into a single public transit

4472 district, the commission shall distribute the sales and use tax revenue collected within that city

4473 or town as follows:

4474 (i) .10% shall be distributed as provided in Subsection (8);

4475 (ii) .10% shall be distributed as provided in Subsection (9); and

4476 (iii) .05% shall be distributed to the county legislative body;

4477 (b) for an eligible political subdivision within the county, the commission shall

4478 distribute the sales and use tax revenue collected within that eligible political subdivision as

4479 follows:

4480 (i) .10% shall be distributed as provided in Subsection (8);

4481 (ii) .10% shall be distributed as provided in Subsection (9); and

4482 (iii) .05% shall be distributed to the county legislative body; and

4483 (c) the commission shall distribute the sales and use tax revenue, except for the sales

4484 and use tax revenue described in Subsections (7)(a) and (b), as follows:

4485 (i) .10% shall be distributed as provided in Subsection (8); and

4486 (ii) .15% shall be distributed to the county legislative body.

4487 (8) (a) Subject to Subsection (8)(b), the commission shall make the distributions

4488 required by Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i),

4489 (7)(a)(i), (7)(b)(i), (7)(c)(i), ~~and~~ (9)(d)(ii)(A), and (12)(c)(i) as follows:

4490 (i) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii),
4491 (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), and
4492 (12)(c)(i) within the counties and cities that impose a tax under this section shall be distributed
4493 to the unincorporated areas, cities, and towns within those counties and cities on the basis of
4494 the percentage that the population of each unincorporated area, city, or town bears to the total
4495 population of all of the counties and cities that impose a tax under this section; and

4496 (ii) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii),
4497 (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), and
4498 (12)(c)(i) within the counties and cities that impose a tax under this section shall be distributed
4499 to the unincorporated areas, cities, and towns within those counties and cities on the basis of
4500 the location of the transaction as determined under Sections 59-12-211 through 59-12-215.

4501 (b) (i) Population for purposes of this Subsection (8) shall be determined on the basis
4502 of the most recent official census or census estimate of the United States Census Bureau.

4503 (ii) If a needed population estimate is not available from the United States Census
4504 Bureau, population figures shall be derived from an estimate from the Utah Population
4505 Estimates Committee created by executive order of the governor.

4506 (9) (a) (i) Subject to the requirements in Subsections (9)(b) and (c), a county legislative
4507 body:

4508 (A) for a county that obtained approval from a majority of the county's registered
4509 voters voting on the imposition of a sales and use tax under this section prior to May 10, 2016,
4510 may, in consultation with any cities, towns, or eligible political subdivisions within the county,
4511 and in compliance with the requirements for changing an allocation under Subsection (9)(e),
4512 allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) by adopting a resolution specifying
4513 the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a
4514 public transit district or an eligible political subdivision; or

4515 (B) for a county that obtains approval from a majority of the county's registered voters
4516 voting on the imposition of a sales and use tax under this section on or after May 10, 2016,
4517 shall, in consultation with any cities, towns, or eligible political subdivisions within the county,
4518 allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) by adopting a resolution specifying
4519 the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a
4520 public transit district or an eligible political subdivision.

4521 (ii) If a county described in Subsection (9)(a)(i)(A) does not allocate the revenue under
4522 Subsection (7)(a)(ii) or (7)(b)(ii) in accordance with Subsection (9)(a)(i)(A), the commission
4523 shall distribute 100% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to:

4524 (A) a public transit district for a city or town within the county that is annexed into a
4525 single public transit district; or

4526 (B) an eligible political subdivision within the county.

4527 (b) If a county legislative body allocates the revenue as described in Subsection
4528 (9)(a)(i), the county legislative body shall allocate not less than 25% of the revenue under
4529 Subsection (7)(a)(ii) or (7)(b)(ii) to:

4530 (i) a public transit district for a city or town within the county that is annexed into a
4531 single public transit district; or

4532 (ii) an eligible political subdivision within the county.

4533 (c) Notwithstanding Section 59-12-2208, the opinion question required by Section
4534 59-12-2208 shall state the allocations the county legislative body makes in accordance with this
4535 Subsection (9).

4536 (d) The commission shall make the distributions required by Subsection (7)(a)(ii) or
4537 (7)(b)(ii) as follows:

4538 (i) the percentage specified by a county legislative body shall be distributed in
4539 accordance with a resolution adopted by a county legislative body under Subsection (9)(a) to an
4540 eligible political subdivision or a public transit district within the county; and

4541 (ii) except as provided in Subsection (9)(a)(ii), if a county legislative body allocates
4542 less than 100% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to a public transit district
4543 or an eligible political subdivision, the remainder of the revenue under Subsection (7)(a)(ii) or
4544 (7)(b)(ii) not allocated by a county legislative body through a resolution under Subsection
4545 (9)(a) shall be distributed as follows:

4546 (A) 50% of the revenue as provided in Subsection (8); and

4547 (B) 50% of the revenue to the county legislative body.

4548 (e) If a county legislative body seeks to change an allocation specified in a resolution
4549 under Subsection (9)(a), the county legislative body may change the allocation by:

4550 (i) adopting a resolution in accordance with Subsection (9)(a) specifying the percentage
4551 of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit

4552 district or an eligible political subdivision;

4553 (ii) obtaining approval to change the allocation of the sales and use tax by a majority of
4554 all the members of the county legislative body; and

4555 (iii) subject to Subsection (9)(f):

4556 (A) in accordance with Section 59-12-2208, submitting an opinion question to the
4557 county's registered voters voting on changing the allocation so that each registered voter has the
4558 opportunity to express the registered voter's opinion on whether the allocation should be
4559 changed; and

4560 (B) in accordance with Section 59-12-2208, obtaining approval to change the
4561 allocation from a majority of the county's registered voters voting on changing the allocation.

4562 (f) Notwithstanding Section 59-12-2208, the opinion question required by Subsection
4563 (9)(e)(iii)(A) shall state the allocations specified in the resolution adopted in accordance with
4564 Subsection (9)(e) and approved by the county legislative body in accordance with Subsection
4565 (9)(e)(ii).

4566 (g) (i) If a county makes an allocation by adopting a resolution under Subsection (9)(a)
4567 or changes an allocation by adopting a resolution under Subsection (9)(e), the allocation shall
4568 take effect on the first distribution the commission makes under this section after a 90-day
4569 period that begins on the date the commission receives written notice meeting the requirements
4570 of Subsection (9)(g)(ii) from the county.

4571 (ii) The notice described in Subsection (9)(g)(i) shall state:

4572 (A) that the county will make or change the percentage of an allocation under
4573 Subsection (9)(a) or (e); and

4574 (B) the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be
4575 allocated to a public transit district or an eligible political subdivision.

4576 (10) (a) If a public transit district is organized after the date a county legislative body
4577 first imposes a tax under this section, a change in a distribution required by this section may
4578 not take effect until the first distribution the commission makes under this section after a
4579 90-day period that begins on the date the commission receives written notice from the public
4580 transit district of the organization of the public transit district.

4581 (b) If an eligible political subdivision intends to provide public transit service within a
4582 county after the date a county legislative body first imposes a tax under this section, a change

4583 in a distribution required by this section may not take effect until the first distribution the
4584 commission makes under this section after a 90-day period that begins on the date the
4585 commission receives written notice from the eligible political subdivision stating that the
4586 eligible political subdivision intends to provide public transit service within the county.

4587 (11) (a) (i) Notwithstanding Subsections (4) through (10), for a county that has not
4588 imposed a sales and use tax under this section before May 8, 2018, and if the county imposes a
4589 sales and use tax under this section before June 30, 2019, the commission shall distribute all of
4590 the sales and use tax revenue collected by the county before June 30, 2019 to the county for the
4591 purposes described in Subsection (11)(a)(ii).

4592 (ii) For any revenue collected by a county pursuant to Subsection (11)(a)(i) before June
4593 30, 2019, the county may expend that revenue for:

- 4594 (A) reducing transportation related debt;
4595 (B) a regionally significant transportation facility; or
4596 (C) a public transit project of regional significance.

4597 (b) For a county that has not imposed a sales and use tax under this section before May
4598 8, 2018, and if the county imposes a sales and use tax under this section before June 30, 2019,
4599 the commission shall distribute the sales and use tax revenue collected by the county on or after
4600 July 1, 2019 as described in Subsections (4) through (10).

4601 (c) Subject to Subsection (12), for a county that has not imposed a sales and use tax
4602 under this section before June 30, 2019, if the entire boundary of that county is annexed into a
4603 large public transit district, and if the county imposes a sales and use tax under this section on
4604 or after July 1, 2019, the commission shall distribute the sales and use tax revenue collected by
4605 the county as described in Subsections (4) through (10).

4606 (12) (a) Beginning on July 1, 2020, if a county has not imposed a sales and use tax
4607 under this section, subject to the provisions of this part, the legislative body of a city or town
4608 described in Subsection (12)(b) may impose a .25% sales and use tax on the transactions
4609 described in Subsection [59-12-103\(1\)](#) within the city or town.

