

SB0136S06 compared with SB0136S05

~~text~~ shows text that was in SB0136S05 but was deleted in SB0136S06.

Inserted text shows text that was not in SB0136S05 but was inserted into SB0136S06.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

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;

SB0136S06 compared with SB0136S05

- 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;
- ▶ requires a large public transit district to have legal counsel from the Utah attorney general, and provides for a transition for an existing large public transit district;
- ▶ 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 the provisions and oversight provided in the Utah State Retirement and Insurance Benefit Act;
- ▶ exempts certain meetings of members of the board of trustees of a large public transit district from the Open and Public Meetings Act;
- ▶ creates the Transportation and Tax Review Task Force;
- ▶ defines "alternative fuel vehicle," "diesel fuel," "electric motor vehicle," "hybrid electric motor vehicle," "motor fuel," "natural gas," and "plug-in hybrid electric motor vehicle";
- ▶ modifies provisions imposing registration fees on motor vehicles;
- ▶ reduces funds allocated from the General Fund into the Transportation Investment Fund of 2005 and deposits funds from the General Fund into the Transit Transportation Investment Fund;
- ~~{~~ ▶ ~~allocates revenue from increased vehicle registration fees to the Transportation Investment Fund of 2005;~~
- { ▶ creates the "Transit Transportation Investment Fund" within the Transportation Investment Fund of 2005;
- ▶ imposes a deadline for certain local governments to impose certain local option sales and use taxes;
- ▶ authorizes a new local option sales and use tax for certain counties with public transit services;
- ▶ allows a county, city, or town to impose certain local option sales and use taxes without submitting the question to the county's, city's, or town's registered voters;
- ▶ allows a city to impose certain local option sales and use taxes not imposed by the

SB0136S06 compared with SB0136S05

county;

- ▶ amends provisions related to the expenditure of certain local option sales and use taxes;
- ▶ modifies certain responsibilities of the Department of Transportation and the executive director of the Department of Transportation related to supervision and oversight of certain projects and cooperation with other entities involved in a project;
- ▶ modifies governance of the Department of Transportation, including:
 - requiring a second deputy director;
 - describing the qualifications for each deputy; and
 - describing the responsibilities of each deputy director;
- ▶ creates the Planning and Investment Division within the Department of Transportation;
- ▶ modifies requirements for the Department of Transportation to develop statewide strategic initiatives for coordinating and planning multimodal transportation;
- ▶ requires the Department of Transportation to study a road user charge and implement a demonstration program;
- ▶ requires the Transportation Commission to consider public transit projects in the prioritization process to allocate funds;
- ▶ modifies criteria for the Transportation Commission to consider while prioritizing transportation and public transit projects;
- ▶ allows corridor preservation funds to be used for public transit district corridors; and
- ▶ requires the Department of Transportation to assume responsibilities for review and approval of projects under the requirements of the National Environmental Policy Act of 1969.

Money Appropriated in this Bill:

~~{None}~~ This bill appropriates in fiscal year 2018:

- ▶ to the Legislature - Senate - Administration as a one-time appropriation:
 - from the General Fund, One-time, \$12,800; and
- ▶ to the Legislature - House of Representatives - Administration as a one-time

SB0136S06 compared with SB0136S05

appropriation:

- from the General Fund, One-time, \$19,200.

Other Special Clauses:

{—————} This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

11-13-103, as last amended by Laws of Utah 2016, Chapter 382
11-13-202, as last amended by Laws of Utah 2009, Chapter 218
11-13-206, as last amended by Laws of Utah 2015, Chapter 265
11-13-207, as last amended by Laws of Utah 2015, Chapter 265
17B-1-301, as last amended by Laws of Utah 2014, Chapter 362
17B-1-702, as renumbered and amended by Laws of Utah 2007, Chapter 329
17B-1-703, as renumbered and amended by Laws of Utah 2007, Chapter 329
17B-2a-802, as last amended by Laws of Utah 2016, Chapter 387
17B-2a-804, as last amended by Laws of Utah 2017, Chapters 181 and 427
17B-2a-807, as last amended by Laws of Utah 2017, Chapter 70
17B-2a-808, as last amended by Laws of Utah 2010, Chapter 281
17B-2a-810, as last amended by Laws of Utah 2016, Chapter 56
17B-2a-811, as last amended by Laws of Utah 2010, Chapter 281
17B-2a-826, as enacted by Laws of Utah 2017, Chapter 427
41-1a-102, as last amended by Laws of Utah 2016, Chapter 40
41-1a-1201, as last amended by Laws of Utah 2017, Chapters 261 and 406
41-1a-1206, as last amended by Laws of Utah 2017, Chapters 261, 406 and last
amended by Coordination Clause, Laws of Utah 2017, Chapter 261
41-1a-1221, as last amended by Laws of Utah 2012, Chapter 397
52-4-103, as last amended by Laws of Utah 2017, Chapters 196, 277, and 441
59-12-102, as last amended by Laws of Utah 2017, Chapters 181, 382, and 422
59-12-103, as last amended by Laws of Utah 2017, Chapters 234, 421, and 422
59-12-2202, as enacted by Laws of Utah 2010, Chapter 263
59-12-2203, as last amended by Laws of Utah 2015, Chapter 275
59-12-2217, as last amended by Laws of Utah 2017, Chapter 240

SB0136S06 compared with SB0136S05

59-12-2218, as last amended by Laws of Utah 2017, Chapter 240
59-12-2219, as last amended by Laws of Utah 2016, Chapter 373
63G-6a-1402, as last amended by Laws of Utah 2017, Chapter 348
67-5-3, as last amended by Laws of Utah 2015, Chapter 258
72-1-102, as last amended by Laws of Utah 2001, Chapter 372
72-1-202, as last amended by Laws of Utah 2013, Chapter 78
72-1-203, as last amended by Laws of Utah 2006, Chapter 139
72-1-204, as last amended by Laws of Utah 2017, Chapter 97
72-1-208, as last amended by Laws of Utah 2016, Chapter 350
72-1-211, as last amended by Laws of Utah 2008, Chapter 382
72-1-213, as enacted by Laws of Utah 2015, Chapter 275
72-1-214, as enacted by Laws of Utah 2017, Chapter 160
72-1-303, as last amended by Laws of Utah 2011, Chapter 256
72-1-304, as last amended by Laws of Utah 2008, Chapter 382
72-1-305, as last amended by Laws of Utah 2009, Chapter 364
72-2-117.5, as last amended by Laws of Utah 2017, Chapter 240
72-2-121, as last amended by Laws of Utah 2017, Chapter 436
72-2-124, as last amended by Laws of Utah 2017, Chapter 436
72-5-401, as last amended by Laws of Utah 2005, Chapter 254
72-6-120, as last amended by Laws of Utah 2015, Chapter 144

ENACTS:

11-13-227, Utah Code Annotated 1953
17B-2a-803.1, Utah Code Annotated 1953
17B-2a-807.1, Utah Code Annotated 1953
17B-2a-808.1, Utah Code Annotated 1953
17B-2a-808.2, Utah Code Annotated 1953
17B-2a-810.1, Utah Code Annotated 1953
17B-2a-811.1, Utah Code Annotated 1953
36-29-103, **Utah Code Annotated 1953**
59-12-2220, **Utah Code Annotated 1953**

REPEALS:

SB0136S06 compared with SB0136S05

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

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

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

11-13-103. Definitions.

As used in this chapter:

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

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

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

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

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

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

(a) the state;

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

(c) a prosecution district.

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

(a) has no taxing authority; and

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

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

SB0136S06 compared with SB0136S05

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

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

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

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

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

(i) generation capacity;

(ii) generation output; or

(iii) an electric energy production facility.

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

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

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

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

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

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

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

(b) "Governing board" includes a board of directors described in an agreement, as

SB0136S06 compared with SB0136S05

amended, that creates a project entity.

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

(12) "Interlocal entity" means:

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

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

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

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

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

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

(17) (a) "Project":

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

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

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

(i) facilities that provide additional project capacity;

(ii) facilities providing replacement project capacity; and

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

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

(19) "Public agency" means:

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

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

SB0136S06 compared with SB0136S05

(c) any agency of the United States;

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

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

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

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

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

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

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

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

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

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

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

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

(b) includes a separate legal or administrative entity created under Laws of Utah 1977,

SB0136S06 compared with SB0136S05

Chapter 47, Section 3, as amended.

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

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

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

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

(a) for joint or cooperative action;

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

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

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

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

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

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

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

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

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

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

SB0136S06 compared with SB0136S05

enforce the provision.

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

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

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

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

- (a) its duration;
- (b) if the agreement creates an interlocal entity:
 - (i) the precise organization, composition, and nature of the interlocal entity;
 - (ii) the powers delegated to the interlocal entity;
 - (iii) the manner in which the interlocal entity is to be governed; and
 - (iv) subject to Subsection (2), the manner in which the members of its governing board are to be appointed or selected;
- (c) its purpose or purposes;
- (d) the manner of financing the joint or cooperative action and of establishing and maintaining a budget for it;
- (e) the permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;
- (f) the process, conditions, and terms for withdrawal of a participating public agency from the interlocal entity or the joint or cooperative undertaking;
- (g) (i) whether voting is based upon one vote per member or weighted; and
 - (ii) if weighted voting is allowed, the basis upon which the vote weight will be determined; and
- (h) any other necessary and proper matters.

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

SB0136S06 compared with SB0136S05

voting power.

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

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

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

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

(i) an administrator; or

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

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

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

(d) the powers of the joint administrator.

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

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

11-13-227. Transportation reinvestment zones.

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

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

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

(b) define the boundaries of the zone;

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

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

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

and

SB0136S06 compared with SB0136S05

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

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

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

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

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

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

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

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

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

(2) The board of trustees may:

(a) fix the location of the local district's principal place of business and the location of all offices and departments, if any;

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

(c) select and use an official district seal;

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

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

(f) contract for or employ professionals to perform work or services for the local

SB0136S06 compared with SB0136S05

district that cannot satisfactorily be performed by the officers or employees of the district;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SB0136S06 compared with SB0136S05

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

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

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

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

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

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

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

(4) A local district board that hires an interim manager, a chief executive officer, a chief administrative officer, an executive director, or a similar position in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the interim manager, chief executive officer, chief administrative officer, executive director, or similar position.

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

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

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

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

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

(b) Within 30 days after it is approved by the board, and at least 30 days before the

SB0136S06 compared with SB0136S05

board adopts a final budget, the board of trustees of a large public transit district [~~serving a population of more than 200,000 people~~] as defined in Section 17B-2a-802 shall send a copy of its tentative budget and notice of the time and place for its budget hearing to:

- (i) each of its constituent entities;
 - (ii) each of its customer agencies that has in writing requested a copy;
 - (iii) the governor; and
 - (iv) the Legislature.
- (c) The local district shall include with the tentative budget a signature sheet that

includes:

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

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

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

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

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

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

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

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

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

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

(iii) seek to resolve the objections.

SB0136S06 compared with SB0136S05

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

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

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

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

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

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

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

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

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

- (a) answer any questions about the audit report; and
- (b) discuss their plans to implement suggestions made by the auditor.

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

17B-2a-802. Definitions.

As used in this part:

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

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

(b) "Affordable housing" does not include housing occupied or reserved for occupancy

SB0136S06 compared with SB0136S05

by households with gross household incomes that are more than 60% of the area median income for households of the same size.

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

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

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

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

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

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

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

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

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

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

(b) two or more counties.

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

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

SB0136S06 compared with SB0136S05

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

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

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

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

- (a) chartered bus;
- (b) sightseeing bus; or
- (c) taxi.

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

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

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

- (a) leased by or operated by or on behalf of a public transit district; and
- (b) related to the public transit services provided by the district, including:
 - (i) railway or other right-of-way;
 - (ii) railway line; and
 - (iii) a reasonable area immediately adjacent to a designated stop on a route traveled by a transit vehicle.

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

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

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

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

SB0136S06 compared with SB0136S05

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

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

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

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

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

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

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

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

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

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

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

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

(B) the district is required by a final court order to levy a tax to pay the judgment;

(c) insure against:

(i) loss of revenues from damage to or destruction of some or all of a public transit system from any cause;

(ii) public liability;

(iii) property damage; or

(iv) any other type of event, act, or omission;

(d) acquire, contract for, lease, construct, own, operate, control, or use:

(i) a right-of-way, rail line, monorail, bus line, station, platform, switchyard, terminal, parking lot, or any other facility necessary or convenient for public transit service; or

(ii) any structure necessary for access by persons and vehicles;

SB0136S06 compared with SB0136S05

(e) (i) hire, lease, or contract for the supplying or management of a facility, operation, equipment, service, employee, or management staff of an operator; and

(ii) provide for a sublease or subcontract by the operator upon terms that are in the public interest;

(f) operate feeder bus lines and other feeder or ridesharing services as necessary;

(g) accept a grant, contribution, or loan, directly through the sale of securities or equipment trust certificates or otherwise, from the United States, or from a department, instrumentality, or agency of the United States;

(h) study and plan transit facilities in accordance with any legislation passed by Congress;

(i) cooperate with and enter into an agreement with the state or an agency of the state or otherwise contract to finance to establish transit facilities and equipment or to study or plan transit facilities;

(j) subject to Subsection 17B-2a-808.1(5), issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;

(k) from bond proceeds or any other available funds, reimburse the state or an agency of the state for an advance or contribution from the state or state agency;

(l) do anything necessary to avail itself of any aid, assistance, or cooperation available under federal law, including complying with labor standards and making arrangements for employees required by the United States or a department, instrumentality, or agency of the United States;

(m) sell or lease property;

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

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

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

SB0136S06 compared with SB0136S05

(i) investing in a project as a limited partner or a member, with limited liabilities; or
(ii) subordinating an ownership interest in real property owned by the public transit district.

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

(i) in the manner described in Subsection (1)(p)(i) or (ii); and
(ii) on no more than eight transit-oriented developments or transit-supportive developments selected by the board of trustees.

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

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

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

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

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

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

- (i) service and ridership;
- (ii) regional plans made by the metropolitan planning agency;
- (iii) the local economy;

SB0136S06 compared with SB0136S05

(iv) the environment and air quality;

(v) affordable housing; and

(vi) integration with other modes of transportation; and

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

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

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

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

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

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

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

(c) The board of trustees of a public transit district under this [~~Subsection (1)]~~ section may include a member that is a commissioner on the Transportation Commission created in Section 72-1-301 and appointed as provided in Subsection [~~(11)]~~ (8), who shall serve as a nonvoting, ex officio member.

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

(e) For purposes of appointing members under this [~~Subsection (1)]~~ section, municipalities, counties, and unincorporated areas of counties in which regularly scheduled passenger routes proposed to be served by the district in the following calendar year is less than

SB0136S06 compared with SB0136S05

a full unit, as defined in Subsection (1)(b), may combine with any other similarly situated municipality or unincorporated area to form a whole unit and may appoint one member for each whole unit formed.

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

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

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

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

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

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

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

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

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

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

~~[(c) The board shall join an entire or partial county not apportioned a voting member under this Subsection (2) with an adjacent county for representation. The combined apportionment basis included in the district of both counties shall be used for the apportionment.:]~~

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

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

~~[(e) If the population of a county is at least 750,000, the county executive, with the~~

SB0136S06 compared with SB0136S05

~~advice and consent of the county legislative body, shall appoint one voting member to represent the population of the county.]~~

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

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

~~[(ii) Notwithstanding Subsections (2)(1) and (10), no more than one voting member appointed by an appointing entity may be a locally elected public official.]~~

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

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

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

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

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

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

~~[(m) Each member shall be a bona fide resident of the municipality, county, or~~

SB0136S06 compared with SB0136S05

~~unincorporated area or areas which the member is to represent for at least six months before the date of appointment, and shall continue in that residency to remain qualified to serve as a member.]~~

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

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

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

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

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

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

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

~~[(v) The appointing entities gaining a new board member shall appoint a new member within 30 days following receipt of the resolution.]~~

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

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

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

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

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

SB0136S06 compared with SB0136S05

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(10)] (7) (a) Except as otherwise authorized under [Subsections (2)(g) and (10)(b) and~~

SB0136S06 compared with SB0136S05

~~Section 17B-2a-807.5]~~ Subsection (7)(b), at the time of a member's appointment or during a member's tenure in office, a member may not hold any employment, except as an independent contractor or locally elected public official, with a county or municipality within the district.

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

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

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

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

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

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

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

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

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

SB0136S06 compared with SB0136S05

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) To select individuals for nomination, the executive governing individuals or bodies described in Subsection (1)(b)(iv)(A) shall consult with the executive governing individual or

SB0136S06 compared with SB0136S05

body of a county of the third or smaller class within the large public transit district different from a third or smaller class county consulting with the county or counties described in Subsection (1)(b)(iii).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SB0136S06 compared with SB0136S05

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) invested in accordance with the participating employees' designation or direction pursuant to an employee deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code;

(e) invest all funds according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act;

(f) if a custodian is appointed under Subsection (3)(d), pay the fees for the custodian's services from the interest earnings of the investment fund for which the custodian is appointed;

(g) (i) cause an annual audit of all district books and accounts to be made by an independent certified public accountant;

SB0136S06 compared with SB0136S05

(ii) as soon as practicable after the close of each fiscal year, submit to the chief administrative officer and legislative body of each county and municipality with territory within the district a financial report showing:

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

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

(iii) supply copies of the report under Subsection (2)(g)(ii) to the general public upon request in a quantity that the board considers appropriate;

(h) report at least annually to the Transportation Commission created in Section 72-1-301 the district's short-term and long-range public transit plans, including the transit portions of applicable regional transportation plans adopted by a metropolitan planning organization established under 23 U.S.C. Sec. 134;

(i) direct the internal auditor appointed under Section 17B-2a-810 to conduct audits that the board of trustees determines to be the most critical to the success of the organization; and

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

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

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

(i) not repugnant to the United States Constitution, the Utah Constitution, or the provisions of this part; and

(ii) necessary for:

(A) the government and management of the affairs of the district;

(B) the execution of district powers; and

(C) carrying into effect the provisions of this part;

(b) provide by resolution, under terms and conditions the board considers fit, for the payment of demands against the district without prior specific approval by the board, if the payment is:

(i) for a purpose for which the expenditure has been previously approved by the board;

(ii) in an amount no greater than the amount authorized; and

(iii) approved by the general manager or other officer or deputy as the board prescribes;

(c) (i) hold public hearings and subpoena witnesses; and

SB0136S06 compared with SB0136S05

(ii) appoint district officers to conduct a hearing and require the officers to make findings and conclusions and report them to the board; and

(d) appoint a custodian for the funds and securities under its control, subject to Subsection (2)(f).

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

(5) (a) The vote of the board of trustees on each ordinance shall be by roll call vote with each affirmative and negative vote recorded.

(b) (i) Subject to Subsection (5)(b)(ii), the board of trustees may adopt a resolution or order by voice vote.

(ii) The vote of the board of trustees on a resolution or order shall be by roll call vote if a member of the board so demands.

