

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

3                                   2010 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Chief Sponsor: Wayne L. Niederhauser**

6                                   House Sponsor: R. Curt Webb

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8                   **LONG TITLE**

9                   **General Description:**

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

12                   **Highlighted Provisions:**

13                   This bill:

- 14                   ▶ enacts the Local Option Sales and Use Taxes for Transportation Act;
- 15                   ▶ defines terms;
- 16                   ▶ repeals certain local option sales and use taxes for transportation and enacts certain  
17 local option sales and use taxes for transportation;
- 18                   ▶ addresses the authority to impose a local option sales and use tax for transportation;
- 19                   ▶ addresses the transactions that may be subject to taxation and the tax rates at which  
20 those transactions may be subject to taxation;
- 21                   ▶ addresses the determination of the location of a transaction for sales and use tax  
22 purposes;
- 23                   ▶ addresses the administration, collection, and enforcement of a local option sales  
24 and use tax for transportation;
- 25                   ▶ addresses the transfer or transmission of revenues collected from a local option  
26 sales and use tax for transportation;
- 27                   ▶ addresses the State Tax Commission's authority to retain a percentage of revenues  
28 collected from a local option sales and use tax for transportation, the deposit of  
29 those revenues into the Sales and Use Tax Administrative Fees Account, and the

- 30 expenditure of those revenues;
- 31       ▶ addresses legislative body and voter approval requirements for a local option sales
- 32 and use tax for transportation;
- 33       ▶ addresses the enactment, repeal, or change in the rate of a local option sales and use
- 34 tax for transportation;
- 35       ▶ addresses a seller's or certified service provider's failure to collect a local option
- 36 sales and use tax for transportation if the seller or certified service provider relies
- 37 on certain State Tax Commission information;
- 38       ▶ addresses a seller's or certified service provider's failure to collect a local option
- 39 sales and use tax for transportation if the seller or certified service provider relies
- 40 on certain software certified by the State Tax Commission;
- 41       ▶ addresses the circumstances under which a purchaser is relieved from a penalty or
- 42 is not liable for a tax or interest;
- 43       ▶ provides transition provisions;
- 44       ▶ addresses the imposition of local option sales and use taxes for transportation
- 45 including the purposes for which revenues collected from the taxes may be
- 46 expended; and
- 47       ▶ makes technical and conforming changes.

48 **Monies Appropriated in this Bill:**

49       None

50 **Other Special Clauses:**

51       This bill takes effect on July 1, 2010.

52       This bill provides revisor instructions.

53 **Utah Code Sections Affected:**

54 AMENDS:

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

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

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

- 58           **59-12-102**, as last amended by Laws of Utah 2009, Chapters 203 and 314
- 59           **59-12-211**, as enacted by Laws of Utah 2008, Chapter 384
- 60           **59-12-602**, as last amended by Laws of Utah 2008, Chapter 286
- 61           **59-12-2003**, as last amended by Laws of Utah 2009, Chapter 385
- 62           **63B-11-501**, as last amended by Laws of Utah 2003, Chapter 335
- 63           **63B-11-502**, as last amended by Laws of Utah 2008, Chapter 224
- 64           **72-2-117.5**, as last amended by Laws of Utah 2009, Chapters 244, 344, and 374
- 65           **72-2-121**, as last amended by Laws of Utah 2009, Chapter 275
- 66           **72-2-121.1**, as last amended by Laws of Utah 2007, Chapter 10
- 67           **72-2-121.2**, as last amended by Laws of Utah 2009, Chapter 244
- 68           **72-10-215**, as enacted by Laws of Utah 2008, Chapter 286
- 69   ENACTS:
- 70           **59-12-2201**, Utah Code Annotated 1953
- 71           **59-12-2202**, Utah Code Annotated 1953
- 72           **59-12-2203**, Utah Code Annotated 1953
- 73           **59-12-2204**, Utah Code Annotated 1953
- 74           **59-12-2205**, Utah Code Annotated 1953
- 75           **59-12-2206**, Utah Code Annotated 1953
- 76           **59-12-2207**, Utah Code Annotated 1953
- 77           **59-12-2208**, Utah Code Annotated 1953
- 78           **59-12-2209**, Utah Code Annotated 1953
- 79           **59-12-2210**, Utah Code Annotated 1953
- 80           **59-12-2211**, Utah Code Annotated 1953
- 81           **59-12-2212**, Utah Code Annotated 1953
- 82           **59-12-2212.1**, Utah Code Annotated 1953
- 83           **59-12-2213**, Utah Code Annotated 1953
- 84           **59-12-2214**, Utah Code Annotated 1953
- 85           **59-12-2215**, Utah Code Annotated 1953

86           **59-12-2216**, Utah Code Annotated 1953

87           **59-12-2217**, Utah Code Annotated 1953

88   RENUMBERS AND AMENDS:

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

91   REPEALS:

92           **59-12-501**, as last amended by Laws of Utah 2008, Chapters 7 and 384

93           **59-12-502**, as last amended by Laws of Utah 2009, Chapter 244

94           **59-12-503**, as enacted by Laws of Utah 1997, Chapter 131

95           **59-12-504**, as last amended by Laws of Utah 2008, Chapters 382 and 384

96           **59-12-506**, as last amended by Laws of Utah 2009, Chapter 203

97           **59-12-507**, as enacted by Laws of Utah 2008, Chapter 384

98           **59-12-508**, as enacted by Laws of Utah 2008, Chapter 384

99           **59-12-1001**, as last amended by Laws of Utah 2009, Chapter 388

100          **59-12-1002**, as last amended by Laws of Utah 2008, Chapter 384

101          **59-12-1004**, as last amended by Laws of Utah 2009, Chapter 203

102          **59-12-1005**, as enacted by Laws of Utah 2008, Chapter 384

103          **59-12-1006**, as enacted by Laws of Utah 2008, Chapter 384

104          **59-12-1501**, as enacted by Laws of Utah 2003, Chapter 282

105          **59-12-1502**, as last amended by Laws of Utah 2007, Chapters 10 and 329

106          **59-12-1503**, as last amended by Laws of Utah 2008, Chapters 382 and 384

107          **59-12-1505**, as last amended by Laws of Utah 2009, Chapter 203

108          **59-12-1506**, as enacted by Laws of Utah 2008, Chapter 384

109          **59-12-1507**, as enacted by Laws of Utah 2008, Chapter 384

110          **59-12-1701**, as enacted by Laws of Utah 2006, Fourth Special Session, Chapter 1

111          **59-12-1702**, as enacted by Laws of Utah 2006, Fourth Special Session, Chapter 1

112          **59-12-1703**, as last amended by Laws of Utah 2008, Chapters 382 and 384

113          **59-12-1704**, as enacted by Laws of Utah 2006, Fourth Special Session, Chapter 1

- 114 **59-12-1705**, as enacted by Laws of Utah 2006, Fourth Special Session, Chapter 1
- 115 **59-12-1706**, as last amended by Laws of Utah 2009, Chapter 203
- 116 **59-12-1707**, as enacted by Laws of Utah 2008, Chapter 384
- 117 **59-12-1708**, as enacted by Laws of Utah 2008, Chapter 384
- 118 **59-12-1901**, as last amended by Laws of Utah 2009, Chapter 244
- 119 **59-12-1902**, as last amended by Laws of Utah 2009, Chapter 244
- 120 **59-12-1904**, as last amended by Laws of Utah 2009, Chapter 203
- 121 **59-12-1905**, as enacted by Laws of Utah 2008, Chapter 286
- 122 **59-12-1906**, as enacted by Laws of Utah 2008, Chapter 286

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

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

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

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

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

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

138 **17-50-322. County funding for a fixed guideway.**

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

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

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

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

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

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

150 (ii) the county does not impose a sales and use tax authorized by Section [~~59-12-1703~~]  
151 59-12-2217.

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

153 **17B-1-412. Protests -- Election.**

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

157 (i) as provided in Section 17B-1-413;

158 (ii) for an annexation under Section 17B-1-415; and

159 (iii) for an annexation proposed by a local district that receives sales and use tax funds  
160 from the counties, cities, and towns within the local district that impose a sales and use tax  
161 under Section [~~59-12-501~~] 59-12-2213.

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

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

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

168 (i) timely protests are filed by:

169 (A) the owners of private real property that:

170 (I) is located within the area proposed to be annexed;

171 (II) covers at least 10% of the total private land area within the entire area proposed to  
172 be annexed and within each applicable area; and

173 (III) is equal in assessed value to at least 10% of the assessed value of all private real  
174 property within the entire area proposed to be annexed and within each applicable area; or

175 (B) registered voters residing within the entire area proposed to be annexed and within  
176 each applicable area equal in number to at least 10% of the number of votes cast within the  
177 entire area proposed for annexation and within each applicable area, respectively, for the  
178 office of governor at the last regular general election before the filing of the petition; or

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

182 (b) (i) At each election held under Subsection (3)(a)(ii), the ballot question shall be  
183 phrased to indicate that a voter's casting a vote for or against the annexation includes also a  
184 vote for or against the imposition of the sales and use tax as provided in Section [~~59-12-501~~]  
185 59-12-2213.

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

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

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

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

196 (4) If sufficient protests are filed under this section to require an election for a  
197 proposed annexation to which the protest provisions of this section are applicable, a board of

198 trustees may, notwithstanding Subsection (3), adopt a resolution rejecting the annexation and  
199 terminating the annexation process without holding an election.

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

201 **59-12-102. Definitions.**

202 As used in this chapter:

203 (1) "800 service" means a telecommunications service that:

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

205 (b) is typically marketed:

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

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

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

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

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

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

212 Federal Communications Commission.

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

214 (i) a subscriber purchases;

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

217 (A) prerecorded announcement; or

218 (B) live service; and

219 (iii) is typically marketed:

220 (A) under the name 900 service; or

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

222 Communications Commission.

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

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



- 226 (ii) the following a subscriber sells to the subscriber's customer:
- 227 (A) a product; or
- 228 (B) a service.
- 229 (3) (a) "Admission or user fees" includes season passes.
- 230 (b) "Admission or user fees" does not include annual membership dues to private
- 231 organizations.
- 232 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 233 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 234 Agreement after November 12, 2002.
- 235 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 236 (a) listed under Subsection (6); and
- 237 (b) that are imposed within a local taxing jurisdiction.
- 238 (6) "Agreement sales and use tax" means a tax imposed under:
- 239 (a) Subsection 59-12-103(2)(a)(i)(A);
- 240 (b) Subsection 59-12-103(2)(b)(i);
- 241 (c) Subsection 59-12-103(2)(c)(i);
- 242 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 243 (e) Section 59-12-204;
- 244 (f) Section 59-12-401;
- 245 (g) Section 59-12-402;
- 246 [~~(h) Section 59-12-501;~~]
- 247 [~~(i) Section 59-12-502;~~]
- 248 [~~(j)~~] (h) Section 59-12-703;
- 249 [~~(k)~~] (i) Section 59-12-802;
- 250 [~~(l)~~] (j) Section 59-12-804;
- 251 [~~(m) Section 59-12-1001;~~]
- 252 [~~(n)~~] (k) Section 59-12-1102;
- 253 [~~(o)~~] (l) Section 59-12-1302;

254            [~~(p)~~] (m) Section 59-12-1402;  
255            [~~(q)~~ Section 59-12-1503;]  
256            [~~(r)~~ Section 59-12-1703;]  
257            [~~(s)~~] (n) Section 59-12-1802;  
258            [~~(t)~~ Section 59-12-1903;]  
259            [~~(u)~~] (o) Section 59-12-2003; [~~or~~]  
260            [~~(v)~~] (p) Section 59-12-2103[-];  
261            (q) Section 59-12-2213;  
262            (r) Section 59-12-2214;  
263            (s) Section 59-12-2215;  
264            (t) Section 59-12-2216;  
265            (u) Section 59-12-2217; or  
266            (v) Section 59-12-2218.  
267            (7) "Aircraft" is as defined in Section 72-10-102.  
268            (8) "Alcoholic beverage" means a beverage that:  
269            (a) is suitable for human consumption; and  
270            (b) contains .5% or more alcohol by volume.  
271            (9) (a) "Ancillary service" means a service associated with, or incidental to, the  
272 provision of telecommunications service.  
273            (b) "Ancillary service" includes:  
274            (i) a conference bridging service;  
275            (ii) a detailed communications billing service;  
276            (iii) directory assistance;  
277            (iv) a vertical service; or  
278            (v) a voice mail service.  
279            (10) "Area agency on aging" is as defined in Section 62A-3-101.  
280            (11) "Assisted amusement device" means an amusement device, skill device, or ride  
281 device that is started and stopped by an individual:

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

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

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

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

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

293 (13) "Authorized carrier" means:

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

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

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

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

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

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

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

306 (B) animal waste;

307 (C) methane produced:

308 (I) at landfills; or

309 (II) as a byproduct of the treatment of wastewater residuals;

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

338 (vi) a transaction that includes tangible personal property or a product subject to  
339 taxation under this chapter and tangible personal property or a product that is not subject to  
340 taxation under this chapter if the:

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

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

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

347 (A) that retail sale includes:

348 (I) food and food ingredients;

349 (II) a drug;

350 (III) durable medical equipment;

351 (IV) mobility enhancing equipment;

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

353 (VI) a prosthetic device; or

354 (VII) a medical supply; and

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

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

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

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

362 (A) packaging that:

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

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

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

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

370 (ii) For purposes of Subsection (15)(c)(i)(B), an item of tangible personal property, a  
371 product, or a service is provided free of charge with the purchase of another item of tangible  
372 personal property, a product, or a service if the sales price of the purchased item of tangible  
373 personal property, product, or service does not vary depending on the inclusion of the tangible  
374 personal property, product, or service provided free of charge.

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

378 (A) a binding sales document; or

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

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

382 (A) a bill of sale;

383 (B) a contract;

384 (C) an invoice;

385 (D) a lease agreement;

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

387 (F) a price list;

388 (G) a rate card;

389 (H) a receipt; or

390 (I) a service agreement.

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

393 (A) the seller's purchase price of the tangible personal property or product is 10% or

394 less of the seller's total purchase price of the bundled transaction; or

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

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

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

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

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

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

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

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

415 (i) on a transaction; and

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

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

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

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

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

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

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

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

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

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

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

433 (20) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other  
434 fuels that does not constitute industrial use under Subsection (46) or residential use under  
435 Subsection (91).

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

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

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

444 (22) "Component part" includes:

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

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

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



- 450 (d) feed, seeds, and seedlings.
- 451 (23) "Computer" means an electronic device that accepts information:
- 452 (a) (i) in digital form; or
- 453 (ii) in a form similar to digital form; and
- 454 (b) manipulates that information for a result based on a sequence of instructions.
- 455 (24) "Computer software" means a set of coded instructions designed to cause:
- 456 (a) a computer to perform a task; or
- 457 (b) automatic data processing equipment to perform a task.
- 458 (25) (a) "Conference bridging service" means an ancillary service that links two or
- 459 more participants of an audio conference call or video conference call.
- 460 (b) "Conference bridging service" includes providing a telephone number as part of
- 461 the ancillary service described in Subsection (25)(a).
- 462 (c) "Conference bridging service" does not include a telecommunications service used
- 463 to reach the ancillary service described in Subsection (25)(a).
- 464 (26) "Construction materials" means any tangible personal property that will be
- 465 converted into real property.
- 466 (27) "Delivered electronically" means delivered to a purchaser by means other than
- 467 tangible storage media.
- 468 (28) (a) "Delivery charge" means a charge:
- 469 (i) by a seller of:
- 470 (A) tangible personal property;
- 471 (B) a product transferred electronically; or
- 472 (C) services; and
- 473 (ii) for preparation and delivery of the tangible personal property, product transferred
- 474 electronically, or services described in Subsection (28)(a)(i) to a location designated by the
- 475 purchaser.
- 476 (b) "Delivery charge" includes a charge for the following:
- 477 (i) transportation;

478 (ii) shipping;

479 (iii) postage;

480 (iv) handling;

481 (v) crating; or

482 (vi) packing.

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

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

486 (a) is intended to supplement the diet;

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

488 (i) a vitamin;

489 (ii) a mineral;

490 (iii) an herb or other botanical;

491 (iv) an amino acid;

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

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

496 (c) (i) except as provided in Subsection (30)(c)(ii), is intended for ingestion in:

497 (A) tablet form;

498 (B) capsule form;

499 (C) powder form;

500 (D) softgel form;

501 (E) gelcap form; or

502 (F) liquid form; or

503 (ii) notwithstanding Subsection (30)(c)(i), if the product is not intended for ingestion  
504 in a form described in Subsections (30)(c)(i)(A) through (F), is not represented:

505 (A) as conventional food; and

- 506 (B) for use as a sole item of:
- 507 (I) a meal; or
- 508 (II) the diet; and
- 509 (d) is required to be labeled as a dietary supplement:
- 510 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 511 (ii) as required by 21 C.F.R. Sec. 101.36.
- 512 (31) (a) "Direct mail" means printed material delivered or distributed by United States
- 513 mail or other delivery service:
- 514 (i) to:
- 515 (A) a mass audience; or
- 516 (B) addressees on a mailing list provided:
- 517 (I) by a purchaser of the mailing list; or
- 518 (II) at the discretion of the purchaser of the mailing list; and
- 519 (ii) if the cost of the printed material is not billed directly to the recipients.
- 520 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by
- 521 a purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 522 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 523 single address.
- 524 (32) "Directory assistance" means an ancillary service of providing:
- 525 (a) address information; or
- 526 (b) telephone number information.
- 527 (33) (a) "Disposable home medical equipment or supplies" means medical equipment
- 528 or supplies that:
- 529 (i) cannot withstand repeated use; and
- 530 (ii) are purchased by, for, or on behalf of a person other than:
- 531 (A) a health care facility as defined in Section 26-21-2;
- 532 (B) a health care provider as defined in Section 78B-3-403;
- 533 (C) an office of a health care provider described in Subsection (33)(a)(ii)(B); or

534 (D) a person similar to a person described in Subsections (33)(a)(ii)(A) through (C).