4610 (b) The following cities or towns may impose the sales and use tax as described in
4611 Subsection (12)(a):

4612 (i) in a county of the first or second class, a city or town that:

- 4613 (A) has been annexed into a large public transit district; or

4614 (B) is an eligible political subdivision; or
4615 (ii) a city or town that:
4616 (A) is in a county of the third or smaller class; and
4617 (B) has been annexed into a large public transit district.
4618 (c) If a city or town imposes a sales and use tax as provided in this section, the
4619 commission shall distribute the sales and use tax revenue collected by the city or town as
4620 follows:
4621 (i) .125% to the city or town that imposed the sales and use tax, to be distributed as
4622 provided in Subsection (8); and
4623 (ii) .125%, as applicable, to:
4624 (A) the large public transit district in which the city or town is annexed; or
4625 (B) the eligible political subdivision for public transit services.
4626 (d) If a city or town imposes a sales and use tax under this section and the county
4627 subsequently imposes a sales and use tax under this section, the commission shall distribute the
4628 sales and use tax revenue collected within the city or town as described in Subsection (12)(c).
4629 ~~[(11)]~~ (13) A county, city, or town may expend revenue collected from a tax under this
4630 section, except for revenue the commission distributes in accordance with Subsection (4)(a),
4631 (5)(a)(i), (5)(b)(i), or (9)(d)(i) for:
4632 (a) a class B road;
4633 (b) a class C road;
4634 (c) traffic and pedestrian safety, including for a class B road or class C road, for:
4635 (i) a sidewalk;
4636 (ii) curb and gutter;
4637 (iii) a safety feature;
4638 (iv) a traffic sign;
4639 (v) a traffic signal;
4640 (vi) street lighting; or
4641 (vii) a combination of Subsections ~~[(11)]~~ (13)(c)(i) through (vi);
4642 (d) the construction, maintenance, or operation of an active transportation facility that
4643 is for nonmotorized vehicles and multimodal transportation and connects an origin with a
4644 destination;

4645 (e) public transit system services; or

4646 (f) a combination of Subsections ~~[(11)]~~ (13)(a) through (e).

4647 ~~[(12)]~~ (14) A public transit district or an eligible political subdivision may expend
4648 revenue the commission distributes in accordance with Subsection (4)(a), (5)(a)(i), (5)(b)(i), or
4649 (9)(d)(i) for capital expenses and service delivery expenses of the public transit district or
4650 eligible political subdivision.

4651 ~~[(13)]~~ (15) (a) Revenue collected from a sales and use tax under this section may not be
4652 used to supplant existing general fund appropriations that a county, city, or town has budgeted
4653 for transportation as of the date the tax becomes effective for a county, city, or town.

4654 (b) The limitation under Subsection ~~[(13)]~~ (15)(a) does not apply to a designated
4655 transportation capital or reserve account a county, city, or town may have established prior to
4656 the date the tax becomes effective.

4657 (16) Notwithstanding Section [59-12-2208](#), a county, city, or town legislative body may,
4658 but is not required to, submit an opinion question to the county's, city's, or town's registered
4659 voters in accordance with Section [59-12-2208](#) to impose a sales and use tax under this section.

4660 (17) (a) (i) (A) Notwithstanding any other provision in this section, to impose a sales
4661 and use tax under this section, the city or town legislative body shall pass the ordinance to
4662 impose a sales and use tax under this section on or before June 30, 2022.

4663 (B) A city legislative body may not pass an ordinance to impose a sales and use tax
4664 under this section on or after July 1, 2022.

4665 (ii) (A) Notwithstanding any other provision in this section, if the entire boundary of a
4666 county is annexed into a large public transit district, to impose a sales and use tax under this
4667 section, the county legislative body shall pass the ordinance to impose a sales and use tax under
4668 this section on or before June 30, 2022.

4669 (B) If the entire boundary of a county is annexed into a large public transit district, the
4670 county legislative body may not pass an ordinance to impose a sales and use tax under this
4671 section on or after July 1, 2022.

4672 (b) Notwithstanding the deadline described in Subsection (17)(a), any sales and use tax
4673 imposed under this section on or before June 30, 2022, may remain in effect.

4674 Section 32. Section **59-12-2220** is enacted to read:

4675 **59-12-2220. Allocation and prioritization of sales and use tax revenue imposed by**

4676 a county.

4677 (1) Any revenue generated by an imposition of sales and use tax by a county under this
4678 part shall be deposited into a fund within the county in which the tax was imposed and
4679 allocated as described in this section, except for:

4680 (a) revenue committed to a public transit district:

4681 (i) according to a direct allocation under this part; or

4682 (ii) pursuant to an interlocal agreement or contract between a county, city, or town and
4683 a public transit district;

4684 (b) revenue pledged by a large public transit district to pay indebtedness incurred
4685 before May 8, 2018; and

4686 (c) revenue allocated under this part to a city, town, or metro township.

4687 (2) (a) For a county operating under a form of government in which the executive and
4688 legislative functions are separated, and that imposes a sales and use tax under this part, the
4689 county legislative body shall create a county transportation committee as described in
4690 Subsection (2)(b) to review proposed transportation, and, as applicable, public transit projects,
4691 and rank projects for allocation of funds..

4692 (b) The county transportation committee described in Subsection (2)(a) shall be
4693 composed of the following 13 members:

4694 (i) six members who are residents of the county, nominated by the county executive
4695 and confirmed by the county legislative body who are:

4696 (A) members of a local advisory board of a large public transit district as defined in
4697 Section [17B-2a-802](#), as applicable;

4698 (B) county council members; or

4699 (C) other residents with expertise in transportation planning and funding; and

4700 (ii) seven members nominated by the chief executive officer of the county, and
4701 confirmed by the county legislative body, chosen from chief executive officers or managers of
4702 cities, or towns within the county.

4703 (3) (a) For a county operating under a form of government in which the executive and
4704 legislative functions are not separated, and that imposes a sales and use tax authorized in this
4705 part, the county legislative body shall create a county transportation committee as described in
4706 Subsection (3)(b) to review proposed transportation, and, as applicable, public transit projects,

4707 and rank projects for allocation of funds.

4708 (b) Under the direction of the county legislative body, each county described in
4709 Subsection (3)(a) shall create a county transportation committee composed of nine members
4710 selected by the county legislative body, selected from:

4711 (i) chief executive officers of cities and towns within the county;

4712 (ii) city managers of cities and towns within the county;

4713 (iii) members of the county legislative body;

4714 (iv) members of a local advisory board of a large public transit district as described in

4715 Section 17B-2a-802, as applicable; and

4716 (v) members of a board of trustees of a small public transit district as defined in

4717 Section 17B-2a-802, as applicable.

4718 (b) In addition to the individuals described in Subsection (3)(a), a county legislative
4719 body may appoint to the county transportation committee other parties with expertise in
4720 transportation planning and funding.

4721 (4) (a) (i) A majority of the members of the county transportation committee
4722 constitutes a quorum.

4723 (ii) The action by a quorum of the county transportation committee constitutes an
4724 action by the county transportation committee.

4725 (b) The county legislative body shall determine:

4726 (i) the length of a term of a member of the county transportation committee;

4727 (ii) procedures and requirements for removing a member of the county transportation
4728 committee;

4729 (iii) voting requirements of the county transportation committee; (iv) chairs or other
4730 officers of the county transportation committee;

4731 (v) how meetings are to be called and the frequency of meetings, but not less than once
4732 annually; and

4733 (vi) the compensation, if any, of members of the county transportation committee.

4734 (5) The county transportation committee shall evaluate and rank each proposed public
4735 transit project and regionally significant transportation facility according to criteria developed
4736 pursuant to Subsection 59-12-2217(6).

4737 (6) (a) After the review and ranking of each project as described in this section, the

4738 county transportation committee shall report and recommend the ranked list of projects to the
4739 county legislative body and county executive body or officer, as applicable.

4740 (b) After review of the recommended list of projects, the county legislative body and
4741 county executive officer, as applicable, shall review the list of projects and, as funds are
4742 available, vote to approve funding for the proposed projects.

4743 (7) The county executive body or officer, with information provided by the county and
4744 relevant state entities, shall report annually to the county transportation committee, and to the
4745 chief executive officer of each city, town, or metro township in the county, the following:

4746 (a) the funds received into the fund during the past year;

4747 (b) any funds available for allocation;

4748 (c) funds obligated for debt service; and

4749 (d) the outstanding balance of debt.

4750 Section 33. Section **63G-6a-1402** is amended to read:

4751 **63G-6a-1402. Procurement of design-build transportation project contracts.**

4752 (1) As used in this section:

4753 (a) "Design-build transportation project contract" means the procurement of both the
4754 design and construction of a transportation project in a single contract with a company or
4755 combination of companies capable of providing the necessary engineering services and
4756 construction.

4757 (b) "Transportation agency" means:

4758 (i) the Department of Transportation;

4759 (ii) a county of the first or second class, as defined in Section [17-50-501](#);

4760 (iii) a municipality of the first class, as defined in Section [10-2-301](#);

4761 (iv) a large public transit district [~~that has more than 200,000 people residing within its~~
4762 ~~boundaries~~] as defined in Section [17B-2a-802](#); and

4763 (v) a public airport authority.

4764 (2) Except as provided in Subsection (3), a transportation agency may award a
4765 design-build transportation project contract for any transportation project that has an estimated
4766 cost of at least \$50,000,000 by following the requirements of this section.

4767 (3) (a) The Department of Transportation:

4768 (i) may award a design-build transportation project contract for any transportation

4769 project by following the requirements of this section; and

4770 (ii) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
4771 Rulemaking Act, establishing requirements for the procurement of its design-build
4772 transportation project contracts in addition to those required by this section.

4773 (b) A public transit district that has more than 200,000 people residing within its
4774 boundaries:

4775 (i) may award a design-build transportation project contract for any transportation
4776 project by following the requirements of this section; and

4777 (ii) shall pass ordinances or a resolution establishing requirements for the procurement
4778 of its design-build transportation project contracts in addition to those required by this section.

4779 (c) A design-build transportation project contract authorized under this Subsection (3)
4780 is not subject to the estimated cost threshold described in Subsection (2).

4781 (d) A design-build transportation project contract may include provision by the
4782 contractor of operations, maintenance, or financing.

4783 (4) (a) Before entering into a design-build transportation project contract, a
4784 transportation agency may issue a request for qualifications to prequalify potential contractors.

4785 (b) Public notice of the request for qualifications shall be given in accordance with
4786 board rules.