(c) (i) Except as provided in Subsection (5)(c)(ii), the board of trustees of a public transit district may not adopt an ordinance unless it is:

(A) introduced at least a day before the board of trustees adopts it; or

(B) mailed by registered mail, postage prepaid, to each member of the board of trustees at least five days before the day upon which the ordinance is presented for adoption.

(ii) Subsection (5)(c)(i) does not apply if the ordinance is adopted by a unanimous vote of all board members present at a meeting at which at least 3/4 of all board members are present.

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

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

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

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

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

(a) hold public meetings and receive public comment;

(b) ensure that the policies, procedures, and management practices established by the

SB0136S06 compared with SB0136S05

public transit district meet state and federal regulatory requirements and federal grantee eligibility;

(c) subject to Subsection (8), create and approve an annual budget, including the issuance of bonds and other financial instruments, after consultation with the local advisory board;

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

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

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

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

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

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

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

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

(ii) in partnership with the Department of Transportation, before November 30 of each year, report on the progress of the study to the Transportation Interim Committee and the Infrastructure and General Government Appropriations Subcommittee;

(j) hire, set salaries, and develop performance targets and evaluations for:

(i) the executive director;

(ii) the chief internal auditor;

(iii) the chief people officer;

(iv) any vice president level officer; and

(v) the chief safety, security, and technology officer;

(k) supervise and regulate each transit facility that the public transit district owns and

SB0136S06 compared with SB0136S05

operates, including:

(i) fix rates, fares, rentals, charges and any classifications of rates, fares, rentals, and charges; and

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

(l) subject to Subsection (4), control the investment of all funds assigned to the district for investment, including funds:

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

(ii) invested in accordance with the participating employees' designation or direction pursuant to an employee deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code;

(m) in consultation with the local advisory board created under Section 17B-2a-808.2, invest all funds according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act;

(n) if a custodian is appointed under Subsection (3)(d), and subject to Subsection (4), pay the fees for the custodian's services from the interest earnings of the investment fund for which the custodian is appointed;

(o) (i) cause an annual audit of all public transit district books and accounts to be made by an independent certified public accountant;

(ii) as soon as practicable after the close of each fiscal year, submit to each of the councils of governments within the public transit district a financial report showing:

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

(B) an accounting of the expenditures of all local sales tax revenues generated under Title 59, Chapter 12, Part 22, Local Option Sales and Use Taxes for Transportation Act;

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

(D) the district's progress and efforts to improve efficiency relative to the previous fiscal year; and

(iii) supply copies of the report under Subsection (2)(o)(ii) to the general public upon request;

(p) report at least annually to the Transportation Commission created in Section 72-1-301, which report shall include:

SB0136S06 compared with SB0136S05

(i) the district's short-term and long-range public transit plans, including the portions of applicable regional transportation plans adopted by a metropolitan planning organization established under 23 U.S.C. Sec. 134; and

(ii) any transit capital development projects that the board of trustees would like the Transportation Commission to consider;

(q) direct the internal auditor appointed under Section 17B-2a-810 to conduct audits that the board of trustees determines, in consultation with the local advisory board created in Section 17B-2a-808.2, to be the most critical to the success of the organization;

(r) together with the local advisory board created in Section 17B-2a-808.2, hear audit reports for audits conducted in accordance with Subsection (2)(o);

(s) review and approve all contracts pertaining to reduced fares, and evaluate existing contracts, including review of:

(i) how negotiations occurred;

(ii) the rationale for providing a reduced fare; and

(iii) identification and evaluation of cost shifts to offset operational costs incurred and impacted by each contract offering a reduced fare;

(t) in consultation with the local advisory board, develop and approve other board policies, ordinances, and bylaws; and

(u) review and approve any:

(i) contract or expense exceeding \$200,000; or

(ii) proposed change order to an existing contract if the value of the change order exceeds:

(A) 15% of the total contract; or

(B) \$200,000.

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

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

(i) not repugnant to the United States Constitution, the Utah Constitution, or the provisions of this part; and

(ii) necessary for:

(A) the governance and management of the affairs of the district;

SB0136S06 compared with SB0136S05

(B) the execution of district powers; and

(C) carrying into effect the provisions of this part;

(b) provide by resolution, under terms and conditions the board considers fit, for the payment of demands against the district without prior specific approval by the board, if the payment is:

(i) for a purpose for which the expenditure has been previously approved by the board;

(ii) in an amount no greater than the amount authorized; and

(iii) approved by the executive director or other officer or deputy as the board

prescribes:

(c) in consultation with the local advisory board created in Section 17B-2a-808.2:

(i) hold public hearings and subpoena witnesses; and

(ii) appoint district officers to conduct a hearing and require the officers to make findings and conclusions and report them to the board; and

(d) appoint a custodian for the funds and securities under its control, subject to Subsection (2)(n).

(4) For a large public transit district in existence as of May 8, 2018, on or before September 30, 2019, the board of trustees of a large public transit district shall present a report to the Transportation Interim Committee regarding retirement benefits of the district, including:

(a) the feasibility of becoming a participating employer and having retirement benefits of eligible employees and officials covered in applicable systems and plans administered under Title 49, Utah State Retirement and Insurance Benefit Act;

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

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

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

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

SB0136S06 compared with SB0136S05

or proceeding.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SB0136S06 compared with SB0136S05

advisory board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SB0136S06 compared with SB0136S05

- (i) the members of the board of trustees;
 - (ii) for a small public transit district, a chair and vice chair, appointed by the board of trustees, subject to Subsection (1)(c);
 - (iii) a secretary, appointed by the board of trustees;
 - (iv) (A) for a small public transit district, a general manager, appointed by the board of trustees as provided in Section 17B-2a-811, whose duties may be allocated by the board of trustees, at the board of trustees' discretion, to a chief executive officer, or both; or
(B) for a large public transit district, an executive director appointed by the board of trustees as provided in Section 17B-2a-811.1;
 - (v) for a small public transit district, a chief executive officer appointed by the board of trustees, as provided in Section 17B-2a-811;
 - (vi) for a small public transit district, a general counsel, appointed by the board of trustees, subject to Subsection (1)(d);
 - (vii) a treasurer, appointed as provided in Section 17B-1-633;
 - (viii) a comptroller, appointed by the board of trustees, subject to Subsection (1)(e);
 - (ix) for a ~~[public transit district with more than 200,000 people residing within the boundaries of the]~~ large public transit district, an internal auditor, appointed by the board of trustees, subject to Subsection (1)(f); and
 - (x) other officers, assistants, and deputies that the board of trustees considers necessary.
- (b) The board of trustees of a small public transit district may, at its discretion, appoint a president, who shall also be considered an officer of a public transit district.
- (c) The district chair and vice chair of a small public transit district shall be members of the board of trustees.
- (d) The person appointed as general counsel for a small public transit district shall:
- (i) be admitted to practice law in the state; and
 - (ii) have been actively engaged in the practice of law for at least seven years next preceding the appointment.
- (e) The person appointed as comptroller shall have been actively engaged in the practice of accounting for at least seven years next preceding the appointment.
- (f) The person appointed as internal auditor shall be a licensed certified internal auditor

SB0136S06 compared with SB0136S05

or certified public accountant with at least five years experience in the auditing or public accounting profession, or the equivalent, prior to appointment.

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

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

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

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

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

Section 18. Section **17B-2a-810.1** is enacted to read:

17B-2a-810.1. Attorney general as legal counsel for a large public transit district
-- Large public transit district may sue and be sued.

(1) Subject to Subsection (2), in accordance with Title 67, Chapter 5, Attorney General, the Utah attorney general shall serve as legal counsel for a large public transit district.

(2) (a) For any large public transit district in existence as of May 8, 2018, the transition to legal representation by the Utah attorney general shall occur as described in this Subsection (2), but no later than July 1, 2019.

(b) (i) For any large public transit district in existence as of May 8, 2018, in partnership with the Utah attorney general, the board of trustees of the large public transit district shall study and develop a strategy to transition legal representation from a general counsel to the Utah attorney general.

(ii) In partnership with the Utah attorney general, the board of trustees of the large public transit district shall present a report to the Transportation Interim Committee before November 30, 2018, to:

SB0136S06 compared with SB0136S05

(A) outline the transition strategy; and

(B) request any legislation that might be required for the transition.

(3) Sections 67-5-6 through 13, Attorney General Career Service Act, apply to representation of a large public transit district by the Utah attorney general.

(4) A large public transit district may sue, and it may be sued only on written contracts made by it or under its authority.

(5) In all matters requiring legal advice in the performance of the attorney general's duties and in the prosecution or defense of any action growing out of the performance of the attorney general's duties, the attorney general is the legal adviser of a large public transit district and shall perform any and all legal services required by the large public transit district.

(6) The attorney general shall aid in any investigation, hearing, or trial under the provisions of this part and institute and prosecute actions or proceedings for the enforcement of the provisions of the Constitution and statutes of this state or any rule or ordinance of the large public transit district affecting and related to public transit, persons, and property.

Section 19. Section **17B-2a-811** is amended to read:

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

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

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

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

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

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

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

SB0136S06 compared with SB0136S05

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

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

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

(b) ensure that all district ordinances are enforced;

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

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

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

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

(g) attend meetings of the board of trustees.

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

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

(b) holds office for an indefinite term;

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

(d) has full charge of:

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

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

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

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

(4) The board of trustees may not reduce the general manager's salary below the amount fixed at the time of original appointment unless:

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

(b) if the general manager demands in writing, the board gives the general manager the opportunity to be publicly heard at a meeting of the board before the final vote on the

SB0136S06 compared with SB0136S05

resolution reducing the general manager's salary.

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

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

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

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

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

Section 20. Section **17B-2a-811.1** is enacted to read:

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

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

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

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

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

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

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

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

(c) hold office for an indefinite term;

(d) ensure that all district ordinances are enforced;

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

SB0136S06 compared with SB0136S05

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

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

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

(i) attend meetings of the board of trustees;

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

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

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

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

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

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

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

(4) (a) Before adopting a resolution providing for the removal of the executive director or a reduction in the executive director's salary as provided in Subsection (3), the board shall, if the executive director makes a written demand:

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

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

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

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

Section 21. Section **17B-2a-826** is amended to read:

17B-2a-826. Public transit district office of constituent services and office of

SB0136S06 compared with SB0136S05

coordinated mobility.

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) coordinating all human services transportation needs within the public transit

SB0136S06 compared with SB0136S05

district;

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

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

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

Section 22. Section ~~{41-1a-102}~~36-29-103 is enacted to read:

36-29-103. Transportation and Tax Review Task Force.

(1) As used in this section:

(a) "Task force" means the Transportation and Tax Review Task Force created in Subsection (2).

(b) "Transportation" includes:

(i) state transportation systems as defined in Section 72-1-102;

(ii) public transit as defined in Section 17B-2a-802;

(iii) active transportation, including walking, cycling, and other modes of human powered transportation; and

(iv) any other modes of transportation in this state.

(2) There is created the Transportation and Tax Review Task Force consisting of the following members:

(a) four members of the Senate appointed by the president of the Senate, with one senator from the minority party;

(b) six members of the House of Representatives appointed by the speaker of the House of Representatives, with one member from the minority party; and

(c) three members of the executive branch appointed by the governor.

(3) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the task force.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(b) as a cochair of the task force.

(4) (a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 2,

SB0136S06 compared with SB0136S05

Lodging, Meal, and Transportation Expenses, and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A member of the task force who is not a legislator may not receive compensation for the member's work associated with the task force, but may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(5) The Office of Legislative Research and General Counsel shall provide staff support to the task force.

(6) (a) A vacancy shall be filled by appointing a replacement member in the same manner as the member creating the vacancy was appointed under Subsection (2).

(b) Each member of the task force shall serve until a successor is appointed and qualified.

(7) (a) A majority of the members of the task force constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the task force.

(8) The task force shall:

(a) review, evaluate, study, prepare a report, and make recommendations on transportation and taxation related topics, including:

(i) possible reforms to taxes and fees related to transportation funding, including:

(A) vehicle registration fees;

(B) a road user charge;

(C) local option sales and use taxes;

(D) statewide sales and use taxes;

(E) motor and special fuel taxes; and

(F) fiscal impacts of existing tax credits and exemptions;

(ii) a review of the governance structures of agencies and districts relevant to transportation and public transit;

(iii) other topics the task force determines are relevant to improve transportation and transit services in the state;

(iv) recommendations on simplifying and modernizing the state's tax system, including:

(A) strategies to broaden the tax base and lower tax rates; and

SB0136S06 compared with SB0136S05

(B) minimizing burdens of compliance and administration of the tax system; and

(v) recommendations on how to improve the state tax system's:

(A) economical neutrality;

(B) reliability;

(C) equity;

(D) responsiveness to interstate and international competition;

(E) simplicity for compliance and administration; and

(F) accountability and transparency;

(b) review modernization of state and local revenue systems to ensure the state's revenue structure is responsive to a changing economy, with a sustainable fiscal structure for taxpayers and for state and local governments;

(c) ensure the state's revenue structure:

(i) remains economically competitive; and

(ii) is equitable; and

(d) review sales tax.

(9) The task force shall solicit public feedback and involvement, including coordination with individuals and entities with relevant transportation and taxation expertise.

(10) (a) The task force shall report the task force's findings and recommendations to the Transportation Interim Committee and Revenue and Taxation Interim Committee before December 1 of each year that the task force is in effect.

(b) The task force shall remain in effect until March 31, 2020.

Section 23. Section 41-1a-102 is amended to read:

41-1a-102. Definitions.

As used in this chapter:

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

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

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

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

SB0136S06 compared with SB0136S05

(5) "Alternative fuel vehicle" means:

(a) an electric vehicle;

(b) a hybrid electric vehicle;

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

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

(i) motor fuel;

(ii) diesel fuel;

(iii) natural gas; or

(iv) propane.

~~[(5)]~~ (6) "Amateur radio operator" means any person licensed by the Federal Communications Commission to engage in private and experimental two-way radio operation on the amateur band radio frequencies.

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

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

(a) rebuilt and restored to operation;

(b) flooded and restored to operation; or

(c) not restored to operation.

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

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

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

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

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

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

SB0136S06 compared with SB0136S05

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(19)]~~ (23) "Foreign vehicle" means a vehicle of a type required to be registered,

SB0136S06 compared with SB0136S05

brought into this state from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer, and not registered in this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(28)]~~ (33) "Manufactured home" means a transportable factory built housing unit

SB0136S06 compared with SB0136S05

constructed on or after June 15, 1976, according to the Federal Home Construction and Safety Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 400 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

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

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

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

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

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

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

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

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

(b) an auticycle.

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

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

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

SB0136S06 compared with SB0136S05

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SB0136S06 compared with SB0136S05

to the vehicle by the division.

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

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

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

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

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

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

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

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

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

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

[(51)] (59) (a) "Registration year" means a 12 consecutive month period commencing

SB0136S06 compared with SB0136S05

with the completion of all applicable registration criteria.

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

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

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

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

(b) a custom vehicle that meets the requirements under Subsection 41-6a-1507(1)(a)(i)(B).

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

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

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

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

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

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

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

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

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

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

SB0136S06 compared with SB0136S05

- (ii) a make or model of motor vehicle produced in limited or token quantities;
- (iii) a make or model of motor vehicle produced as an experimental vehicle or one designed exclusively for educational purposes or museum display; or
- (iv) a motor vehicle of any age or make that has not been substantially altered or modified from original specifications of the manufacturer and because of its significance is being collected, preserved, restored, maintained, or operated by a collector or hobbyist as a leisure pursuit.

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

- (i) not designed or used primarily for the transportation of persons or property;
 - (ii) not designed to operate in traffic; and
 - (iii) only incidentally operated or moved over the highways.
- (b) "Special mobile equipment" includes:
- (i) farm tractors;
 - (ii) off-road motorized construction or maintenance equipment including backhoes, bulldozers, compactors, graders, loaders, road rollers, tractors, and trenchers; and
 - (iii) ditch-digging apparatus.
- (c) "Special mobile equipment" does not include a commercial vehicle as defined under Section 72-9-102.

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

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

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

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

~~[(64)]~~ (72) "Trailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of

SB0136S06 compared with SB0136S05

its weight rests upon the towing vehicle.

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

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

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

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

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

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

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

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

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

Section ~~{23}~~24. Section **41-1a-1201** is amended to read:

41-1a-1201. Disposition of fees.

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

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

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

SB0136S06 compared with SB0136S05

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SB0136S06 compared with SB0136S05

Section 53-3-106.

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

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

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

Section ~~{24}~~25. Section **41-1a-1206** is amended to read:

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

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

(a) \$46.00 for each motorcycle;

(b) \$44 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles;

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

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

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

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

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

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

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

(f) (i) \$69.50 for each park model recreational vehicle over 12,000 pounds, but not

SB0136S06 compared with SB0136S05

exceeding 14,000 pounds gross laden weight; plus

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

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

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

(i) for each electric motor vehicle:

(A) \$60 during calendar year 2019;

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

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

(ii) for each hybrid electric motor vehicle:

(A) \$10 during calendar year 2019;

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

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

(iii) for each plug-in hybrid electric motor vehicle:

(A) \$26 during calendar year 2019;

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

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

(iv) for any motor vehicle not described in Subsections (1)(h)(i) through (iii) that is

fueled by a source other than motor fuel, diesel fuel, natural gas, or propane:

(A) \$60 during calendar year 2019;

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

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

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

~~(i)~~ (i) \$34.50 for each motorcycle; and

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

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

(i) for each electric motor vehicle:

SB0136S06 compared with SB0136S05

(A) \$46.50 during calendar year 2019;

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

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

(ii) for each hybrid electric motor vehicle:

(A) \$7.50 during calendar year 2019;

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

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

(iii) for each plug-in hybrid electric motor vehicle:

(A) \$20 during calendar year 2019;

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

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

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

(A) \$46.50 during calendar year 2019;

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

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

(3) (a) (i) Beginning on January 1, 2019, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(a), (1)(b), (1)(c)(i), (1)(c)(ii), (1)(d)(i), (1)(e)(i), (1)(f)(i), (1)(g), (2)(a), (4)(a), and (7), by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

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

(B) 0.

(ii) Beginning on January 1, 2022, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(h)(i)(C), (1)(h)(ii)(C), (1)(h)(iii)(C), (1)(h)(iv)(C), (2)(b)(i)(C), (2)(b)(ii)(C), (2)(b)(iii)(C), and (2)(b)(iv)(C) by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

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

(B) 0.

(b) The amounts calculated as described in Subsection (3)(a) shall be rounded up to the

SB0136S06 compared with SB0136S05

nearest 25 cents.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section ~~{25}~~26. Section **41-1a-1221** is amended to read:

SB0136S06 compared with SB0136S05

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

(4) A fee imposed under this section:

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

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

Section ~~26~~27. Section **52-4-103** is amended to read:

52-4-103. Definitions.

As used in this chapter:

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

(a) an electronic meeting originates; or

(b) the participants are connected.

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

SB0136S06 compared with SB0136S05

City.

(3) (a) "Convening" means the calling together of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.

(b) "Convening" does not include the initiation of a routine conversation between members of a board of trustees of a large public transit district if the members involved in the conversation do not, during the conversation, take a tentative or final vote on the matter that is the subject of the conversation.