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

536 (i) a drug;

537 (ii) durable medical equipment;

538 (iii) a hearing aid;

539 (iv) a hearing aid accessory;

540 (v) mobility enhancing equipment; or

541 (vi) tangible personal property used to correct impaired vision, including:

542 (A) eyeglasses; or

543 (B) contact lenses.

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

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

548 (i) recognized in:

549 (A) the official United States Pharmacopoeia;

550 (B) the official Homeopathic Pharmacopoeia of the United States;

551 (C) the official National Formulary; or

552 (D) a supplement to a publication listed in Subsections (34)(a)(i)(A) through (C);

553 (ii) intended for use in the:

554 (A) diagnosis of disease;

555 (B) cure of disease;

556 (C) mitigation of disease;

557 (D) treatment of disease; or

558 (E) prevention of disease; or

559 (iii) intended to affect:

560 (A) the structure of the body; or

561 (B) any function of the body.

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

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

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

619 (b) For purposes of Subsection (41)(a)(iii), "officially sanctioned school activity"

620 means a school activity:

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

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

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

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

629 (43) "Governing board of the agreement" means the governing board of the agreement  
630 that is:

631 (a) authorized to administer the agreement; and

632 (b) established in accordance with the agreement.

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

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

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

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

640 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal  
641 Analyst;

642 (iv) the National Guard;

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

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

645 (b) "Governmental entity" does not include the state systems of public and higher

646 education, including:

- 647 (i) a college campus of the Utah College of Applied Technology;
- 648 (ii) a school;
- 649 (iii) the State Board of Education;
- 650 (iv) the State Board of Regents; or
- 651 (v) a state institution of higher education as defined in Section 53B-3-102.

652 (45) "Hydroelectric energy" means water used as the sole source of energy to produce  
653 electricity.

654 (46) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or  
655 other fuels:

- 656 (a) in mining or extraction of minerals;
- 657 (b) in agricultural operations to produce an agricultural product up to the time of  
658 harvest or placing the agricultural product into a storage facility, including:

- 659 (i) commercial greenhouses;
- 660 (ii) irrigation pumps;
- 661 (iii) farm machinery;
- 662 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not  
663 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 664 (v) other farming activities;

665 (c) in manufacturing tangible personal property at an establishment described in SIC  
666 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal  
667 Executive Office of the President, Office of Management and Budget;

668 (d) by a scrap recycler if:

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

- 672 (A) iron;
- 673 (B) steel;



674 (C) nonferrous metal;

675 (D) paper;

676 (E) glass;

677 (F) plastic;

678 (G) textile; or

679 (H) rubber; and

680 (ii) the new products under Subsection (46)(d)(i) would otherwise be made with  
681 nonrecycled materials; or

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

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

686 (i) tangible personal property; or

687 (ii) a product transferred electronically.

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

689 (i) tangible personal property; or

690 (ii) a product transferred electronically.

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

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

694 (B) an indeterminate term; and

695 (ii) consideration.

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

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

701 (i) a transfer of possession or control of property under a security agreement or

702 deferred payment plan that requires the transfer of title upon completion of the required  
703 payments;

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

706 (A) upon completion of required payments; and

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

708 (I) \$100; or

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

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

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

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

716 (ii) maintenance of tangible personal property; or

717 (iii) inspection of tangible personal property.

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

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

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

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

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

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

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

726 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard

727 Industrial Classification Manual of the federal Executive Office of the President, Office of  
728 Management and Budget;

729 (b) a scrap recycler if:

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

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

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

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

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

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

- 747 (i) an adopted child or adopted stepchild; or
- 748 (ii) a foster child or foster stepchild;
- 749 (b) grandchild or stepgrandchild;

750 (c) grandparent or stepgrandparent;

751 (d) nephew or stepnephew;

752 (e) niece or stepniece;

753 (f) parent or stepparent;

754 (g) sibling or stepsibling;

755 (h) spouse;

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

757 or

758 (j) person similar to a person described in Subsections (53)(a) through (i) as  
759 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
760 Administrative Rulemaking Act.

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

762 (55) "Mobile telecommunications service" is as defined in the Mobile  
763 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

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

- 766 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 767 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 768 (iii) the origination point described in Subsection (56)(a)(i) and the termination point  
769 described in Subsection (56)(a)(ii) are not fixed.

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

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

774 (57) (a) Except as provided in Subsection (57)(c), "mobility enhancing equipment"  
775 means equipment that is:

- 776 (i) primarily and customarily used to provide or increase the ability to move from one  
777 place to another;
- 778 (ii) appropriate for use in a:
  - 779 (A) home; or
  - 780 (B) motor vehicle; and
- 781 (iii) not generally used by persons with normal mobility.

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

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

- 786 (i) a motor vehicle;
- 787 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
- 788 vehicle manufacturer;
- 789 (iii) durable medical equipment; or
- 790 (iv) a prosthetic device.
- 791 (58) "Model 1 seller" means a seller that has selected a certified service provider as the
- 792 seller's agent to perform all of the seller's sales and use tax functions for agreement sales and
- 793 use taxes other than the seller's obligation under Section 59-12-124 to remit a tax on the
- 794 seller's own purchases.
- 795 (59) "Model 2 seller" means a seller that:
- 796 (a) except as provided in Subsection (59)(b), has selected a certified automated system
- 797 to perform the seller's sales tax functions for agreement sales and use taxes; and
- 798 (b) notwithstanding Subsection (59)(a), retains responsibility for remitting all of the
- 799 sales tax:
  - 800 (i) collected by the seller; and
  - 801 (ii) to the appropriate local taxing jurisdiction.
- 802 (60) (a) Subject to Subsection (60)(b), "model 3 seller" means a seller that has:
  - 803 (i) sales in at least five states that are members of the agreement;
  - 804 (ii) total annual sales revenues of at least \$500,000,000;
  - 805 (iii) a proprietary system that calculates the amount of tax:
    - 806 (A) for an agreement sales and use tax; and
    - 807 (B) due to each local taxing jurisdiction; and
    - 808 (iv) entered into a performance agreement with the governing board of the agreement.
- 809 (b) For purposes of Subsection (60)(a), "model 3 seller" includes an affiliated group of
- 810 sellers using the same proprietary system.
- 811 (61) "Modular home" means a modular unit as defined in Section 58-56-3.
- 812 (62) "Motor vehicle" is as defined in Section 41-1a-102.
- 813 (63) "Oil shale" means a group of fine black to dark brown shales containing

814 bituminous material that yields petroleum upon distillation.

815 (64) (a) "Other fuels" means products that burn independently to produce heat or  
816 energy.

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

819 (65) (a) "Paging service" means a telecommunications service that provides  
820 transmission of a coded radio signal for the purpose of activating a specific pager.

821 (b) For purposes of Subsection (65)(a), the transmission of a coded radio signal  
822 includes a transmission by message or sound.

823 (66) "Pawnbroker" is as defined in Section 13-32a-102.

824 (67) "Pawn transaction" is as defined in Section 13-32a-102.

825 (68) (a) "Permanently attached to real property" means that for tangible personal  
826 property attached to real property:

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

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

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

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

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

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

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

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

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

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

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

842 property and real property are located; or

843 (iii) property attached to oil, gas, or water pipelines, except for the property listed in  
844 Subsection (68)(c)(iii) or (iv).

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

846 (i) the attachment of portable or movable tangible personal property to real property if  
847 that portable or movable tangible personal property is attached to real property only for:

848 (A) convenience;

849 (B) stability; or

850 (C) for an obvious temporary purpose;

851 (ii) the detachment of tangible personal property from real property except for the  
852 detachment described in Subsection (68)(b)(ii);

853 (iii) an attachment of the following tangible personal property to real property if the  
854 attachment to real property is only through a line that supplies water, electricity, gas,  
855 telecommunications, cable, or supplies a similar item as determined by the commission by rule  
856 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

857 (A) a computer;

858 (B) a telephone;

859 (C) a television; or

860 (D) tangible personal property similar to Subsections (68)(c)(iii)(A) through (C) as  
861 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
862 Administrative Rulemaking Act; or

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

864 (69) "Person" includes any individual, firm, partnership, joint venture, association,  
865 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,  
866 municipality, district, or other local governmental entity of the state, or any group or  
867 combination acting as a unit.

868 (70) "Place of primary use":

869 (a) for telecommunications service other than mobile telecommunications service,

870 means the street address representative of where the customer's use of the telecommunications  
871 service primarily occurs, which shall be:

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

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

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

885 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling  
886 service, that would be a prepaid wireless calling service if the service were exclusively a  
887 telecommunications service.

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

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

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



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

926 (ii) two or more food ingredients mixed or combined by the seller for sale as a single  
927 item; or

928 (iii) except as provided in Subsection (75)(c), food sold with an eating utensil  
929 provided by the seller, including a:

930 (A) plate;

931 (B) knife;

932 (C) fork;

933 (D) spoon;

934 (E) glass;

935 (F) cup;

936 (G) napkin; or

937 (H) straw.

938 (b) "Prepared food" does not include:

939 (i) food that a seller only:

940 (A) cuts;

941 (B) repackages; or

942 (C) pasteurizes; or

943 (ii) (A) the following:

944 (I) raw egg;

945 (II) raw fish;

946 (III) raw meat;

947 (IV) raw poultry; or

948 (V) a food containing an item described in Subsections (75)(b)(ii)(A)(I) through (IV);

949 and

950 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the  
951 Food and Drug Administration's Food Code that a consumer cook the items described in

952 Subsection (75)(b)(ii)(A) to prevent food borne illness; or

953 (iii) the following if sold without eating utensils provided by the seller:

954 (A) food and food ingredients sold by a seller if the seller's proper primary  
955 classification under the 2002 North American Industry Classification System of the federal  
956 Executive Office of the President, Office of Management and Budget, is manufacturing in  
957 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla  
958 Manufacturing;

959 (B) food and food ingredients sold in an unheated state:

960 (I) by weight or volume; and

961 (II) as a single item; or

962 (C) a bakery item, including:

963 (I) a bagel;

964 (II) a bar;

965 (III) a biscuit;

966 (IV) bread;

967 (V) a bun;

968 (VI) a cake;

969 (VII) a cookie;

970 (VIII) a croissant;

971 (IX) a danish;

972 (X) a donut;

973 (XI) a muffin;

974 (XII) a pastry;

975 (XIII) a pie;

976 (XIV) a roll;

977 (XV) a tart;

978 (XVI) a torte; or

979 (XVII) a tortilla.

980 (c) Notwithstanding Subsection (75)(a)(iii), an eating utensil provided by the seller  
981 does not include the following used to transport the food:

982 (i) a container; or

983 (ii) packaging.

984 (76) "Prescription" means an order, formula, or recipe that is issued:

985 (a) (i) orally;

986 (ii) in writing;

987 (iii) electronically; or

988 (iv) by any other manner of transmission; and

989 (b) by a licensed practitioner authorized by the laws of a state.

990 (77) (a) Except as provided in Subsection (77)(b)(ii) or (iii), "prewritten computer  
991 software" means computer software that is not designed and developed:

992 (i) by the author or other creator of the computer software; and

993 (ii) to the specifications of a specific purchaser.

994 (b) "Prewritten computer software" includes:

995 (i) a prewritten upgrade to computer software if the prewritten upgrade to the  
996 computer software is not designed and developed:

997 (A) by the author or other creator of the computer software; and

998 (B) to the specifications of a specific purchaser;

999 (ii) notwithstanding Subsection (77)(a), computer software designed and developed by  
1000 the author or other creator of the computer software to the specifications of a specific  
1001 purchaser if the computer software is sold to a person other than the purchaser; or

1002 (iii) notwithstanding Subsection (77)(a) and except as provided in Subsection (77)(c),  
1003 prewritten computer software or a prewritten portion of prewritten computer software:

1004 (A) that is modified or enhanced to any degree; and

1005 (B) if the modification or enhancement described in Subsection (77)(b)(iii)(A) is  
1006 designed and developed to the specifications of a specific purchaser.

1007 (c) Notwithstanding Subsection (77)(b)(iii), "prewritten computer software" does not  
1008 include a modification or enhancement described in Subsection (77)(b)(iii) if the charges for  
1009 the modification or enhancement are:

- 1010 (i) reasonable; and
- 1011 (ii) separately stated on the invoice or other statement of price provided to the
- 1012 purchaser.
- 1013 (78) (a) "Private communication service" means a telecommunications service:
- 1014 (i) that entitles a customer to exclusive or priority use of one or more communications
- 1015 channels between or among termination points; and
- 1016 (ii) regardless of the manner in which the one or more communications channels are
- 1017 connected.
- 1018 (b) "Private communications service" includes the following provided in connection
- 1019 with the use of one or more communications channels:
- 1020 (i) an extension line;
- 1021 (ii) a station;
- 1022 (iii) switching capacity; or
- 1023 (iv) another associated service that is provided in connection with the use of one or
- 1024 more communications channels as defined in Section 59-12-215.
- 1025 (79) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 1026 (i) artificially replace a missing portion of the body;
- 1027 (ii) prevent or correct a physical deformity or physical malfunction; or
- 1028 (iii) support a weak or deformed portion of the body.
- 1029 (b) "Prosthetic device" includes:
- 1030 (i) parts used in the repairs or renovation of a prosthetic device;
- 1031 (ii) replacement parts for a prosthetic device;
- 1032 (iii) a dental prosthesis; or
- 1033 (iv) a hearing aid.
- 1034 (c) "Prosthetic device" does not include:
- 1035 (i) corrective eyeglasses; or
- 1036 (ii) contact lenses.
- 1037 (80) (a) "Protective equipment" means an item:

- 1038 (i) for human wear; and
- 1039 (ii) that is:
- 1040 (A) designed as protection:
- 1041 (I) to the wearer against injury or disease; or
- 1042 (II) against damage or injury of other persons or property; and
- 1043 (B) not suitable for general use.
- 1044 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 1045 the commission shall make rules:
- 1046 (i) listing the items that constitute "protective equipment"; and
- 1047 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1048 under the agreement.
- 1049 (81) (a) For purposes of Subsection 59-12-104(41), "publication" means any written
- 1050 or printed matter, other than a photocopy:
- 1051 (i) regardless of:
- 1052 (A) characteristics;
- 1053 (B) copyright;
- 1054 (C) form;
- 1055 (D) format;
- 1056 (E) method of reproduction; or
- 1057 (F) source; and
- 1058 (ii) made available in printed or electronic format.
- 1059 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 1060 the commission may by rule define the term "photocopy."
- 1061 (82) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 1062 (i) valued in money; and
- 1063 (ii) for which tangible personal property, a product transferred electronically, or
- 1064 services are:
- 1065 (A) sold;

- 1066 (B) leased; or
- 1067 (C) rented.
- 1068 (b) "Purchase price" and "sales price" include:
- 1069 (i) the seller's cost of the tangible personal property, a product transferred
- 1070 electronically, or services sold;
- 1071 (ii) expenses of the seller, including:
- 1072 (A) the cost of materials used;
- 1073 (B) a labor cost;
- 1074 (C) a service cost;
- 1075 (D) interest;
- 1076 (E) a loss;
- 1077 (F) the cost of transportation to the seller; or
- 1078 (G) a tax imposed on the seller;
- 1079 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1080 (iv) consideration a seller receives from a person other than the purchaser if:
- 1081 (A) (I) the seller actually receives consideration from a person other than the
- 1082 purchaser; and
- 1083 (II) the consideration described in Subsection (82)(b)(iv)(A)(I) is directly related to a
- 1084 price reduction or discount on the sale;
- 1085 (B) the seller has an obligation to pass the price reduction or discount through to the
- 1086 purchaser;
- 1087 (C) the amount of the consideration attributable to the sale is fixed and determinable
- 1088 by the seller at the time of the sale to the purchaser; and
- 1089 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 1090 seller to claim a price reduction or discount; and
- 1091 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 1092 coupon, or other documentation with the understanding that the person other than the seller
- 1093 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1094 (II) the purchaser identifies that purchaser to the seller as a member of a group or  
1095 organization allowed a price reduction or discount, except that a preferred customer card that  
1096 is available to any patron of a seller does not constitute membership in a group or organization  
1097 allowed a price reduction or discount; or

1098 (III) the price reduction or discount is identified as a third party price reduction or  
1099 discount on the:

1100 (Aa) invoice the purchaser receives; or

1101 (Bb) certificate, coupon, or other documentation the purchaser presents.