4787 (c) A transportation agency shall require, as part of the qualifications specified in the
4788 request for qualifications, that potential contractors at least demonstrate their:

4789 (i) construction experience;

4790 (ii) design experience;

4791 (iii) financial, manpower, and equipment resources available for the project; and

4792 (iv) experience in other design-build transportation projects with attributes similar to
4793 the project being procured.

4794 (d) The request for qualifications shall identify the number of eligible competing
4795 proposers that the transportation agency will select to submit a proposal, which may not be less
4796 than two.

4797 (5) The transportation agency shall:

4798 (a) evaluate the responses received from the request for qualifications;

4799 (b) select from their number those qualified to submit proposals; and

4800 (c) invite those respondents to submit proposals based upon the transportation agency's
4801 request for proposals.

4802 (6) If the transportation agency fails to receive at least two qualified eligible competing
4803 proposals, the transportation agency shall readvertise the project.

4804 (7) The transportation agency shall issue a request for proposals to those qualified
4805 respondents that:

4806 (a) includes a scope of work statement constituting an information for proposal that
4807 may include:

4808 (i) preliminary design concepts;

4809 (ii) design criteria, needs, and objectives;

4810 (iii) warranty and quality control requirements;

4811 (iv) applicable standards;

4812 (v) environmental documents;

4813 (vi) constraints;

4814 (vii) time expectations or limitations;

4815 (viii) incentives or disincentives; and

4816 (ix) other special considerations;

4817 (b) requires submitters to provide:

4818 (i) a sealed cost proposal;

4819 (ii) a critical path matrix schedule, including cash flow requirements;

4820 (iii) proposal security; and

4821 (iv) other items required by the department for the project; and

4822 (c) may include award of a stipulated fee to be paid to offerors who submit
4823 unsuccessful proposals.

4824 (8) The transportation agency shall:

4825 (a) evaluate the submissions received in response to the request for proposals from the
4826 prequalified offerors;

4827 (b) comply with rules relating to discussion of proposals, best and final offers, and
4828 evaluations of the proposals submitted; and

4829 (c) after considering price and other identified factors, award the contract to the
4830 responsible offeror whose responsive proposal is most advantageous to the transportation

4831 agency or the state.

4832 Section 34. Section **72-1-102** is amended to read:

4833 **72-1-102. Definitions.**

4834 As used in this title:

4835 (1) "Commission" means the Transportation Commission created under Section
4836 **72-1-301**.

4837 (2) "Construction" means the construction, reconstruction, replacement, and
4838 improvement of the highways, including the acquisition of rights-of-way and material sites.

4839 (3) "Department" means the Department of Transportation created in Section **72-1-201**.

4840 (4) "Executive director" means the executive director of the department appointed
4841 under Section **72-1-202**.

4842 (5) "Farm tractor" has the meaning set forth in Section **41-1a-102**.

4843 (6) "Federal aid primary highway" means that portion of connected main highways
4844 located within this state officially designated by the department and approved by the United
4845 States Secretary of Transportation under Title 23, Highways, U.S.C.

4846 (7) "Highway" means any public road, street, alley, lane, court, place, viaduct, tunnel,
4847 culvert, bridge, or structure laid out or erected for public use, or dedicated or abandoned to the
4848 public, or made public in an action for the partition of real property, including the entire area
4849 within the right-of-way.

4850 (8) "Highway authority" means the department or the legislative, executive, or
4851 governing body of a county or municipality.

4852 (9) "Implement of husbandry" has the meaning set forth in Section **41-1a-102**.

4853 (10) "Interstate system" means any highway officially designated by the department
4854 and included as part of the national interstate and defense highways, as provided in the Federal
4855 Aid Highway Act of 1956 and any supplemental acts or amendments.

4856 (11) "Limited-access facility" means a highway especially designated for through
4857 traffic, and over, from, or to which neither owners nor occupants of abutting lands nor other
4858 persons have any right or easement, or have only a limited right or easement of access, light,
4859 air, or view.

4860 (12) "Motor vehicle" has the same meaning set forth in Section **41-1a-102**.

4861 (13) "Municipality" has the same meaning set forth in Section **10-1-104**.

4862 (14) "National highway systems highways" means that portion of connected main
4863 highways located within this state officially designated by the department and approved by the
4864 United States Secretary of Transportation under Title 23, Highways, U.S.C.

4865 (15) (a) "Port-of-entry" means a fixed or temporary facility constructed, operated, and
4866 maintained by the department where drivers, vehicles, and vehicle loads are checked or
4867 inspected for compliance with state and federal laws as specified in Section 72-9-501.

4868 (b) "Port-of-entry" includes inspection and checking stations and weigh stations.

4869 (16) "Port-of-entry agent" means a person employed at a port-of-entry to perform the
4870 duties specified in Section 72-9-501.

4871 (17) "Public transit facility" means a transit vehicle, transit station, depot, passenger
4872 loading or unloading zone, parking lot, or other facility:

4873 (a) leased by or operated by or on behalf of a public transit district; and

4874 (b) related to the public transit services provided by the district, including:

4875 (i) railway or other right-of-way;

4876 (ii) railway line; and

4877 (iii) a reasonable area immediately adjacent to a designated stop on a route traveled by
4878 a transit vehicle.

4879 [~~17~~] (18) "Right-of-way" means real property or an interest in real property, usually
4880 in a strip, acquired for or devoted to a highway.

4881 [~~18~~] (19) "Sealed" does not preclude acceptance of electronically sealed and submitted
4882 bids or proposals in addition to bids or proposals manually sealed and submitted.

4883 [~~19~~] (20) "Semitrailer" has the meaning set forth in Section 41-1a-102.

4884 [~~20~~] (21) "SR" means state route and has the same meaning as state highway as
4885 defined in this section.

4886 [~~21~~] (22) "State highway" means those highways designated as state highways in
4887 Title 72, Chapter 4, Designation of State Highways Act.

4888 [~~22~~] (23) "State highway purposes" has the meaning set forth in Section 72-5-102.

4889 [~~23~~] (24) "State transportation systems" means all streets, alleys, roads, highways,
4890 and thoroughfares of any kind, including connected structures, airports, spaceports, public
4891 transit facilities, and all other modes and forms of conveyance used by the public.

4892 [~~24~~] (25) "Trailer" has the meaning set forth in Section 41-1a-102.

4893 [~~(25)~~] (26) "Truck tractor" has the meaning set forth in Section 41-1a-102.

4894 [~~(26)~~] (27) "UDOT" means the Utah Department of Transportation.

4895 [~~(27)~~] (28) "Vehicle" has the same meaning set forth in Section 41-1a-102.

4896 Section 35. Section 72-1-202 is amended to read:

4897 **72-1-202. Executive director of department -- Appointment -- Qualifications --**
4898 **Term -- Responsibility -- Power to bring suits -- Salary.**

4899 (1) (a) The governor, after consultation with the commission and with the consent of
4900 the Senate, shall appoint an executive director to be the chief executive officer of the
4901 department.

4902 (b) The executive director shall be a qualified executive with technical and
4903 administrative experience and training appropriate for the position.

4904 (c) The executive director shall remain in office until a successor is appointed.

4905 (d) The executive director may be removed by the governor.

4906 (2) In addition to the other functions, powers, duties, rights, and responsibilities
4907 prescribed in this chapter, the executive director shall:

4908 (a) have responsibility for the administrative supervision of the state transportation
4909 systems and the various operations of the department;

4910 (b) have the responsibility for the implementation of rules, priorities, and policies
4911 established by the department and the commission;

4912 (c) have the responsibility for the oversight and supervision of any transportation
4913 project for which state funds are expended;

4914 [~~(e)~~] (d) have full power to bring suit in courts of competent jurisdiction in the name of
4915 the department as the executive director considers reasonable and necessary for the proper
4916 attainment of the goals of this chapter;

4917 [~~(d)~~] (e) receive a salary, to be established by the governor within the salary range fixed
4918 by the Legislature in Title 67, Chapter 22, State Officer Compensation, together with actual
4919 traveling expenses while away from the executive director's office on official business; and

4920 [~~(e)~~] (f) purchase all necessary equipment and supplies for the department.

4921 Section 36. Section 72-1-203 is amended to read:

4922 **72-1-203. Deputy director -- Appointment -- Qualifications -- Other assistants**
4923 **and advisers -- Salaries.**

4924 (1) The executive director shall appoint [~~a deputy director, who shall be a registered~~
4925 ~~professional engineer in the state and~~] two deputy directors, who shall serve at the discretion of
4926 the executive director.

4927 (2) (a) The deputy director of engineering and operations shall be a registered
4928 professional engineer in the state and is the chief engineer of the department. The deputy
4929 director of engineering and operations shall assist the executive director [~~and is responsible for~~]
4930 with areas of responsibility including:

4931 [~~(a) program and project development; and~~]

4932 [~~(b) operation and maintenance of the state transportation systems.]~~

4933 (i) project development;

4934 (ii) oversight of the management of the region offices described in Section [72-1-205](#);

4935 (iii) management of operations; and

4936 (iv) oversight of operations of motor carriers and ports.

4937 (b) The deputy director of planning and investment shall assist the executive director
4938 with areas of responsibility including:

4939 (i) oversight and coordination of planning, including:

4940 (A) development of statewide strategic initiatives for planning across all modes of
4941 transportation;

4942 (B) coordination with metropolitan planning organizations and local governments; and

4943 (C) corridor and area planning;

4944 (ii) asset management;

4945 (iii) programming and prioritization of transportation projects;

4946 (iv) fulfilling requirements for environmental studies and impact statements; and

4947 (v) resource investment, including identification and development of public-private
4948 partnership opportunities.

4949 (3) The executive director may also appoint assistants to administer the divisions of the
4950 department. These assistants shall serve at the discretion of the executive director.