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

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

(a) electronic mail;

(b) instant messaging;

(c) electronic chat;

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

(e) any other method that conveys a message or facilitates communication

electronically.

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

(b) "Meeting" does not mean:

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

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

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

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

(B) the conversation pertains only to day-to-day management and operation of the

SB0136S06 compared with SB0136S05

public transit district.

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

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

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

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

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

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

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

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

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

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

(B) consists of two or more persons;

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

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

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

(A) consists of two or more persons;

(B) expends, disburses, or is supported in whole or in part by dues paid by a public school or whose employees participate in a benefit or program described in Title 49, Utah State Retirement and Insurance Benefit Act; and

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

(b) "Public body" includes:

(i) as defined in Section 11-13-103, an interlocal entity or joint or cooperative

SB0136S06 compared with SB0136S05

undertaking; and

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

(c) "Public body" does not include:

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

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

Legislature;

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

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

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

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

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

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

(13) "Specified body":

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

(i) is not a public body;

(ii) consists of three or more members; and

(iii) includes at least one member who is:

(A) a legislator; and

(B) officially appointed to the body by the president of the Senate, speaker of the House of Representatives, or governor; and

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

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

Section 28. Section 59-12-102 is amended to read:

SB0136S06 compared with SB0136S05

59-12-102. Definitions.

As used in this chapter:

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

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

(b) is typically marketed:

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

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

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

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

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

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

Federal Communications Commission.

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

(i) a subscriber purchases;

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

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

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

Communications Commission.

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

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

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

(A) a product; or

(B) a service.

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

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

SB0136S06 compared with SB0136S05

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

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

(a) listed under Subsection (6); and

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

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

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

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

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

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

(e) Section 59-12-204;

(f) Section 59-12-401;

(g) Section 59-12-402;

(h) Section 59-12-402.1;

(i) Section 59-12-703;

(j) Section 59-12-802;

(k) Section 59-12-804;

(l) Section 59-12-1102;

(m) Section 59-12-1302;

(n) Section 59-12-1402;

(o) Section 59-12-1802;

(p) Section 59-12-2003;

(q) Section 59-12-2103;

(r) Section 59-12-2213;

(s) Section 59-12-2214;

(t) Section 59-12-2215;

(u) Section 59-12-2216;

(v) Section 59-12-2217;

(w) Section 59-12-2218; ~~or~~

(x) Section 59-12-2219[-]; or

SB0136S06 compared with SB0136S05

~~(x)y~~ Section ~~59-12-2219~~ 59-12-2220.

(7) "Aircraft" means the same as that term is defined in Section 72-10-102.

(8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"

includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft

engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(9) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(10) "Alternative energy" means:

(a) biomass energy;

SB0136S06 compared with SB0136S05

- (b) geothermal energy;
- (c) hydroelectric energy;
- (d) solar energy;
- (e) wind energy; or
- (f) energy that is derived from:
 - (i) coal-to-liquids;
 - (ii) nuclear fuel;
 - (iii) oil-impregnated diatomaceous earth;
 - (iv) oil sands;
 - (v) oil shale;
 - (vi) petroleum coke; or
 - (vii) waste heat from:
 - (A) an industrial facility; or
 - (B) a power station in which an electric generator is driven through a process in which

water is heated, turns into steam, and spins a steam turbine.

(11) (a) Subject to Subsection (11)(b), "alternative energy electricity production facility" means a facility that:

- (i) uses alternative energy to produce electricity; and
- (ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

- (i) connected to an electric grid; or
- (ii) located on the premises of an electricity consumer.

(12) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

- (b) "Ancillary service" includes:
 - (i) a conference bridging service;
 - (ii) a detailed communications billing service;
 - (iii) directory assistance;
 - (iv) a vertical service; or
 - (v) a voice mail service.

SB0136S06 compared with SB0136S05

(13) "Area agency on aging" means the same as that term is defined in Section 62A-3-101.

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

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

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

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

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

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

(16) "Authorized carrier" means:

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

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

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

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

(i) material from a plant or tree; or

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

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

SB0136S06 compared with SB0136S05

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

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

(18) (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

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

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

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

SB0136S06 compared with SB0136S05

taxation under this chapter is de minimis; or

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

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

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

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

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

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

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

(A) packaging that:

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

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

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

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

(ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible

SB0136S06 compared with SB0136S05

personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

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

- (A) a binding sales document; or
- (B) another supporting sales-related document that is available to a purchaser.

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

- (A) a bill of sale;
- (B) a contract;
- (C) an invoice;
- (D) a lease agreement;
- (E) a periodic notice of rates and services;
- (F) a price list;
- (G) a rate card;
- (H) a receipt; or
- (I) a service agreement.

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

- (A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or
- (B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

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

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

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product

SB0136S06 compared with SB0136S05

subject to taxation under this chapter is de minimis.

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

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

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

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

(i) on a transaction; and

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

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

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

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

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

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

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

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

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

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

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

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

SB0136S06 compared with SB0136S05

Subsection (106).

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

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

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

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

(25) "Component part" includes:

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

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

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

(d) feed, seeds, and seedlings.

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

(a) (i) in digital form; or

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

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

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

(a) a computer to perform a task; or

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

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

(a) future updates or upgrades to computer software;

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

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

(29) (a) "Conference bridging service" means an ancillary service that links two or

SB0136S06 compared with SB0136S05

more participants of an audio conference call or video conference call.

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

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

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

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

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

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) services; and

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

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

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

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

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

(a) is intended to supplement the diet;

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

(i) a vitamin;

(ii) a mineral;

SB0136S06 compared with SB0136S05

(iii) an herb or other botanical;

(iv) an amino acid;

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

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

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

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections (34)(c)(i)(A) through (F), is not represented:

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

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

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

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

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

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

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

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

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

SB0136S06 compared with SB0136S05

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address.

(39) "Directory assistance" means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

(40) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26-21-2;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).

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

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

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

SB0136S06 compared with SB0136S05

commission may by rule define what constitutes medical equipment or supplies.

(41) "Drilling equipment manufacturer" means a facility:

(a) located in the state;

(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

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

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) "Drug" does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

(43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means

SB0136S06 compared with SB0136S05

equipment that:

- (i) can withstand repeated use;
- (ii) is primarily and customarily used to serve a medical purpose;
- (iii) generally is not useful to a person in the absence of illness or injury; and
- (iv) is not worn in or on the body.

(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (43)(a).

(c) "Durable medical equipment" does not include mobility enhancing equipment.

(44) "Electronic" means:

- (a) relating to technology; and
- (b) having:
 - (i) electrical capabilities;
 - (ii) digital capabilities;
 - (iii) magnetic capabilities;
 - (iv) wireless capabilities;
 - (v) optical capabilities;
 - (vi) electromagnetic capabilities; or
 - (vii) capabilities similar to Subsections (44)(b)(i) through (vi).

(45) "Electronic financial payment service" means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

(46) "Employee" means the same as that term is defined in Section 59-10-401.

(47) "Fixed guideway" means a public transit facility that uses and occupies:

- (a) rail for the use of public transit; or
- (b) a separate right-of-way for the use of public transit.

(48) "Fixed wing turbine powered aircraft" means an aircraft that:

- (a) is powered by turbine engines;
- (b) operates on jet fuel; and
- (c) has wings that are permanently attached to the fuselage of the aircraft.

SB0136S06 compared with SB0136S05

(49) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

(50) (a) "Food and food ingredients" means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance's:

(I) taste; or

(II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).

(c) "Food and food ingredients" does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(51) (a) "Fundraising sales" means sales:

(i) (A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

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

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

(i) that is conducted in accordance with a formal policy adopted by the school or school

SB0136S06 compared with SB0136S05

district governing the authorization and supervision of fundraising activities;

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

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

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

(53) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

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

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

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

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

(iv) the National Guard;

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

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

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

(i) a school;

(ii) the State Board of Education;

(iii) the State Board of Regents; or

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

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

SB0136S06 compared with SB0136S05

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

- (a) in mining or extraction of minerals;
- (b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:
 - (i) commercial greenhouses;
 - (ii) irrigation pumps;
 - (iii) farm machinery;
 - (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and
 - (v) other farming activities;
- (c) in manufacturing tangible personal property at an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;
- (d) by a scrap recycler if:
 - (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:
 - (A) iron;
 - (B) steel;
 - (C) nonferrous metal;
 - (D) paper;
 - (E) glass;
 - (F) plastic;
 - (G) textile; or
 - (H) rubber; and
 - (ii) the new products under Subsection (56)(d)(i) would otherwise be made with nonrecycled materials; or
- (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

(57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge

SB0136S06 compared with SB0136S05

for installing:

- (i) tangible personal property; or
- (ii) a product transferred electronically.
- (b) "Installation charge" does not include a charge for:
 - (i) repairs or renovations of:
 - (A) tangible personal property; or
 - (B) a product transferred electronically; or
 - (ii) attaching tangible personal property or a product transferred electronically:
 - (A) to other tangible personal property; and
 - (B) as part of a manufacturing or fabrication process.

(58) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.

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

- (i) (A) a fixed term; or
- (B) an indeterminate term; and
- (ii) consideration.

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

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

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

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

- (A) upon completion of required payments; and
- (B) if the payment of an option price does not exceed the greater of:
 - (I) \$100; or
 - (II) 1% of the total required payments; or

SB0136S06 compared with SB0136S05

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

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

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

(60) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

- (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

Manufacturing; or

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

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

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

(63) "Local taxing jurisdiction" means a:

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

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

(65) "Manufacturing facility" means:

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

- (b) a scrap recycler if:

SB0136S06 compared with SB0136S05

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

- (A) iron;
- (B) steel;
- (C) nonferrous metal;
- (D) paper;
- (E) glass;
- (F) plastic;
- (G) textile; or
- (H) rubber; and

(ii) the new products under Subsection (65)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

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

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

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

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

or

(j) person similar to a person described in Subsections (66)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

SB0136S06 compared with SB0136S05

Administrative Rulemaking Act.

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

(68) "Mobile telecommunications service" is as defined in the Mobile

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

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

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

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

(iii) the origination point described in Subsection (69)(a)(i) and the termination point described in Subsection (69)(a)(ii) are not fixed.

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

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

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

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

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

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

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (70)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(71) "Model 1 seller" means a seller registered under the agreement that has selected a

SB0136S06 compared with SB0136S05

certified service provider as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales and use taxes other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(72) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (72)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least \$500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(74) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(75) "Modular home" means a modular unit as defined in Section 15A-1-302.

(76) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(77) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(78) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

SB0136S06 compared with SB0136S05

(79) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(80) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(81) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (81)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(82) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

(83) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

(84) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

SB0136S06 compared with SB0136S05

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (84)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (84)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (125)(c).

(85) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(86) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

SB0136S06 compared with SB0136S05

(b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(87) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(88) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(89) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(90) "Prepaid wireless calling service" means a telecommunications service:

SB0136S06 compared with SB0136S05

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(91) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single

item; or

(iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

SB0136S06 compared with SB0136S05

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes; or

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);

and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (91)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

SB0136S06 compared with SB0136S05

- (V) a bun;
- (VI) a cake;
- (VII) a cookie;
- (VIII) a croissant;
- (IX) a danish;
- (X) a donut;
- (XI) a muffin;
- (XII) a pastry;
- (XIII) a pie;
- (XIV) a roll;
- (XV) a tart;
- (XVI) a torte; or
- (XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

- (i) a container; or
- (ii) packaging.

(92) "Prescription" means an order, formula, or recipe that is issued:

- (a) (i) orally;
- (ii) in writing;
- (iii) electronically; or
- (iv) by any other manner of transmission; and
- (b) by a licensed practitioner authorized by the laws of a state.

(93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:

- (i) by the author or other creator of the computer software; and
- (ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

- (A) by the author or other creator of the computer software; and

SB0136S06 compared with SB0136S05

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (93)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(94) (a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or

SB0136S06 compared with SB0136S05

more communications channels as defined in Section 59-12-215.

(95) (a) Except as provided in Subsection (95)(b), "product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

- (i) an ancillary service;
- (ii) computer software; or
- (iii) a telecommunications service.

(96) (a) "Prosthetic device" means a device that is worn on or in the body to:

- (i) artificially replace a missing portion of the body;
- (ii) prevent or correct a physical deformity or physical malfunction; or
- (iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

- (i) parts used in the repairs or renovation of a prosthetic device;
- (ii) replacement parts for a prosthetic device;
- (iii) a dental prosthesis; or
- (iv) a hearing aid.

(c) "Prosthetic device" does not include:

- (i) corrective eyeglasses; or
- (ii) contact lenses.

(97) (a) "Protective equipment" means an item:

- (i) for human wear; and
- (ii) that is:
 - (A) designed as protection:
 - (I) to the wearer against injury or disease; or
 - (II) against damage or injury of other persons or property; and
 - (B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

- (i) listing the items that constitute "protective equipment"; and
- (ii) that are consistent with the list of items that constitute "protective equipment"

SB0136S06 compared with SB0136S05

under the agreement.

(98) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:

- (i) regardless of:
 - (A) characteristics;
 - (B) copyright;
 - (C) form;
 - (D) format;
 - (E) method of reproduction; or
 - (F) source; and
- (ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

(99) (a) "Purchase price" and "sales price" mean the total amount of consideration:

- (i) valued in money; and
- (ii) for which tangible personal property, a product transferred electronically, or

services are:

- (A) sold;
- (B) leased; or
- (C) rented.
- (b) "Purchase price" and "sales price" include:

(i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;

- (ii) expenses of the seller, including:
 - (A) the cost of materials used;
 - (B) a labor cost;
 - (C) a service cost;
 - (D) interest;
 - (E) a loss;
 - (F) the cost of transportation to the seller; or
 - (G) a tax imposed on the seller;

SB0136S06 compared with SB0136S05

(iii) a charge by the seller for any service necessary to complete the sale; or

(iv) consideration a seller receives from a person other than the purchaser if:

(A) (I) the seller actually receives consideration from a person other than the purchaser;

and

(II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) "Purchase price" and "sales price" do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

SB0136S06 compared with SB0136S05

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

(100) "Purchaser" means a person to whom:

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

(101) "Qualifying enterprise data center" means an establishment that will:

(a) own and operate a data center facility that will house a group of networked server computers in one physical location in order to centralize the dissemination, management, and storage of data and information;

(b) be located in the state;

(c) be a new operation constructed on or after July 1, 2016;

(d) consist of one or more buildings that total 150,000 or more square feet;

(e) be owned or leased by:

(i) the establishment; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the

SB0136S06 compared with SB0136S05

establishment; and

(f) be located on one or more parcels of land that are owned or leased by:

(i) the establishment; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment.

(102) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

(103) "Rental" means the same as that term is defined in Subsection (59).

(104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

SB0136S06 compared with SB0136S05

(105) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(106) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (106)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(107) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(108) (a) "Retailer" means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(109) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

(110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this

SB0136S06 compared with SB0136S05

chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(111) "Sale at retail" means the same as that term is defined in Subsection (109).

(112) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(113) "Sales price" means the same as that term is defined in Subsection (99).

(114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

(A) the sale of:

SB0136S06 compared with SB0136S05

- (I) textbooks;
- (II) textbook fees;
- (III) laboratory fees;
- (IV) laboratory supplies; or
- (V) safety equipment;
- (B) the sale of a uniform, protective equipment, or sports or recreational equipment

that:

- (I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and
- (II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;
- (C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:
 - (I) food and food ingredients; or
 - (II) prepared food; or
 - (D) transportation charges for official school activities; or
 - (ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.
- (b) "Sales relating to schools" does not include:
 - (i) bookstore sales of items that are not educational materials or supplies;
 - (ii) except as provided in Subsection (114)(a)(i)(B):
 - (A) clothing;
 - (B) clothing accessories or equipment;
 - (C) protective equipment; or
 - (D) sports or recreational equipment; or
 - (iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:
 - (A) other than a:
 - (I) school;
 - (II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

SB0136S06 compared with SB0136S05

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

(115) For purposes of this section and Section 59-12-104, "school":

(a) means:

(i) an elementary school or a secondary school that:

(A) is a:

(I) public school; or

(II) private school; and

(B) provides instruction for one or more grades kindergarten through 12; or

(ii) a public school district; and

(b) includes the Electronic High School as defined in Section 53A-15-1002.

(116) "Seller" means a person that makes a sale, lease, or rental of:

(a) tangible personal property;

(b) a product transferred electronically; or

(c) a service.

(117) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

SB0136S06 compared with SB0136S05

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating, processing, research, or development materials"

includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (117)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(118) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

SB0136S06 compared with SB0136S05

- (v) lotion;
- (vi) a magazine;
- (vii) makeup;
- (viii) a meal;
- (ix) mouthwash;
- (x) nail polish remover;
- (xi) a newspaper;
- (xii) a notepad;
- (xiii) a pen;
- (xiv) a pencil;
- (xv) a razor;
- (xvi) saline solution;
- (xvii) a sewing kit;
- (xviii) shaving cream;
- (xix) a shoe shine kit;
- (xx) a shower cap;
- (xxi) a snack item;
- (xxii) soap;
- (xxiii) toilet paper;
- (xxiv) a toothbrush;
- (xxv) toothpaste; or
- (xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may

provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

- (i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or
- (ii) a product transferred electronically.

(120) "Simplified electronic return" means the electronic return:

- (a) described in Section 318(C) of the agreement; and
- (b) approved by the governing board of the agreement.

SB0136S06 compared with SB0136S05

(121) "Solar energy" means the sun used as the sole source of energy for producing electricity.

(122) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(123) "State" means the state of Utah, its departments, and agencies.

(124) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

SB0136S06 compared with SB0136S05

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

(126) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection (126)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (126)(a):

SB0136S06 compared with SB0136S05

- (i) a pole;
- (ii) software;
- (iii) a supplementary power supply;
- (iv) temperature or environmental equipment or machinery;
- (v) test equipment;
- (vi) a tower; or
- (vii) equipment, machinery, or software that functions similarly to an item listed in

Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (126)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

(127) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(128) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

- (a) telecommunications enabling or facilitating equipment, machinery, or software;
- (b) telecommunications switching or routing equipment, machinery, or software; or
- (c) telecommunications transmission equipment, machinery, or software.

(129) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

- (A) on the code, form, or protocol of the content;
- (B) for the purpose of electronic conveyance, routing, or transmission; and

SB0136S06 compared with SB0136S05

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

SB0136S06 compared with SB0136S05

(viii) a product transferred electronically, including:

- (A) music;
- (B) reading material;
- (C) a ring tone;
- (D) software; or
- (E) video;

(ix) a radio and television audio and video programming service:

- (A) regardless of the medium; and
- (B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

(130) (a) "Telecommunications service provider" means a person that:

- (i) owns, controls, operates, or manages a telecommunications service; and
- (ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (130)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(131) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (131)(b) if that item is purchased or leased primarily for switching or routing:

- (i) an ancillary service;
- (ii) data communications;
- (iii) voice communications; or

SB0136S06 compared with SB0136S05

(iv) telecommunications service.