1102 (c) "Purchase price" and "sales price" do not include:

1103 (i) a discount:

1104 (A) in a form including:

1105 (I) cash;

1106 (II) term; or

1107 (III) coupon;

1108 (B) that is allowed by a seller;

1109 (C) taken by a purchaser on a sale; and

1110 (D) that is not reimbursed by a third party; or

1111 (ii) the following if separately stated on an invoice, bill of sale, or similar document  
1112 provided to the purchaser:

1113 (A) the following from credit extended on the sale of tangible personal property or  
1114 services:

1115 (I) a carrying charge;

1116 (II) a financing charge; or

1117 (III) an interest charge;

1118 (B) a delivery charge;

1119 (C) an installation charge;

1120 (D) a manufacturer rebate on a motor vehicle; or

1121 (E) a tax or fee legally imposed directly on the consumer.



- 1122 (83) "Purchaser" means a person to whom:
- 1123 (a) a sale of tangible personal property is made;
- 1124 (b) a product is transferred electronically; or
- 1125 (c) a service is furnished.
- 1126 (84) "Regularly rented" means:
- 1127 (a) rented to a guest for value three or more times during a calendar year; or
- 1128 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1129 value.
- 1130 (85) "Renewable energy" means:
- 1131 (a) biomass energy;
- 1132 (b) hydroelectric energy;
- 1133 (c) geothermal energy;
- 1134 (d) solar energy; or
- 1135 (e) wind energy.
- 1136 (86) (a) "Renewable energy production facility" means a facility that:
- 1137 (i) uses renewable energy to produce electricity; and
- 1138 (ii) has a production capacity of 20 kilowatts or greater.
- 1139 (b) A facility is a renewable energy production facility regardless of whether the
- 1140 facility is:
- 1141 (i) connected to an electric grid; or
- 1142 (ii) located on the premises of an electricity consumer.
- 1143 (87) "Rental" is as defined in Subsection (48).
- 1144 (88) "Repairs or renovations of tangible personal property" means:
- 1145 (a) a repair or renovation of tangible personal property that is not permanently
- 1146 attached to real property; or
- 1147 (b) attaching tangible personal property or a product that is transferred electronically
- 1148 to other tangible personal property if the other tangible personal property to which the tangible
- 1149 personal property or product that is transferred electronically is attached is not permanently

1150 attached to real property.

1151 (89) "Research and development" means the process of inquiry or experimentation  
1152 aimed at the discovery of facts, devices, technologies, or applications and the process of  
1153 preparing those devices, technologies, or applications for marketing.

1154 (90) (a) "Residential telecommunications services" means a telecommunications  
1155 service or an ancillary service that is provided to an individual for personal use:

1156 (i) at a residential address; or

1157 (ii) at an institution, including a nursing home or a school, if the telecommunications  
1158 service or ancillary service is provided to and paid for by the individual residing at the  
1159 institution rather than the institution.

1160 (b) For purposes of Subsection (90)(a), a residential address includes an:

1161 (i) apartment; or

1162 (ii) other individual dwelling unit.

1163 (91) "Residential use" means the use in or around a home, apartment building,  
1164 sleeping quarters, and similar facilities or accommodations.

1165 (92) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
1166 than:

1167 (a) resale;

1168 (b) sublease; or

1169 (c) subrent.

1170 (93) (a) "Retailer" means any person engaged in a regularly organized business in  
1171 tangible personal property or any other taxable transaction under Subsection 59-12-103(1),  
1172 and who is selling to the user or consumer and not for resale.

1173 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
1174 engaged in the business of selling to users or consumers within the state.

1175 (94) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
1176 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
1177 Subsection 59-12-103(1), for consideration.

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

1206 (B) account for the lease payments as payments made under a financing arrangement.

1207 (97) "Sales price" is as defined in Subsection (82).

1208 (98) (a) "Sales relating to schools" means the following sales by, amounts paid to, or  
1209 amounts charged by a school:

1210 (i) sales that are directly related to the school's educational functions or activities

1211 including:

1212 (A) the sale of:

1213 (I) textbooks;

1214 (II) textbook fees;

1215 (III) laboratory fees;

1216 (IV) laboratory supplies; or

1217 (V) safety equipment;

1218 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1219 that:

1220 (I) a student is specifically required to wear as a condition of participation in a  
1221 school-related event or school-related activity; and

1222 (II) is not readily adaptable to general or continued usage to the extent that it takes the  
1223 place of ordinary clothing;

1224 (C) sales of the following if the net or gross revenues generated by the sales are  
1225 deposited into a school district fund or school fund dedicated to school meals:

1226 (I) food and food ingredients; or

1227 (II) prepared food; or

1228 (D) transportation charges for official school activities; or

1229 (ii) amounts paid to or amounts charged by a school for admission to a school-related  
1230 event or school-related activity.

1231 (b) "Sales relating to schools" does not include:

1232 (i) bookstore sales of items that are not educational materials or supplies;

1233 (ii) except as provided in Subsection (98)(a)(i)(B):

- 1234 (A) clothing;
- 1235 (B) clothing accessories or equipment;
- 1236 (C) protective equipment; or
- 1237 (D) sports or recreational equipment; or
- 1238 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1239 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1240 (A) other than a:
- 1241 (I) school;
- 1242 (II) nonprofit organization authorized by a school board or a governing body of a
- 1243 private school to organize and direct a competitive secondary school activity; or
- 1244 (III) nonprofit association authorized by a school board or a governing body of a
- 1245 private school to organize and direct a competitive secondary school activity; and
- 1246 (B) that is required to collect sales and use taxes under this chapter.
- 1247 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1248 commission may make rules defining the term "passed through."
- 1249 (99) For purposes of this section and Section 59-12-104, "school":
- 1250 (a) means:
- 1251 (i) an elementary school or a secondary school that:
- 1252 (A) is a:
- 1253 (I) public school; or
- 1254 (II) private school; and
- 1255 (B) provides instruction for one or more grades kindergarten through 12; or
- 1256 (ii) a public school district; and
- 1257 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1258 (100) "Seller" means a person that makes a sale, lease, or rental of:
- 1259 (a) tangible personal property;
- 1260 (b) a product transferred electronically; or
- 1261 (c) a service.

1262 (101) (a) "Semiconductor fabricating, processing, research, or development materials"  
1263 means tangible personal property or a product transferred electronically if the tangible personal  
1264 property or product transferred electronically is:

- 1265 (i) used primarily in the process of:
  - 1266 (A) (I) manufacturing a semiconductor;
  - 1267 (II) fabricating a semiconductor; or
  - 1268 (III) research or development of a:
    - 1269 (Aa) semiconductor; or
    - 1270 (Bb) semiconductor manufacturing process; or
    - 1271 (B) maintaining an environment suitable for a semiconductor; or
- 1272 (ii) consumed primarily in the process of:
  - 1273 (A) (I) manufacturing a semiconductor;
  - 1274 (II) fabricating a semiconductor; or
  - 1275 (III) research or development of a:
    - 1276 (Aa) semiconductor; or
    - 1277 (Bb) semiconductor manufacturing process; or
    - 1278 (B) maintaining an environment suitable for a semiconductor.
- 1279 (b) "Semiconductor fabricating, processing, research, or development materials"

1280 includes:

- 1281 (i) parts used in the repairs or renovations of tangible personal property or a product  
1282 transferred electronically described in Subsection (101)(a); or
- 1283 (ii) a chemical, catalyst, or other material used to:
  - 1284 (A) produce or induce in a semiconductor a:
    - 1285 (I) chemical change; or
    - 1286 (II) physical change;
    - 1287 (B) remove impurities from a semiconductor; or
    - 1288 (C) improve the marketable condition of a semiconductor.
- 1289 (102) "Senior citizen center" means a facility having the primary purpose of providing

1290 services to the aged as defined in Section 62A-3-101.

1291 (103) "Simplified electronic return" means the electronic return:

1292 (a) described in Section 318(C) of the agreement; and

1293 (b) approved by the governing board of the agreement.

1294 (104) "Solar energy" means the sun used as the sole source of energy for producing  
1295 electricity.

1296 (105) (a) "Sports or recreational equipment" means an item:

1297 (i) designed for human use; and

1298 (ii) that is:

1299 (A) worn in conjunction with:

1300 (I) an athletic activity; or

1301 (II) a recreational activity; and

1302 (B) not suitable for general use.

1303 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
1304 the commission shall make rules:

1305 (i) listing the items that constitute "sports or recreational equipment"; and

1306 (ii) that are consistent with the list of items that constitute "sports or recreational  
1307 equipment" under the agreement.

1308 (106) "State" means the state of Utah, its departments, and agencies.

1309 (107) "Storage" means any keeping or retention of tangible personal property or any  
1310 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except  
1311 sale in the regular course of business.

1312 (108) (a) Except as provided in Subsection (108) (d) or (e), "tangible personal  
1313 property" means personal property that:

1314 (i) may be:

1315 (A) seen;

1316 (B) weighed;

1317 (C) measured;

- 1318 (D) felt; or
- 1319 (E) touched; or
- 1320 (ii) is in any manner perceptible to the senses.
- 1321 (b) "Tangible personal property" includes:
- 1322 (i) electricity;
- 1323 (ii) water;
- 1324 (iii) gas;
- 1325 (iv) steam; or
- 1326 (v) prewritten computer software.
- 1327 (c) "Tangible personal property" includes the following regardless of whether the item
- 1328 is attached to real property:
- 1329 (i) a dishwasher;
- 1330 (ii) a dryer;
- 1331 (iii) a freezer;
- 1332 (iv) a microwave;
- 1333 (v) a refrigerator;
- 1334 (vi) a stove;
- 1335 (vii) a washer; or
- 1336 (viii) an item similar to Subsections (108)(c)(i) through (vii) as determined by the
- 1337 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1338 Rulemaking Act.
- 1339 (d) "Tangible personal property" does not include a product that is transferred
- 1340 electronically.
- 1341 (e) "Tangible personal property" does not include the following if attached to real
- 1342 property, regardless of whether the attachment to real property is only through a line that
- 1343 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by
- 1344 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1345 Rulemaking Act:



- 1346 (i) a hot water heater;
- 1347 (ii) a water filtration system; or
- 1348 (iii) a water softener system.

1349 (109) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon  
1350 and require further processing other than mechanical blending before becoming finished  
1351 petroleum products.

1352 (110) (a) "Telecommunications enabling or facilitating equipment, machinery, or  
1353 software" means an item listed in Subsection (110)(b) if that item is purchased or leased  
1354 primarily to enable or facilitate one or more of the following to function:

- 1355 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1356 (ii) telecommunications transmission equipment, machinery, or software.

1357 (b) The following apply to Subsection (110)(a):

- 1358 (i) a pole;
- 1359 (ii) software;
- 1360 (iii) a supplementary power supply;
- 1361 (iv) temperature or environmental equipment or machinery;
- 1362 (v) test equipment;
- 1363 (vi) a tower; or
- 1364 (vii) equipment, machinery, or software that functions similarly to an item listed in  
1365 Subsections (110)(b)(i) through (vi) as determined by the commission by rule made in  
1366 accordance with Subsection (110)(c).

1367 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1368 commission may by rule define what constitutes equipment, machinery, or software that  
1369 functions similarly to an item listed in Subsections (110)(b)(i) through (vi).

1370 (111) "Telecommunications equipment, machinery, or software required for 911  
1371 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.  
1372 Sec. 20.18.

1373 (112) "Telecommunications maintenance or repair equipment, machinery, or software"

1374 means equipment, machinery, or software purchased or leased primarily to maintain or repair  
1375 one or more of the following, regardless of whether the equipment, machinery, or software is  
1376 purchased or leased as a spare part or as an upgrade or modification to one or more of the  
1377 following:

- 1378 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1379 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1380 (c) telecommunications transmission equipment, machinery, or software.

1381 (113) (a) "Telecommunications service" means the electronic conveyance, routing, or  
1382 transmission of audio, data, video, voice, or any other information or signal to a point, or  
1383 among or between points.

1384 (b) "Telecommunications service" includes:

1385 (i) an electronic conveyance, routing, or transmission with respect to which a  
1386 computer processing application is used to act:

1387 (A) on the code, form, or protocol of the content;

1388 (B) for the purpose of electronic conveyance, routing, or transmission; and

1389 (C) regardless of whether the service:

1390 (I) is referred to as voice over Internet protocol service; or

1391 (II) is classified by the Federal Communications Commission as enhanced or value  
1392 added;

1393 (ii) an 800 service;

1394 (iii) a 900 service;

1395 (iv) a fixed wireless service;

1396 (v) a mobile wireless service;

1397 (vi) a postpaid calling service;

1398 (vii) a prepaid calling service;

1399 (viii) a prepaid wireless calling service; or

1400 (ix) a private communications service.

1401 (c) "Telecommunications service" does not include:

- 1402 (i) advertising, including directory advertising;
- 1403 (ii) an ancillary service;
- 1404 (iii) a billing and collection service provided to a third party;
- 1405 (iv) a data processing and information service if:
  - 1406 (A) the data processing and information service allows data to be:
    - 1407 (I) (Aa) acquired;
    - 1408 (Bb) generated;
    - 1409 (Cc) processed;
    - 1410 (Dd) retrieved; or
    - 1411 (Ee) stored; and
    - 1412 (II) delivered by an electronic transmission to a purchaser; and
  - 1413 (B) the purchaser's primary purpose for the underlying transaction is the processed
  - 1414 data or information;
- 1415 (v) installation or maintenance of the following on a customer's premises:
  - 1416 (A) equipment; or
  - 1417 (B) wiring;
- 1418 (vi) Internet access service;
- 1419 (vii) a paging service;
- 1420 (viii) a product transferred electronically, including:
  - 1421 (A) music;
  - 1422 (B) reading material;
  - 1423 (C) a ring tone;
  - 1424 (D) software; or
  - 1425 (E) video;
- 1426 (ix) a radio and television audio and video programming service:
  - 1427 (A) regardless of the medium; and
  - 1428 (B) including:
    - 1429 (I) furnishing conveyance, routing, or transmission of a television audio and video

- 1430 programming service by a programming service provider;
- 1431 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1432 (III) audio and video programming services delivered by a commercial mobile radio
- 1433 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1434 (x) a value-added nonvoice data service; or
- 1435 (xi) tangible personal property.
- 1436 (114) (a) "Telecommunications service provider" means a person that:
- 1437 (i) owns, controls, operates, or manages a telecommunications service; and
- 1438 (ii) engages in an activity described in Subsection (114)(a)(i) for the shared use with
- 1439 or resale to any person of the telecommunications service.
- 1440 (b) A person described in Subsection (114)(a) is a telecommunications service
- 1441 provider whether or not the Public Service Commission of Utah regulates:
- 1442 (i) that person; or
- 1443 (ii) the telecommunications service that the person owns, controls, operates, or
- 1444 manages.
- 1445 (115) (a) "Telecommunications switching or routing equipment, machinery, or
- 1446 software" means an item listed in Subsection (115)(b) if that item is purchased or leased
- 1447 primarily for switching or routing:
- 1448 (i) an ancillary service;
- 1449 (ii) data communications;
- 1450 (iii) voice communications; or
- 1451 (iv) telecommunications service.
- 1452 (b) The following apply to Subsection (115)(a):
- 1453 (i) a bridge;
- 1454 (ii) a computer;
- 1455 (iii) a cross connect;
- 1456 (iv) a modem;
- 1457 (v) a multiplexer;

- 1458 (vi) plug in circuitry;
- 1459 (vii) a router;
- 1460 (viii) software;
- 1461 (ix) a switch; or
- 1462 (x) equipment, machinery, or software that functions similarly to an item listed in
- 1463 Subsections (115)(b)(i) through (ix) as determined by the commission by rule made in
- 1464 accordance with Subsection (115)(c).

1465 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1466 commission may by rule define what constitutes equipment, machinery, or software that

1467 functions similarly to an item listed in Subsections (115)(b)(i) through (ix).

1468 (116) (a) "Telecommunications transmission equipment, machinery, or software"

1469 means an item listed in Subsection (116)(b) if that item is purchased or leased primarily for

1470 sending, receiving, or transporting:

- 1471 (i) an ancillary service;
  - 1472 (ii) data communications;
  - 1473 (iii) voice communications; or
  - 1474 (iv) telecommunications service.
- 1475 (b) The following apply to Subsection (116)(a):
- 1476 (i) an amplifier;
  - 1477 (ii) a cable;
  - 1478 (iii) a closure;
  - 1479 (iv) a conduit;
  - 1480 (v) a controller;
  - 1481 (vi) a duplexer;
  - 1482 (vii) a filter;
  - 1483 (viii) an input device;
  - 1484 (ix) an input/output device;
  - 1485 (x) an insulator;

- 1486 (xi) microwave machinery or equipment;
- 1487 (xii) an oscillator;
- 1488 (xiii) an output device;
- 1489 (xiv) a pedestal;
- 1490 (xv) a power converter;
- 1491 (xvi) a power supply;
- 1492 (xvii) a radio channel;
- 1493 (xviii) a radio receiver;
- 1494 (xix) a radio transmitter;
- 1495 (xx) a repeater;
- 1496 (xxi) software;
- 1497 (xxii) a terminal;
- 1498 (xxiii) a timing unit;
- 1499 (xxiv) a transformer;
- 1500 (xxv) a wire; or

1501 (xxvi) equipment, machinery, or software that functions similarly to an item listed in  
1502 Subsections (116)(b)(i) through (xxv) as determined by the commission by rule made in  
1503 accordance with Subsection (116)(c).