4951 (4) In addition, the executive director may employ other assistants and advisers as the
4952 executive director finds necessary and fix salaries in accordance with the salary standards
4953 adopted by the Department of Human Resource Management.

4954 Section 37. Section **72-1-204** is amended to read:

4955 **72-1-204. Divisions enumerated -- Duties.**

4956 The divisions of the department are:

4957 (1) the Comptroller Division responsible for:

4958 (a) all financial aspects of the department, including budgeting, accounting, and
4959 contracting;

4960 (b) providing all material data and documentation necessary for effective fiscal
4961 planning and programming; and

4962 (c) procuring administrative supplies;

4963 (2) the Internal Audit Division responsible for:

4964 (a) conducting and verifying all internal audits and reviews within the department;

4965 (b) performing financial and compliance audits to determine the allowability and
4966 reasonableness of proposals, accounting records, and final costs of consultants, contractors,
4967 utility companies, and other entities used by the department; and

4968 (c) implementing audit procedures that meet or exceed generally accepted auditing
4969 standards relating to revenues, expenditures, and funding;

4970 (3) the Communications Division responsible for:

4971 (a) developing, managing, and implementing the department's public hearing processes
4972 and programs;

4973 (b) responding to public complaints, requests, and input;

4974 (c) assisting the divisions and regions in the department's public involvement
4975 programs;

4976 (d) developing and managing internal department communications; and

4977 (e) managing and overseeing department media relations;

4978 (4) the Program Development Division responsible for:

4979 (a) developing transportation plans for state transportation systems;

4980 (b) collecting, processing, and storing transportation data to support department's
4981 engineering functions;

4982 (c) maintaining and operating the asset management systems;

4983 (d) designating state transportation systems qualifications;

4984 (e) developing a statewide transportation improvement program for approval by the
4985 commission;

- 4986 (f) providing cartographic services to the department;
- 4987 (g) assisting local governments in participating in federal-aid transportation programs;
- 4988 and
- 4989 (h) providing research services associated with transportation programs;
- 4990 (5) the Project Development Division responsible for:
- 4991 (a) developing statewide standards for project design and construction;
- 4992 (b) providing support for project development in the areas of design environment,
- 4993 right-of-way, materials testing, structures, value engineering, and construction; and
- 4994 (c) designing specialty projects; [~~and~~]
- 4995 (6) the Operations Division responsible for:
- 4996 (a) maintaining the state transportation systems;
- 4997 (b) state transportation systems safety;
- 4998 (c) operating state ports-of-entry;
- 4999 (d) operating state motor carrier safety programs in accordance with this title and
- 5000 federal law;
- 5001 (e) aeronautical operations;
- 5002 (f) providing equipment for department engineering and maintenance functions; and
- 5003 (g) risk management[-]; and
- 5004 (7) the Planning and Investment Division responsible for:
- 5005 (a) creating and managing an intermodal terminal facility to promote economic
- 5006 development and investment;
- 5007 (b) promoting strategies to synergize development of an intermodal inland port; and
- 5008 (c) overseeing and coordinating public-private partnerships.
- 5009 Section 38. Section **72-1-208** is amended to read:
- 5010 **72-1-208. Cooperation with counties, cities, towns, the federal government, and**
- 5011 **all state departments -- Inspection of work done by a public transit district.**
- 5012 (1) The department shall cooperate with the counties, cities, towns, and community
- 5013 reinvestment agencies in the construction, maintenance, and use of the highways and in all
- 5014 related matters, and may provide services to the counties, cities, towns, and community
- 5015 reinvestment agencies on terms mutually agreed upon.
- 5016 (2) The department, with the approval of the governor, shall cooperate with the federal

5017 government in all federal-aid projects and with all state departments in all matters in
5018 connection with the use of the highways.

5019 (3) The department:

5020 (a) shall inspect all work done by a public transit district under Title 17B, Chapter 2a,
5021 Part 8, Public Transit District Act, relating to safety appliances and procedures; and

5022 (b) may make further additions or changes necessary for the purpose of safety to
5023 employees and the general public.

5024 (4) (a) The department may assume responsibility for any public transit project that
5025 traverses any portion of the state highway systems.

5026 (b) To determine whether the department will assume responsibility for a public transit
5027 project, the executive director and the public transit agency proposing the development shall
5028 jointly determine whether the department will assume responsibility.

5029 Section 39. Section **72-1-211** is amended to read:

5030 **72-1-211. Department to develop strategic initiatives -- Report -- Rulemaking.**

5031 (1) (a) The executive director shall develop statewide strategic initiatives [~~for the~~
5032 ~~department~~] across all modes of transportation.

5033 (b) To develop the strategic initiatives described in Subsection (1)(a), the executive
5034 director shall consult with the commission and relevant stakeholders, including:

5035 (i) metropolitan planning organizations;

5036 (ii) county and municipal governments;

5037 (iii) transit districts; and

5038 (iv) other transportation stakeholders.

5039 (c) To develop the strategic initiatives described in Subsection (1)(a), the executive
5040 director shall consider:

5041 (i) regional transportation plans developed by metropolitan planning organizations;

5042 (ii) local transportation plans developed by county and municipal governments;

5043 (iii) public transit plans developed by public transit districts; and

5044 (iv) other relevant transportation plans developed by other stakeholders.

5045 (d) To develop the strategic initiatives described in Subsection (1)(a), the executive
5046 director shall consider projected major centers of economic activity, population growth, and
5047 job centers.

5048 (2) (a) The strategic initiatives developed under Subsection (1) shall include
5049 consideration of the following factors:
5050 [~~(a)~~] (i) corridor preservation;
5051 (ii) congestion reduction;
5052 (iii) economic development and job creation;
5053 (iv) asset management;
5054 (v) sustainability;
5055 (vi) optimization of return on investment;
5056 [~~(b)~~] (vii) development of new transportation capacity projects;
5057 [~~(c)~~] (viii) long-term maintenance and operations of the transportation system;
5058 [~~(d)~~] (ix) safety;
5059 [~~(e)~~] (x) incident management; [and]
5060 [~~(f)~~] (xi) homeland security[.];
5061 (xii) mobility and access; and
5062 (xiii) transportation related air quality.
5063 (b) The strategic initiatives shall include an assessment of capacity needs and establish
5064 goals for corridors that meet all of the following:
5065 (i) high volume of travel and throughput;
5066 (ii) connection of projected major centers of economic activity, population growth, and
5067 future job centers;
5068 (iii) major freight corridors; and
5069 (iv) corridors accommodating multiple modes of travel.
5070 (3) (a) The executive director or the executive director's designee shall report the
5071 strategic initiatives of the department developed under Subsection (1) to the Transportation
5072 Commission and, before December 1 of each year, the Transportation Interim Committee.
5073 (b) The report required under Subsection (3)(a) shall include the measure that will be
5074 used to determine whether the strategic initiatives have been achieved.
5075 (4) After compliance with Subsection (3) and in accordance with Title 63G, Chapter 3,
5076 Utah Administrative Rulemaking Act, the department shall make rules establishing the
5077 strategic initiatives developed under this part.
5078 (5) The executive director shall ensure that the strategic initiatives developed under

5079 Subsection (1):

5080 (a) are reviewed and updated as needed, but no less frequent than every four years; and

5081 (b) cover at least a 20-year horizon.

5082 Section 40. Section **72-1-213** is amended to read:

5083 **72-1-213. Road usage charge study -- Recommendations.**

5084 (1) (a) The department shall~~[(1) continue to]~~ study a road usage charge mileage-based
5085 revenue system, including a [potential] demonstration program, as an alternative to the motor
5086 and special tax~~[-and].~~

5087 ~~[(2) make recommendations to the Legislature and other policymaking bodies on the~~
5088 ~~potential use and future implementation of a road usage charge within the state.]~~

5089 (b) The demonstration program may consider:

5090 (i) the necessity of protecting all personally identifiable information used in reporting
5091 highway use;

5092 (ii) alternatives to recording and reporting highway use;

5093 (iii) alternatives to administration of a road usage charge program; and

5094 (iv) other factors as determined by the department.

5095 (2) (a) The department shall create a Road Usage Charge Advisory Committee to assist
5096 the department to conduct a road usage charge demonstration program.

5097 (b) The executive director shall appoint members of the committee, considering
5098 individuals with experience and expertise in the following areas:

5099 (i) telecommunications;

5100 (ii) data security and privacy;

5101 (iii) privacy rights advocacy organizations;

5102 (iv) transportation agencies with technical expertise;

5103 (v) national research;

5104 (vi) members of the Legislature;

5105 (vii) representatives from the State Tax Commission; and

5106 (viii) other relevant stakeholders as determined by the executive director.

5107 (c) The executive director or the executive director's designee shall serve as chair of the
5108 committee.

5109 (d) A member of the committee may not receive compensation or benefits for the

5110 member's service, but may receive per diem and travel expenses in accordance with:
5111 (i) Section 63A-3-106;
5112 (ii) Section 63A-3-107; and
5113 (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
5114 63A-3-107.
5115 (e) The department shall provide staff support to the committee.
5116 (3) (a) Beginning in 2019, and no later than September 30 of each year, the department
5117 shall prepare and submit a report of its findings based on the results of the road usage charge
5118 demonstration program to the:
5119 (i) Road Usage Charge Advisory Committee created under Subsection (2);
5120 (ii) Transportation Commission;
5121 (iii) Transportation Interim Committee of the Legislature; and
5122 (iv) Revenue and Taxation Interim Committee of the Legislature.
5123 (b) The report shall review the following issues:
5124 (i) cost;
5125 (ii) privacy, including recommendations regarding public and private access, including
5126 by law enforcement, to data collected and stored for purposes of the road usage charge to
5127 ensure individual privacy rights are protected;
5128 (iii) jurisdictional issues;
5129 (iv) feasibility;
5130 (v) complexity;
5131 (vi) acceptance;
5132 (vii) use of revenues;
5133 (viii) security and compliance, including a discussion of processes and security
5134 measures necessary to minimize fraud and tax evasion rates;
5135 (ix) data collection technology, including a discussion of the advantages and
5136 disadvantages of various types of data collection equipment and the privacy implications and
5137 considerations of the equipment;
5138 (x) potential for additional driver services; and
5139 (xi) implementation issues.
5140 (c) The report may make recommendations to the Legislature and other policymaking

5141 bodies on the potential use and future implementation of a road usage charge within the state.