(b) The following apply to Subsection (131)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (131)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

(132) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (132)(a):

(i) an amplifier;

(ii) a cable;

(iii) a closure;

(iv) a conduit;

(v) a controller;

(vi) a duplexer;

SB0136S06 compared with SB0136S05

- (vii) a filter;
- (viii) an input device;
- (ix) an input/output device;
- (x) an insulator;
- (xi) microwave machinery or equipment;
- (xii) an oscillator;
- (xiii) an output device;
- (xiv) a pedestal;
- (xv) a power converter;
- (xvi) a power supply;
- (xvii) a radio channel;
- (xviii) a radio receiver;
- (xix) a radio transmitter;
- (xx) a repeater;
- (xxi) software;
- (xxii) a terminal;
- (xxiii) a timing unit;
- (xxiv) a transformer;
- (xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (132)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).

(133) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

- (i) offered by an institution of higher education; and
 - (ii) that the purchaser of the textbook or other printed material attends or will attend.
- (b) "Textbook for a higher education course" includes a textbook in electronic format.

(134) "Tobacco" means:

SB0136S06 compared with SB0136S05

- (a) a cigarette;
- (b) a cigar;
- (c) chewing tobacco;
- (d) pipe tobacco; or
- (e) any other item that contains tobacco.

(135) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(136) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(137) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

- (i) code;
- (ii) content;
- (iii) form; or
- (iv) protocol.

(138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

- (i) an aircraft as defined in Section 72-10-102;
- (ii) a vehicle as defined in Section 41-1a-102;
- (iii) an off-highway vehicle as defined in Section 41-22-2; or
- (iv) a vessel as defined in Section 41-1a-102.

SB0136S06 compared with SB0136S05

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- (i) a vehicle described in Subsection (138)(a); or
- (ii) (A) a locomotive;
- (B) a freight car;
- (C) railroad work equipment; or
- (D) other railroad rolling stock.

(139) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (138).

(140) (a) "Vertical service" means an ancillary service that:

- (i) is offered in connection with one or more telecommunications services; and
- (ii) offers an advanced calling feature that allows a customer to:
 - (A) identify a caller; and
 - (B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(141) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

- (A) tires;
- (B) waste coal;
- (C) oil shale; or
- (D) municipal solid waste; and
- (ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

- (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

SB0136S06 compared with SB0136S05

(143) "Watercraft" means a vessel as defined in Section 73-18-2.

(144) "Wind energy" means wind used as the sole source of energy to produce electricity.

(145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section ~~{27}~~29. Section **59-12-103** is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

SB0136S06 compared with SB0136S05

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

SB0136S06 compared with SB0136S05

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70%; and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

SB0136S06 compared with SB0136S05

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(d)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible

SB0136S06 compared with SB0136S05

personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an

SB0136S06 compared with SB0136S05

invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(d)(i)(A)(I).

(h) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

SB0136S06 compared with SB0136S05

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); or

(iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

SB0136S06 compared with SB0136S05

(iv) the tax imposed by Subsection (2)(d)(i)(B).

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) \$17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described

SB0136S06 compared with SB0136S05

in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and

SB0136S06 compared with SB0136S05

distribution facilities for any public water system, as defined in Section 19-4-102;

- (ii) develop underground sources of water, including springs and wells; and
- (iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than \$1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) \$17,500,000.

(b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

SB0136S06 compared with SB0136S05

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited as follows:

(a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124;

(b) for fiscal year 2017-18 only:

(i) 80% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 20% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(c) for fiscal year 2018-19 only:

(i) 60% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

SB0136S06 compared with SB0136S05

(ii) 40% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(d) for fiscal year 2019-20 only:

(i) 40% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 60% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(e) for fiscal year 2020-21 only:

(i) 20% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 80% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103; and

(f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103.

(7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A);

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

SB0136S06 compared with SB0136S05

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

(iii) In all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

(8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(c) ~~(i)~~ Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsections (6) and (7), ~~(i)~~ and subject to Subsection (8)(c)(ii), for a fiscal year ~~(i)~~ beginning on or after July 1, 2018, the commission shall annually deposit into the

SB0136S06 compared with SB0136S05

Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

- (A) the tax imposed by Subsection (2)(a)(i)(A);
- (B) the tax imposed by Subsection (2)(b)(i);
- (C) the tax imposed by Subsection (2)(c)(i); and
- (D) the tax imposed by Subsection (2)(d)(i)(A)(I).

~~ff~~(ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon. ~~ff~~

(iii) The commission shall annually deposit the amount described in Subsection (8)(c)(ii) into the Transit and Transportation Investment Fund created in Section 72-2-124.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of revenue described as follows:

- (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);
- (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);
- (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%

SB0136S06 compared with SB0136S05

tax rate on the transactions described in Subsection (1);

(iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1); and

(v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

(11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

(13) Notwithstanding Subsections (4) through (12), an amount required to be expended or deposited in accordance with Subsections (4) through (12) may not include an amount the Division of Finance deposits in accordance with Section 59-12-103.2.

Section ~~28~~30. Section **59-12-2202** is amended to read:

59-12-2202. Definitions.

As used in this part:

(1) "Airline" [~~is as~~] means the same as that term is defined in Section 59-2-102.

(2) "Airport facility" [~~is as~~] means the same as that term is defined in Section 59-12-602.

SB0136S06 compared with SB0136S05

(3) "Airport of regional significance" means an airport identified by the Federal Aviation Administration in the most current National Plan of Integrated Airport Systems or an update to the National Plan of Integrated Airport Systems.

(4) "Annexation" means an annexation to:

(a) a county under Title 17, Chapter 2, County Consolidations and Annexations; or

(b) a city or town under Title 10, Chapter 2, Part 4, Annexation.

(5) "Annexing area" means an area that is annexed into a county, city, or town.

(6) "Council of governments" [~~is as~~] means the same as that term is defined in Section 72-2-117.5.

(7) "Fixed guideway" [~~is as~~] means the same as that term is defined in Section 59-12-102.

(8) "Large public transit district" means the same as that term is defined in Section 17B-2a-802.

~~(8)~~ (9) "Major collector highway" [~~is as~~] means the same as that term is defined in Section 72-4-102.5.

~~(9)~~ (10) "Metropolitan planning organization" [~~is as~~] means the same as that term is defined in Section 72-1-208.5.

~~(10)~~ (11) "Minor arterial highway" [~~is as~~] means the same as that term is defined in Section 72-4-102.5.

~~(11)~~ (12) "Minor collector road" [~~is as~~] means the same as that term is defined in Section 72-4-102.5.

~~(12)~~ (13) "Principal arterial highway" [~~is as~~] means the same as that term is defined in Section 72-4-102.5.

~~(13)~~ (14) "Regionally significant transportation facility" means:

(a) in a county of the first or second class:

(i) a principal arterial highway;

(ii) a minor arterial highway;

(iii) a fixed guideway that:

(A) extends across two or more cities or unincorporated areas; or

(B) is an extension to an existing fixed guideway; or

(iv) an airport of regional significance; or

SB0136S06 compared with SB0136S05

(b) in a county of the third, fourth, fifth, or sixth class:

- (i) a principal arterial highway;
- (ii) a minor arterial highway;
- (iii) a major collector highway;
- (iv) a minor collector road; or
- (v) an airport of regional significance.

~~[(14)]~~ (15) "State highway" means a highway designated as a state highway under Title 72, Chapter 4, Designation of State Highways Act.

~~[(15)]~~ (16) (a) Subject to Subsection ~~[(15)]~~ (16)(b), "system for public transit" ~~[has the same meaning as]~~ means the same as the term "public transit" ~~[as]~~ is defined in Section 17B-2a-802.

(b) "System for public transit" includes:

(i) the following costs related to public transit:

- (A) maintenance costs; or
- (B) operating costs;

(ii) a fixed guideway;

(iii) a park and ride facility;

(iv) a passenger station or passenger terminal;

(v) a right-of-way for public transit; or

(vi) the following that serve a public transit facility:

(A) a maintenance facility;

(B) a platform;

(C) a repair facility;

(D) a roadway;

(E) a storage facility;

(F) a utility line; or

(G) a facility or item similar to Subsections ~~[(15)]~~ (16)(b)(vi)(A) through (F).

Section 31. Section 59-12-2203 is amended to read:

59-12-2203. Authority to impose a sales and use tax under this part.

(1) As provided in this Subsection (1), one of the following sales and use taxes may be imposed within the boundaries of a local taxing jurisdiction:

SB0136S06 compared with SB0136S05

(a) a county, city, or town may impose the sales and use tax authorized by Section 59-12-2213 in accordance with Section 59-12-2213; or

(b) a city or town may impose the sales and use tax authorized by Section 59-12-2215 in accordance with Section 59-12-2215.

(2) As provided in this Subsection (2), one of the following sales and use taxes may be imposed within the boundaries of a local taxing jurisdiction:

(a) a county, city, or town may impose the sales and use tax authorized by Section 59-12-2214 in accordance with Section 59-12-2214; or

(b) a county may impose the sales and use tax authorized by Section 59-12-2216 in accordance with Section 59-12-2216.

(3) As provided in this Subsection (3), one of the following sales and use taxes may be imposed within the boundaries of a local taxing jurisdiction:

(a) a county may impose the sales and use tax authorized by Section 59-12-2217 in accordance with Section 59-12-2217; or

(b) a county, city, or town may impose the sales and use tax authorized by Section 59-12-2218 in accordance with Section 59-12-2218.

(4) A county may impose the sales and use tax authorized by Section 59-12-2219 in accordance with Section 59-12-2219.

(5) A county, city, or town may impose the sales and use tax authorized by Section 59-12-2220 in accordance with Section 59-12-2220.

Section ~~29~~32. Section 59-12-2217 is amended to read:

59-12-2217. County option sales and use tax for transportation -- Base -- Rate -- Written prioritization process -- Approval by county legislative body.

(1) Subject to the other provisions of this part, and subject to Subsection (10), a county legislative body may impose a sales and use tax of up to .25% on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.

(2) Subject to Subsections (3) through (8) and Section 59-12-2207, the revenues collected from a sales and use tax under this section may only be expended for:

(a) a project or service:

(i) relating to a regionally significant transportation facility for the portion of the project or service that is performed within the county;

SB0136S06 compared with SB0136S05

(ii) for new capacity or congestion mitigation if the project or service is performed within a county:

(A) of the first or second class; or

(B) if that county is part of an area metropolitan planning organization; and

(iii) that is on a priority list:

(A) created by the county's council of governments in accordance with Subsection (7);

and

(B) approved by the county legislative body in accordance with Subsection (7);

(b) corridor preservation for a project or service described in Subsection (2)(a) [~~as provided in Subsection (8)~~]; or

(c) debt service or bond issuance costs related to a project or service described in Subsection (2)(a)(i) or (ii).

(3) If a project or service described in Subsection (2) is for:

(a) a principal arterial highway or a minor arterial highway in a county of the first or second class or a collector road in a county of the second class, that project or service shall be part of the:

(i) county and municipal master plan; and

(ii) (A) statewide long-range plan; or

(B) regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(b) a fixed guideway or an airport, that project or service shall be part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area.

(4) In a county of the first or second class, a regionally significant transportation facility project or service described in Subsection (2)(a)(i) shall have a funded year priority designation on a Statewide Transportation Improvement Program and Transportation Improvement Program if the project or service described in Subsection (2)(a)(i) is:

(a) a principal arterial highway;

(b) a minor arterial highway;

(c) a collector road in a county of the second class; or

(d) a major collector highway in a rural area.

SB0136S06 compared with SB0136S05

(5) Of the revenues collected from a sales and use tax imposed under this section within a county of the first [~~or second~~] class, 25% or more shall be expended for the purpose described in Subsection (2)(b).

(6) (a) As provided in this Subsection (6), a council of governments shall:

(i) develop a written prioritization process for the prioritization of projects to be funded by revenues collected from a sales and use tax under this section;

(ii) create a priority list of regionally significant transportation facility projects or services described in Subsection (2)(a)(i) in accordance with Subsection (7); and

(iii) present the priority list to the county legislative body for approval in accordance with Subsection (7).

(b) The written prioritization process described in Subsection (6)(a)(i) shall include:

(i) a definition of the type of projects to which the written prioritization process applies;

(ii) subject to Subsection (6)(c), the specification of a weighted criteria system that the council of governments will use to rank proposed projects and how that weighted criteria system will be used to determine which proposed projects will be prioritized;

(iii) the specification of data that is necessary to apply the weighted criteria system;

(iv) application procedures for a project to be considered for prioritization by the council of governments; and

(v) any other provision the council of governments considers appropriate.

(c) The weighted criteria system described in Subsection (6)(b)(ii) shall include the following:

(i) the cost effectiveness of a project;

(ii) the degree to which a project will mitigate regional congestion;

(iii) the compliance requirements of applicable federal laws or regulations;

(iv) the economic impact of a project;

(v) the degree to which a project will require tax revenues to fund maintenance and operation expenses; and

(vi) any other provision the council of governments considers appropriate.

(d) A council of governments of a county of the first or second class shall submit the written prioritization process described in Subsection (6)(a)(i) to the Executive Appropriations

SB0136S06 compared with SB0136S05

Committee for approval prior to taking final action on:

- (i) the written prioritization process; or
- (ii) any proposed amendment to the written prioritization process.

(7) (a) A council of governments shall use the weighted criteria system adopted in the written prioritization process developed in accordance with Subsection (6) to create a priority list of regionally significant transportation facility projects or services for which revenues collected from a sales and use tax under this section may be expended.

(b) Before a council of governments may finalize a priority list or the funding level of a project, the council of governments shall conduct a public meeting on:

- (i) the written prioritization process; and
- (ii) the merits of the projects that are prioritized as part of the written prioritization process.

(c) A council of governments shall make the weighted criteria system ranking for each project prioritized as part of the written prioritization process publicly available before the public meeting required by Subsection (7)(b) is held.

(d) If a council of governments prioritizes a project over another project with a higher rank under the weighted criteria system, the council of governments shall:

(i) identify the reasons for prioritizing the project over another project with a higher rank under the weighted criteria system at the public meeting required by Subsection (7)(b); and

(ii) make the reasons described in Subsection (7)(d)(i) publicly available.

(e) Subject to Subsections (7)(f) and (g), after a council of governments finalizes a priority list in accordance with this Subsection (7), the council of governments shall:

(i) submit the priority list to the county legislative body for approval; and

(ii) obtain approval of the priority list from a majority of the members of the county legislative body.

(f) A council of governments may only submit one priority list per calendar year to the county legislative body.

(g) A county legislative body may only consider and approve one priority list submitted under Subsection (7)(e) per calendar year.

~~[(8) (a) Except as provided in Subsection (8)(b), revenues collected from a sales and~~

SB0136S06 compared with SB0136S05

~~use tax under this section that a county allocates for a purpose described in Subsection (2)(b) shall be:]~~

~~[(i) deposited in or transferred to the Local Highway and Transportation Corridor Preservation Fund created by Section 72-2-117.5; and]~~

~~[(ii) expended as provided in Section 72-2-117.5.]~~

~~[(b)] (8) In a county of the first class, revenues collected from a sales and use tax under this section that a county allocates for a purpose described in Subsection (2)(b) shall be:~~

~~[(i)] (a) deposited in or transferred to the County of the First Class Highway Projects Fund created by Section 72-2-121; and~~

~~[(ii)] (b) expended as provided in Section 72-2-121.~~

~~(9) Notwithstanding Section 59-12-2208, a county legislative body may, but is not required to, submit an opinion question to the county's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.~~

~~(10) (a) (i) Notwithstanding any other provision in this section, if the entire boundary of a county is annexed into a large public transit district, if the county legislative body wishes to impose a sales and use tax under this section, the county legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.~~

~~(ii) If the entire boundary of a county is annexed into a large public transit district, the county legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2022.~~

~~(b) Notwithstanding the deadline described in Subsection (10)(a), any sales and use tax imposed under this section on or before June 30, 2022, may remain in effect.~~

Section ~~30~~33. Section 59-12-2218 is amended to read:

59-12-2218. County, city, or town option sales and use tax for airports, highways, and systems for public transit -- Base -- Rate -- Administration of sales and use tax -- Voter approval exception.

(1) Subject to the other provisions of this part, and subject to Subsection (11), the following may impose a sales and use tax under this section:

(a) if, on April 1, 2009, a county legislative body of a county of the second class imposes a sales and use tax under this section, the county legislative body of the county of the second class may impose the sales and use tax on the transactions:

SB0136S06 compared with SB0136S05

(i) described in Subsection 59-12-103(1); and

(ii) within the county, including the cities and towns within the county; or

(b) if, on April 1, 2009, a county legislative body of a county of the second class does not impose a sales and use tax under this section:

(i) a city legislative body of a city within the county of the second class may impose a sales and use tax under this section on the transactions described in Subsection 59-12-103(1) within that city;

(ii) a town legislative body of a town within the county of the second class may impose a sales and use tax under this section on the transactions described in Subsection 59-12-103(1) within that town; and

(iii) the county legislative body of the county of the second class may impose a sales and use tax on the transactions described in Subsection 59-12-103(1):

(A) within the county, including the cities and towns within the county, if on the date the county legislative body provides the notice described in Section 59-12-2209 to the commission stating that the county will enact a sales and use tax under this section, no city or town within that county imposes a sales and use tax under this section or has provided the notice described in Section 59-12-2209 to the commission stating that the city or town will enact a sales and use tax under this section; or

(B) within the county, except for within a city or town within that county, if, on the date the county legislative body provides the notice described in Section 59-12-2209 to the commission stating that the county will enact a sales and use tax under this section, that city or town imposes a sales and use tax under this section or has provided the notice described in Section 59-12-2209 to the commission stating that the city or town will enact a sales and use tax under this section.

(2) For purposes of Subsection (1) and subject to the other provisions of this section, a county, city, or town legislative body that imposes a sales and use tax under this section may impose the tax at a rate of:

(a) .10%; or

(b) .25%.

(3) A sales and use tax imposed at a rate described in Subsection (2)(a) shall be expended as determined by the county, city, or town legislative body as follows:

SB0136S06 compared with SB0136S05

(a) deposited as provided in Subsection (9)(b) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2;

(b) expended for a project or service relating to an airport facility for the portion of the project or service that is performed within the county, city, or town within which the tax is imposed:

(i) for a county legislative body that imposes the sales and use tax, if that airport facility is part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(ii) for a city or town legislative body that imposes the sales and use tax, if:

(A) that city or town owns or operates the airport facility; and

(B) an airline is headquartered in that city or town; or

(c) deposited or expended for a combination of Subsections (3)(a) and (b).