1504 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1505 commission may by rule define what constitutes equipment, machinery, or software that  
1506 functions similarly to an item listed in Subsections (116)(b)(i) through (xxv).

1507 (117) "Tobacco" means:

- 1508 (a) a cigarette;
- 1509 (b) a cigar;
- 1510 (c) chewing tobacco;
- 1511 (d) pipe tobacco; or
- 1512 (e) any other item that contains tobacco.

1513 (118) "Unassisted amusement device" means an amusement device, skill device, or

1514 ride device that is started and stopped by the purchaser or renter of the right to use or operate  
1515 the amusement device, skill device, or ride device.

1516 (119) (a) "Use" means the exercise of any right or power over tangible personal  
1517 property, a product transferred electronically, or a service under Subsection 59-12-103(1),  
1518 incident to the ownership or the leasing of that tangible personal property, product transferred  
1519 electronically, or service.

1520 (b) "Use" does not include the sale, display, demonstration, or trial of tangible  
1521 personal property, a product transferred electronically, or a service in the regular course of  
1522 business and held for resale.

1523 (120) "Value-added nonvoice data service" means a service:

1524 (a) that otherwise meets the definition of a telecommunications service except that a  
1525 computer processing application is used to act primarily for a purpose other than conveyance,  
1526 routing, or transmission; and

1527 (b) with respect to which a computer processing application is used to act on data or  
1528 information:

- 1529 (i) code;
- 1530 (ii) content;
- 1531 (iii) form; or
- 1532 (iv) protocol.

1533 (121) (a) Subject to Subsection (121)(b), "vehicle" means the following that are  
1534 required to be titled, registered, or titled and registered:

- 1535 (i) an aircraft as defined in Section 72-10-102;
- 1536 (ii) a vehicle as defined in Section 41-1a-102;
- 1537 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1538 (iv) a vessel as defined in Section 41-1a-102.

1539 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1540 (i) a vehicle described in Subsection (121)(a); or
- 1541 (ii) (A) a locomotive;

- 1542 (B) a freight car;
- 1543 (C) railroad work equipment; or
- 1544 (D) other railroad rolling stock.
- 1545 (122) "Vehicle dealer" means a person engaged in the business of buying, selling, or
- 1546 exchanging a vehicle as defined in Subsection (121).
- 1547 (123) (a) "Vertical service" means an ancillary service that:
- 1548 (i) is offered in connection with one or more telecommunications services; and
- 1549 (ii) offers an advanced calling feature that allows a customer to:
- 1550 (A) identify a caller; and
- 1551 (B) manage multiple calls and call connections.
- 1552 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 1553 conference bridging service.
- 1554 (124) (a) "Voice mail service" means an ancillary service that enables a customer to
- 1555 receive, send, or store a recorded message.
- 1556 (b) "Voice mail service" does not include a vertical service that a customer is required
- 1557 to have in order to utilize a voice mail service.
- 1558 (125) (a) Except as provided in Subsection (125)(b), "waste energy facility" means a
- 1559 facility that generates electricity:
- 1560 (i) using as the primary source of energy waste materials that would be placed in a
- 1561 landfill or refuse pit if it were not used to generate electricity, including:
- 1562 (A) tires;
- 1563 (B) waste coal; or
- 1564 (C) oil shale; and
- 1565 (ii) in amounts greater than actually required for the operation of the facility.
- 1566 (b) "Waste energy facility" does not include a facility that incinerates:
- 1567 (i) municipal solid waste;
- 1568 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1569 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.



1570 (126) "Watercraft" means a vessel as defined in Section 73-18-2.

1571 (127) "Wind energy" means wind used as the sole source of energy to produce  
1572 electricity.

1573 (128) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic  
1574 location by the United States Postal Service.

1575 Section 5. Section **59-12-211** is amended to read:

1576 **59-12-211. Definitions -- Location of certain transactions -- Reports to**  
1577 **commission -- Direct payment provision for a seller making certain purchases --**  
1578 **Exceptions.**

1579 (1) As used in this section:

1580 (a) (i) "Receipt" and "receive" mean:

1581 (A) taking possession of tangible personal property;

1582 (B) making first use of a service; or

1583 (C) for a product transferred electronically, the earlier of:

1584 (I) taking possession of the product transferred electronically; or

1585 (II) making first use of the product transferred electronically.

1586 (ii) "Receipt" and "receive" do not include possession by a shipping company on  
1587 behalf of a purchaser.

1588 (b) "Transportation equipment" means:

1589 (i) a locomotive or rail car that is used to carry a person or property in interstate  
1590 commerce;

1591 (ii) a truck or truck-tractor:

1592 (A) with a gross vehicle weight rating of 10,001 pounds or more;

1593 (B) registered under Section 41-1a-301; and

1594 (C) operated under the authority of a carrier authorized and certificated:

1595 (I) by the United States Department of Transportation or another federal authority; and

1596 (II) to engage in carrying a person or property in interstate commerce;

1597 (iii) a trailer, semitrailer, or passenger bus that is:

- 1598 (A) registered under Section 41-1a-301; and
- 1599 (B) operated under the authority of a carrier authorized and certificated:
- 1600 (I) by the United States Department of Transportation or another federal authority; and
- 1601 (II) to engage in carrying a person or property in interstate commerce;
- 1602 (iv) an aircraft that is operated by an air carrier authorized and certificated:
- 1603 (A) by the United States Department of Transportation or another federal or foreign
- 1604 authority; and
- 1605 (B) to engage in carrying a person or property in interstate commerce; or
- 1606 (v) a container designed for use on, or a component part attached or secured on, an
- 1607 item of equipment listed in[-] Subsections (1)(b)(i) through (iv).
- 1608 (2) Except as provided in Subsections (8) and (13), if tangible personal property, a
- 1609 product transferred electronically, or a service that is subject to taxation under this chapter is
- 1610 received by a purchaser at a business location of a seller, the location of the transaction is the
- 1611 business location of the seller.
- 1612 (3) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9),
- 1613 (11), and (13), if tangible personal property, a product transferred electronically, or a service
- 1614 that is subject to taxation under this chapter is not received by a purchaser at a business
- 1615 location of a seller, the location of the transaction is the location where the purchaser takes
- 1616 receipt of the tangible personal property or service.
- 1617 (4) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9),
- 1618 (11), and (13), if Subsection (2) or (3) does not apply, the location of the transaction is the
- 1619 location indicated by an address for or other information on the purchaser if:
- 1620 (a) the address or other information is available from the seller's business records; and
- 1621 (b) use of the address or other information from the seller's records does not constitute
- 1622 bad faith.
- 1623 (5) (a) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9),
- 1624 (11), and (13), if Subsection (2), (3), or (4) does not apply, the location of the transaction is
- 1625 the location indicated by an address for the purchaser if:

1626 (i) the address is obtained during the consummation of the transaction; and  
1627 (ii) use of the address described in Subsection (5)(a)(i) does not constitute bad faith.

1628 (b) An address used under Subsection (5)(a) includes the address of a purchaser's  
1629 payment instrument if no other address is available.

1630 (6) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9),  
1631 (11), and (13), if Subsection (2), (3), (4), or (5) does not apply or if a seller does not have  
1632 sufficient information to apply Subsection (2), (3), (4), or (5), the location of the transaction is  
1633 the location indicated by the address from which:

1634 (a) except as provided in Subsection (6)(b), for tangible personal property that is  
1635 subject to taxation under this chapter, the tangible personal property is shipped;

1636 (b) for computer software delivered electronically or for a product transferred  
1637 electronically that is subject to taxation under this chapter, the computer software or product  
1638 transferred electronically is first available for transmission by the seller; or

1639 (c) for a service that is subject to taxation under this chapter, the service is provided.

1640 (7) (a) For purposes of this Subsection (7), "shared ZIP Code" means a nine-digit ZIP  
1641 Code that is located within two or more local taxing jurisdictions.

1642 (b) If the location of a transaction determined under Subsections (3) through (6) is in a  
1643 shared ZIP Code, the location of the transaction is:

1644 (i) if there is only one local taxing jurisdiction that imposes the lowest agreement  
1645 combined tax rate for the shared ZIP Code, the local taxing jurisdiction that imposes the  
1646 lowest agreement combined tax rate; or

1647 (ii) if two or more local taxing jurisdictions impose the lowest agreement combined  
1648 tax rate for the shared ZIP Code, the local taxing jurisdiction that:

1649 (A) imposes the lowest agreement combined tax rate for the shared ZIP Code; and

1650 (B) has located within the local taxing jurisdiction the largest number of street  
1651 addresses within the shared ZIP Code.

1652 (c) ~~[For]~~ Notwithstanding any provision under this chapter authorizing or requiring  
1653 the imposition of a sales and use tax, for purposes of Subsection (7)(b), a seller shall collect a

1654 sales and use tax imposed under this chapter at the lowest agreement combined tax rate  
1655 imposed within the local taxing jurisdiction in which the transaction is located under  
1656 Subsection (7)(b) [~~notwithstanding~~].

- 1657        ~~[(i) Section 59-12-204;]~~
- 1658        ~~[(ii) Section 59-12-401;]~~
- 1659        ~~[(iii) Section 59-12-402;]~~
- 1660        ~~[(iv) Section 59-12-501;]~~
- 1661        ~~[(v) Section 59-12-502;]~~
- 1662        ~~[(vi) Section 59-12-703;]~~
- 1663        ~~[(vii) Section 59-12-802;]~~
- 1664        ~~[(viii) Section 59-12-804;]~~
- 1665        ~~[(ix) Section 59-12-1001;]~~
- 1666        ~~[(x) Section 59-12-1102;]~~
- 1667        ~~[(xi) Section 59-12-1302;]~~
- 1668        ~~[(xii) Section 59-12-1402;]~~
- 1669        ~~[(xiii) Section 59-12-1503;]~~
- 1670        ~~[(xiv) Section 59-12-1703; or]~~
- 1671        ~~[(xv) Section 59-12-1802;]~~

1672        (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
1673 the commission may make rules:

1674           (i) providing for the circumstances under which a seller has exercised due diligence in  
1675 determining the nine-digit ZIP Code for an address; or

1676           (ii) notwithstanding Subsection (7)(b), for determining the local taxing jurisdiction  
1677 within which a transaction is located if a seller is unable to determine the local taxing  
1678 jurisdiction within which the transaction is located under Subsection (7)(b).

1679           (8) The location of a transaction made with a direct payment permit described in  
1680 Section 59-12-107.1 is the location where receipt of the tangible personal property, product, or  
1681 service by the purchaser occurs.

1682 (9) The location of a purchase of direct mail is the location described in Subsection  
1683 (6), if the purchaser of the direct mail:

1684 (a) has not been issued a direct payment permit under Section 59-12-107.1; and

1685 (b) does not provide the seller the form or information described in Subsection  
1686 59-12-123(1).

1687 (10) (a) Except as provided in Subsection (10)(b), the location of a transaction  
1688 determined under Subsections (3) through (6), (8), or (9), is the local taxing jurisdiction within  
1689 which:

1690 (i) the nine-digit ZIP Code assigned to the location determined under Subsections (3)  
1691 through (6), (8), or (9) is located; or

1692 (ii) the five-digit ZIP Code assigned to the location determined under Subsections (3)  
1693 through (6), (8), or (9) is located if:

1694 (A) a nine-digit ZIP Code is not available for the location determined under  
1695 Subsections (3) through (6), (8), or (9); or

1696 (B) after exercising due diligence, a seller or certified service provider is unable to  
1697 determine a nine-digit ZIP Code for the location determined under Subsections (3) through  
1698 (6), (8), or (9).

1699 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
1700 the commission may make rules for determining the local taxing jurisdiction within which a  
1701 transaction is located if a seller or certified service provider is unable to determine the local  
1702 taxing jurisdiction within which the transaction is located under Subsection (10)(a).

1703 (11) (a) As used in this Subsection (11), "florist delivery transaction" means a  
1704 transaction commenced by a florist that transmits an order:

1705 (i) by:

1706 (A) telegraph;

1707 (B) telephone; or

1708 (C) a means of communication similar to Subsection (11)(a)(i)(A) or (B); and

1709 (ii) for delivery to another place:

- 1710 (A) in this state; or  
1711 (B) outside this state.
- 1712 (b) Notwithstanding Subsections (3) through (6), beginning on January 1, 2009, and  
1713 ending on December 31, 2009, the location of a florist delivery transaction is the business  
1714 location of the florist that commences the florist delivery transaction.
- 1715 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1716 commission may by rule:
- 1717 (i) define:
- 1718 (A) "business location"; and  
1719 (B) "florist";
- 1720 (ii) define what constitutes a means of communication similar to Subsection  
1721 (11)(a)(i)(A) or (B); and
- 1722 (iii) provide procedures for determining when a transaction is commenced.
- 1723 (12) (a) A tax collected under this chapter shall be reported to the commission on a  
1724 form that identifies the location of each transaction that occurs during the return filing period.
- 1725 (b) The form described in Subsection (12)(a) shall be filed with the commission as  
1726 required under this chapter.
- 1727 (13) This section does not apply to:
- 1728 (a) amounts charged by a seller for:
- 1729 (i) telecommunications service; or  
1730 (ii) the retail sale or transfer of:
- 1731 (A) a motor vehicle other than a motor vehicle that is transportation equipment;  
1732 (B) an aircraft other than an aircraft that is transportation equipment;  
1733 (C) a watercraft;  
1734 (D) a modular home;  
1735 (E) a manufactured home; or  
1736 (F) a mobile home; or  
1737 (iii) except as provided in Section 59-12-214, the lease or rental of tangible personal

- 1738 property other than tangible personal property that is transportation equipment;
- 1739 (b) a tax paid under this chapter:
- 1740 (i) by a seller; and
- 1741 (ii) for the seller's purchases; or
- 1742 (c) a retail sale of tangible personal property or a product transferred electronically if:
- 1743 (i) the seller receives the order for the tangible personal property or product transferred
- 1744 electronically in this state;
- 1745 (ii) receipt of the tangible personal property or product transferred electronically by the
- 1746 purchaser or the purchaser's donee occurs in this state;
- 1747 (iii) the location where receipt of the tangible personal property or product transferred
- 1748 electronically by the purchaser occurs is determined in accordance with Subsections (3)
- 1749 through (5); and
- 1750 (iv) at the time the seller receives the order, the record keeping system that the seller
- 1751 uses to calculate the proper amount of tax imposed under this chapter captures the location
- 1752 where the order is received.

1753 Section 6. Section **59-12-602** is amended to read:

1754 **59-12-602. Definitions.**

1755 As used in this part:

1756 (1) (a) Subject to Subsection (1)(b), "airport facility" means an airport of regional

1757 significance, as defined by the Transportation Commission by rule made in accordance with

1758 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1759 (b) "Airport facility" includes:

1760 (i) an appurtenance to an airport, including a fixed guideway [~~as defined in Section~~

1761 ~~59-12-1702~~] that provides transportation service to or from the airport;

1762 (ii) a control tower, including a radar system;

1763 (iii) a public area of an airport; or

1764 (iv) a terminal facility.

1765 (2) "Convention facility" means any publicly owned or operated convention center,

1766 sports arena, or other facility at which conventions, conferences, and other gatherings are held  
1767 and whose primary business or function is to host such conventions, conferences, and other  
1768 gatherings.

1769 (3) "Cultural facility" means any publicly owned or operated museum, theater, art  
1770 center, music hall, or other cultural or arts facility.

1771 (4) "Recreation facility" or "tourist facility" means any publicly owned or operated  
1772 park, campground, marina, dock, golf course, water park, historic park, monument,  
1773 planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.

1774 (5) (a) "Restaurant" includes any coffee shop, cafeteria, luncheonette, soda fountain,  
1775 or fast-food service where food is prepared for immediate consumption.

1776 (b) "Restaurant" does not include:

1777 (i) any retail establishment whose primary business or function is the sale of fuel or  
1778 food items for off-premise, but not immediate, consumption; and

1779 (ii) a theater that sells food items, but not a dinner theater.

1780 Section 7. Section **59-12-2003** is amended to read:

1781 **59-12-2003. Imposition -- Base -- Rate -- Revenues distributed to certain public**  
1782 **transit districts.**

1783 (1) Subject to the other provisions of this section and except as provided in Subsection  
1784 (2) or (4), beginning on July 1, 2008, the state shall impose a tax under this part on the  
1785 transactions described in Subsection 59-12-103(1) within a city, town, or the unincorporated  
1786 area of a county of the first or second class if, on January 1, 2008, there is a public transit  
1787 district within any portion of that county of the first or second class.

1788 (2) The state may not impose a tax under this part within a county of the first or  
1789 second class if within all of the cities, towns, and the unincorporated area of the county of the  
1790 first or second class there is imposed a sales and use tax of:

1791 (a) .30% under Section [~~59-12-501~~] 59-12-2213;

1792 (b) .30% under Section [~~59-12-1001~~] 59-12-2215; or

1793 (c) .30% under Section [~~59-12-1503~~] 59-12-2216.