5142 (4) Upon full implementation of a road user charge program for alternative fuel
5143 vehicles, which shall occur no later than January 1, 2020, the department, in coordination with
5144 the Motor Vehicle Division, shall offer the option to an owner of an alternative fuel vehicle as
5145 defined in Section [41-1a-102](#) to:

5146 (a) pay an increased motor vehicle registration fee required in Subsections
5147 [41-1a-1206\(1\)\(h\)](#) or [\(2\)\(b\)](#); or

5148 (b) participate in a road user charge program.

5149 Section 41. Section **72-1-214** is amended to read:

5150 **72-1-214. Department designated as state safety oversight agency for rail fixed**
5151 **guideway public transportation safety -- Powers and duties -- Rulemaking.**

5152 (1) (a) Except as provided in Subsection (1)(b), as used in this section, "fixed
5153 guideway" means the same as that term is defined in Section [59-12-102](#).

5154 (b) For purposes of this section, "fixed guideway" does not include a rail system
5155 subject to regulation by the Federal Railroad Administration.

5156 (2) The department is designated as the state safety oversight agency for rail fixed
5157 guideway public transportation safety in accordance with 49 U.S.C. Sec. 5329(e)(4).

5158 (3) As the state safety oversight agency, the department may, to the extent necessary to
5159 fulfill the department's obligations under federal law:

5160 (a) enter into and inspect the property of a fixed guideway rail system receiving federal
5161 funds without prior notice to the operator;

5162 (b) audit an operator of a fixed guideway rail system receiving federal funds for
5163 compliance with:

5164 (i) federal and state laws regarding the safety of the fixed guideway rail system; and

5165 (ii) a public transportation agency safety plan adopted by a specific operator in
5166 accordance with 49 U.S.C. Sec. 5329(d);

5167 (c) direct the operator of a fixed guideway rail system to correct a safety hazard by a
5168 specified date and time;

5169 (d) prevent the operation of all or part of a fixed guideway rail system that the
5170 department has determined to be unsafe;

5171 (e) audit, review, approve, and oversee an operator of a fixed guideway rail system

5172 receiving federal funds for compliance with a plan adopted by the operator in compliance with
5173 49 U.S.C. Sec. 5329(d); and

5174 (f) enforce statutes, rules, regulations, and executive orders relating to the operation of
5175 a fixed guideway rail public transportation system in Utah.

5176 (4) The department shall, at least annually, provide a status report on the safety of the
5177 rail fixed guideway public transportation systems the department oversees to:

5178 (a) the Federal Transit Administration;

5179 (b) the governor; and

5180 (c) members of the board of any rail fixed guideway public transportation system that
5181 the department oversees in accordance with this section.

5182 (5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
5183 the department shall make rules necessary to administer and enforce this section[-], including
5184 rules providing for the legal and financial independence of state safety oversight agency
5185 activities and functions.

5186 (b) The rules made in accordance with Subsection (5)(a) shall conform to the
5187 requirements of and regulations enacted in accordance with 49 U.S.C. Sec. 5329.

5188 (6) (a) Notwithstanding any other agreement, a county, city, or town with fixed
5189 guideway rail transit service provided by a public transit district that is subject to safety
5190 oversight as provided in this section may request local option transit sales tax in accordance
5191 with Section 59-12-2206 and spend local option transit sales tax in the amount requested by the
5192 department to meet nonfederal match requirements for costs of safety oversight described in
5193 this section.

5194 (b) A county, city, or town that requests local option transit sales tax as described in
5195 Subsection (6)(a) shall transmit to the department all of the funds requested under Subsection
5196 (6)(a) and transmitted to the county, city, or town under Subsection 59-12-2206(5)(b).

5197 (c) A county, city, or town that requests local option transit sales tax as described in
5198 Subsection (6)(a) may not request more local option transit sales tax than is necessary to carry
5199 out the state safety oversight functions under this section and the amount shall only reflect a
5200 maximum of 20% nonfederal match requirement of eligible costs of state safety oversight.

5201 Section 42. Section 72-1-303 is amended to read:

5202 **72-1-303. Duties of commission.**

- 5203 (1) The commission has the following duties:
- 5204 (a) determining priorities and funding levels of projects in the state transportation
5205 systems and capital development of new public transit facilities for each fiscal year based on
5206 project lists compiled by the department and taking into consideration the strategic initiatives
5207 described in Section 72-1-211;
- 5208 (b) determining additions and deletions to state highways under Chapter 4, Designation
5209 of State Highways Act;
- 5210 (c) holding public hearings and otherwise providing for public input in transportation
5211 matters;
- 5212 (d) making policies and rules in accordance with Title 63G, Chapter 3, Utah
5213 Administrative Rulemaking Act, necessary to perform the commission's duties described under
5214 this section;
- 5215 (e) in accordance with Section 63G-4-301, reviewing orders issued by the executive
5216 director in adjudicative proceedings held in accordance with Title 63G, Chapter 4,
5217 Administrative Procedures Act;
- 5218 (f) advising the department in state transportation systems policy;
- 5219 (g) approving settlement agreements of condemnation cases subject to Section
5220 63G-10-401;
- 5221 (h) in accordance with Section 17B-2a-807, appointing a commissioner to serve as a
5222 nonvoting, ex officio member or a voting member on the board of trustees of a public transit
5223 district;
- 5224 (i) in accordance with Section 17B-2a-808, reviewing, at least annually, the short-term
5225 and long-range public transit plans; and
- 5226 (j) reviewing administrative rules made, amended, or repealed by the department.
- 5227 (2) (a) For projects prioritized with funding provided under Sections 72-2-124 and
5228 72-2-125, the commission shall annually report to a committee designated by the Legislative
5229 Management Committee:
- 5230 (i) a prioritized list of the new transportation capacity projects in the state
5231 transportation system and the funding levels available for those projects; and
- 5232 (ii) the unfunded highway construction and maintenance needs within the state.
- 5233 (b) The committee designated by the Legislative Management Committee under

5234 Subsection (2)(a) shall:

5235 (i) review the list reported by the Transportation Commission; and

5236 (ii) make a recommendation to the Legislature on:

5237 (A) the amount of additional funding to allocate to transportation; and

5238 (B) the source of revenue for the additional funding allocation under Subsection

5239 (2)(b)(ii)(A).

5240 (3) The commission shall review and may approve plans for the construction of a
5241 highway facility over sovereign lakebed lands in accordance with Chapter 6, Part 3, Approval
5242 of Highway Facilities on Sovereign Lands Act.

5243 Section 43. Section **72-1-304** is amended to read:

5244 **72-1-304. Written project prioritization process for new transportation capacity**
5245 **projects -- Rulemaking.**

5246 (1) (a) The Transportation Commission, in consultation with the department and the
5247 metropolitan planning organizations as defined in Section [72-1-208.5](#), shall develop a written
5248 prioritization process for the prioritization of new transportation capacity projects that are or
5249 will be part of the state highway system under Chapter 4, Part 1, State Highways, or public
5250 transit projects that add capacity to the public transit systems within the state.

5251 (b) (i) A local government or district may nominate a project for prioritization in
5252 accordance with the process established by the commission in rule.

5253 (ii) If a local government or district nominates a project for prioritization by the
5254 commission, the local government or district shall provide data and evidence to show that:

5255 (A) the project will advance the purposes and goals described in Section [72-1-211](#);

5256 (B) for a public transit project, the local government or district has an ongoing funding
5257 source for operations and maintenance of the proposed development; and

5258 (C) the local government or district will provide 40% of the funds for the project as
5259 required by Subsection [72-2-124\(7\)\(e\)](#).

5260 (2) The following shall be included in the written prioritization process under
5261 Subsection (1):

5262 (a) a description of how the strategic initiatives of the department adopted under
5263 Section [72-1-211](#) are advanced by the written prioritization process;

5264 (b) a definition of the type of projects to which the written prioritization process

5265 applies;

5266 (c) specification of a weighted criteria system that is used to rank proposed projects
5267 and how it will be used to determine which projects will be prioritized;

5268 (d) specification of the data that is necessary to apply the weighted ranking criteria; and

5269 (e) any other provisions the commission considers appropriate[-], which may include
5270 consideration of:

5271 (i) regional and statewide economic development impacts, including improved local
5272 access to:

5273 (A) employment;

5274 (B) recreation;

5275 (C) commerce; and

5276 (D) residential areas;

5277 (ii) the extent to which local land use plans relevant to a project support and
5278 accomplish the strategic initiatives adopted under Section 72-1-211; and

5279 (iii) any matching funds provided by a political subdivision or public transit district in
5280 addition to the 40% required by Subsection 72-2-124(7)(e).

5281 (3) In developing the written prioritization process, the commission:

5282 (a) shall seek and consider public comment by holding public meetings at locations
5283 throughout the state; and

5284 (b) may not consider local matching dollars as provided under Section 72-2-123 unless
5285 the state provides an equal opportunity to raise local matching dollars for state highway
5286 improvements within each county.

5287 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5288 Transportation Commission, in consultation with the department, shall make rules establishing
5289 the written prioritization process under Subsection (1).