(4) Subject to Subsections (5) through (7), a sales and use tax imposed at a rate described in Subsection (2)(b) shall be expended as determined by the county, city, or town legislative body as follows:

(a) deposited as provided in Subsection (9)(b) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2;

(b) expended for:

(i) a state highway designated under Title 72, Chapter 4, Part 1, State Highways;

(ii) a local highway that is a principal arterial highway, minor arterial highway, major collector highway, or minor collector road; or

(iii) a combination of Subsections (4)(b)(i) and (ii);

(c) expended for a project or service relating to a system for public transit for the portion of the project or service that is performed within the county, city, or town within which the sales and use tax is imposed;

(d) expended for a project or service relating to an airport facility for the portion of the project or service that is performed within the county, city, or town within which the sales and use tax is imposed:

(i) for a county legislative body that imposes the sales and use tax, if that airport

SB0136S06 compared with SB0136S05

facility is part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(ii) for a city or town legislative body that imposes the sales and use tax, if:

(A) that city or town owns or operates the airport facility; and

(B) an airline is headquartered in that city or town;

(e) expended for:

(i) a class B road, as defined in Section 72-3-103;

(ii) a class C road, as defined in Section 72-3-104; or

(iii) a combination of Subsections (4)(e)(i) and (ii);

(f) expended for traffic and pedestrian safety, including:

(i) for a class B road, as defined in Section 72-3-103, or class C road, as defined in

Section 72-3-104, for:

(A) a sidewalk;

(B) curb and gutter;

(C) a safety feature;

(D) a traffic sign;

(E) a traffic signal;

(F) street lighting; or

(G) a combination of Subsections (4)(f)(i)(A) through (F);

(ii) the construction of an active transportation facility that:

(A) is for nonmotorized vehicles and multimodal transportation; and

(B) connects an origin with a destination; or

(iii) a combination of Subsections (4)(f)(i) and (ii); or

(g) deposited or expended for a combination of Subsections (4)(a) through (f).

(5) A county, city, or town legislative body may not expend revenue collected within a county, city, or town from a tax under this section for a purpose described in Subsections (4)(b) through (f) unless the purpose is recommended by:

(a) for a county that is part of a metropolitan planning organization, the metropolitan planning organization of which the county is a part; or

(b) for a county that is not part of a metropolitan planning organization, the council of governments of which the county is a part.

SB0136S06 compared with SB0136S05

(6) (a) (i) Except as provided in Subsection (6)(b), a county, city, or town that imposes a tax described in Subsection (2)(b) shall deposit the revenue collected from a tax rate of .05% as provided in Subsection (9)(b)(i) into the Local Highway and Transportation Corridor Preservation Fund created by Section 72-2-117.5.

(ii) Revenue deposited in accordance with Subsection (6)(a)(i) shall be expended and distributed in accordance with Section 72-2-117.5.

(b) A county, city, or town is not required to make the deposit required by Subsection (6)(a)(i) if the county, city, or town:

(i) imposed a tax described in Subsection (2)(b) on July 1, 2010; or

(ii) has continuously imposed a tax described in Subsection (2)(b):

(A) beginning after July 1, 2010; and

(B) for a five-year period.

(7) (a) Subject to the other provisions of this Subsection (7), a city or town within which a sales and use tax is imposed at the tax rate described in Subsection (2)(b) may:

(i) expend the revenues in accordance with Subsection (4); or

(ii) expend the revenues in accordance with Subsections (7)(b) through (d) if:

(A) that city or town owns or operates an airport facility; and

(B) an airline is headquartered in that city or town.

(b) (i) A city or town legislative body of a city or town within which a sales and use tax is imposed at the tax rate described in Subsection (2)(b) may expend the revenues collected from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of .25% for a purpose described in Subsection (7)(b)(ii) if:

(A) that city or town owns or operates an airport facility; and

(B) an airline is headquartered in that city or town.

(ii) A city or town described in Subsection (7)(b)(i) may expend the revenues collected from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of .25% for:

(A) a project or service relating to the airport facility; and

(B) the portion of the project or service that is performed within the city or town imposing the sales and use tax.

(c) If a city or town legislative body described in Subsection (7)(b)(i) determines to

SB0136S06 compared with SB0136S05

expend the revenues collected from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of .25% for a project or service relating to an airport facility as allowed by Subsection (7)(b), any remaining revenue that is collected from the sales and use tax imposed at the tax rate described in Subsection (2)(b) that is not expended for the project or service relating to an airport facility as allowed by Subsection (7)(b) shall be expended as follows:

(i) 75% of the remaining revenues shall be deposited as provided in Subsection (9)(c) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2; and

(ii) 25% of the remaining revenues shall be deposited as provided in Subsection (9)(c) into the Local Highway and Transportation Corridor Preservation Fund created by Section 72-2-117.5 and expended and distributed in accordance with Section 72-2-117.5.

(d) A city or town legislative body that expends the revenues collected from a sales and use tax imposed at the tax rate described in Subsection (2)(b) in accordance with Subsections (7)(b) and (c):

(i) shall, on or before the date the city or town legislative body provides the notice described in Section 59-12-2209 to the commission stating that the city or town will enact a sales and use tax under this section:

(A) determine the tax rate, the percentage of which is greater than .10% but does not exceed .25%, the collections from which the city or town legislative body will expend for a project or service relating to an airport facility as allowed by Subsection (7)(b); and

(B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection (7)(d)(i)(A);

(ii) shall, on or before the April 1 immediately following the date the city or town legislative body provides the notice described in Subsection (7)(d)(i) to the commission:

(A) determine the tax rate, the percentage of which is greater than .10% but does not exceed .25%, the collections from which the city or town legislative body will expend for a project or service relating to an airport facility as allowed by Subsection (7)(b); and

(B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection (7)(d)(ii)(A);

(iii) shall, on or before April 1 of each year after the April 1 described in Subsection

SB0136S06 compared with SB0136S05

(7)(d)(ii):

(A) determine the tax rate, the percentage of which is greater than .10% but does not exceed .25%, the collections from which the city or town legislative body will expend for a project or service relating to an airport facility as allowed by Subsection (7)(b); and

(B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection (7)(d)(iii)(A); and

(iv) may not change the tax rate the city or town legislative body determines in accordance with Subsections (7)(d)(i) through (iii) more frequently than as prescribed by Subsections (7)(d)(i) through (iii).

(8) Before a city or town legislative body may impose a sales and use tax under this section, the city or town legislative body shall provide a copy of the notice described in Section 59-12-2209 that the city or town legislative body provides to the commission:

(a) to the county legislative body within which the city or town is located; and

(b) at the same time as the city or town legislative body provides the notice to the commission.

(9) (a) Subject to Subsections (9)(b) through (e) and Section 59-12-2207, the commission shall transmit revenues collected within a county, city, or town from a tax under this part that will be expended for a purpose described in Subsection (3)(b) or Subsections (4)(b) through (f) to the county, city, or town legislative body in accordance with Section 59-12-2206.

(b) Except as provided in Subsection (9)(c) and subject to Section 59-12-2207, the commission shall deposit revenues collected within a county, city, or town from a sales and use tax under this section that:

(i) are required to be expended for a purpose described in Subsection (6)(a) into the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or

(ii) a county, city, or town legislative body determines to expend for a purpose described in Subsection (3)(a) or (4)(a) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 if the county, city, or town legislative body provides written notice to the commission requesting the deposit.

(c) Subject to Subsection (9)(d) or (e), if a city or town legislative body provides notice to the commission in accordance with Subsection (7)(d), the commission shall:

SB0136S06 compared with SB0136S05

(i) transmit the revenues collected from the tax rate stated on the notice to the city or town legislative body monthly by electronic funds transfer; and

(ii) deposit any remaining revenues described in Subsection (7)(c) in accordance with Subsection (7)(c).

(d) (i) If a city or town legislative body provides the notice described in Subsection (7)(d)(i) to the commission, the commission shall transmit or deposit the revenues collected from the sales and use tax:

(A) in accordance with Subsection (9)(c);

(B) beginning on the date the city or town legislative body enacts the sales and use tax; and

(C) ending on the earlier of the June 30 immediately following the date the city or town legislative body provides the notice described in Subsection (7)(d)(ii) to the commission or the date the city or town legislative body repeals the sales and use tax.

(ii) If a city or town legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission, the commission shall transmit or deposit the revenues collected from the sales and use tax:

(A) in accordance with Subsection (9)(c);

(B) beginning on the July 1 immediately following the date the city or town legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission; and

(C) ending on the earlier of the June 30 of the year after the date the city or town legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission or the date the city or town legislative body repeals the sales and use tax.

(e) (i) If a city or town legislative body that is required to provide the notice described in Subsection (7)(d)(i) does not provide the notice described in Subsection (7)(d)(i) to the commission on or before the date required by Subsection (7)(d) for providing the notice, the commission shall transmit, transfer, or deposit the revenues collected from the sales and use tax within the city or town in accordance with Subsections (9)(a) and (b).

(ii) If a city or town legislative body that is required to provide the notice described in Subsection (7)(d)(ii) or (iii) does not provide the notice described in Subsection (7)(d)(ii) or (iii) to the commission on or before the date required by Subsection (7)(d) for providing the notice, the commission shall transmit or deposit the revenues collected from the sales and use

SB0136S06 compared with SB0136S05

tax within the city or town in accordance with:

(A) Subsection (9)(c); and

(B) the most recent notice the commission received from the city or town legislative body under Subsection (7)(d).

(10) Notwithstanding Section 59-12-2208, a county, city, or town legislative body may, but is not required to, submit an opinion question to the county's, city's, or town's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

(11) (a) (i) Notwithstanding any other provision in this section, if the entire boundary of a county, city, or town is annexed into a large public transit district, if the county, city, or town legislative body wishes to impose a sales and use tax under this section, the county, city, or town legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.

(ii) If the entire boundary of a county, city, or town is annexed into a large public transit district, the county, city, or town legislative body may not pass the ordinance to impose a sales and use tax under this section on or after July 1, 2022.

(b) Notwithstanding the deadline described in Subsection (11)(a), any sales and use tax imposed under this section on or before June 30, 2022, may remain in effect.

Section ~~31~~34. Section **59-12-2219** is amended to read:

59-12-2219. County, city, and town option sales and use tax for highways and public transit -- Base -- Rate -- Distribution and expenditure of revenue -- Revenue may not supplant existing budgeted transportation revenue.

(1) As used in this section:

(a) "Class B road" means the same as that term is defined in Section 72-3-103.

(b) "Class C road" means the same as that term is defined in Section 72-3-104.

(c) "Eligible political subdivision" means a political subdivision that:

(i) (A) on May 12, 2015, provides public transit services; or

(B) after May 12, 2015, provides written notice to the commission in accordance with Subsection (10)(b) that it intends to provide public transit service within a county;

(ii) is not a public transit district; and

(iii) is not annexed into a public transit district.

(d) "Public transit district" means a public transit district organized under Title 17B,

SB0136S06 compared with SB0136S05

Chapter 2a, Part 8, Public Transit District Act.

(2) Subject to the other provisions of this part, and subject to Subsection (17), a county legislative body may impose a sales and use tax of .25% on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.

(3) [~~The~~] Subject to Subsections (11) and (12), the commission shall distribute sales and use tax revenue collected under this section as provided in Subsections (4) through (10).

(4) If the entire boundary of a county that imposes a sales and use tax under this section is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;

(b) .10% shall be distributed as provided in Subsection (8); and

(c) .05% shall be distributed to the county legislative body.

(5) If the entire boundary of a county that imposes a sales and use tax under this section is not annexed into a single public transit district, but a city or town within the county is annexed into a single public transit district that also has a county of the first class annexed into the same public transit district, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:

(i) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection (8); and

(iii) .05% shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

(i) .10% shall be transferred to the eligible political subdivision in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection (8); and

SB0136S06 compared with SB0136S05

(iii) .05% shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (5)(a) and (b), as follows:

(i) .10% shall be distributed as provided in Subsection (8); and

(ii) .15% shall be distributed to the county legislative body.

(6) For a county not described in Subsection (4) or (5), if the entire boundary of a county of the first or second class that imposes a sales and use tax under this section is not annexed into a single public transit district, or if there is not a public transit district within the county, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:

(i) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection (8); and

(iii) .05% shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

(i) .10% shall be transferred to the eligible political subdivision in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection (8); and

(iii) .05% shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (6)(a) and (b), as follows:

(i) .10% shall be distributed as provided in Subsection (8); and

(ii) .15% shall be distributed to the county legislative body.

(7) For a county not described in Subsection (4) or (5), if the entire boundary of a county of the third, fourth, fifth, or sixth class that imposes a sales and use tax under this section is not annexed into a single public transit district, or if there is not a public transit

SB0136S06 compared with SB0136S05

district within the county, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:

- (i) .10% shall be distributed as provided in Subsection (8);
- (ii) .10% shall be distributed as provided in Subsection (9); and
- (iii) .05% shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

- (i) .10% shall be distributed as provided in Subsection (8);
- (ii) .10% shall be distributed as provided in Subsection (9); and
- (iii) .05% shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (7)(a) and (b), as follows:

- (i) .10% shall be distributed as provided in Subsection (8); and
- (ii) .15% shall be distributed to the county legislative body.

(8) (a) Subject to Subsection (8)(b), the commission shall make the distributions required by Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), (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 (12)(c)(i) as follows:

(i) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), (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 (12)(c)(i) within the counties and cities that impose a tax under this section shall be distributed to the unincorporated areas, cities, and towns within those counties and cities on the basis of the percentage that the population of each unincorporated area, city, or town bears to the total population of all of the counties and cities that impose a tax under this section; and

(ii) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), (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 (12)(c)(i) within the counties and cities that impose a tax under this section shall be distributed to the unincorporated areas, cities, and towns within those counties and cities on the basis of

SB0136S06 compared with SB0136S05

the location of the transaction as determined under Sections 59-12-211 through 59-12-215.

(b) (i) Population for purposes of this Subsection (8) shall be determined on the basis of the most recent official census or census estimate of the United States Census Bureau.

(ii) If a needed population estimate is not available from the United States Census Bureau, population figures shall be derived from an estimate from the Utah Population Estimates Committee created by executive order of the governor.

(9) (a) (i) Subject to the requirements in Subsections (9)(b) and (c), a county legislative body:

(A) for a county that obtained approval from a majority of the county's registered voters voting on the imposition of a sales and use tax under this section prior to May 10, 2016, may, in consultation with any cities, towns, or eligible political subdivisions within the county, and in compliance with the requirements for changing an allocation under Subsection (9)(e), allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) by adopting a resolution specifying the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision; or

(B) for a county that obtains approval from a majority of the county's registered voters voting on the imposition of a sales and use tax under this section on or after May 10, 2016, shall, in consultation with any cities, towns, or eligible political subdivisions within the county, allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) by adopting a resolution specifying the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision.

(ii) If a county described in Subsection (9)(a)(i)(A) does not allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) in accordance with Subsection (9)(a)(i)(A), the commission shall distribute 100% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to:

(A) a public transit district for a city or town within the county that is annexed into a single public transit district; or

(B) an eligible political subdivision within the county.

(b) If a county legislative body allocates the revenue as described in Subsection (9)(a)(i), the county legislative body shall allocate not less than 25% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to:

(i) a public transit district for a city or town within the county that is annexed into a

SB0136S06 compared with SB0136S05

single public transit district; or

(ii) an eligible political subdivision within the county.

(c) Notwithstanding Section 59-12-2208, the opinion question required by Section 59-12-2208 shall state the allocations the county legislative body makes in accordance with this Subsection (9).

(d) The commission shall make the distributions required by Subsection (7)(a)(ii) or (7)(b)(ii) as follows:

(i) the percentage specified by a county legislative body shall be distributed in accordance with a resolution adopted by a county legislative body under Subsection (9)(a) to an eligible political subdivision or a public transit district within the county; and

(ii) except as provided in Subsection (9)(a)(ii), if a county legislative body allocates less than 100% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to a public transit district or an eligible political subdivision, the remainder of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) not allocated by a county legislative body through a resolution under Subsection (9)(a) shall be distributed as follows:

(A) 50% of the revenue as provided in Subsection (8); and

(B) 50% of the revenue to the county legislative body.

(e) If a county legislative body seeks to change an allocation specified in a resolution under Subsection (9)(a), the county legislative body may change the allocation by:

(i) adopting a resolution in accordance with Subsection (9)(a) specifying the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision;

(ii) obtaining approval to change the allocation of the sales and use tax by a majority of all the members of the county legislative body; and

(iii) subject to Subsection (9)(f):

(A) in accordance with Section 59-12-2208, submitting an opinion question to the county's registered voters voting on changing the allocation so that each registered voter has the opportunity to express the registered voter's opinion on whether the allocation should be changed; and

(B) in accordance with Section 59-12-2208, obtaining approval to change the allocation from a majority of the county's registered voters voting on changing the allocation.

SB0136S06 compared with SB0136S05

(f) Notwithstanding Section 59-12-2208, the opinion question required by Subsection (9)(e)(iii)(A) shall state the allocations specified in the resolution adopted in accordance with Subsection (9)(e) and approved by the county legislative body in accordance with Subsection (9)(e)(ii).

(g) (i) If a county makes an allocation by adopting a resolution under Subsection (9)(a) or changes an allocation by adopting a resolution under Subsection (9)(e), the allocation shall take effect on the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice meeting the requirements of Subsection (9)(g)(ii) from the county.

(ii) The notice described in Subsection (9)(g)(i) shall state:

(A) that the county will make or change the percentage of an allocation under Subsection (9)(a) or (e); and

(B) the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision.

(10) (a) If a public transit district is organized after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the public transit district of the organization of the public transit district.

(b) If an eligible political subdivision intends to provide public transit service within a county after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the eligible political subdivision stating that the eligible political subdivision intends to provide public transit service within the county.

(11) (a) (i) Notwithstanding Subsections (4) through (10), for a county that has not imposed a sales and use tax under this section before May 8, 2018, and if the county imposes a sales and use tax under this section before June 30, 2019, the commission shall distribute all of the sales and use tax revenue collected by the county before June 30, 2019, to the county for the purposes described in Subsection (11)(a)(ii).

(ii) For any revenue collected by a county pursuant to Subsection (11)(a)(i) before June

SB0136S06 compared with SB0136S05

30, 2019, the county may expend that revenue for:

- (A) reducing transportation related debt;
- (B) a regionally significant transportation facility; or
- (C) a public transit project of regional significance.

(b) For a county that has not imposed a sales and use tax under this section before May 8, 2018, and if the county imposes a sales and use tax under this section before June 30, 2019, the commission shall distribute the sales and use tax revenue collected by the county on or after July 1, 2019, as described in Subsections (4) through (10).

(c) Subject to Subsection (12), for a county that has not imposed a sales and use tax under this section before June 30, 2019, if the entire boundary of that county is annexed into a large public transit district, and if the county imposes a sales and use tax under this section on or after July 1, 2019, the commission shall distribute the sales and use tax revenue collected by the county as described in Subsections (4) through (10).

(12) (a) Beginning on July 1, 2020, if a county has not imposed a sales and use tax under this section, subject to the provisions of this part, the legislative body of a city or town described in Subsection (12)(b) may impose a .25% sales and use tax on the transactions described in Subsection 59-12-103(1) within the city or town.

(b) The following cities or towns may impose the sales and use tax as described in Subsection (12)(a):

(i) in a county of the first, second, or third class, a city or town that:

- (A) has been annexed into a public transit district; or
- (B) is an eligible political subdivision; or

(ii) a city or town that:

- (A) is in a county of the third or smaller class; and
- (B) has been annexed into a large public transit district.