1794 (3) (a) Subject to Subsection (3)(b), if the state imposes a tax under this part, the tax  
1795 rate imposed within a city, town, or the unincorporated area of a county of the first or second  
1796 class is a percentage equal to the difference between:

1797 (i) .30%; and

1798 (ii) (A) for a city within the county of the first or second class, the highest tax rate  
1799 imposed within that city under:

1800 (I) Section [~~59-12-501~~] 59-12-2213;

1801 (II) Section [~~59-12-1001~~] 59-12-2215; or

1802 (III) Section [~~59-12-1503~~] 59-12-2216;

1803 (B) for a town within the county of the first or second class, the highest tax rate  
1804 imposed within that town under:

1805 (I) Section [~~59-12-501~~] 59-12-2213;

1806 (II) Section [~~59-12-1001~~] 59-12-2215; or

1807 (III) Section [~~59-12-1503~~] 59-12-2216; or

1808 (C) for the unincorporated area of the county of the first or second class, the highest  
1809 tax rate imposed within that unincorporated area under:

1810 (I) Section [~~59-12-501~~] 59-12-2213;

1811 (II) Section [~~59-12-1001~~] 59-12-2215; or

1812 (III) Section [~~59-12-1503~~] 59-12-2216.

1813 (b) For purposes of Subsection (3)(a), if for a city, town, or the unincorporated area of  
1814 a county of the first or second class, the highest tax rate imposed under Section [~~59-12-501~~]  
1815 59-12-2213, [~~59-12-1001~~] 59-12-2215, or [~~59-12-1503~~] 59-12-2216 within that city, town, or  
1816 unincorporated area of the county of the first or second class is .30%, the state may not impose  
1817 a tax under this part within that city, town, or unincorporated area.

1818 (4) (a) The state may not impose a tax under this part on:

1819 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
1820 are exempt from taxation under Section 59-12-104; or

1821 (ii) except as provided in Subsection (4)(b), amounts paid or charged for food and

1822 food ingredients.

1823 (b) The state shall impose a tax under this part on amounts paid or charged for food  
1824 and food ingredients if the food and food ingredients are sold as part of a bundled transaction  
1825 attributable to food and ingredients and tangible personal property other than food and food  
1826 ingredients.

1827 (5) For purposes of Subsection (1), the location of a transaction shall be determined in  
1828 accordance with Sections 59-12-211 through 59-12-215.

1829 (6) The commission shall distribute the revenues the state collects from the sales and  
1830 use tax under this part, after subtracting amounts a seller retains in accordance with Section  
1831 59-12-108, to the public transit districts within the cities, towns, and unincorporated areas:

1832 (a) within which the state imposes a tax under this part; and

1833 (b) in proportion to the revenues collected from the sales and use tax under this part  
1834 within each city, town, and unincorporated area within which the state imposes a tax under  
1835 this part.

1836 Section 8. Section **59-12-2201** is enacted to read:

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

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

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

1840 Section 9. Section **59-12-2202** is enacted to read:

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

As used in this part:

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

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

(3) "Airport of regional significance" means an airport identified by the Federal  
1846 Aviation Administration in the most current National Plan of Integrated Airport Systems or an  
1847 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

- 1850 (b) a city or town under Title 10, Chapter 2, Part 4, Annexation.
- 1851 (5) "Annexing area" means an area that is annexed into a county, city, or town.
- 1852 (6) "Council of governments" is as defined in Section 72-2-117.5.
- 1853 (7) "Fixed guideway" is as defined in Section 59-12-102.
- 1854 (8) "Major collector highway" is as defined in Section 72-4-102.5.
- 1855 (9) "Metropolitan planning organization" is as defined in Section 72-1-208.5.
- 1856 (10) "Minor arterial highway" is as defined in Section 72-4-102.5.
- 1857 (11) "Minor collector road" is as defined in Section 72-4-102.5.
- 1858 (12) "Principal arterial highway" is as defined in Section 72-4-102.5.
- 1859 (13) "Regionally significant transportation facility" means:
- 1860 (a) in a county of the first or second class:
- 1861 (i) a principal arterial highway;
- 1862 (ii) a minor arterial highway;
- 1863 (iii) a fixed guideway that:
- 1864 (A) extends across two or more cities or unincorporated areas; or
- 1865 (B) is an extension to an existing fixed guideway; or
- 1866 (iv) an airport of regional significance; or
- 1867 (b) in a county of the third, fourth, fifth, or sixth class:
- 1868 (i) a principal arterial highway;
- 1869 (ii) a minor arterial highway;
- 1870 (iii) a major collector highway;
- 1871 (iv) a minor collector road; or
- 1872 (v) an airport of regional significance.
- 1873 (14) "State highway" means a highway designated as a state highway under Title 72,
- 1874 Chapter 4, Designation of State Highways Act.
- 1875 (15) (a) Subject to Subsection (15)(b), "system for public transit" has the same
- 1876 meaning as "public transit" as defined in Section 17B-2a-802.
- 1877 (b) "System for public transit" includes:

1878 (i) the following costs related to public transit:

1879 (A) maintenance costs; or

1880 (B) operating costs;

1881 (ii) a fixed guideway;

1882 (iii) a park and ride facility;

1883 (iv) a passenger station or passenger terminal;

1884 (v) a right-of-way for public transit; or

1885 (vi) the following that serve a public transit facility:

1886 (A) a maintenance facility;

1887 (B) a platform;

1888 (C) a repair facility;

1889 (D) a roadway;

1890 (E) a storage facility;

1891 (F) a utility line; or

1892 (G) a facility or item similar to Subsections (15)(b)(vi)(A) through (F).

1893 Section 10. Section **59-12-2203** is enacted to read:

1894 **59-12-2203. Authority to impose a sales and use tax under this part.**

1895 (1) As provided in this Subsection (1), one of the following sales and use taxes may be  
1896 imposed within the boundaries of a local taxing jurisdiction:

1897 (a) a county, city, or town may impose the sales and use tax authorized by Section  
1898 59-12-2213 in accordance with Section 59-12-2213; or

1899 (b) a city or town may impose the sales and use tax authorized by Section 59-12-2215  
1900 in accordance with Section 59-12-2215.

1901 (2) As provided in this Subsection (2), one of the following sales and use taxes may be  
1902 imposed within the boundaries of a local taxing jurisdiction:

1903 (a) a county, city, or town may impose the sales and use tax authorized by Section  
1904 59-12-2214 in accordance with Section 59-12-2214; or

1905 (b) a county may impose the sales and use tax authorized by Section 59-12-2216 in

1906 accordance with Section 59-12-2216.

1907 (3) As provided in this Subsection (3), one of the following sales and use taxes may be  
1908 imposed within the boundaries of a local taxing jurisdiction:

1909 (a) a county may impose the sales and use tax authorized by Section 59-12-2217 in  
1910 accordance with Section 59-12-2217; or

1911 (b) a county, city, or town may impose the sales and use tax authorized by Section  
1912 59-12-2218 in accordance with Section 59-12-2218.

1913 Section 11. Section **59-12-2204** is enacted to read:

1914 **59-12-2204. Transactions that may not be subject to taxation under this part --**  
1915 **Exception for food and food ingredients sold as part of a bundled transaction.**

1916 (1) A county, city, or town may not impose a sales and use tax under this part on:

1917 (a) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
1918 are exempt from taxation under Section 59-12-104; and

1919 (b) except as provided in Subsection (2), amounts paid or charged for food and food  
1920 ingredients.

1921 (2) A county, city, or town imposing a sales and use tax under this part shall impose  
1922 the sales and use tax on amounts paid or charged for food and food ingredients if the food and  
1923 food ingredients are sold as part of a bundled transaction attributable to food and food  
1924 ingredients and tangible personal property other than food and food ingredients.

1925 Section 12. Section **59-12-2205** is enacted to read:

1926 **59-12-2205. Determination of the location of a transaction.**

1927 For purposes of this part, the location of a transaction shall be determined in  
1928 accordance with Sections 59-12-211 through 59-12-215.

1929 Section 13. Section **59-12-2206** is enacted to read:

1930 **59-12-2206. Administration, collection, and enforcement of a sales and use tax**  
1931 **under this part -- Transmission of revenues monthly by electronic funds transfer --**  
1932 **Transfer of revenues to a public transit district.**

1933 (1) Except as provided in Subsection (2), the commission shall administer, collect, and

1934 enforce a sales and use tax imposed under this part.

1935 (2) The commission shall administer, collect, and enforce a sales and use tax imposed  
1936 under this part in accordance with:

1937 (a) the same procedures used to administer, collect, and enforce a tax under:

1938 (i) Part 1, Tax Collection; or

1939 (ii) Part 2, Local Sales and Use Tax Act; and

1940 (b) Chapter 1, General Taxation Policies.

1941 (3) A sales and use tax under this part is not subject to Subsections 59-12-205(2)  
1942 through (6).

1943 (4) Subject to Section 59-12-2207 and except as provided in Subsection (5) or another  
1944 provision of this part, the state treasurer shall transmit revenues collected within a county, city,  
1945 or town from a sales and use tax under this part to the county, city, or town legislative body  
1946 monthly by electronic funds transfer.

1947 (5) Subject to Section 59-12-2207, the state treasurer shall transfer revenues collected  
1948 within a county, city, or town from a sales and use tax under this part directly to a public  
1949 transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act, if the  
1950 county, city, or town legislative body:

1951 (a) provides written notice to the state treasurer requesting the transfer; and

1952 (b) designates the public transit district to which the county, city, or town legislative  
1953 body requests the state treasurer to transfer the revenues.

1954 Section 14. Section **59-12-2207** is enacted to read:

1955 **59-12-2207. Commission authority to retain a percentage of revenues collected**  
1956 **from a sales and use tax under this part -- Deposit of revenues into the Sales and Use Tax**  
1957 **Administrative Fees Account -- Expenditure of revenues.**

1958 (1) The commission may retain a percentage of revenues collected from a sales and  
1959 use tax under this part of not to exceed the lesser of:

1960 (a) 1.50%; or

1961 (b) a percentage of revenues collected from a sales and use tax under this part

1962 sufficient to cover the cost to the commission of administering this part.

1963 (2) The commission shall:

1964 (a) deposit any revenues the commission retains under Subsection (1) into the Sales  
1965 and Use Tax Administrative Fees Account; and

1966 (b) expend the revenues described in Subsection (2)(a) as provided in Subsection  
1967 59-12-206(2).

1968 Section 15. Section **59-12-2208** is enacted to read:

1969 **59-12-2208. Legislative body approval requirements -- Voter approval**  
1970 **requirements.**

1971 (1) Subject to the other provisions of this section, before imposing a sales and use tax  
1972 under this part, a county, city, or town legislative body shall:

1973 (a) obtain approval to impose the sales and use tax from a majority of the members of  
1974 the county, city, or town legislative body; and

1975 (b) submit an opinion question to the county's, city's, or town's registered voters voting  
1976 on the imposition of the sales and use tax so that each registered voter has the opportunity to  
1977 express the registered voter's opinion on whether a sales and use tax should be imposed under  
1978 this section.

1979 (2) The opinion question required by this section shall state:

1980 "Shall (insert the name of the county, city, or town), Utah, be authorized to impose a  
1981 (insert the tax rate of the sales and use tax) sales and use tax for (list the purposes for which  
1982 the revenues collected from the sales and use tax shall be expended)?"

1983 (3) (a) Subject to Subsection (3)(b), the election required by this section shall be held:

1984 (i) at a regular general election conducted in accordance with the procedures and  
1985 requirements of Title 20A, Election Code, governing regular general elections; or

1986 (ii) at a municipal general election conducted in accordance with the procedures and  
1987 requirements of Section 20A-1-202.

1988 (b) (i) Subject to Subsection (3)(b)(ii), the county clerk of the county in which the  
1989 opinion question required by this section will be submitted to registered voters shall, no later

1990 than 15 days before the date of the election:  
1991        (A) publish a notice:  
1992        (I) once in a newspaper published in that county; and  
1993        (II) as required in Section 45-1-101; or  
1994        (B) (I) cause a copy of the notice to be posted in a conspicuous place most likely to  
1995 give notice of the election to the registered voters voting on the imposition of the sales and use  
1996 tax; and  
1997        (II) prepare an affidavit of that posting, showing a copy of the notice and the places  
1998 where the notice was posted.  
1999        (ii) The notice under Subsection (3)(b)(i) shall:  
2000        (A) state that an opinion question will be submitted to the county's, city's, or town's  
2001 registered voters voting on the imposition of a sales and use tax under this section so that each  
2002 registered voter has the opportunity to express the registered voter's opinion on whether a sales  
2003 and use tax should be imposed under this section; and  
2004        (B) list the purposes for which the revenues collected from the sales and use tax shall  
2005 be expended.  
2006        (4) A county, city, or town that submits an opinion question to registered voters under  
2007 this section is subject to Section 20A-11-1203.  
2008        (5) Subject to Section 59-12-2209, if a county, city, or town legislative body  
2009 determines that a majority of the county's, city's, or town's registered voters voting on the  
2010 imposition of a sales and use tax under this part have voted in favor of the imposition of the  
2011 sales and use tax in accordance with this section, the county, city, or town legislative body  
2012 shall impose the sales and use tax.  
2013        (6) If, after imposing a sales and use tax under this part, a county, city, or town  
2014 legislative body seeks to impose a tax rate for the sales and use tax that exceeds or is less than  
2015 the tax rate stated in the opinion question described in Subsection (2) or repeals the tax rate  
2016 stated in the opinion question described in Subsection (2), the county, city, or town legislative  
2017 body shall:



2018            (a) obtain approval from a majority of the members of the county, city, or town  
2019 legislative body to impose a tax rate for the sales and use tax that exceeds or is less than the  
2020 tax rate stated in the opinion question described in Subsection (2) or repeals the tax rate stated  
2021 in the opinion question described in Subsection (2); and

2022            (b) in accordance with the procedures and requirements of this section, submit an  
2023 opinion question to the county's, city's, or town's registered voters voting on the tax rate so that  
2024 each registered voter has the opportunity to express the registered voter's opinion on whether  
2025 to impose a tax rate for the sales and use tax that exceeds or is less than the tax rate stated in  
2026 the opinion question described in Subsection (2) or repeal the tax rate stated in the opinion  
2027 question described in Subsection (2).

2028            Section 16. Section **59-12-2209** is enacted to read:

2029            **59-12-2209. Enactment, repeal, or change in the rate of a sales and use tax under**  
2030 **this part -- Annexation -- Notice.**

2031            (1) Except as provided in Subsection (3) or (4), if a county, city, or town enacts or  
2032 repeals a sales and use tax or changes the rate of a sales and use tax under this part, the  
2033 enactment, repeal, or change shall take effect:

2034            (a) on the first day of a calendar quarter; and

2035            (b) after a 90-day period beginning on the date the commission receives notice  
2036 meeting the requirements of Subsection (2) from the county, city, or town.

2037            (2) The notice described in Subsection (1)(b) shall state:

2038            (a) that the county, city, or town will enact, repeal, or change the rate of a sales and  
2039 use tax under this part;

2040            (b) the statutory authority for the sales and use tax described in Subsection (2)(a);

2041            (c) the date the enactment, repeal, or change will take effect; and

2042            (d) if the county, city, or town enacts the sales and use tax or changes the rate of the  
2043 sales and use tax described in Subsection (2)(a), the rate of the sales and use tax.

2044            (3) (a) If the billing period for a transaction begins before the effective date of the  
2045 enactment of a sales and use tax or a tax rate increase under this part, the enactment of the

2046 sales and use tax or the tax rate increase shall take effect on the first day of the first billing  
2047 period that begins after the effective date of the enactment of the sales and use tax or the tax  
2048 rate increase.

2049 (b) If the billing period for a transaction begins before the effective date of the repeal  
2050 of a sales and use tax or a tax rate decrease under this part, the repeal of the sales and use tax  
2051 or the tax rate decrease shall take effect on the first day of the last billing period that began  
2052 before the effective date of the repeal of the sales and use tax or the tax rate decrease.

2053 (4) (a) If a sales and use tax due under this part on a catalogue sale is computed on the  
2054 basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in  
2055 the rate of a sales and use tax described in Subsection (1) takes effect:

2056 (i) on the first day of a calendar quarter; and

2057 (ii) beginning 60 days after the effective date of the enactment, repeal, or change in  
2058 the rate of the sales and use tax under Subsection (1).

2059 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
2060 the commission may by rule define the term "catalogue sale."

2061 (5) Except as provided in Subsection (7) or (8), if an annexation will result in the  
2062 enactment, repeal, or change in the rate of a sales and use tax under this part for an annexing  
2063 area, the enactment, repeal, or change shall take effect:

2064 (a) on the first day of a calendar quarter; and

2065 (b) after a 90-day period beginning on the date the commission receives notice  
2066 meeting the requirements of Subsection (6) from the county, city, or town that annexes the  
2067 annexing area.

2068 (6) The notice described in Subsection (5) shall state:

2069 (a) that the annexation described in Subsection (5) will result in an enactment, repeal,  
2070 or change in the rate of a sales and use tax under this part for the annexing area;

2071 (b) the statutory authority for the sales and use tax described in Subsection (6)(a);

2072 (c) the date the enactment, repeal, or change will take effect; and

2073 (d) if the annexation will result in the enactment or change in the rate of the sales and

2074 use tax described in Subsection (6)(a), the rate of the sales and use tax.