5290 (5) The commission shall submit the proposed rules under this section to a committee
5291 or task force designated by the Legislative Management Committee for review prior to taking
5292 final action on the proposed rules or any proposed amendment to the rules described in
5293 Subsection (4).

5294 Section 44. Section 72-1-305 is amended to read:

5295 **72-1-305. Project selection using the written prioritization process -- Public**

5296 **comment -- Report.**

5297 (1) Except as provided in Subsection (4), in determining priorities and funding levels
5298 of projects in the state transportation system under Subsection 72-1-303(1)(a) that are new
5299 transportation capacity projects, the commission shall use the weighted criteria system adopted
5300 in the written prioritization process under Section 72-1-304.

5301 (2) Prior to finalizing priorities and funding levels of projects in the state transportation
5302 system, the commission shall conduct public hearings at locations around the state and accept
5303 public comments on:

5304 (a) the written prioritization process;

5305 (b) the merits of new transportation capacity projects that will be prioritized under this
5306 section; and

5307 (c) the merits of new transportation capacity projects as recommended by a consensus
5308 of local elected officials participating in a metropolitan planning organization as defined in
5309 Section 72-1-208.5.

5310 (3) The commission shall make the weighted criteria system ranking for each project
5311 publicly available prior to the public hearings held under Subsection (2).

5312 (4) (a) If the commission prioritizes a project over another project with a higher rank
5313 under the weighted criteria system, the commission shall identify the change and accept public
5314 comment at a hearing held under this section on the merits of prioritizing the project above
5315 higher ranked projects.

5316 (b) The commission shall make the reasons for the prioritization under Subsection
5317 (4)(a) publicly available.

5318 (5) (a) The executive director or the executive director's designee shall report annually
5319 to the governor and a committee designated by the Legislative Management Committee no later
5320 than the last day of October:

5321 ~~[(a)]~~ (i) the projects prioritized under this section during the year prior to the report;
5322 and

5323 ~~[(b)]~~ (ii) the status and progress of all projects prioritized under this section.

5324 (b) Annually, before any funds are programmed and allocated from the Transit
5325 Transportation Investment Fund created in Section 72-2-124 for each fiscal year, the executive
5326 director or the executive director's designee, along with the executive director of a large public

5327 transit district as described in Section 17B-2a-802, shall report to the governor and a committee
5328 designated by the Legislative Management Committee no later than the last day of October:

5329 (i) the public transit projects prioritized under this section during the year prior to the
5330 report; and

5331 (ii) the status and progress of all public transit projects prioritized under this section.

5332 (6) (a) The department may not delay a new transportation capacity project that was
5333 funded by the Legislature in an appropriations act to a different fiscal year than programmed by
5334 the commission due to an unavoidable shortfall in revenues unless the project delays are
5335 prioritized and approved by the Transportation Commission.

5336 (b) The Transportation Commission shall prioritize and approve any new
5337 transportation capacity project delays for projects that were funded by the Legislature in an
5338 appropriations act due to an unavoidable shortfall in revenues.

5339 Section 45. Section **72-2-117.5** is amended to read:

5340 **72-2-117.5. Definitions -- Local Highway and Transportation Corridor**

5341 **Preservation Fund -- Disposition of fund money.**

5342 (1) As used in this section:

5343 (a) "Council of governments" means a decision-making body in each county composed
5344 of membership including the county governing body and the mayors of each municipality in the
5345 county.

5346 (b) "Metropolitan planning organization" has the same meaning as defined in Section
5347 [72-1-208.5](#).

5348 (2) There is created the Local Highway and Transportation Corridor Preservation Fund
5349 within the Transportation Fund.

5350 (3) The fund shall be funded from the following sources:

5351 (a) a local option highway construction and transportation corridor preservation fee
5352 imposed under Section [41-1a-1222](#);

5353 (b) appropriations made to the fund by the Legislature;

5354 (c) contributions from other public and private sources for deposit into the fund;

5355 (d) all money collected from rents and sales of real property acquired with fund money;

5356 (e) proceeds from general obligation bonds, revenue bonds, or other obligations issued
5357 as authorized by Title 63B, Bonds;

5358 (f) the portion of the sales and use tax described in Subsection 59-12-2217[(2)(b) and
5359 required by Subsection 59-12-2217(8)(a) to be] deposited into the fund; and

5360 (g) sales and use tax revenues deposited into the fund in accordance with Section
5361 59-12-2218.

5362 (4) (a) The fund shall earn interest.

5363 (b) All interest earned on fund money shall be deposited into the fund.

5364 (c) The State Tax Commission shall allocate the revenues:

5365 (i) provided under Subsection (3)(a) to each county imposing a local option highway
5366 construction and transportation corridor preservation fee under Section 41-1a-1222;

5367 (ii) provided under Subsection 59-12-2217(2)(b) to each county imposing a county
5368 option sales and use tax for transportation; and

5369 (iii) provided under Subsection (3)(g) to each county of the second class or city or town
5370 within a county of the second class that imposes the sales and use tax authorized by Section
5371 59-12-2218.

5372 (d) The department shall distribute the funds allocated to each county, city, or town
5373 under Subsection (4)(c) to each county, city, or town.

5374 (e) The money allocated and distributed under this Subsection (4):

5375 (i) shall be used for the purposes provided in this section for each county, city, or town;

5376 (ii) is allocated to each county, city, or town as provided in this section with the
5377 condition that the state will not be charged for any asset purchased with the money allocated
5378 and distributed under this Subsection (4), unless there is a written agreement in place with the
5379 department prior to the purchase of the asset stipulating a reimbursement by the state to the
5380 county, city, or town of no more than the original purchase price paid by the county, city, or
5381 town; and

5382 (iii) is considered a local matching contribution for the purposes described under
5383 Section 72-2-123 if used on a state highway.

5384 (f) Administrative costs of the department to implement this section shall be paid from
5385 the fund.

5386 (5) (a) A highway authority may acquire real property or any interests in real property
5387 for state, county, and municipal highway or public transit corridors subject to:

5388 (i) money available in the fund to each county under Subsection (4); and

- 5389 (ii) the provisions of this section.
- 5390 (b) Fund money may be used to pay interest on debts incurred in accordance with this
5391 section.
- 5392 (c) (i) (A) Fund money may be used to pay maintenance costs of properties acquired
5393 under this section but limited to a total of 5% of the purchase price of the property.
- 5394 (B) Any additional maintenance cost shall be paid from funds other than under this
5395 section.
- 5396 (C) Revenue generated by any property acquired under this section is excluded from
5397 the limitations under this Subsection (5)(c)(i).
- 5398 (ii) Fund money may be used to pay direct costs of acquisition of properties acquired
5399 under this section.
- 5400 (d) Fund money allocated and distributed under Subsection (4) may be used by a
5401 county highway authority for countywide transportation or public transit planning if:
- 5402 (i) the county's planning focus area is outside the boundaries of a metropolitan
5403 planning organization;
- 5404 (ii) the transportation planning is part of the county's continuing, cooperative, and
5405 comprehensive process for transportation or public transit planning, corridor preservation,
5406 right-of-way acquisition, and project programming;
- 5407 (iii) no more than four years allocation every 20 years to each county is used for
5408 transportation planning under this Subsection (5)(d); and
- 5409 (iv) the county otherwise qualifies to use the fund money as provided under this
5410 section.
- 5411 (e) (i) Subject to Subsection (11), fund money allocated and distributed under
5412 Subsection (4) may be used by a county highway authority for transportation or public transit
5413 corridor planning that is part of the corridor elements of an ongoing work program of
5414 transportation or public transit projects.
- 5415 (ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the
5416 direction of:
- 5417 (A) the metropolitan planning organization if the county is within the boundaries of a
5418 metropolitan planning organization; or
- 5419 (B) the department if the county is not within the boundaries of a metropolitan

5420 planning organization.

5421 (f) (i) A county, city, or town that imposes a local option highway construction and
5422 transportation corridor preservation fee under Section 41-1a-1222 may elect to administer the
5423 funds allocated and distributed to that county, city, or town under Subsection (4) as a revolving
5424 loan fund.

5425 (ii) If a county, city, or town elects to administer the funds allocated and distributed to
5426 that county, city, or town under Subsection (4) as a revolving loan fund, a local highway
5427 authority shall repay the fund money authorized for the project to the fund.

5428 (iii) A county, city, or town that elects to administer the funds allocated and distributed
5429 to that county, city, or town under Subsection (4) as a revolving loan fund shall establish
5430 repayment conditions of the money to the fund from the specified project funds.

5431 (g) (i) Subject to the restrictions in Subsections (5)(g)(ii) and (iii), fund money may be
5432 used by a county of the third, fourth, fifth, or sixth class or by a city or town within a county of
5433 the third, fourth, fifth, or sixth class for:

5434 (A) the construction, operation, or maintenance of a class B road or class C road; or

5435 (B) the restoration or repair of survey monuments associated with transportation
5436 infrastructure.

5437 (ii) A county, city, or town may not use more than 50% of the current balance of fund
5438 money allocated to the county, city, or town for the purposes described in Subsection (5)(g)(i).

5439 (iii) A county, city, or town may not use more than 50% of the fund revenue collections
5440 allocated to a county, city, or town in the current fiscal year for the purposes described in
5441 Subsection (5)(g)(i).

5442 (6) (a) (i) The Local Highway and Transportation Corridor Preservation Fund shall be
5443 used to preserve highway and public transit corridors, promote long-term statewide
5444 transportation planning, save on acquisition costs, and promote the best interests of the state in
5445 a manner which minimizes impact on prime agricultural land.