(c) If a city or town imposes a sales and use tax as provided in this section, the commission shall distribute the sales and use tax revenue collected by the city or town as follows:

(i) .125% to the city or town that imposed the sales and use tax, to be distributed as provided in Subsection (8); and

(ii) .125%, as applicable, to:

SB0136S06 compared with SB0136S05

(A) the large public transit district in which the city or town is annexed; or

(B) the eligible political subdivision for public transit services.

(d) If a city or town imposes a sales and use tax under this section and the county subsequently imposes a sales and use tax under this section, the commission shall distribute the sales and use tax revenue collected within the city or town as described in Subsection (12)(c).

~~[(11)]~~ (13) A county, city, or town may expend revenue collected from a tax under this section, except for revenue the commission distributes in accordance with Subsection (4)(a), (5)(a)(i), (5)(b)(i), or (9)(d)(i) for:

(a) a class B road;

(b) a class C road;

(c) traffic and pedestrian safety, including for a class B road or class C road, for:

(i) a sidewalk;

(ii) curb and gutter;

(iii) a safety feature;

(iv) a traffic sign;

(v) a traffic signal;

(vi) street lighting; or

(vii) a combination of Subsections ~~[(11)]~~ (13)(c)(i) through (vi);

(d) the construction, maintenance, or operation of an active transportation facility that is for nonmotorized vehicles and multimodal transportation and connects an origin with a destination;

(e) public transit system services; or

(f) a combination of Subsections ~~[(11)]~~ (13)(a) through (e).

~~[(12)]~~ (14) A public transit district or an eligible political subdivision may expend revenue the commission distributes in accordance with Subsection (4)(a), (5)(a)(i), (5)(b)(i), or (9)(d)(i) for capital expenses and service delivery expenses of the public transit district or eligible political subdivision.

~~[(13)]~~ (15) (a) Revenue collected from a sales and use tax under this section may not be used to supplant existing general fund appropriations that a county, city, or town has budgeted for transportation as of the date the tax becomes effective for a county, city, or town.

(b) The limitation under Subsection ~~[(13)]~~ (15)(a) does not apply to a designated

SB0136S06 compared with SB0136S05

transportation capital or reserve account a county, city, or town may have established prior to the date the tax becomes effective.

(16) Notwithstanding Section 59-12-2208, a county, city, or town legislative body may, but is not required to, submit an opinion question to the county's, city's, or town's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

(17) (a) (i) (A) Notwithstanding any other provision in this section, **if the county, city, or town legislative body wishes** to impose a sales and use tax under this section, the city or town legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.

(B) A city legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2022.

(ii) (A) Notwithstanding any other provision in this section, if the entire boundary of a county is annexed into a large public transit district, **if the county legislative body wishes** to impose a sales and use tax under this section, the county legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.

(B) If the entire boundary of a county is annexed into a large public transit district, the county legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2022.

(b) Notwithstanding the deadline described in Subsection (17)(a), any sales and use tax imposed under this section on or before June 30, 2022, may remain in effect.

Section 35. Section 59-12-2220 is enacted to read:

59-12-2220. County option sales and use tax to fund a system for public transit -- Base -- Rate.

(1) Subject to the other provisions of this part and subject to the requirements of this section, beginning on July 1, 2019, the following counties may impose a sales and use tax under this section:

(a) a county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the county is annexed into a large public transit district; and

(ii) the county has imposed the maximum amount of sales and use tax authorizations

SB0136S06 compared with SB0136S05

allowed pursuant to Section 59-12-2203 and authorized under the following sections:

(A) Section 59-12-2213;

(B) Section 59-12-2214;

(C) Section 59-12-2215;

(D) Section 59-12-2216;

(E) Section 59-12-2217;

(F) Section 59-12-2218; and

(G) Section 59-12-2219;

(b) if the county is not annexed into a large public transit district, the county legislative body may impose the sales and use tax on the transactions described in Subsection

59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the county is an eligible political subdivision as defined in Section 59-12-2219; or

(ii) a city or town within the boundary of the county is an eligible political subdivision as defined in Section 59-12-2219; or

(c) a county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county, if there is a small public transit district within the boundary of the county.

(2) For purposes of Subsection (1) and subject to the other provisions of this section, a county legislative body that imposes a sales and use tax under this section may impose the tax at a rate of up to .2%.

(3) A county imposing a sales and use tax under this section shall expend the revenues collected from the sales and use tax for capital expenses and service delivery expenses of:

(a) a public transit district;

(b) an eligible political subdivision; or

(c) another entity providing a service for public transit or a transit facility within the county as those terms are defined in Section 17B-2a-802.

(4) Notwithstanding Section 59-12-2208, a county legislative body may, but is not required to, submit an opinion question to the county's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

(5) (a) Notwithstanding any other provision in this section, if a county wishes to impose a sales and use tax under this section, the county legislative body shall pass the

SB0136S06 compared with SB0136S05

ordinance to impose a sales and use tax under this section on or before June 30, 2023.

(b) The county legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2023.

(c) Notwithstanding the deadline described in Subsection (5)(a), any sales and use tax imposed under this section on or before June 30, 2023, may remain in effect.

(6) (a) Revenue collected from a sales and use tax under this section may not be used to supplant existing General Fund appropriations that a county has budgeted for transportation or public transit as of the date the tax becomes effective for a county.

(b) The limitation under Subsection (6)(a) does not apply to a designated transportation or public transit capital or reserve account a county may have established prior to the date the tax becomes effective.

Section ~~{32}~~36. Section **63G-6a-1402** is amended to read:

63G-6a-1402. Procurement of design-build transportation project contracts.

(1) As used in this section:

(a) "Design-build transportation project contract" means the procurement of both the design and construction of a transportation project in a single contract with a company or combination of companies capable of providing the necessary engineering services and construction.

(b) "Transportation agency" means:

(i) the Department of Transportation;

(ii) a county of the first or second class, as defined in Section 17-50-501;

(iii) a municipality of the first class, as defined in Section 10-2-301;

(iv) a large public transit district [~~that has more than 200,000 people residing within its boundaries~~] as defined in Section 17B-2a-802; and

(v) a public airport authority.

(2) Except as provided in Subsection (3), a transportation agency may award a design-build transportation project contract for any transportation project that has an estimated cost of at least \$50,000,000 by following the requirements of this section.

(3) (a) The Department of Transportation:

(i) may award a design-build transportation project contract for any transportation project by following the requirements of this section; and

SB0136S06 compared with SB0136S05

(ii) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for the procurement of its design-build transportation project contracts in addition to those required by this section.

(b) A public transit district that has more than 200,000 people residing within its boundaries:

(i) may award a design-build transportation project contract for any transportation project by following the requirements of this section; and

(ii) shall pass ordinances or a resolution establishing requirements for the procurement of its design-build transportation project contracts in addition to those required by this section.

(c) A design-build transportation project contract authorized under this Subsection (3) is not subject to the estimated cost threshold described in Subsection (2).

(d) A design-build transportation project contract may include provision by the contractor of operations, maintenance, or financing.

(4) (a) Before entering into a design-build transportation project contract, a transportation agency may issue a request for qualifications to prequalify potential contractors.

(b) Public notice of the request for qualifications shall be given in accordance with board rules.

(c) A transportation agency shall require, as part of the qualifications specified in the request for qualifications, that potential contractors at least demonstrate their:

(i) construction experience;

(ii) design experience;

(iii) financial, manpower, and equipment resources available for the project; and

(iv) experience in other design-build transportation projects with attributes similar to the project being procured.

(d) The request for qualifications shall identify the number of eligible competing proposers that the transportation agency will select to submit a proposal, which may not be less than two.

(5) The transportation agency shall:

(a) evaluate the responses received from the request for qualifications;

(b) select from their number those qualified to submit proposals; and

(c) invite those respondents to submit proposals based upon the transportation agency's

SB0136S06 compared with SB0136S05

request for proposals.

(6) If the transportation agency fails to receive at least two qualified eligible competing proposals, the transportation agency shall readvertise the project.

(7) The transportation agency shall issue a request for proposals to those qualified respondents that:

(a) includes a scope of work statement constituting an information for proposal that may include:

- (i) preliminary design concepts;
 - (ii) design criteria, needs, and objectives;
 - (iii) warranty and quality control requirements;
 - (iv) applicable standards;
 - (v) environmental documents;
 - (vi) constraints;
 - (vii) time expectations or limitations;
 - (viii) incentives or disincentives; and
 - (ix) other special considerations;
- (b) requires submitters to provide:
- (i) a sealed cost proposal;
 - (ii) a critical path matrix schedule, including cash flow requirements;
 - (iii) proposal security; and
 - (iv) other items required by the department for the project; and
- (c) may include award of a stipulated fee to be paid to offerors who submit

unsuccessful proposals.

(8) The transportation agency shall:

(a) evaluate the submissions received in response to the request for proposals from the prequalified offerors;

(b) comply with rules relating to discussion of proposals, best and final offers, and evaluations of the proposals submitted; and

(c) after considering price and other identified factors, award the contract to the responsible offeror whose responsive proposal is most advantageous to the transportation agency or the state.

SB0136S06 compared with SB0136S05

Section ~~{33}~~37. Section 67-5-3 is amended to read:

67-5-3. "Agency" defined -- Performance of legal services for agencies -- Billing.

(1) As used in this act, "agency" means a department, division, agency, commission, board, council, committee, authority, institution, [or] other entity within the state government of Utah, or a large public transit district as defined in Section 17B-2a-802.

(2) (a) The attorney general may assign a legal assistant to perform legal services for any agency of state government.

(b) The attorney general shall bill that agency for the legal services performed, if:

(i) the agency billed receives federal funds to pay for the legal services rendered; [or]

(ii) the agency collects funds from any other source in the form of fees, costs, interest, fines, penalties, forfeitures, or other proceeds reserved or designated for the payment of legal fees sufficient to pay for all or a portion of the legal services rendered[-]; or

(iii) the agency is a large public transit district as defined in Section 17B-2a-802.

(c) An agency may deduct any unreimbursed costs and expenses incurred by the agency in connection with the legal services rendered.

Section ~~{34}~~38. Section 72-1-102 is amended to read:

72-1-102. Definitions.

As used in this title:

(1) "Commission" means the Transportation Commission created under Section 72-1-301.

(2) "Construction" means the construction, reconstruction, replacement, and improvement of the highways, including the acquisition of rights-of-way and material sites.

(3) "Department" means the Department of Transportation created in Section 72-1-201.

(4) "Executive director" means the executive director of the department appointed under Section 72-1-202.

(5) "Farm tractor" has the meaning set forth in Section 41-1a-102.

(6) "Federal aid primary highway" means that portion of connected main highways located within this state officially designated by the department and approved by the United States Secretary of Transportation under Title 23, Highways, U.S.C.

(7) "Highway" means any public road, street, alley, lane, court, place, viaduct, tunnel, culvert, bridge, or structure laid out or erected for public use, or dedicated or abandoned to the

SB0136S06 compared with SB0136S05

public, or made public in an action for the partition of real property, including the entire area within the right-of-way.

(8) "Highway authority" means the department or the legislative, executive, or governing body of a county or municipality.

(9) "Implement of husbandry" has the meaning set forth in Section 41-1a-102.

(10) "Interstate system" means any highway officially designated by the department and included as part of the national interstate and defense highways, as provided in the Federal Aid Highway Act of 1956 and any supplemental acts or amendments.

(11) "Limited-access facility" means a highway especially designated for through traffic, and over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

(12) "Motor vehicle" has the same meaning set forth in Section 41-1a-102.

(13) "Municipality" has the same meaning set forth in Section 10-1-104.

(14) "National highway systems highways" means that portion of connected main highways located within this state officially designated by the department and approved by the United States Secretary of Transportation under Title 23, Highways, U.S.C.

(15) (a) "Port-of-entry" means a fixed or temporary facility constructed, operated, and maintained by the department where drivers, vehicles, and vehicle loads are checked or inspected for compliance with state and federal laws as specified in Section 72-9-501.

(b) "Port-of-entry" includes inspection and checking stations and weigh stations.

(16) "Port-of-entry agent" means a person employed at a port-of-entry to perform the duties specified in Section 72-9-501.

(17) "Public transit facility" means a transit vehicle, transit station, depot, passenger loading or unloading zone, parking lot, or other facility:

(a) leased by or operated by or on behalf of a public transit district; and

(b) related to the public transit services provided by the district, including:

(i) railway or other right-of-way;

(ii) railway line; and

(iii) a reasonable area immediately adjacent to a designated stop on a route traveled by a transit vehicle.

SB0136S06 compared with SB0136S05

~~[(17)]~~ (18) "Right-of-way" means real property or an interest in real property, usually in a strip, acquired for or devoted to a highway.

~~[(18)]~~ (19) "Sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

~~[(19)]~~ (20) "Semitrailer" has the meaning set forth in Section 41-1a-102.

~~[(20)]~~ (21) "SR" means state route and has the same meaning as state highway as defined in this section.

~~[(21)]~~ (22) "State highway" means those highways designated as state highways in Title 72, Chapter 4, Designation of State Highways Act.

~~[(22)]~~ (23) "State highway purposes" has the meaning set forth in Section 72-5-102.

~~[(23)]~~ (24) "State transportation systems" means all streets, alleys, roads, highways, and thoroughfares of any kind, including connected structures, airports, spaceports, public transit facilities, and all other modes and forms of conveyance used by the public.

~~[(24)]~~ (25) "Trailer" has the meaning set forth in Section 41-1a-102.

~~[(25)]~~ (26) "Truck tractor" has the meaning set forth in Section 41-1a-102.

~~[(26)]~~ (27) "UDOT" means the Utah Department of Transportation.

~~[(27)]~~ (28) "Vehicle" has the same meaning set forth in Section 41-1a-102.

Section ~~{35}~~39. Section **72-1-202** is amended to read:

72-1-202. Executive director of department -- Appointment -- Qualifications -- Term -- Responsibility -- Power to bring suits -- Salary.

(1) (a) The governor, after consultation with the commission and with the consent of the Senate, shall appoint an executive director to be the chief executive officer of the department.

(b) The executive director shall be a qualified executive with technical and administrative experience and training appropriate for the position.

(c) The executive director shall remain in office until a successor is appointed.

(d) The executive director may be removed by the governor.

(2) In addition to the other functions, powers, duties, rights, and responsibilities prescribed in this chapter, the executive director shall:

(a) have responsibility for the administrative supervision of the state transportation systems and the various operations of the department;

SB0136S06 compared with SB0136S05

(b) have the responsibility for the implementation of rules, priorities, and policies established by the department and the commission;

(c) have the responsibility for the oversight and supervision of any transportation project for which state funds are expended;

~~[(e)]~~ (d) have full power to bring suit in courts of competent jurisdiction in the name of the department as the executive director considers reasonable and necessary for the proper attainment of the goals of this chapter;

~~[(d)]~~ (e) receive a salary, to be established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation, together with actual traveling expenses while away from the executive director's office on official business; and

~~[(e)]~~ (f) purchase all necessary equipment and supplies for the department.

Section ~~{36}~~40. Section 72-1-203 is amended to read:

72-1-203. Deputy director -- Appointment -- Qualifications -- Other assistants and advisers -- Salaries.

(1) The executive director shall appoint ~~[a deputy director, who shall be a registered professional engineer in the state and]~~ two deputy directors, who shall serve at the discretion of the executive director.

(2) (a) The deputy director of engineering and operations shall be a registered professional engineer in the state and is the chief engineer of the department. The deputy director of engineering and operations shall assist the executive director ~~[and is responsible for]~~ with areas of responsibility including:

~~[(a) program and project development; and]~~

~~[(b) operation and maintenance of the state transportation systems:]~~

(i) project development;

(ii) oversight of the management of the region offices described in Section 72-1-205;

(iii) management of operations; and

(iv) oversight of operations of motor carriers and ports.

(b) The deputy director of planning and investment shall assist the executive director with areas of responsibility including:

(i) oversight and coordination of planning, including:

(A) development of statewide strategic initiatives for planning across all modes of

SB0136S06 compared with SB0136S05

transportation:

(B) coordination with metropolitan planning organizations and local governments; and

(C) corridor and area planning;

(ii) asset management;

(iii) programming and prioritization of transportation projects;

(iv) fulfilling requirements for environmental studies and impact statements; and

(v) resource investment, including identification and development of public-private partnership opportunities.

(3) The executive director may also appoint assistants to administer the divisions of the department. These assistants shall serve at the discretion of the executive director.

(4) In addition, the executive director may employ other assistants and advisers as the executive director finds necessary and fix salaries in accordance with the salary standards adopted by the Department of Human Resource Management.

Section ~~{37}~~41. Section 72-1-204 is amended to read:

72-1-204. Divisions enumerated -- Duties.

The divisions of the department are:

(1) the Comptroller Division responsible for:

(a) all financial aspects of the department, including budgeting, accounting, and contracting;

(b) providing all material data and documentation necessary for effective fiscal planning and programming; and

(c) procuring administrative supplies;

(2) the Internal Audit Division responsible for:

(a) conducting and verifying all internal audits and reviews within the department;

(b) performing financial and compliance audits to determine the allowability and reasonableness of proposals, accounting records, and final costs of consultants, contractors, utility companies, and other entities used by the department; and

(c) implementing audit procedures that meet or exceed generally accepted auditing standards relating to revenues, expenditures, and funding;

(3) the Communications Division responsible for:

(a) developing, managing, and implementing the department's public hearing processes

SB0136S06 compared with SB0136S05

and programs;

- (b) responding to public complaints, requests, and input;
- (c) assisting the divisions and regions in the department's public involvement

programs;

- (d) developing and managing internal department communications; and
- (e) managing and overseeing department media relations;
- (4) the Program Development Division responsible for:

- (a) developing transportation plans for state transportation systems;
- (b) collecting, processing, and storing transportation data to support department's

engineering functions;

- (c) maintaining and operating the asset management systems;
- (d) designating state transportation systems qualifications;
- (e) developing a statewide transportation improvement program for approval by the

commission;

- (f) providing cartographic services to the department;
- (g) assisting local governments in participating in federal-aid transportation programs;

and

- (h) providing research services associated with transportation programs;
- (5) the Project Development Division responsible for:

- (a) developing statewide standards for project design and construction;
- (b) providing support for project development in the areas of design environment,

right-of-way, materials testing, structures, value engineering, and construction; and

- (c) designing specialty projects; ~~and~~

- (6) the Operations Division responsible for:

- (a) maintaining the state transportation systems;
- (b) state transportation systems safety;
- (c) operating state ports-of-entry;

- (d) operating state motor carrier safety programs in accordance with this title and

federal law;

- (e) aeronautical operations;
- (f) providing equipment for department engineering and maintenance functions; and

SB0136S06 compared with SB0136S05

(g) risk management[-]; and

(7) the Planning and Investment Division responsible for:

(a) creating and managing an intermodal terminal facility to promote economic development and investment;

(b) promoting strategies to synergize development of an intermodal inland port; and

(c) overseeing and coordinating public-private partnerships.