2075 (7) (a) If the billing period for a transaction begins before the effective date of the  
2076 enactment of a sales and use tax or a tax rate increase under this part, the enactment of the  
2077 sales and use tax or the tax rate increase shall take effect on the first day of the first billing  
2078 period that begins after the effective date of the enactment of the sales and use tax or the tax  
2079 rate increase.

2080 (b) If the billing period for a transaction begins before the effective date of the repeal  
2081 of a sales and use tax or a tax rate decrease under this part, the repeal of the sales and use tax  
2082 or the tax rate decrease shall take effect on the first day of the last billing period that began  
2083 before the effective date of the repeal of the sales and use tax or the tax rate decrease.

2084 (8) (a) If a sales and use tax due under this part on a catalogue sale is computed on the  
2085 basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in  
2086 the rate of a sales and use tax described in Subsection (6) takes effect:

2087 (i) on the first day of a calendar quarter; and

2088 (ii) beginning 60 days after the effective date of the enactment, repeal, or change in  
2089 the rate of the sales and use tax under Subsection (6).

2090 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
2091 the commission may by rule define the term "catalogue sale."

2092 Section 17. Section **59-12-2210** is enacted to read:

2093 **59-12-2210. Seller or certified service provider reliance on commission**  
2094 **information.**

2095 A seller or certified service provider is not liable for failing to collect a sales and use  
2096 tax at a tax rate imposed under this part if the seller's or certified service provider's failure to  
2097 collect the sales and use tax is as a result of the seller's or certified service provider's reliance  
2098 on incorrect data provided by the commission in a database created by the commission:

2099 (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

2100 (2) indicating the taxability of tangible personal property, a product transferred  
2101 electronically, or a service.

2102 Section 18. Section **59-12-2211** is enacted to read:

2103 **59-12-2211. Certified service provider or model 2 seller reliance on commission**  
2104 **certified software.**

2105 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified  
2106 service provider or model 2 seller is not liable for failing to collect a sales and use tax required  
2107 under this part if:

2108 (a) the certified service provider or model 2 seller relies on software the commission  
2109 certifies; and

2110 (b) the certified service provider's or model 2 seller's failure to collect a sales and use  
2111 tax required under this part is as a result of the seller's or certified service provider's reliance  
2112 on incorrect data:

2113 (i) provided by the commission; or

2114 (ii) in the software the commission certifies.

2115 (2) The relief from liability described in Subsection (1) does not apply if a certified  
2116 service provider or model 2 seller incorrectly classifies an item or transaction into a product  
2117 category the commission certifies.

2118 (3) If the taxability of a product category is incorrectly classified in software the  
2119 commission certifies, the commission shall:

2120 (a) notify a certified service provider or model 2 seller of the incorrect classification of  
2121 the taxability of a product category in software the commission certifies; and

2122 (b) state in the notice required by Subsection (3)(a) that the certified service provider  
2123 or model 2 seller is liable for failing to collect the correct amount of sales and use tax under  
2124 this part on the incorrectly classified product category if the certified service provider or model  
2125 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on  
2126 which the certified service provider or model 2 seller receives the notice.

2127 (4) If a certified service provider or model 2 seller fails to correct the taxability of an  
2128 item or transaction within 10 days after the day on which the certified service provider or  
2129 model 2 seller receives the notice described in Subsection (3), the certified service provider or

2130 model 2 seller is liable for failing to collect the correct amount of tax under this part on the  
2131 item or transaction.

2132 Section 19. Section **59-12-2212** is enacted to read:

2133 **59-12-2212. Purchaser relief from liability.**

2134 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty  
2135 under Section 59-1-401 for failure to pay a sales and use tax due under this part or an  
2136 underpayment if:

2137 (i) the purchaser's seller or certified service provider relies on incorrect data provided  
2138 by the commission:

2139 (A) on a tax rate;

2140 (B) on a boundary;

2141 (C) on a taxing jurisdiction; or

2142 (D) in the taxability matrix the commission provides in accordance with the  
2143 agreement; or

2144 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in  
2145 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

2146 (A) on a tax rate;

2147 (B) on a boundary;

2148 (C) on a taxing jurisdiction; or

2149 (D) in the taxability matrix the commission provides in accordance with the  
2150 agreement.

2151 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under  
2152 Section 59-1-401 for failure to pay a sales and use tax due under this part or an underpayment  
2153 if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance  
2154 on incorrect data provided by the commission is as a result of conduct that is:

2155 (i) fraudulent;

2156 (ii) intentional; or

2157 (iii) willful.

2158           (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is  
2159 not liable for a tax or interest under Section 59-1-402 for failure to pay a sales and use tax due  
2160 under this part or an underpayment if:

2161           (a) the purchaser's seller or certified service provider relies on:

2162           (i) incorrect data provided by the commission:

2163           (A) on a tax rate;

2164           (B) on a boundary; or

2165           (C) on a taxing jurisdiction; or

2166           (ii) an erroneous classification by the commission:

2167           (A) in the taxability matrix the commission provides in accordance with the  
2168 agreement; and

2169           (B) with respect to a term:

2170           (I) in the library of definitions; and

2171           (II) that is:

2172           (Aa) listed as taxable or exempt;

2173           (Bb) included in or excluded from "sales price"; or

2174           (Cc) included in or excluded from a definition; or

2175           (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in  
2176 accordance with Section 59-12-107.1, relies on:

2177           (i) incorrect data provided by the commission;

2178           (A) on a tax rate;

2179           (B) on a boundary; or

2180           (C) on a taxing jurisdiction; or

2181           (ii) an erroneous classification by the commission:

2182           (A) in the taxability matrix the commission provides in accordance with the  
2183 agreement; and

2184           (B) with respect to a term:

2185           (I) in the library of definitions; and

- 2186 (II) that is:
- 2187 (Aa) listed as taxable or exempt;
- 2188 (Bb) included in or excluded from "sales price"; or
- 2189 (Cc) included in or excluded from a definition.

2190 Section 20. Section **59-12-2212.1** is enacted to read:

2191 **59-12-2212.1. Transition provisions.**

2192 Notwithstanding any other provision of this part, a county, city, or town legislative  
2193 body is not required to submit an opinion question to the county's, city's, or town's registered  
2194 voters in accordance with Section 59-12-2208 and is not required to provide notice to the  
2195 commission in accordance with Section 59-12-2209 if:

2196 (1) (a) on June 30, 2010, a county, city, or town imposes a sales and use tax under  
2197 Section 59-12-501 that is repealed by this bill;

2198 (b) on July 1, 2010, the authority for the county, city, or town to impose the sales and  
2199 use tax described in Subsection (1)(a) is transferred to Section 59-12-2213; and

2200 (c) the rate of the sales and use tax described under Subsection (1)(a) and the rate of  
2201 the sales and use tax the county, city, or town imposes under Section 59-12-2213 are the same;

2202 (2) (a) on June 30, 2010, a county, city, or town imposes a sales and use tax under  
2203 Section 59-12-502 that is repealed by this bill;

2204 (b) on July 1, 2010, the authority for the county, city, or town to impose the sales and  
2205 use tax described in Subsection (2)(a) is transferred to Section 59-12-2214; and

2206 (c) the rate of the sales and use tax described under Subsection (2)(a) and the rate of  
2207 the sales and use tax the county, city, or town imposes under Section 59-12-2214 are the same;

2208 (3) (a) on June 30, 2010, a city or town imposes a sales and use tax under Section  
2209 59-12-1001 that is repealed by this bill;

2210 (b) on July 1, 2010, the authority for the city or town to impose the sales and use tax  
2211 described in Subsection (3)(a) is transferred to Section 59-12-2215; and

2212 (c) the rate of the sales and use tax described under Subsection (3)(a) and the rate of  
2213 the sales and use tax the city or town imposes under Section 59-12-2215 are the same;

2214 (4) (a) on June 30, 2010, a county imposes a sales and use tax under Section  
2215 59-12-1503 that is repealed by this bill;

2216 (b) on July 1, 2010, the authority for the county to impose the sales and use tax  
2217 described in Subsection (4)(a) is transferred to Section 59-12-2216; and

2218 (c) the rate of the sales and use tax described under Subsection (4)(a) and the rate of  
2219 the sales and use tax the county imposes under Section 59-12-2216 are the same;

2220 (5) (a) on June 30, 2010, a county imposes a sales and use tax under Section  
2221 59-12-1703 that is repealed by this bill;

2222 (b) on July 1, 2010, the authority for the county to impose the sales and use tax  
2223 described in Subsection (5)(a) is transferred to Section 59-12-2217; and

2224 (c) the rate of the sales and use tax described under Subsection (5)(a) and the rate of  
2225 the sales and use tax the county imposes under Section 59-12-2217 are the same; and

2226 (6) (a) on June 30, 2010, a county, city, or town imposes a sales and use tax under  
2227 Section 59-12-1903 that is repealed by this bill;

2228 (b) on July 1, 2010, the authority for the county, city, or town to impose the sales and  
2229 use tax described in Subsection (6)(a) is transferred to Section 59-12-2218; and

2230 (c) the rate of the sales and use tax described under Subsection (6)(a) and the rate of  
2231 the sales and use tax the county, city, or town imposes under Section 59-12-2218 are the same.

2232 Section 21. Section **59-12-2213** is enacted to read:

2233 **59-12-2213. County, city, or town option sales and use tax to fund a system for**  
2234 **public transit -- Base -- Rate.**

2235 Subject to the other provisions of this part, a county, city, or town may impose a sales  
2236 and use tax under this section of up to:

2237 (1) for a county, city, or town other than a county, city, or town described in  
2238 Subsection (2), .25% on the transactions described in Subsection 59-12-103(1) located within  
2239 the county, city, or town to fund a system for public transit; or

2240 (2) for a county, city, or town within which a tax is not imposed under Section  
2241 59-12-2216, .30% on the transactions described in Subsection 59-12-103(1) located within the



2242 county, city, or town, to fund a system for public transit.

2243 Section 22. Section **59-12-2214** is enacted to read:

2244 **59-12-2214. County, city, or town option sales and use tax to fund a system for**  
2245 **public transit, an airport facility, or to be deposited into the County of the First Class**  
2246 **State Highway Projects Fund -- Base -- Rate -- Voter approval exception.**

2247 (1) Subject to the other provisions of this part, a county, city, or town may impose a  
2248 sales and use tax of .25% on the transactions described in Subsection 59-12-103(1) located  
2249 within the county, city, or town.

2250 (2) Subject to Subsection (3), a county, city, or town that imposes a sales and use tax  
2251 under this section shall expend the revenues collected from the sales and use tax:

2252 (a) to fund a system for public transit;

2253 (b) to fund a project or service related to an airport facility for the portion of the  
2254 project or service that is performed within the county, city, or town within which the sales and  
2255 use tax is imposed:

2256 (i) for a county that imposes the sales and use tax, if the airport facility is part of the  
2257 regional transportation plan of the area metropolitan planning organization if a metropolitan  
2258 planning organization exists for the area; or

2259 (ii) for a city or town that imposes the sales and use tax, if:

2260 (A) that city or town is located within a county of the second class;

2261 (B) that city or town owns or operates the airport facility; and

2262 (C) an airline is headquartered in that city or town; or

2263 (c) for a combination of Subsections (2)(a) and (b).

2264 (3) A county of the first class that imposes a sales and use tax under this section shall  
2265 expend the revenues collected from the sales and use tax as follows:

2266 (a) 80% of the revenues collected from the sales and use tax shall be expended to fund  
2267 a system for public transit; and

2268 (b) 20% of the revenues collected from the sales and use shall be deposited into the  
2269 County of the First Class State Highway Projects Fund created by Section 72-2-121.

2270 (4) Notwithstanding Section 59-12-2208, a county, city, or town legislative body is  
2271 not required to submit an opinion question to the county's, city's, or town's registered voters in  
2272 accordance with Section 59-12-2208 to impose a sales and use tax under this section if:

2273 (a) the county, city, or town imposes the sales and use tax under this section on or  
2274 after July 1, 2010, but on or before July 1, 2011;

2275 (b) on July 1, 2010, the county, city, or town imposes a sales and use tax under:

2276 (i) Section 59-12-2213; or

2277 (ii) Section 59-12-2215; and

2278 (c) the county, city, or town obtained voter approval to impose the sales and use tax  
2279 under:

2280 (i) Section 59-12-2213; or

2281 (ii) Section 59-12-2215.

2282 Section 23. Section **59-12-2215** is enacted to read:

2283 **59-12-2215. City or town option sales and use tax for highways or to fund a**  
2284 **system for public transit -- Base -- Rate.**

2285 (1) Subject to the other provisions of this part, a city or town may impose a sales and  
2286 use tax of up to .30% on the transactions described in Subsection 59-12-103(1) located within  
2287 the city or town.

2288 (2) A city or town imposing a sales and use tax under this section shall expend the  
2289 revenues collected from the sales and use tax:

2290 (a) for the construction and maintenance of highways under the jurisdiction of the city  
2291 or town imposing the tax;

2292 (b) to fund a system for public transit; or

2293 (c) for a combination of Subsections (2)(a) and (b).

2294 Section 24. Section **59-12-2216** is enacted to read:

2295 **59-12-2216. County option sales and use tax for a fixed guideway, to fund a**  
2296 **system for public transit, or for highways -- Base -- Rate -- Allocation and expenditure of**  
2297 **revenues.**

2298           (1) Subject to the other provisions of this part, a county legislative body may impose a  
2299 sales and use tax of up to .30% on the transactions described in Subsection 59-12-103(1)  
2300 within the county, including the cities and towns within the county.

2301           (2) Subject to Subsection (3), before obtaining voter approval in accordance with  
2302 Section 59-12-2208, a county legislative body shall adopt a resolution specifying the  
2303 percentage of revenues the county will receive from the sales and use tax under this section  
2304 that will be allocated to fund one or more of the following:

2305           (a) a project or service relating to a fixed guideway for the portion of the project or  
2306 service that is performed within the county;

2307           (b) a project or service relating to a system for public transit, except for a fixed  
2308 guideway, for the portion of the project or service that is performed within the county;

2309           (c) the following relating to a state highway within the county:

2310           (i) a project within the county if the project:

2311           (A) begins on or after the day on which a county legislative body imposes a tax under  
2312 this section; and

2313           (B) involves an environmental study, an improvement, new construction, or a  
2314 renovation;

2315           (ii) debt service on a project described in Subsection (2)(c)(i); or

2316           (iii) bond issuance costs related to a project described in Subsection (2)(c)(i); or

2317           (d) a project, debt service, or bond issuance cost described in Subsection (2)(c)  
2318 relating to a highway that is:

2319           (i) a principal arterial highway or minor arterial highway;

2320           (ii) included in a metropolitan planning organization's regional transportation plan;

2321 and

2322           (iii) not a state highway.

2323           (3) A county legislative body shall in the resolution described in Subsection (2)  
2324 allocate 100% of the revenues the county will receive from the sales and use tax under this  
2325 section for one or more of the purposes described in Subsection (2).

2326           (4) Notwithstanding Section 59-12-2208, the opinion question required by Section  
2327 59-12-2208 shall state the allocations the county legislative body makes in accordance with  
2328 this section.

2329           (5) The revenues collected from a sales and use tax under this section shall be:

2330           (a) allocated in accordance with the allocations specified in the resolution under  
2331 Subsection (2); and

2332           (b) expended as provided in this section.

2333           (6) If a county legislative body allocates revenues collected from a sales and use tax  
2334 under this section for a state highway project described in Subsection (2)(c)(i), before  
2335 beginning the state highway project within the county, the county legislative body shall:

2336           (a) obtain approval from the Transportation Commission to complete the project; and

2337           (b) enter into an interlocal agreement established in accordance with Title 11, Chapter  
2338 13, Interlocal Cooperation Act, with the Department of Transportation to complete the project.

2339           (7) If after a county legislative body imposes a sales and use tax under this section the  
2340 county legislative body seeks to change an allocation specified in the resolution under  
2341 Subsection (2), the county legislative body may change the allocation by:

2342           (a) adopting a resolution in accordance with Subsection (2) specifying the percentage  
2343 of revenues the county will receive from the sales and use tax under this section that will be  
2344 allocated to fund one or more of the items described in Subsection (2);

2345           (b) obtaining approval to change the allocation of the sales and use tax by a majority  
2346 of all of the members of the county legislative body; and

2347           (c) subject to Subsection (8):

2348           (i) in accordance with Section 59-12-2208, submitting an opinion question to the  
2349 county's registered voters voting on changing the allocation so that each registered voter has  
2350 the opportunity to express the registered voter's opinion on whether the allocation should be  
2351 changed; and

2352           (ii) in accordance with Section 59-12-2208, obtaining approval to change the  
2353 allocation from a majority of the county's registered voters voting on changing the allocation.

2354 (8) Notwithstanding Section 59-12-2208, the opinion question required by Subsection  
2355 (7)(c)(i) shall state the allocations specified in the resolution adopted in accordance with  
2356 Subsection (7)(a) and approved by the county legislative body in accordance with Subsection  
2357 (7)(b).