5446 (ii) The Local Highway and Transportation Corridor Preservation Fund shall only be
5447 used to preserve a highway or public transit corridor that is right-of-way:

5448 (A) in a county of the first or second class for:

5449 (I) a state highway;

5450 (II) a principal arterial highway as defined in Section 72-4-102.5;

- 5451 (III) a minor arterial highway as defined in Section [72-4-102.5](#); [or]
- 5452 (IV) a collector highway in an urban area as defined in Section [72-4-102.5](#); or
- 5453 (V) a transit facility as defined in Section [17B-2a-802](#); or
- 5454 (B) in a county of the third, fourth, fifth, or sixth class for:
- 5455 (I) a state highway;
- 5456 (II) a principal arterial highway as defined in Section [72-4-102.5](#);
- 5457 (III) a minor arterial highway as defined in Section [72-4-102.5](#);
- 5458 (IV) a major collector highway as defined in Section [72-4-102.5](#); [or]
- 5459 (V) a minor collector road as defined in Section [72-4-102.5](#)[~~;~~]; or
- 5460 (VI) a transit facility as defined in Section [17B-2a-802](#).
- 5461 (iii) The Local Highway and Transportation Corridor Preservation Fund may not be
- 5462 used for a highway corridor that is primarily a recreational trail as defined under Section
- 5463 [79-5-102](#).
- 5464 (b) A highway authority shall authorize the expenditure of fund money after
- 5465 determining that the expenditure is being made in accordance with this section from
- 5466 applications that are:
- 5467 (i) endorsed by the council of governments; and
- 5468 (ii) for a right-of-way purchase for a highway or public transit corridor authorized
- 5469 under Subsection (6)(a)(ii).
- 5470 (7) (a) (i) A council of governments shall establish a council of governments
- 5471 endorsement process which includes prioritization and application procedures for use of the
- 5472 money allocated to each county under this section.
- 5473 (ii) The endorsement process under Subsection (7)(a)(i) may include review or
- 5474 endorsement of the preservation project by:
- 5475 (A) the metropolitan planning organization if the county is within the boundaries of a
- 5476 metropolitan planning organization; or
- 5477 (B) the department if the county is not within the boundaries of a metropolitan
- 5478 planning organization.
- 5479 (b) All fund money shall be prioritized by each highway authority and council of
- 5480 governments based on considerations, including:
- 5481 (i) areas with rapidly expanding population;

- 5482 (ii) the willingness of local governments to complete studies and impact statements
5483 that meet department standards;
- 5484 (iii) the preservation of corridors by the use of local planning and zoning processes;
5485 (iv) the availability of other public and private matching funds for a project;
5486 (v) the cost-effectiveness of the preservation projects;
5487 (vi) long and short-term maintenance costs for property acquired; and
5488 (vii) whether the transportation or public transit corridor is included as part of:
5489 (A) the county and municipal master plan; and
5490 (B) (I) the statewide long range plan; or
5491 (II) the regional transportation plan of the area metropolitan planning organization if
5492 one exists for the area.
- 5493 (c) The council of governments shall:
5494 (i) establish a priority list of highway and public transit corridor preservation projects
5495 within the county;
5496 (ii) submit the list described in Subsection (7)(c)(i) to the county's legislative body for
5497 approval; and
5498 (iii) obtain approval of the list described in Subsection (7)(c)(i) from a majority of the
5499 members of the county legislative body.
- 5500 (d) A county's council of governments may only submit one priority list described in
5501 Subsection (7)(c)(i) per calendar year.
- 5502 (e) A county legislative body may only consider and approve one priority list described
5503 in Subsection (7)(c)(i) per calendar year.
- 5504 (8) (a) Unless otherwise provided by written agreement with another highway authority
5505 or public transit district, the highway authority that holds the deed to the property is responsible
5506 for maintenance of the property.
- 5507 (b) The transfer of ownership for property acquired under this section from one
5508 highway authority to another shall include a recorded deed for the property and a written
5509 agreement between the highway authorities or public transit district.
- 5510 (9) (a) The proceeds from any bonds or other obligations secured by revenues of the
5511 Local Highway and Transportation Corridor Preservation Fund shall be used for the purposes
5512 authorized for funds under this section.

5513 (b) The highway authority shall pledge the necessary part of the revenues of the Local
5514 Highway and Transportation Corridor Preservation Fund to the payment of principal and
5515 interest on the bonds or other obligations.

5516 (10) (a) A highway authority may not expend money under this section to purchase a
5517 right-of-way for a state highway unless the highway authority has:

5518 (i) a transportation corridor property acquisition policy or ordinance in effect that
5519 meets department requirements for the acquisition of real property or any interests in real
5520 property under this section; and

5521 (ii) an access management policy or ordinance in effect that meets the requirements
5522 under Subsection 72-2-117(8).

5523 (b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a
5524 written agreement with the department for the department to acquire real property or any
5525 interests in real property on behalf of the local highway authority under this section.

5526 (11) The county shall ensure, to the extent possible, that the fund money allocated and
5527 distributed to a city or town in accordance with Subsection (4) is expended:

5528 (a) to fund a project or service as allowed by this section within the city or town to
5529 which the fund money is allocated;

5530 (b) to pay debt service, principal, or interest on a bond or other obligation as allowed
5531 by this section if that bond or other obligation is:

5532 (i) secured by money allocated to the city or town; and

5533 (ii) issued to finance a project or service as allowed by this section within the city or
5534 town to which the fund money is allocated;

5535 (c) to fund transportation planning as allowed by this section within the city or town to
5536 which the fund money is allocated; or

5537 (d) for another purpose allowed by this section within the city or town to which the
5538 fund money is allocated.

5539 (12) Notwithstanding any other provision in this section, any amounts within the fund
5540 allocated to a public transit district or for a public transit corridor may only be derived from the
5541 portion of the fund that does not include constitutionally restricted sources related to the
5542 operation of a motor vehicle on a public highway or proceeds from an excise tax on liquid
5543 motor fuel to propel a motor vehicle.

5544 Section 46. Section 72-2-121 is amended to read:

5545 **72-2-121. County of the First Class Highway Projects Fund.**

5546 (1) There is created a special revenue fund within the Transportation Fund known as
5547 the "County of the First Class Highway Projects Fund."

5548 (2) The fund consists of money generated from the following revenue sources:

5549 (a) any voluntary contributions received for new construction, major renovations, and
5550 improvements to highways within a county of the first class;

5551 (b) the portion of the sales and use tax described in Subsection 59-12-2214(3)(b)
5552 deposited in or transferred to the fund;

5553 (c) the portion of the sales and use tax described in Subsection 59-12-2217~~[(2)(b) and~~
5554 ~~required by Subsection 59-12-2217(8)(b) to be]~~ deposited in or transferred to the fund; and

5555 (d) a portion of the local option highway construction and transportation corridor
5556 preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited in or
5557 transferred to the fund.

5558 (3) (a) The fund shall earn interest.

5559 (b) All interest earned on fund money shall be deposited into the fund.

5560 (4) The executive director shall use the fund money only:

5561 (a) to pay debt service and bond issuance costs for bonds issued under Sections
5562 63B-16-102, 63B-18-402, and 63B-27-102;

5563 (b) for right-of-way acquisition, new construction, major renovations, and
5564 improvements to highways within a county of the first class and to pay any debt service and
5565 bond issuance costs related to those projects, including improvements to a highway located
5566 within a municipality in a county of the first class where the municipality is located within the
5567 boundaries of more than a single county;

5568 (c) for the construction, acquisition, use, maintenance, or operation of:

5569 (i) an active transportation facility for nonmotorized vehicles;

5570 (ii) multimodal transportation that connects an origin with a destination; or

5571 (iii) a facility that may include a:

5572 (A) pedestrian or nonmotorized vehicle trail;

5573 (B) nonmotorized vehicle storage facility;

5574 (C) pedestrian or vehicle bridge; or

- 5575 (D) vehicle parking lot or parking structure;
- 5576 (d) for fiscal year 2012-13 only, to pay for or to provide funds to a municipality or
- 5577 county to pay for a portion of right-of-way acquisition, construction, reconstruction,
- 5578 renovations, and improvements to highways described in Subsections 72-2-121.4(7), (8), and
- 5579 (9);
- 5580 (e) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by
- 5581 Section 72-2-121.3 the amount required in Subsection 72-2-121.3(4)(c) minus the amounts
- 5582 transferred in accordance with Subsection 72-2-124(4)(a)(iv);
- 5583 (f) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond
- 5584 issuance costs for \$30,000,000 of the bonds issued under Section 63B-18-401 for the projects
- 5585 described in Subsection 63B-18-401(4)(a);
- 5586 (g) for a fiscal year beginning on or after July 1, 2013, and after the department has
- 5587 verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund, to
- 5588 transfer an amount equal to 50% of the revenue generated by the local option highway
- 5589 construction and transportation corridor preservation fee imposed under Section 41-1a-1222 in
- 5590 a county of the first class:
- 5591 (i) to the legislative body of a county of the first class; and
- 5592 (ii) to be used by a county of the first class for:
- 5593 (A) highway construction, reconstruction, or maintenance projects; or
- 5594 (B) the enforcement of state motor vehicle and traffic laws;
- 5595 (h) for fiscal year 2015 only, and after the department has verified that the amount
- 5596 required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under
- 5597 Subsection (4)(f) has been made, to transfer an amount equal to the remainder of the revenue
- 5598 available in the fund for the 2015 fiscal year:
- 5599 (i) to the legislative body of a county of the first class; and
- 5600 (ii) to be used by a county of the first class for:
- 5601 (A) highway construction, reconstruction, or maintenance projects; or
- 5602 (B) the enforcement of state motor vehicle and traffic laws;
- 5603 (i) for fiscal year 2015-16 only, and after the department has verified that the amount
- 5604 required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under
- 5605 Subsection (4)(f) has been made, to transfer an amount equal to \$25,000,000:

5606 (i) to the legislative body of a county of the first class; and
5607 (ii) to be used by the county for the purposes described in this section;
5608 (j) for a fiscal year beginning on or after July 1, 2015, after the department has verified
5609 that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the
5610 transfer under Subsection (4)(f) has been made, to annually transfer an amount equal to up to
5611 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into
5612 the fund in accordance with Subsection 59-12-2214(3)(b) to:

5613 (i) the appropriate debt service or sinking fund for the repayment of bonds issued under
5614 Section 63B-27-102; and
5615 (ii) the Transportation Investment Fund of 2005 created in Section 72-2-124 until
5616 \$28,079,000 has been deposited into the Transportation Investment Fund of 2005; and
5617 (k) for a fiscal year beginning after the amount described in Subsection (4)(j) has been
5618 repaid to the Transportation Investment Fund of 2005 until fiscal year 2030, after the
5619 department has verified that the amount required under Subsection 72-2-121.3(4)(c) is
5620 available in the fund and the transfer under Subsection (4)(f) has been made, and after the
5621 bonds under Section 63B-27-102 have been repaid, to annually transfer an amount equal to up
5622 to 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited
5623 into the fund in accordance with Subsection 59-12-2214(3)(b):

5624 (i) to the legislative body of a county of the first class; and
5625 (ii) to be used by the county for the purposes described in this section.