Section ~~{38}~~42. Section 72-1-208 is amended to read:

72-1-208. Cooperation with counties, cities, towns, the federal government, and all state departments -- Inspection of work done by a public transit district.

(1) The department shall cooperate with the counties, cities, towns, and community reinvestment agencies in the construction, maintenance, and use of the highways and in all related matters, and may provide services to the counties, cities, towns, and community reinvestment agencies on terms mutually agreed upon.

(2) The department, with the approval of the governor, shall cooperate with the federal government in all federal-aid projects and with all state departments in all matters in connection with the use of the highways.

(3) The department:

(a) shall inspect all work done by a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act, relating to safety appliances and procedures; and

(b) may make further additions or changes necessary for the purpose of safety to employees and the general public.

(4) (a) The department may assume responsibility for any public transit project that traverses any portion of the state highway systems.

(b) To determine whether the department will assume responsibility for a public transit project, the executive director and the public transit agency proposing the development shall jointly determine whether the department will assume responsibility.

Section ~~{39}~~43. Section 72-1-211 is amended to read:

72-1-211. Department to develop strategic initiatives -- Report -- Rulemaking.

(1) (a) The executive director shall develop statewide strategic initiatives [for the department] across all modes of transportation.

(b) To develop the strategic initiatives described in Subsection (1)(a), the executive

SB0136S06 compared with SB0136S05

director shall consult with the commission and relevant stakeholders, including:

- (i) metropolitan planning organizations;
- (ii) county and municipal governments;
- (iii) transit districts; and
- (iv) other transportation stakeholders.

(c) To develop the strategic initiatives described in Subsection (1)(a), the executive director shall consider:

- (i) regional transportation plans developed by metropolitan planning organizations;
- (ii) local transportation plans developed by county and municipal governments;
- (iii) public transit plans developed by public transit districts; and
- (iv) other relevant transportation plans developed by other stakeholders.

(d) To develop the strategic initiatives described in Subsection (1)(a), the executive director shall consider projected major centers of economic activity, population growth, and job centers.

(2) (a) The strategic initiatives developed under Subsection (1) shall include consideration of the following factors:

- ~~[(a)]~~ (i) corridor preservation;
- (ii) congestion reduction;
- (iii) economic development and job creation;
- (iv) asset management;
- (v) sustainability;
- (vi) optimization of return on investment;
- ~~[(b)]~~ (vii) development of new transportation capacity projects;
- ~~[(c)]~~ (viii) long-term maintenance and operations of the transportation system;
- ~~[(d)]~~ (ix) safety;
- ~~[(e)]~~ (x) incident management; [and]
- ~~[(f)]~~ (xi) homeland security[-];
- (xii) mobility and access; and
- (xiii) transportation related air quality.

(b) The strategic initiatives shall include an assessment of capacity needs and establish goals for corridors that meet all of the following:

SB0136S06 compared with SB0136S05

(i) high volume of travel and throughput;

(ii) connection of projected major centers of economic activity, population growth, and future job centers;

(iii) major freight corridors; and

(iv) corridors accommodating multiple modes of travel.

(3) (a) The executive director or the executive director's designee shall report the strategic initiatives of the department developed under Subsection (1) to the Transportation Commission and, before December 1 of each year, the Transportation Interim Committee.

(b) The report required under Subsection (3)(a) shall include the measure that will be used to determine whether the strategic initiatives have been achieved.

(4) After compliance with Subsection (3) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules establishing the strategic initiatives developed under this part.

(5) The executive director shall ensure that the strategic initiatives developed under Subsection (1):

(a) are reviewed and updated as needed, but no less frequent than every four years; and

(b) cover at least a 20-year horizon.

Section ~~{40}~~44. Section **72-1-213** is amended to read:

72-1-213. Road usage charge study -- Recommendations.

(1) (a) The department shall~~[-(1) continue to]~~ study a road usage charge mileage-based revenue system, including a ~~[potential]~~ demonstration program, as an alternative to the motor and special tax~~[-and]~~.

~~[(2) make recommendations to the Legislature and other policymaking bodies on the potential use and future implementation of a road usage charge within the state.]~~

(b) The demonstration program may consider:

(i) the necessity of protecting all personally identifiable information used in reporting highway use;

(ii) alternatives to recording and reporting highway use;

(iii) alternatives to administration of a road usage charge program; and

(iv) other factors as determined by the department.

(2) (a) The department shall create a Road Usage Charge Advisory Committee to assist

SB0136S06 compared with SB0136S05

the department to conduct a road usage charge demonstration program.

(b) The executive director shall appoint members of the committee, considering individuals with experience and expertise in the following areas:

(i) telecommunications;

(ii) data security and privacy;

(iii) privacy rights advocacy organizations;

(iv) transportation agencies with technical expertise;

(v) national research;

(vi) members of the Legislature;

(vii) representatives from the State Tax Commission; and

(viii) other relevant stakeholders as determined by the executive director.

(c) The executive director or the executive director's designee shall serve as chair of the committee.

(d) A member of the committee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(e) The department shall provide staff support to the committee.

(3) (a) Beginning in 2019, and no later than September 30 of each year, the department shall prepare and submit a report of its findings based on the results of the road usage charge demonstration program to the:

(i) Road Usage Charge Advisory Committee created under Subsection (2);

(ii) Transportation Commission;

(iii) Transportation Interim Committee of the Legislature; and

(iv) Revenue and Taxation Interim Committee of the Legislature.

(b) The report shall review the following issues:

(i) cost;

(ii) privacy, including recommendations regarding public and private access, including by law enforcement, to data collected and stored for purposes of the road usage charge to

SB0136S06 compared with SB0136S05

ensure individual privacy rights are protected:

(iii) jurisdictional issues;

(iv) feasibility;

(v) complexity;

(vi) acceptance;

(vii) use of revenues;

(viii) security and compliance, including a discussion of processes and security

measures necessary to minimize fraud and tax evasion rates;

(ix) data collection technology, including a discussion of the advantages and disadvantages of various types of data collection equipment and the privacy implications and considerations of the equipment;

(x) potential for additional driver services; and

(xi) implementation issues.

(c) The report may make recommendations to the Legislature and other policymaking bodies on the potential use and future implementation of a road usage charge within the state.

(4) Upon full implementation of a road user charge program for alternative fuel vehicles, which shall occur no later than January 1, 2020, the department, in coordination with the Motor Vehicle Division, shall offer the option to an owner of an alternative fuel vehicle as defined in Section 41-1a-102 to:

(a) pay an increased motor vehicle registration fee required in Subsection 41-1a-1206(1)(h) or (2)(b); or

(b) participate in a road user charge program.

Section ~~{41}~~45. Section 72-1-214 is amended to read:

72-1-214. Department designated as state safety oversight agency for rail fixed guideway public transportation safety -- Powers and duties -- Rulemaking.

(1) (a) Except as provided in Subsection (1)(b), as used in this section, "fixed guideway" means the same as that term is defined in Section 59-12-102.

(b) For purposes of this section, "fixed guideway" does not include a rail system subject to regulation by the Federal Railroad Administration.

(2) The department is designated as the state safety oversight agency for rail fixed guideway public transportation safety in accordance with 49 U.S.C. Sec. 5329(e)(4).

SB0136S06 compared with SB0136S05

(3) As the state safety oversight agency, the department may, to the extent necessary to fulfill the department's obligations under federal law:

(a) enter into and inspect the property of a fixed guideway rail system receiving federal funds without prior notice to the operator;

(b) audit an operator of a fixed guideway rail system receiving federal funds for compliance with:

(i) federal and state laws regarding the safety of the fixed guideway rail system; and

(ii) a public transportation agency safety plan adopted by a specific operator in accordance with 49 U.S.C. Sec. 5329(d);

(c) direct the operator of a fixed guideway rail system to correct a safety hazard by a specified date and time;

(d) prevent the operation of all or part of a fixed guideway rail system that the department has determined to be unsafe;

(e) audit, review, approve, and oversee an operator of a fixed guideway rail system receiving federal funds for compliance with a plan adopted by the operator in compliance with 49 U.S.C. Sec. 5329(d); and

(f) enforce statutes, rules, regulations, and executive orders relating to the operation of a fixed guideway rail public transportation system in Utah.

(4) The department shall, at least annually, provide a status report on the safety of the rail fixed guideway public transportation systems the department oversees to:

(a) the Federal Transit Administration;

(b) the governor; and

(c) members of the board of any rail fixed guideway public transportation system that the department oversees in accordance with this section.

(5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules necessary to administer and enforce this section[:], including rules providing for the legal and financial independence of state safety oversight agency activities and functions.

(b) The rules made in accordance with Subsection (5)(a) shall conform to the requirements of and regulations enacted in accordance with 49 U.S.C. Sec. 5329.

(6) (a) Notwithstanding any other agreement, a county, city, or town with fixed

SB0136S06 compared with SB0136S05

guideway rail transit service provided by a public transit district that is subject to safety oversight as provided in this section may request local option transit sales tax in accordance with Section 59-12-2206 and spend local option transit sales tax in the amount requested by the department to meet nonfederal match requirements for costs of safety oversight described in this section.

(b) A county, city, or town that requests local option transit sales tax as described in Subsection (6)(a) shall transmit to the department all of the funds requested under Subsection (6)(a) and transmitted to the county, city, or town under Subsection 59-12-2206(5)(b).

(c) A county, city, or town that requests local option transit sales tax as described in Subsection (6)(a) may not request more local option transit sales tax than is necessary to carry out the state safety oversight functions under this section and the amount shall only reflect a maximum of 20% nonfederal match requirement of eligible costs of state safety oversight.

Section ~~(42)~~46. Section **72-1-303** is amended to read:

72-1-303. Duties of commission.

(1) The commission has the following duties:

(a) determining priorities and funding levels of projects in the state transportation systems and capital development of new public transit facilities for each fiscal year based on project lists compiled by the department and taking into consideration the strategic initiatives described in Section 72-1-211;

(b) determining additions and deletions to state highways under Chapter 4, Designation of State Highways Act;

(c) holding public hearings and otherwise providing for public input in transportation matters;

(d) making policies and rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to perform the commission's duties described under this section;

(e) in accordance with Section 63G-4-301, reviewing orders issued by the executive director in adjudicative proceedings held in accordance with Title 63G, Chapter 4, Administrative Procedures Act;

(f) advising the department in state transportation systems policy;

(g) approving settlement agreements of condemnation cases subject to Section

SB0136S06 compared with SB0136S05

63G-10-401;

(h) in accordance with Section 17B-2a-807, appointing a commissioner to serve as a nonvoting, ex officio member or a voting member on the board of trustees of a public transit district;

(i) in accordance with Section 17B-2a-808, reviewing, at least annually, the short-term and long-range public transit plans; and

(j) reviewing administrative rules made, amended, or repealed by the department.

(2) (a) For projects prioritized with funding provided under Sections 72-2-124 and 72-2-125, the commission shall annually report to a committee designated by the Legislative Management Committee:

(i) a prioritized list of the new transportation capacity projects in the state transportation system and the funding levels available for those projects; and

(ii) the unfunded highway construction and maintenance needs within the state.

(b) The committee designated by the Legislative Management Committee under Subsection (2)(a) shall:

(i) review the list reported by the Transportation Commission; and

(ii) make a recommendation to the Legislature on:

(A) the amount of additional funding to allocate to transportation; and

(B) the source of revenue for the additional funding allocation under Subsection

(2)(b)(ii)(A).

(3) The commission shall review and may approve plans for the construction of a highway facility over sovereign lakebed lands in accordance with Chapter 6, Part 3, Approval of Highway Facilities on Sovereign Lands Act.

Section ~~{43}~~47. Section **72-1-304** is amended to read:

72-1-304. Written project prioritization process for new transportation capacity projects -- Rulemaking.

(1) (a) The Transportation Commission, in consultation with the department and the metropolitan planning organizations as defined in Section 72-1-208.5, shall develop a written prioritization process for the prioritization of new transportation capacity projects that are or will be part of the state highway system under Chapter 4, Part 1, State Highways, or public transit projects that add capacity to the public transit systems within the state.

SB0136S06 compared with SB0136S05

(b) (i) A local government or district may nominate a project for prioritization in accordance with the process established by the commission in rule.

(ii) If a local government or district nominates a project for prioritization by the commission, the local government or district shall provide data and evidence to show that:

(A) the project will advance the purposes and goals described in Section 72-1-211;

(B) for a public transit project, the local government or district has an ongoing funding source for operations and maintenance of the proposed development; and

(C) the local government or district will provide 40% of the funds for the project as required by Subsection 72-2-124(7)(e).

(2) The following shall be included in the written prioritization process under Subsection (1):

(a) a description of how the strategic initiatives of the department adopted under Section 72-1-211 are advanced by the written prioritization process;

(b) a definition of the type of projects to which the written prioritization process applies;

(c) specification of a weighted criteria system that is used to rank proposed projects and how it will be used to determine which projects will be prioritized;

(d) specification of the data that is necessary to apply the weighted ranking criteria; and

(e) any other provisions the commission considers appropriate[-], which may include consideration of:

(i) regional and statewide economic development impacts, including improved local access to:

(A) employment;

(B) recreation;

(C) commerce; and

(D) residential areas;

(ii) the extent to which local land use plans relevant to a project support and accomplish the strategic initiatives adopted under Section 72-1-211; and

(iii) any matching funds provided by a political subdivision or public transit district in addition to the 40% required by Subsection 72-2-124(7)(e).

(3) In developing the written prioritization process, the commission:

SB0136S06 compared with SB0136S05

(a) shall seek and consider public comment by holding public meetings at locations throughout the state; and

(b) may not consider local matching dollars as provided under Section 72-2-123 unless the state provides an equal opportunity to raise local matching dollars for state highway improvements within each county.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Transportation Commission, in consultation with the department, shall make rules establishing the written prioritization process under Subsection (1).

(5) The commission shall submit the proposed rules under this section to a committee or task force designated by the Legislative Management Committee for review prior to taking final action on the proposed rules or any proposed amendment to the rules described in Subsection (4).

Section ~~(44)~~48. Section **72-1-305** is amended to read:

72-1-305. Project selection using the written prioritization process -- Public comment -- Report.

(1) Except as provided in Subsection (4), in determining priorities and funding levels of projects in the state transportation system under Subsection 72-1-303(1)(a) that are new transportation capacity projects, the commission shall use the weighted criteria system adopted in the written prioritization process under Section 72-1-304.

(2) Prior to finalizing priorities and funding levels of projects in the state transportation system, the commission shall conduct public hearings at locations around the state and accept public comments on:

(a) the written prioritization process;

(b) the merits of new transportation capacity projects that will be prioritized under this section; and

(c) the merits of new transportation capacity projects as recommended by a consensus of local elected officials participating in a metropolitan planning organization as defined in Section 72-1-208.5.

(3) The commission shall make the weighted criteria system ranking for each project publicly available prior to the public hearings held under Subsection (2).

(4) (a) If the commission prioritizes a project over another project with a higher rank

SB0136S06 compared with SB0136S05

under the weighted criteria system, the commission shall identify the change and accept public comment at a hearing held under this section on the merits of prioritizing the project above higher ranked projects.

(b) The commission shall make the reasons for the prioritization under Subsection (4)(a) publicly available.

(5) (a) The executive director or the executive director's designee shall report annually to the governor and a committee designated by the Legislative Management Committee no later than the last day of October:

~~[(a)]~~ (i) the projects prioritized under this section during the year prior to the report; and

~~[(b)]~~ (ii) the status and progress of all projects prioritized under this section.

(b) Annually, before any funds are programmed and allocated from the Transit Transportation Investment Fund created in Section 72-2-124 for each fiscal year, the executive director or the executive director's designee, along with the executive director of a large public transit district as described in Section 17B-2a-802, shall report to the governor and a committee designated by the Legislative Management Committee no later than the last day of October:

(i) the public transit projects prioritized under this section during the year prior to the report; and

(ii) the status and progress of all public transit projects prioritized under this section.

(6) (a) The department may not delay a new transportation capacity project that was funded by the Legislature in an appropriations act to a different fiscal year than programmed by the commission due to an unavoidable shortfall in revenues unless the project delays are prioritized and approved by the Transportation Commission.

(b) The Transportation Commission shall prioritize and approve any new transportation capacity project delays for projects that were funded by the Legislature in an appropriations act due to an unavoidable shortfall in revenues.

Section ~~{45}~~49. Section 72-2-117.5 is amended to read:

72-2-117.5. Definitions -- Local Highway and Transportation Corridor Preservation Fund -- Disposition of fund money.

(1) As used in this section:

(a) "Council of governments" means a decision-making body in each county composed

SB0136S06 compared with SB0136S05

of membership including the county governing body and the mayors of each municipality in the county.

(b) "Metropolitan planning organization" has the same meaning as defined in Section 72-1-208.5.

(2) There is created the Local Highway and Transportation Corridor Preservation Fund within the Transportation Fund.

(3) The fund shall be funded from the following sources:

(a) a local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222;

(b) appropriations made to the fund by the Legislature;

(c) contributions from other public and private sources for deposit into the fund;

(d) all money collected from rents and sales of real property acquired with fund money;

(e) proceeds from general obligation bonds, revenue bonds, or other obligations issued as authorized by Title 63B, Bonds;

(f) the portion of the sales and use tax described in Subsection 59-12-2217~~[(2)(b) and required by Subsection 59-12-2217(8)(a) to be]~~ deposited into the fund; and

(g) sales and use tax revenues deposited into the fund in accordance with Section 59-12-2218.

(4) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(c) The State Tax Commission shall allocate the revenues:

(i) provided under Subsection (3)(a) to each county imposing a local option highway construction and transportation corridor preservation fee under Section 41-1a-1222;

(ii) provided under Subsection 59-12-2217(2)(b) to each county imposing a county option sales and use tax for transportation; and

(iii) provided under Subsection (3)(g) to each county of the second class or city or town within a county of the second class that imposes the sales and use tax authorized by Section 59-12-2218.

(d) The department shall distribute the funds allocated to each county, city, or town under Subsection (4)(c) to each county, city, or town.

(e) The money allocated and distributed under this Subsection (4):

SB0136S06 compared with SB0136S05

(i) shall be used for the purposes provided in this section for each county, city, or town;

(ii) is allocated to each county, city, or town as provided in this section with the condition that the state will not be charged for any asset purchased with the money allocated and distributed under this Subsection (4), unless there is a written agreement in place with the department prior to the purchase of the asset stipulating a reimbursement by the state to the county, city, or town of no more than the original purchase price paid by the county, city, or town; and

(iii) is considered a local matching contribution for the purposes described under Section 72-2-123 if used on a state highway.

(f) Administrative costs of the department to implement this section shall be paid from the fund.

(5) (a) A highway authority may acquire real property or any interests in real property for state, county, and municipal highway or public transit corridors subject to:

(i) money available in the fund to each county under Subsection (4); and

(ii) the provisions of this section.

(b) Fund money may be used to pay interest on debts incurred in accordance with this section.

(c) (i) (A) Fund money may be used to pay maintenance costs of properties acquired under this section but limited to a total of 5% of the purchase price of the property.