2358 (9) Revenues collected from a sales and use tax under this section that a county  
2359 allocates for a purpose described in Subsection (2)(c) shall be:

2360 (a) deposited into the Highway Projects Within Counties Fund created by Section  
2361 72-2-121.1; and

2362 (b) expended as provided in Section 72-2-121.1.

2363 (10) (a) Notwithstanding Section 59-12-2206 and subject to Subsection (10)(b),  
2364 revenues collected from a sales and use tax under this section that a county allocates for a  
2365 purpose described in Subsection (2)(d) shall be transferred to the Department of  
2366 Transportation if the transfer of the revenues is required under an interlocal agreement:

2367 (i) entered into on or before January 1, 2010; and

2368 (ii) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

2369 (b) The Department of Transportation shall expend the revenues described in  
2370 Subsection (10)(a) as provided in the interlocal agreement described in Subsection (10)(a).

2371 Section 25. Section **59-12-2217** is enacted to read:

2372 **59-12-2217. County option sales and use tax for transportation -- Base -- Rate --**  
2373 **Written prioritization process -- Approval by county legislative body.**

2374 (1) Subject to the other provisions of this part, a county legislative body may impose a  
2375 sales and use tax of up to .25% on the transactions described in Subsection 59-12-103(1)  
2376 within the county, including the cities and towns within the county.

2377 (2) Subject to Subsections (3) through (8) and Section 59-12-2207, the revenues  
2378 collected from a sales and use tax under this section may only be expended for:

2379 (a) a project or service:

2380 (i) relating to a regionally significant transportation facility for the portion of the  
2381 project or service that is performed within the county;

2382           (ii) for new capacity or congestion mitigation if the project or service is performed  
2383 within a county:  
2384           (A) of the first or second class; or  
2385           (B) if that county is part of an area metropolitan planning organization; and  
2386           (iii) that is on a priority list:  
2387           (A) created by the county's council of governments in accordance with Subsection (7);  
2388 and  
2389           (B) approved by the county legislative body in accordance with Subsection (7);  
2390           (b) corridor preservation for a project or service described in Subsection (2)(a) as  
2391 provided in Subsection (8); or  
2392           (c) debt service or bond issuance costs related to a project or service described in  
2393 Subsection (2)(a)(i) or (ii).  
2394           (3) If a project or service described in Subsection (2) is for:  
2395           (a) a principal arterial highway or a minor arterial highway in a county of the first or  
2396 second class, that project or service shall be part of the:  
2397           (i) county and municipal master plan; and  
2398           (ii) (A) statewide long-range plan; or  
2399           (B) regional transportation plan of the area metropolitan planning organization if a  
2400 metropolitan planning organization exists for the area; or  
2401           (b) a fixed guideway or an airport, that project or service shall be part of the regional  
2402 transportation plan of the area metropolitan planning organization if a metropolitan planning  
2403 organization exists for the area.  
2404           (4) In a county of the first or second class, a regionally significant transportation  
2405 facility project or service described in Subsection (2)(a)(i) shall have a funded year priority  
2406 designation on a Statewide Transportation Improvement Program and Transportation  
2407 Improvement Program if the project or service described in Subsection (2)(a)(i) is:  
2408           (a) a principal arterial highway;  
2409           (b) a minor arterial highway; or

2410 (c) a major collector highway in a rural area.  
2411 (5) Of the revenues collected from a sales and use tax imposed under this section  
2412 within a county of the first or second class, 25% or more shall be expended for the purpose  
2413 described in Subsection (2)(b).  
2414 (6) (a) As provided in this Subsection (6), a council of governments shall:  
2415 (i) develop a written prioritization process for the prioritization of projects to be  
2416 funded by revenues collected from a sales and use tax under this section;  
2417 (ii) create a priority list of regionally significant transportation facility projects or  
2418 services described in Subsection (2)(a)(i) in accordance with Subsection (7); and  
2419 (iii) present the priority list to the county legislative body for approval in accordance  
2420 with Subsection (7).  
2421 (b) The written prioritization process described in Subsection (6)(a)(i) shall include:  
2422 (i) a definition of the type of projects to which the written prioritization process  
2423 applies;  
2424 (ii) subject to Subsection (6)(c), the specification of a weighted criteria system that the  
2425 council of governments will use to rank proposed projects and how that weighted criteria  
2426 system will be used to determine which proposed projects will be prioritized;  
2427 (iii) the specification of data that is necessary to apply the weighted criteria system;  
2428 (iv) application procedures for a project to be considered for prioritization by the  
2429 council of governments; and  
2430 (v) any other provision the council of governments considers appropriate.  
2431 (c) The weighted criteria system described in Subsection (6)(b)(ii) shall include the  
2432 following:  
2433 (i) the cost effectiveness of a project;  
2434 (ii) the degree to which a project will mitigate regional congestion;  
2435 (iii) the compliance requirements of applicable federal laws or regulations;  
2436 (iv) the economic impact of a project;  
2437 (v) the degree to which a project will require tax revenues to fund maintenance and

2438 operation expenses; and

2439 (vi) any other provision the council of governments considers appropriate.

2440 (d) A council of governments of a county of the first or second class shall submit the  
2441 written prioritization process described in Subsection (6)(a)(i) to the Executive Appropriations  
2442 Committee for approval prior to taking final action on:

2443 (i) the written prioritization process; or

2444 (ii) any proposed amendment to the written prioritization process.

2445 (7) (a) A council of governments shall use the weighted criteria system adopted in the  
2446 written prioritization process developed in accordance with Subsection (6) to create a priority  
2447 list of regionally significant transportation facility projects or services for which revenues  
2448 collected from a sales and use tax under this section may be expended.

2449 (b) Before a council of governments may finalize a priority list or the funding level of  
2450 a project, the council of governments shall conduct a public meeting on:

2451 (i) the written prioritization process; and

2452 (ii) the merits of the projects that are prioritized as part of the written prioritization  
2453 process.

2454 (c) A council of governments shall make the weighted criteria system ranking for each  
2455 project prioritized as part of the written prioritization process publicly available before the  
2456 public meeting required by Subsection (7)(b) is held.

2457 (d) If a council of governments prioritizes a project over another project with a higher  
2458 rank under the weighted criteria system, the council of governments shall:

2459 (i) identify the reasons for prioritizing the project over another project with a higher  
2460 rank under the weighted criteria system at the public meeting required by Subsection (7)(b);  
2461 and

2462 (ii) make the reasons described in Subsection (7)(d)(i) publicly available.

2463 (e) Subject to Subsections (7)(f) and (g), after a council of governments finalizes a  
2464 priority list in accordance with this Subsection (7), the council of governments shall:

2465 (i) submit the priority list to the county legislative body for approval; and



2466 (ii) obtain approval of the priority list from a majority of the members of the county  
2467 legislative body.

2468 (f) A council of governments may only submit one priority list per calendar year to the  
2469 county legislative body.

2470 (g) A county legislative body may only consider and approve one priority list  
2471 submitted under Subsection (7)(e) per calendar year.

2472 (8) (a) Except as provided in Subsection (8)(b), revenues collected from a sales and  
2473 use tax under this section that a county allocates for a purpose described in Subsection (2)(b)  
2474 shall be:

2475 (i) deposited in or transferred to the Local Transportation Corridor Preservation Fund  
2476 created by Section 72-2-117.5; and

2477 (ii) expended as provided in Section 72-2-117.5.

2478 (b) In a county of the first class, revenues collected from a sales and use tax under this  
2479 section that a county allocates for a purpose described in Subsection (2)(b) shall be:

2480 (i) deposited in or transferred to the County of the First Class State Highway Projects  
2481 Fund created by Section 72-2-121; and

2482 (ii) expended as provided in Section 72-2-121.

2483 Section 26. Section **59-12-2218**, which is renumbered from Section 59-12-1903 is  
2484 renumbered and amended to read:

2485 **[59-12-1903]. 59-12-2218. County, city, or town option sales and use tax**  
2486 **for airports, highways, and a system for public transit -- Base -- Rate -- Administration**  
2487 **of sales and use tax -- Voter approval exception.**

2488 (1) (a) Subject to the other provisions of this [~~section and except as provided in~~  
2489 ~~Subsection (2)] part, the following may impose a sales and use tax under this [~~part~~] section:~~

2490 (i) if, on April 1, 2009, a county legislative body of a county of the second class  
2491 imposes a sales and use tax under this [~~part~~] section, the county legislative body of the county  
2492 of the second class may impose the sales and use tax on the transactions:

2493 (A) described in Subsection 59-12-103(1); and

2494 (B) within the county, including the cities and towns within the county; or  
2495 (ii) if, on April 1, 2009, a county legislative body of a county of the second class does  
2496 not impose a sales and use tax under this ~~[part]~~ section:

2497 (A) a city legislative body of a city within the county of the second class may impose a  
2498 sales and use tax under this ~~[part]~~ section on the transactions described in Subsection  
2499 59-12-103(1) within that city;

2500 (B) a town legislative body of a town within the county of the second class may  
2501 impose a sales and use tax under this ~~[part]~~ section on the transactions described in Subsection  
2502 59-12-103(1) within that town; and

2503 (C) the county legislative body of the county of the second class may impose a sales  
2504 and use tax on the transactions described in Subsection 59-12-103(1):

2505 (I) within the county, including the cities and towns within the county, if on the date  
2506 the county legislative body provides the notice described in ~~[Subsection (7)(a)]~~ Section  
2507 59-12-2209 to the commission stating that the county will enact a sales and use tax under this  
2508 ~~[part]~~ section, no city or town within that county:

2509 (Aa) imposes a sales and use tax under this ~~[part]~~ section; or  
2510 (Bb) has provided the notice described in ~~[Subsection (7)(a)]~~ Section 59-12-2209 to  
2511 the commission stating that the city or town will enact a sales and use tax under this ~~[part]~~  
2512 section; or

2513 (II) within the county, except for within a city or town within that county, if, on the  
2514 date the county legislative body provides the notice described in ~~[Subsection (7)(a)]~~ Section  
2515 59-12-2209 to the commission stating that the county will enact a sales and use tax under this  
2516 ~~[part]~~ section, that city or town:

2517 (Aa) imposes a sales and use tax under this ~~[part]~~ section; or  
2518 (Bb) has provided the notice described in ~~[Subsection (7)(a)]~~ Section 59-12-2209 to  
2519 the commission stating that the city or town will enact a sales and use tax under this ~~[part]~~  
2520 section.

2521 (b) For purposes of Subsection (1)(a), a county, city, or town legislative body that

2522 imposes a sales and use tax under this ~~[part]~~ section may impose the tax at a rate of:

2523           (i) .10%, to be:

2524           (A) as determined by the county, city, or town legislative body, deposited as provided

2525 in Subsection ~~[(4)(c)]~~ (3)(b)(i) into the County of the Second Class State Highway Projects

2526 Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2;

2527           (B) as determined by the county, city, or town legislative body, expended for a project

2528 or service relating to an airport facility for the portion of the project or service that is

2529 performed within the county, city, or town within which the tax is imposed:

2530           (I) for a county legislative body that imposes the sales and use tax, if that airport

2531 facility is part of the regional transportation plan of the area metropolitan planning

2532 organization if a metropolitan planning organization exists for the area; or

2533           (II) for a city or town legislative body that imposes the sales and use tax, if:

2534           (Aa) that city or town owns or operates the airport facility; and

2535           (Bb) an airline is headquartered in that city or town; or

2536           (C) as determined by the county, city, or town legislative body, deposited or expended

2537 for a combination of Subsections (1)(b)(i)(A) and (B); or

2538           (ii) subject to Subsection (1)(c), .25%, to be expended as follows:

2539           (A) .10% to be deposited as provided in Subsection ~~[(4)(c)(i)]~~ (3)(b)(i) into the County

2540 of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended

2541 as provided in Section 72-2-121.2;

2542           (B) .05%, to be deposited as provided in Subsection ~~[(4)(c)(ii)]~~ (3)(b)(ii) into the

2543 Local Transportation Corridor Preservation Fund created by Section 72-2-117.5 and expended

2544 and distributed in accordance with Section 72-2-117.5; and

2545           (C) as determined by the county, city, or town legislative body, .10% to be:

2546           (I) deposited as provided in Subsection ~~[(4)(c)(i)]~~ (3)(b)(i) into the County of the

2547 Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as

2548 provided in Section 72-2-121.2;

2549           (II) expended for:

2550 (Aa) a state highway designated under Title 72, Chapter 4, Part 1, [~~Designation of~~  
2551 State Highways [~~Act~~];

2552 (Bb) a local highway [~~of regional significance~~] that is a principal arterial highway,  
2553 minor arterial highway, major collector highway, or minor collector road; or

2554 (Cc) a combination of Subsections (1)(b)(ii)(C)(II)(Aa) and (Bb);

2555 (III) expended for a project or service relating to a system for public transit for the  
2556 portion of the project or service that is performed within the county, city, or town within  
2557 which the sales and use tax is imposed;

2558 [~~(IV) expended for a project or service relating to a fixed guideway for the portion of~~  
2559 ~~the project or service that is performed within the county, city, or town within which the tax is~~  
2560 ~~imposed;~~]

2561 [~~(V)~~] (IV) expended for a project or service relating to an airport facility for the  
2562 portion of the project or service that is performed within the county, city, or town within  
2563 which the sales and use tax is imposed:

2564 (Aa) for a county legislative body that imposes the sales and use tax, if that airport  
2565 facility is part of the regional transportation plan of the area metropolitan planning  
2566 organization if a metropolitan planning organization exists for the area; or

2567 (Bb) for a city or town legislative body that imposes the sales and use tax, if:

2568 (Ii) that city or town owns or operates the airport facility; and

2569 (Iiii) an airline is headquartered in that city or town; or

2570 [~~(V)~~] (V) deposited or expended for a combination of Subsections (1)(b)(ii)(C)(I)  
2571 through [~~(V)~~] (IV).

2572 (c) (i) Subject to the other provisions of this Subsection (1)(c), a city or town within  
2573 which a sales and use tax is imposed at the tax rate described in Subsection (1)(b)(ii) may:

2574 (A) expend the revenues in accordance with Subsection (1)(b)(ii); or

2575 (B) expend the revenues in accordance with Subsections (1)(c)(ii) through (iv) if:

2576 (I) that city or town owns or operates an airport facility; and

2577 (II) an airline is headquartered in that city or town.

2578 (ii) ~~(A) [If a city or town within which a tax is imposed at the tax rate described in~~  
2579 ~~Subsection (1)(b)(ii) owns or operates an airport facility at which an airline is headquartered,~~  
2580 ~~the] A city or town legislative body of a city or town within which a sales and use tax is~~  
2581 ~~imposed at the tax rate described in Subsection (1)(b)(ii) may expend the revenues collected~~  
2582 ~~from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of~~  
2583 ~~.25% for a purpose described in Subsection (1)(c)(ii)(B) if:~~

2584 ~~(I) that city or town owns or operates an airport facility; and~~

2585 ~~(II) an airline is headquartered in that city or town.~~

2586 ~~(B) A city or town described in Subsection (1)(c)(ii)(A) may expend the revenues~~  
2587 ~~collected from a tax rate of greater than .10% but not to exceed the revenues collected from a~~  
2588 ~~tax rate of .25% for:~~

2589 ~~[(A)] (I) a project or service relating to the airport facility; and~~

2590 ~~[(B)] (II) the portion of the project or service that is performed within the city or town~~  
2591 ~~imposing the sales and use tax.~~

2592 (iii) If a city or town legislative body described in Subsection (1)(c)(ii)(A) determines  
2593 to expend the revenues collected from a tax rate of greater than .10% but not to exceed the  
2594 revenues collected from a tax rate of .25% for a project or service relating to an airport facility  
2595 as allowed by Subsection (1)(c)(ii), any remaining revenues that are collected from the sales  
2596 and use tax imposed at the tax rate described in Subsection (1)(b)(ii) that are not expended for  
2597 the project or service relating to an airport facility as allowed by Subsection (1)(c)(ii) shall be  
2598 expended as follows:

2599 (A) 75% of the remaining revenues shall be deposited as provided in Subsection  
2600 ~~[(4)(d)] (3)(c)~~ into the County of the Second Class State Highway Projects Fund created by  
2601 Section 72-2-121.2 and expended as provided in Section 72-2-121.2; and

2602 (B) 25% of the remaining revenues shall be deposited as provided in Subsection  
2603 ~~[(4)(d)] (3)(c)~~ into the Local Transportation Corridor Preservation Fund created by Section  
2604 72-2-117.5 and expended and distributed in accordance with Section 72-2-117.5.