5626 (5) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the
5627 fund and bond proceeds from bonds issued under Sections 63B-16-102, 63B-18-402, and
5628 63B-27-102 are considered a local matching contribution for the purposes described under
5629 Section 72-2-123.

5630 (6) The additional administrative costs of the department to administer this fund shall
5631 be paid from money in the fund.

5632 (7) Notwithstanding any statutory or other restrictions on the use or expenditure of the
5633 revenue sources deposited into this fund, the Department of Transportation may use the money
5634 in this fund for any of the purposes detailed in Subsection (4).

5635 Section 47. Section 72-2-124 is amended to read:
5636 **72-2-124. Transportation Investment Fund of 2005.**

5637 (1) There is created a capital projects fund entitled the Transportation Investment Fund
5638 of 2005.

5639 (2) The fund consists of money generated from the following sources:

5640 (a) any voluntary contributions received for the maintenance, construction,
5641 reconstruction, or renovation of state and federal highways;

5642 (b) appropriations made to the fund by the Legislature;

5643 (c) registration fees designated under Section 41-1a-1201;

5644 ~~[(e)]~~ (d) the sales and use tax revenues deposited into the fund in accordance with
5645 Section 59-12-103; and

5646 ~~[(d) registration fees designated under Section 41-1a-1201; and]~~

5647 (e) revenues transferred to the fund in accordance with Section 72-2-106.

5648 (3) (a) The fund shall earn interest.

5649 (b) All interest earned on fund money shall be deposited into the fund.

5650 (4) (a) Except as provided in Subsection (4)(b), the executive director may use fund
5651 money only to pay:

5652 (i) the costs of maintenance, construction, reconstruction, or renovation to state and
5653 federal highways prioritized by the Transportation Commission through the prioritization
5654 process for new transportation capacity projects adopted under Section 72-1-304;

5655 (ii) the costs of maintenance, construction, reconstruction, or renovation to the highway
5656 projects described in Subsections 63B-18-401(2), (3), and (4);

5657 (iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401
5658 minus the costs paid from the County of the First Class Highway Projects Fund in accordance
5659 with Subsection 72-2-121(4)(f);

5660 (iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt
5661 Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified
5662 by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the
5663 debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;

5664 (v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101
5665 for projects prioritized in accordance with Section 72-2-125;

5666 (vi) all highway general obligation bonds that are intended to be paid from revenues in
5667 the Centennial Highway Fund created by Section 72-2-118; and

5668 (vii) for fiscal year 2015-16 only, to transfer \$25,000,000 to the County of the First
5669 Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described
5670 in Section 72-2-121.

5671 (b) The executive director may use fund money to exchange for an equal or greater
5672 amount of federal transportation funds to be used as provided in Subsection (4)(a).

5673 (5) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued
5674 in any fiscal year, the department and the commission shall appear before the Executive
5675 Appropriations Committee of the Legislature and present the amount of bond proceeds that the
5676 department needs to provide funding for the projects identified in Subsections 63B-18-401(2),
5677 (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

5678 (b) The Executive Appropriations Committee of the Legislature shall review and
5679 comment on the amount of bond proceeds needed to fund the projects.

5680 (6) The Division of Finance shall, from money deposited into the fund, transfer the
5681 amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by
5682 Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or
5683 sinking fund.

5684 (7) (a) There is created in the Transportation Investment Fund of 2005 the Transit
5685 Transportation Investment Fund.

5686 (b) The fund shall be funded by:

5687 (i) contributions deposited into the fund in accordance with Section 59-12-103;

5688 (ii) appropriations into the account by the Legislature;

5689 (iii) private contributions; and

5690 (iv) donations or grants from public or private entities.

5691 (c) (i) The fund shall earn interest.

5692 (ii) All interest earned on fund money shall be deposited into the fund.

5693 (d) Subject to Subsection (7)(e), the Legislature may appropriate money from the fund
5694 for public transit capital development of new capacity projects to be used as prioritized by the
5695 commission.

5696 (e) (i) The Legislature may only appropriate money from the fund for a public transit
5697 capital development project if the public transit district or political subdivision provides funds
5698 of equal to or greater than 40% of the funds needed for the project.

5699 (ii) A public transit district or political subdivision may use money derived from a loan
5700 granted pursuant to Title 72, Chapter 2, Part 2, Transportation Infrastructure Loan Fund, to
5701 provide all or part of the 40% requirement described in Subsection (7)(e)(i) if:

5702 (A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2,
5703 Transportation Infrastructure Loan Fund; and

5704 (B) the proposed capital project has been prioritized by the commission pursuant to
5705 Section [72-1-303](#).

5706 Section 48. Section **72-5-401** is amended to read:

5707 **72-5-401. Definitions.**

5708 As used in this part:

5709 (1) "Corridor" means the path or proposed path of a transportation facility, including a
5710 public transit facility, that exists or that may exist in the future[~~—A corridor~~], and may include
5711 the land occupied or to be occupied by a transportation facility, and any other land that may be
5712 needed for expanding a transportation facility or for controlling access to it.

5713 (2) "Corridor preservation" means planning or acquisition processes intended to:

5714 (a) protect or enhance the capacity of existing corridors; and

5715 (b) protect the availability of proposed corridors in advance of the need for and the
5716 actual commencement of the transportation facility construction.

5717 (3) "Development" means:

5718 (a) the subdividing of land;

5719 (b) the construction of improvements, expansions, or additions; or

5720 (c) any other action that will appreciably increase the value of and the future
5721 acquisition cost of land.

5722 (4) "Official map" means a map, drawn by government authorities and recorded in
5723 county recording offices that:

5724 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
5725 highways and other transportation facilities;

5726 (b) provides a basis for restricting development in designated rights-of-way or between
5727 designated setbacks to allow the government authorities time to purchase or otherwise reserve
5728 the land; and

5729 (c) for counties and municipalities may be adopted as an element of the general plan,

5730 pursuant to Title 17, Chapter 27a, Part 4, General Plan, or Title 10, Chapter 9a, Part 4, General
5731 Plan.

5732 (5) "Taking" means an act or regulation, either by exercise of eminent domain or other
5733 police power, whereby government puts private property to public use or restrains use of
5734 private property for public purposes, and that requires compensation to be paid to private
5735 property owners.

5736 Section 49. Section **72-6-120** is amended to read:

5737 **72-6-120. Department authorized to participate in federal program assuming**
5738 **responsibility for environmental review of highway projects -- Rulemaking authority.**

5739 (1) The department may:

5740 (a) assume responsibilities under 23 U.S.C. Sec. 326 for:

5741 (i) determining whether state highway design and construction projects are
5742 categorically excluded from requirements for environmental assessments or environmental
5743 impact statements; and

5744 (ii) environmental review, consultation, or other actions required under federal law for
5745 categorically excluded projects;

5746 (b) assume responsibilities under 23 U.S.C. Sec. 327 with respect to one or more
5747 railroad, public transportation, highway [projects], or multimodal projects within the state
5748 under the National Environmental Policy Act of 1969 for environmental review, consultation,
5749 or other action required under any federal environmental law pertaining to the review or
5750 approval of a specific highway project;

5751 (c) enter one or more memoranda of understanding with the United States Department
5752 of Transportation related to federal highway programs as provided in 23 U.S.C. Secs. 326 and
5753 327 subject to the requirements of Subsection [72-1-207\(5\)](#);

5754 (d) accept, receive, and administer grants, other money, or gifts from public and private
5755 agencies, including the federal government, for the purpose of carrying out the programs
5756 authorized under this section; and

5757 (e) cooperate with the federal government in implementing this section and any
5758 memorandum of understanding entered into under Subsection [72-1-207\(5\)](#).

5759 (2) Notwithstanding any other provision of law, in implementing a program under this
5760 section that is approved by the United States Department of Transportation, the department is

5761 authorized to:

5762 (a) perform or conduct any of the activities described in a memorandum of
5763 understanding entered into under Subsection [72-1-207\(5\)](#);

5764 (b) take actions necessary to implement the program; and

5765 (c) adopt relevant federal environmental standards as the standards for this state for
5766 categorically excluded projects.

5767 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5768 department may make rules to implement the provisions of this section.

5769 Section 50. **Repealer.**

5770 This bill repeals:

5771 Section [17B-2a-807.5](#), **Public transit district board of trustees -- Transitional**
5772 **provisions.**

5773 Section 51. **Effective date.**

5774 This bill takes effect on May 8, 2018, except that the amendments to Sections
5775 [41-1a-102](#), [41-1a-1201](#), [41-1a-1206](#), and [59-12-103](#) in this bill take effect on January 1, 2019.