(B) Any additional maintenance cost shall be paid from funds other than under this section.

(C) Revenue generated by any property acquired under this section is excluded from the limitations under this Subsection (5)(c)(i).

(ii) Fund money may be used to pay direct costs of acquisition of properties acquired under this section.

(d) Fund money allocated and distributed under Subsection (4) may be used by a county highway authority for countywide transportation or public transit planning if:

(i) the county's planning focus area is outside the boundaries of a metropolitan planning organization;

(ii) the transportation planning is part of the county's continuing, cooperative, and comprehensive process for transportation or public transit planning, corridor preservation,

SB0136S06 compared with SB0136S05

right-of-way acquisition, and project programming;

(iii) no more than four years allocation every 20 years to each county is used for transportation planning under this Subsection (5)(d); and

(iv) the county otherwise qualifies to use the fund money as provided under this section.

(e) (i) Subject to Subsection (11), fund money allocated and distributed under Subsection (4) may be used by a county highway authority for transportation or public transit corridor planning that is part of the corridor elements of an ongoing work program of transportation or public transit projects.

(ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the direction of:

(A) the metropolitan planning organization if the county is within the boundaries of a metropolitan planning organization; or

(B) the department if the county is not within the boundaries of a metropolitan planning organization.

(f) (i) A county, city, or town that imposes a local option highway construction and transportation corridor preservation fee under Section 41-1a-1222 may elect to administer the funds allocated and distributed to that county, city, or town under Subsection (4) as a revolving loan fund.

(ii) If a county, city, or town elects to administer the funds allocated and distributed to that county, city, or town under Subsection (4) as a revolving loan fund, a local highway authority shall repay the fund money authorized for the project to the fund.

(iii) A county, city, or town that elects to administer the funds allocated and distributed to that county, city, or town under Subsection (4) as a revolving loan fund shall establish repayment conditions of the money to the fund from the specified project funds.

(g) (i) Subject to the restrictions in Subsections (5)(g)(ii) and (iii), fund money may be used by a county of the third, fourth, fifth, or sixth class or by a city or town within a county of the third, fourth, fifth, or sixth class for:

(A) the construction, operation, or maintenance of a class B road or class C road; or

(B) the restoration or repair of survey monuments associated with transportation infrastructure.

SB0136S06 compared with SB0136S05

(ii) A county, city, or town may not use more than 50% of the current balance of fund money allocated to the county, city, or town for the purposes described in Subsection (5)(g)(i).

(iii) A county, city, or town may not use more than 50% of the fund revenue collections allocated to a county, city, or town in the current fiscal year for the purposes described in Subsection (5)(g)(i).

(6) (a) (i) The Local Highway and Transportation Corridor Preservation Fund shall be used to preserve highway and public transit corridors, promote long-term statewide transportation planning, save on acquisition costs, and promote the best interests of the state in a manner which minimizes impact on prime agricultural land.

(ii) The Local Highway and Transportation Corridor Preservation Fund shall only be used to preserve a highway or public transit corridor that is right-of-way:

(A) in a county of the first or second class for:

(I) a state highway;

(II) a principal arterial highway as defined in Section 72-4-102.5;

(III) a minor arterial highway as defined in Section 72-4-102.5; [~~or~~]

(IV) a collector highway in an urban area as defined in Section 72-4-102.5; or

(V) a transit facility as defined in Section 17B-2a-802; or

(B) in a county of the third, fourth, fifth, or sixth class for:

(I) a state highway;

(II) a principal arterial highway as defined in Section 72-4-102.5;

(III) a minor arterial highway as defined in Section 72-4-102.5;

(IV) a major collector highway as defined in Section 72-4-102.5; [~~or~~]

(V) a minor collector road as defined in Section 72-4-102.5[~~-~~]; or

(VI) a transit facility as defined in Section 17B-2a-802.

(iii) The Local Highway and Transportation Corridor Preservation Fund may not be used for a highway corridor that is primarily a recreational trail as defined under Section 79-5-102.

(b) A highway authority shall authorize the expenditure of fund money after determining that the expenditure is being made in accordance with this section from applications that are:

(i) endorsed by the council of governments; and

SB0136S06 compared with SB0136S05

(ii) for a right-of-way purchase for a highway or public transit corridor authorized under Subsection (6)(a)(ii).

(7) (a) (i) A council of governments shall establish a council of governments endorsement process which includes prioritization and application procedures for use of the money allocated to each county under this section.

(ii) The endorsement process under Subsection (7)(a)(i) may include review or endorsement of the preservation project by:

(A) the metropolitan planning organization if the county is within the boundaries of a metropolitan planning organization; or

(B) the department if the county is not within the boundaries of a metropolitan planning organization.

(b) All fund money shall be prioritized by each highway authority and council of governments based on considerations, including:

(i) areas with rapidly expanding population;

(ii) the willingness of local governments to complete studies and impact statements that meet department standards;

(iii) the preservation of corridors by the use of local planning and zoning processes;

(iv) the availability of other public and private matching funds for a project;

(v) the cost-effectiveness of the preservation projects;

(vi) long and short-term maintenance costs for property acquired; and

(vii) whether the transportation or public transit corridor is included as part of:

(A) the county and municipal master plan; and

(B) (I) the statewide long range plan; or

(II) the regional transportation plan of the area metropolitan planning organization if one exists for the area.

(c) The council of governments shall:

(i) establish a priority list of highway and public transit corridor preservation projects within the county;

(ii) submit the list described in Subsection (7)(c)(i) to the county's legislative body for approval; and

(iii) obtain approval of the list described in Subsection (7)(c)(i) from a majority of the

SB0136S06 compared with SB0136S05

members of the county legislative body.

(d) A county's council of governments may only submit one priority list described in Subsection (7)(c)(i) per calendar year.

(e) A county legislative body may only consider and approve one priority list described in Subsection (7)(c)(i) per calendar year.

(8) (a) Unless otherwise provided by written agreement with another highway authority or public transit district, the highway authority that holds the deed to the property is responsible for maintenance of the property.

(b) The transfer of ownership for property acquired under this section from one highway authority to another shall include a recorded deed for the property and a written agreement between the highway authorities or public transit district.

(9) (a) The proceeds from any bonds or other obligations secured by revenues of the Local Highway and Transportation Corridor Preservation Fund shall be used for the purposes authorized for funds under this section.

(b) The highway authority shall pledge the necessary part of the revenues of the Local Highway and Transportation Corridor Preservation Fund to the payment of principal and interest on the bonds or other obligations.

(10) (a) A highway authority may not expend money under this section to purchase a right-of-way for a state highway unless the highway authority has:

(i) a transportation corridor property acquisition policy or ordinance in effect that meets department requirements for the acquisition of real property or any interests in real property under this section; and

(ii) an access management policy or ordinance in effect that meets the requirements under Subsection 72-2-117(8).

(b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a written agreement with the department for the department to acquire real property or any interests in real property on behalf of the local highway authority under this section.

(11) The county shall ensure, to the extent possible, that the fund money allocated and distributed to a city or town in accordance with Subsection (4) is expended:

(a) to fund a project or service as allowed by this section within the city or town to which the fund money is allocated;

SB0136S06 compared with SB0136S05

(b) to pay debt service, principal, or interest on a bond or other obligation as allowed by this section if that bond or other obligation is:

(i) secured by money allocated to the city or town; and

(ii) issued to finance a project or service as allowed by this section within the city or town to which the fund money is allocated;

(c) to fund transportation planning as allowed by this section within the city or town to which the fund money is allocated; or

(d) for another purpose allowed by this section within the city or town to which the fund money is allocated.

(12) Notwithstanding any other provision in this section, any amounts within the fund allocated to a public transit district or for a public transit corridor may only be derived from the portion of the fund that does not include constitutionally restricted sources related to the operation of a motor vehicle on a public highway or proceeds from an excise tax on liquid motor fuel to propel a motor vehicle.

Section ~~{46}~~50. Section **72-2-121** is amended to read:

72-2-121. County of the First Class Highway Projects Fund.

(1) There is created a special revenue fund within the Transportation Fund known as the "County of the First Class Highway Projects Fund."

(2) The fund consists of money generated from the following revenue sources:

(a) any voluntary contributions received for new construction, major renovations, and improvements to highways within a county of the first class;

(b) the portion of the sales and use tax described in Subsection 59-12-2214(3)(b) deposited in or transferred to the fund;

(c) the portion of the sales and use tax described in Subsection 59-12-2217~~[(2)(b) and required by Subsection 59-12-2217(8)(b) to be]~~ deposited in or transferred to the fund; and

(d) a portion of the local option highway construction and transportation corridor preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited in or transferred to the fund.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) The executive director shall use the fund money only:

SB0136S06 compared with SB0136S05

(a) to pay debt service and bond issuance costs for bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102;

(b) for right-of-way acquisition, new construction, major renovations, and improvements to highways within a county of the first class and to pay any debt service and bond issuance costs related to those projects, including improvements to a highway located within a municipality in a county of the first class where the municipality is located within the boundaries of more than a single county;

(c) for the construction, acquisition, use, maintenance, or operation of:

(i) an active transportation facility for nonmotorized vehicles;

(ii) multimodal transportation that connects an origin with a destination; or

(iii) a facility that may include a:

(A) pedestrian or nonmotorized vehicle trail;

(B) nonmotorized vehicle storage facility;

(C) pedestrian or vehicle bridge; or

(D) vehicle parking lot or parking structure;

(d) for fiscal year 2012-13 only, to pay for or to provide funds to a municipality or county to pay for a portion of right-of-way acquisition, construction, reconstruction, renovations, and improvements to highways described in Subsections 72-2-121.4(7), (8), and (9);

(e) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount required in Subsection 72-2-121.3(4)(c) minus the amounts transferred in accordance with Subsection 72-2-124(4)(a)(iv);

(f) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond issuance costs for \$30,000,000 of the bonds issued under Section 63B-18-401 for the projects described in Subsection 63B-18-401(4)(a);

(g) for a fiscal year beginning on or after July 1, 2013, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund, to transfer an amount equal to 50% of the revenue generated by the local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222 in a county of the first class:

(i) to the legislative body of a county of the first class; and

SB0136S06 compared with SB0136S05

(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws;

(h) for fiscal year 2015 only, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, to transfer an amount equal to the remainder of the revenue available in the fund for the 2015 fiscal year:

(i) to the legislative body of a county of the first class; and

(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws;

(i) for fiscal year 2015-16 only, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, to transfer an amount equal to \$25,000,000:

(i) to the legislative body of a county of the first class; and

(ii) to be used by the county for the purposes described in this section;

(j) for a fiscal year beginning on or after July 1, 2015, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, to annually transfer an amount equal to up to 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b) to:

(i) the appropriate debt service or sinking fund for the repayment of bonds issued under Section 63B-27-102; and

(ii) the Transportation Investment Fund of 2005 created in Section 72-2-124 until \$28,079,000 has been deposited into the Transportation Investment Fund of 2005; and

(k) for a fiscal year beginning after the amount described in Subsection (4)(j) has been repaid to the Transportation Investment Fund of 2005 until fiscal year 2030, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, and after the bonds under Section 63B-27-102 have been repaid, to annually transfer an amount equal to up to 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited

SB0136S06 compared with SB0136S05

into the fund in accordance with Subsection 59-12-2214(3)(b):

- (i) to the legislative body of a county of the first class; and
- (ii) to be used by the county for the purposes described in this section.

(5) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the fund and bond proceeds from bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102 are considered a local matching contribution for the purposes described under Section 72-2-123.

(6) The additional administrative costs of the department to administer this fund shall be paid from money in the fund.

(7) Notwithstanding any statutory or other restrictions on the use or expenditure of the revenue sources deposited into this fund, the Department of Transportation may use the money in this fund for any of the purposes detailed in Subsection (4).

(8) (a) Any revenue in the County of the First Class Highway Projects Fund created in Section 72-2-121 that is not specifically allocated and obligated in Section 72-2-121 is subject to the review process described in this Subsection (8).

(b) A county of the first class shall create a county transportation advisory committee as described in Subsection (8)(c) to review proposed transportation and, as applicable, public transit projects and rank projects for allocation of funds.

(c) The county transportation advisory committee described in Subsection (8)(b) shall be composed of the following 13 members:

(i) six members who are residents of the county, nominated by the county executive and confirmed by the county legislative body who are:

(A) members of a local advisory board of a large public transit district as defined in Section 17B-2a-802;

(B) county council members; or

(C) other residents with expertise in transportation planning and funding; and

(ii) seven members nominated by the county executive, and confirmed by the county legislative body, chosen from mayors or managers of cities or towns within the county.

(d) (i) A majority of the members of the county transportation advisory committee constitutes a quorum.

(ii) The action by a quorum of the county transportation advisory committee constitutes

SB0136S06 compared with SB0136S05

an action by the county transportation advisory committee.

(e) The county body shall determine:

(i) the length of a term of a member of the county transportation advisory committee;

(ii) procedures and requirements for removing a member of the county transportation advisory committee;

(iii) voting requirements of the county transportation advisory committee;

(iv) chairs or other officers of the county transportation advisory committee;

(v) how meetings are to be called and the frequency of meetings, but not less than once annually; and

(vi) the compensation, if any, of members of the county transportation advisory committee.

(f) The county shall establish by ordinance criteria for prioritization and ranking of projects, which may include consideration of regional and countywide economic development impacts, including improved local access to:

(i) employment;

(ii) recreation;

(iii) commerce; and

(iv) residential areas.

(g) The county transportation advisory committee shall evaluate and rank each proposed public transit project and regionally significant transportation facility according to criteria developed pursuant to Subsection (8)(e).

(h) (i) After the review and ranking of each project as described in this section, the county transportation advisory committee shall provide a report and recommend the ranked list of projects to the county legislative body and county executive.

(ii) After review of the recommended list of projects, as part of the county budgetary process, the county executive shall review the list of projects and may include in the proposed budget the proposed projects for allocation, as funds are available.

(i) The county executive of the county of the first class, with information provided by the county and relevant state entities, shall provide a report annually to the county transportation advisory committee, and to the mayor or manager of each city, town, or metro township in the county, including the following:

SB0136S06 compared with SB0136S05

(i) the funds received into the fund during the past year;

(ii) any funds available for allocation;

(iii) funds obligated for debt service; and

(iv) the outstanding balance of transportation related debt.

Section ~~{47}~~51. Section 72-2-124 is amended to read:

72-2-124. Transportation Investment Fund of 2005.

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) registration fees designated under Section 41-1a-1201;

~~(d)~~ (d) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; and

~~(d) registration fees designated under Section 41-1a-1201, and]~~

(e) revenues transferred to the fund in accordance with Section 72-2-106.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may use fund money only to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(f);

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified

SB0136S06 compared with SB0136S05

by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118; and

(vii) for fiscal year 2015-16 only, to transfer \$25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(5) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(6) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.

(7) (a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

(i) contributions deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

SB0136S06 compared with SB0136S05

(d) Subject to Subsection (7)(e), the Legislature may appropriate money from the fund for public transit capital development of new capacity projects to be used as prioritized by the commission.

(e) (i) The Legislature may only appropriate money from the fund for a public transit capital development project if the public transit district or political subdivision provides funds of equal to or greater than 40% of the funds needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to Title 72, Chapter 2, Part 2, Transportation Infrastructure Loan Fund, to provide all or part of the 40% requirement described in Subsection (7)(e)(i) if:

(A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2, Transportation Infrastructure Loan Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

Section ~~{48}~~ 52. Section **72-5-401** is amended to read:

72-5-401. Definitions.

As used in this part:

(1) "Corridor" means the path or proposed path of a transportation facility, including a public transit facility, that exists or that may exist in the future~~[. A corridor]~~, and may include the land occupied or to be occupied by a transportation facility, and any other land that may be needed for expanding a transportation facility or for controlling access to it.

(2) "Corridor preservation" means planning or acquisition processes intended to:

(a) protect or enhance the capacity of existing corridors; and

(b) protect the availability of proposed corridors in advance of the need for and the actual commencement of the transportation facility construction.

(3) "Development" means:

(a) the subdividing of land;

(b) the construction of improvements, expansions, or additions; or

(c) any other action that will appreciably increase the value of and the future acquisition cost of land.

(4) "Official map" means a map, drawn by government authorities and recorded in county recording offices that:

SB0136S06 compared with SB0136S05

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) for counties and municipalities may be adopted as an element of the general plan, pursuant to Title 17, Chapter 27a, Part 4, General Plan, or Title 10, Chapter 9a, Part 4, General Plan.

(5) "Taking" means an act or regulation, either by exercise of eminent domain or other police power, whereby government puts private property to public use or restrains use of private property for public purposes, and that requires compensation to be paid to private property owners.

Section ~~(49)~~53. Section **72-6-120** is amended to read:

72-6-120. Department authorized to participate in federal program assuming responsibility for environmental review of highway projects -- Rulemaking authority.

(1) The department may:

(a) assume responsibilities under 23 U.S.C. Sec. 326 for:

(i) determining whether state highway design and construction projects are categorically excluded from requirements for environmental assessments or environmental impact statements; and

(ii) environmental review, consultation, or other actions required under federal law for categorically excluded projects;

(b) assume responsibilities under 23 U.S.C. Sec. 327 with respect to one or more railroad, public transportation, highway [projects], or multimodal projects within the state under the National Environmental Policy Act of 1969 for environmental review, consultation, or other action required under any federal environmental law pertaining to the review or approval of a specific highway project;

(c) enter one or more memoranda of understanding with the United States Department of Transportation related to federal highway programs as provided in 23 U.S.C. Secs. 326 and 327 subject to the requirements of Subsection 72-1-207(5);

(d) accept, receive, and administer grants, other money, or gifts from public and private

SB0136S06 compared with SB0136S05

agencies, including the federal government, for the purpose of carrying out the programs authorized under this section; and

(e) cooperate with the federal government in implementing this section and any memorandum of understanding entered into under Subsection 72-1-207(5).

(2) Notwithstanding any other provision of law, in implementing a program under this section that is approved by the United States Department of Transportation, the department is authorized to:

(a) perform or conduct any of the activities described in a memorandum of understanding entered into under Subsection 72-1-207(5);

(b) take actions necessary to implement the program; and

(c) adopt relevant federal environmental standards as the standards for this state for categorically excluded projects.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to implement the provisions of this section.

Section ~~{50}~~54. **Repealer.**

This bill repeals:

Section **17B-2a-807.5, Public transit district board of trustees -- Transitional provisions.**

Section 55. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2017, and ending June 30, 2018. These are additions to amounts previously appropriated for fiscal year 2018. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Legislature - Senate

From General Fund, one-time

\$12,800

Schedule of Programs:

Administration

\$12,800

ITEM 2

To Legislature - House of Representatives

SB0136S06 compared with SB0136S05

From General Fund, one-time

\$19,200

Schedule of Programs:

Administration

\$19,200

Section ~~51~~56. **Effective date.**

This bill takes effect on May 8, 2018, except that the amendments to Sections 41-1a-102, 41-1a-1201, 41-1a-1206, and 59-12-103 in this bill take effect on January 1, 2019.