2605 (iv) A city or town legislative body that expends the revenues collected from a sales

2606 and use tax imposed at the tax rate described in Subsection (1)(b)(ii) in accordance with  
2607 Subsections (1)(c)(ii) and (iii):

2608 (A) shall, on or before the date the city or town legislative body provides the notice  
2609 described in [~~Subsection (7)(a)~~] Section 59-12-2209 to the commission stating that the city or  
2610 town will enact a sales and use tax under this [~~part~~] section:

2611 (I) determine the tax rate:

2612 (Aa) the collections from which the city or town legislative body will expend for a  
2613 project or service relating to an airport facility as allowed by Subsection (1)(c)(ii); and  
2614 (Bb) at a percentage that is greater than .10% but does not exceed .25%; and

2615 (II) notify the commission in writing of the tax rate the city or town legislative body  
2616 determines in accordance with Subsection (1)(c)(iv)(A)(I);

2617 (B) shall, on or before the April 1 immediately following the date the city or town  
2618 legislative body provides the notice described in Subsection (1)(c)(iv)(A) to the commission:

2619 (I) determine the tax rate:

2620 (Aa) the collections from which the city or town legislative body will expend for a  
2621 project or service relating to an airport facility as allowed by Subsection (1)(c)(ii); and  
2622 (Bb) at a percentage that is greater than .10% but does not exceed .25%; and

2623 (II) notify the commission in writing of the tax rate the city or town legislative body  
2624 determines in accordance with Subsection (1)(c)(iv)(B)(I);

2625 (C) shall, on or before April 1 of each year after the April 1 described in Subsection  
2626 (1)(c)(iv)(B):

2627 (I) determine the tax rate:

2628 (Aa) the collections from which the city or town legislative body will expend for a  
2629 project or service relating to an airport facility as allowed by Subsection (1)(c)(ii); and  
2630 (Bb) at a percentage that is greater than .10% but does not exceed .25%; and

2631 (II) notify the commission in writing of the tax rate the city or town legislative body  
2632 determines in accordance with Subsection (1)(c)(iv)(C)(I); and

2633 (D) may not change the tax rate the city or town legislative body determines in

2634 accordance with Subsections (1)(c)(iv)(A) through (C) more frequently than as prescribed by  
2635 Subsections (1)(c)(iv)(A) through (C).

2636 ~~[(d) If a county legislative body imposes a tax under this part, regardless of whether  
2637 the tax under this part is imposed within all of the cities and towns within the county, the  
2638 county legislative body may not impose a tax under Part 17, County Option Sales and Use Tax  
2639 for Transportation Act.]~~

2640 ~~[(e) For purposes of this Subsection (1), the location of a transaction shall be  
2641 determined in accordance with Sections 59-12-211 through 59-12-215.]~~

2642 ~~[(2) (a) A county, city, or town legislative body may not impose a tax under this part  
2643 on:]~~

2644 ~~[(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
2645 are exempt from taxation under Section 59-12-104; or]~~

2646 ~~[(ii) except as provided in Subsection (2)(b), amounts paid or charged for food and  
2647 food ingredients:]~~

2648 ~~[(b) A county, city, or town legislative body imposing a tax under this part shall  
2649 impose the tax on amounts paid or charged for food and food ingredients if the food and food  
2650 ingredients are sold as part of a bundled transaction attributable to food and food ingredients  
2651 and tangible personal property other than food and food ingredients:]~~

2652 ~~[(3)(a) To impose a tax under this part, a county, city, or town legislative body shall  
2653 obtain approval from a majority of the members of the county, city, or town legislative body.]~~

2654 ~~[(b)]~~ (2) Before a city or town legislative body may impose a sales and use tax under  
2655 this [part] section, the city or town legislative body shall provide a copy of the notice  
2656 described in [~~Subsection (7)(a)]~~ Section 59-12-2209 that the city or town legislative body  
2657 provides to the commission:

2658 ~~[(i)]~~ (a) to the county legislative body within which the city or town is located; and

2659 ~~[(ii)]~~ (b) at the same time as the city or town legislative body provides the notice to the  
2660 commission.

2661 ~~[(4)]~~ (3) (a) Subject to Subsections [~~(4)]~~ (3)(b) through [~~(f)]~~ (e) and [~~except as~~

2662 ~~provided in Subsection (6)]~~ Section 59-12-2207, the commission shall transmit revenues  
2663 collected within a county, city, or town from a tax under this part that will be expended for a  
2664 purpose described in Subsection (1)(b)(i)(B) or Subsections (1)(b)(ii)(C)(II) through ~~[(V)]~~  
2665 ~~[(IV)]~~~~[(i)]~~ to the county, city, or town legislative body~~;~~ in accordance with Section  
2666 59-12-2206.

2667 ~~[(ii) monthly; and]~~

2668 ~~[(iii) by electronic funds transfer.]~~

2669 ~~[(b) Except as provided in Subsection (6), the commission shall transfer the revenues~~  
2670 ~~described in Subsection (4)(a) directly to a public transit district organized under Title 17B,~~  
2671 ~~Chapter 2a, Part 8, Public Transit District Act, if the county, city, or town legislative body:]~~

2672 ~~[(i) provides written notice to the commission requesting the transfer; and]~~

2673 ~~[(ii) designates the public transit district to which the county, city, or town legislative~~  
2674 ~~body requests the commission to transfer the revenues described in Subsection (4)(a).]~~

2675 ~~[(c)]~~ (b) Except as provided in Subsection ~~[(4)(d) or (6)]~~ (3)(c) and subject to Section  
2676 59-12-2207, the commission shall deposit revenues collected within a county, city, or town  
2677 from a sales and use tax under this ~~[part]~~ section that:

2678 (i) are required to be expended for a purpose described in Subsection (1)(b)(ii)(A) into  
2679 the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2;

2680 (ii) are required to be expended for a purpose described in Subsection (1)(b)(ii)(B)  
2681 into the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or

2682 (iii) a county, city, or town legislative body determines to expend for a purpose  
2683 described in Subsection (1)(b)(i)(A) or (1)(b)(ii)(C)(I) into the County of the Second Class  
2684 State Highway Projects Fund created by Section 72-2-121.2 if the county, city, or town  
2685 legislative body provides written notice to the commission requesting the deposit.

2686 ~~[(d)]~~ (c) Subject to Subsection ~~[(4)(e) or (f)]~~ (3)(d) or (e), if a city or town legislative  
2687 body provides notice to the commission in accordance with Subsection (1)(c)(iv), the  
2688 commission shall:

2689 (i) transmit the revenues collected from the tax rate stated on the notice to the city or



2690 town legislative body[~~(A)~~] monthly[~~;~~ and ~~(B)~~] by electronic funds transfer; and  
2691 (ii) deposit any remaining revenues described in Subsection (1)(c)(iii) in accordance  
2692 with Subsection (1)(c)(iii).  
2693 [~~(e)~~] (d) (i) If a city or town legislative body provides the notice described in  
2694 Subsection (1)(c)(iv)(A) to the commission, the commission shall transmit or deposit the  
2695 revenues collected from the sales and use tax:  
2696 (A) in accordance with Subsection [~~(4)(d)~~] (3)(c);  
2697 (B) beginning on the date the city or town legislative body enacts the sales and use  
2698 tax; and  
2699 (C) ending on the earlier of:  
2700 (I) the June 30 immediately following the date the city or town legislative body  
2701 provides the notice described in Subsection (1)(c)(iv)(B) to the commission; or  
2702 (II) the date the city or town legislative body repeals the sales and use tax.  
2703 (ii) If a city or town legislative body provides the notice described in Subsection  
2704 (1)(c)(iv)(B) or (C) to the commission, the commission shall transmit or deposit the revenues  
2705 collected from the sales and use tax:  
2706 (A) in accordance with Subsection [~~(4)(d)~~] (3)(c);  
2707 (B) beginning on the July 1 immediately following the date the city or town legislative  
2708 body provides the notice described in Subsection (1)(c)(iv)(B) or (C) to the commission; and  
2709 (C) ending on the earlier of:  
2710 (I) the June 30 of the year after the date the city or town legislative body provides the  
2711 notice described in Subsection (1)(c)(iv)(B) or (C) to the commission; or  
2712 (II) the date the city or town legislative body repeals the sales and use tax.  
2713 [~~(f)~~] (e) (i) If a city or town legislative body that is required to provide the notice  
2714 described in Subsection (1)(c)(iv)(A) does not provide the notice described in Subsection  
2715 (1)(c)(iv)(A) to the commission on or before the date required by Subsection (1)(c)(iv) for  
2716 providing the notice, the commission shall transmit, transfer, or deposit the revenues collected  
2717 from the sales and use tax within the city or town in accordance with Subsections [~~(4)(a)~~]

2718 ~~through (c)] (3)(a) and (b).~~

2719 (ii) If a city or town legislative body that is required to provide the notice described in  
2720 Subsection (1)(c)(iv)(B) or (C) does not provide the notice described in Subsection  
2721 (1)(c)(iv)(B) or (C) to the commission on or before the date required by Subsection (1)(c)(iv)  
2722 for providing the notice, the commission shall transmit or deposit the revenues collected from  
2723 the sales and use tax within the city or town in accordance with:

2724 (A) Subsection ~~[(4)(d)]~~ (3)(c); and

2725 (B) the most recent notice the commission received from the city or town legislative  
2726 body under Subsection (1)(c)(iv).

2727 (4) Notwithstanding Section 59-12-2208, a county, city, or town legislative body is  
2728 not required to submit an opinion question to the county's, city's, or town's registered voters in  
2729 accordance with Section 59-12-2208 to impose a sales and use tax under this section if:

2730 (a) the county, city, or town imposes the sales and use tax under this section on or  
2731 after July 1, 2010, but on or before July 1, 2011; and

2732 (b) a purpose for which the county, city, or town will expend revenues collected from  
2733 the sales and use tax under this section is:

2734 (i) a project or service described in Subsection (1)(b)(i)(B); or

2735 (ii) a project or service described in Subsection (1)(b)(ii)(C)(IV).

2736 ~~[(5) (a) Except as provided in Subsection (5)(b), the commission shall administer,~~  
2737 ~~collect, and enforce a tax under this part in accordance with:]~~

2738 ~~[(i) the same procedures used to administer, collect, and enforce the tax under:]~~

2739 ~~[(A) Part 1, Tax Collection; or]~~

2740 ~~[(B) Part 2, Local Sales and Use Tax Act; and]~~

2741 ~~[(ii) Chapter 1, General Taxation Policies.]~~

2742 ~~[(b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).]~~

2743 ~~[(6) (a) The commission may retain an amount of tax collected under this part of not~~  
2744 ~~to exceed the lesser of:]~~

2745 ~~[(i) 1.50%; or]~~

2746 ~~[(ii) an amount equal to the cost to the commission of administering this part.]~~  
2747 ~~[(b) Any amount the commission retains under Subsection (6)(a) shall be:]~~  
2748 ~~[(i) deposited into the Sales and Use Tax Administrative Fees Account, and]~~  
2749 ~~[(ii) used as provided in Subsection 59-12-206(2).]~~  
2750 ~~[(7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1,~~  
2751 ~~2009, a county, city, or town enacts or repeals a tax or changes the rate of a tax under this part,~~  
2752 ~~the enactment, repeal, or change shall take effect:]~~  
2753 ~~[(A) on the first day of a calendar quarter; and]~~  
2754 ~~[(B) after a 90-day period beginning on the date the commission receives notice~~  
2755 ~~meeting the requirements of Subsection (7)(a)(ii) from the county, city, or town.]~~  
2756 ~~[(ii) The notice described in Subsection (7)(a)(i)(B) shall state:]~~  
2757 ~~[(A) that the county, city, or town will enact, repeal, or change the rate of a tax under~~  
2758 ~~this part;]~~  
2759 ~~[(B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);]~~  
2760 ~~[(C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and]~~  
2761 ~~[(D) if the county, city, or town enacts the tax or changes the rate of the tax described~~  
2762 ~~in Subsection (7)(a)(ii)(A), the rate of the tax.]~~  
2763 ~~[(b) (i) If the billing period for a transaction begins before the effective date of the~~  
2764 ~~enactment of the tax or the tax rate increase under Subsection (1), the enactment of a tax or a~~  
2765 ~~tax rate increase shall take effect on the first day of the first billing period that begins after the~~  
2766 ~~effective date of the enactment of the tax or the tax rate increase.]~~  
2767 ~~[(ii) If the billing period for a transaction begins before the effective date of the repeal~~  
2768 ~~of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax~~  
2769 ~~rate decrease shall take effect on the first day of the last billing period that began before the~~  
2770 ~~effective date of the repeal of the tax or the tax rate decrease.]~~  
2771 ~~[(c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales~~  
2772 ~~and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a~~  
2773 ~~tax described in Subsection (7)(a)(i) takes effect.]~~

2774 ~~[(A) on the first day of a calendar quarter; and]~~

2775 ~~[(B) beginning 60 days after the effective date of the enactment, repeal, or change in~~  
2776 ~~the rate of the tax under Subsection (7)(a)(i).]~~

2777 ~~[(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~  
2778 ~~the commission may by rule define the term "catalogue sale."]~~

2779 ~~[(d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs~~  
2780 ~~on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in~~  
2781 ~~the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall~~  
2782 ~~take effect:]~~

2783 ~~[(A) on the first day of a calendar quarter; and]~~

2784 ~~[(B) after a 90-day period beginning on the date the commission receives notice~~  
2785 ~~meeting the requirements of Subsection (7)(d)(ii) from the county, city, or town that annexes~~  
2786 ~~the annexing area.]~~

2787 ~~[(ii) The notice described in Subsection (7)(d)(i)(B) shall state:]~~

2788 ~~[(A) that the annexation described in Subsection (7)(d)(i)(B) will result in an~~  
2789 ~~enactment, repeal, or change in the rate of a tax under this part for the annexing area;]~~

2790 ~~[(B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);]~~

2791 ~~[(C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and]~~

2792 ~~[(D) if the county, city, or town enacts the tax or changes the rate of the tax described~~  
2793 ~~in Subsection (7)(d)(ii)(A), the rate of the tax.]~~

2794 ~~[(e) (i) If the billing period for a transaction begins before the effective date of the~~  
2795 ~~enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax~~  
2796 ~~rate increase shall take effect on the first day of the first billing period that begins after the~~  
2797 ~~effective date of the enactment of the tax or the tax rate increase.]~~

2798 ~~[(ii) If the billing period for a transaction begins before the effective date of the repeal~~  
2799 ~~of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax~~  
2800 ~~rate decrease shall take effect on the first day of the last billing period that began before the~~  
2801 ~~effective date of the repeal of the tax or the tax rate decrease.]~~

2802 ~~[(f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales~~  
 2803 ~~and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a~~  
 2804 ~~tax described in Subsection (7)(d)(i) takes effect:]~~

2805 ~~[(A) on the first day of a calendar quarter; and]~~

2806 ~~[(B) beginning 60 days after the effective date of the enactment, repeal, or change in~~  
 2807 ~~the rate under Subsection (7)(d)(i).]~~

2808 ~~[(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~  
 2809 ~~the commission may by rule define the term "catalogue sale."]~~

2810 Section 27. Section **63B-11-501** is amended to read:

2811 **63B-11-501. State Bonding Commission authorized to issue general obligation**  
 2812 **bonds.**

2813 Upon receipt of a written opinion from the Utah Attorney General that Salt Lake  
 2814 County has entered a binding legal agreement with the state in which Salt Lake County agrees,  
 2815 until all of the principal, interest, and issuance costs on the bonds have been paid, to annually  
 2816 transfer enough of the [~~1/4 of 1/4%~~ of sales tax proceeds earmarked by Section 59-12-502]  
 2817 amount described in Subsection 59-12-2214(3)(b) to the sinking fund created in Section  
 2818 63B-11-508 to pay the principal, interest, and issuance costs for any general obligation bonds  
 2819 issued to provide funds for any of the Salt Lake County transportation projects identified in  
 2820 Section 63B-11-502, the commission created under Section 63B-1-201 may issue and sell  
 2821 general obligation bonds of the state pledging the full faith, credit, and resources of the state  
 2822 for the payment of the principal of and interest on the bonds, to provide funds to the  
 2823 Department of Transportation.

2824 Section 28. Section **63B-11-502** is amended to read:

2825 **63B-11-502. Maximum amount -- Projects authorized.**

2826 (1) The total amount of bonds issued under this part may not exceed \$52,101,800.

2827 (2) (a) (i) Proceeds from the issuance of bonds shall be provided to the Department of  
 2828 Transportation to provide funds to pay all or part of the costs of accelerating any of the  
 2829 following state highway construction or reconstruction projects in Salt Lake County:

- 2830 (A) I-15: 10600 South to the Utah County line;
- 2831 (B) Final Environmental Impact Statement for Western Transportation Corridor: I-80  
2832 to Utah County;
- 2833 (C) I-215: Redwood Road to 4700 South;
- 2834 (D) State Street Reconstruction: 9000 South to 10600 South; and
- 2835 (E) except as provided in Subsection (2)(d), State Street Reconstruction: 7800 South  
2836 to 8000 South.
- 2837 (ii) If the Department of Transportation is unable to begin or complete a project  
2838 authorized by this Subsection (2)(a) because of a court order, the Department of  
2839 Transportation, with the approval of Salt Lake County, may expend bond proceeds to  
2840 construct one or more projects identified in Subsection (2)(e).
- 2841 (b) When the Utah Transit Authority certifies to the Transportation Commission that  
2842 the Utah Transit Authority will pay half the costs of reconstruction of the Utah Transit  
2843 Authority railroad overpass on 8000 South State Street, the Department of Transportation may  
2844 provide funds from bond proceeds to pay the other half of the costs of reconstruction of the  
2845 Utah Transit Authority railroad overpass on 8000 South.
- 2846 (c) As used in Subsections (2)(a) and (b), "costs" may include the cost of acquiring  
2847 land, interests in land, easements and rights-of-way, improving sites, and making all  
2848 improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue  
2849 on these bonds during the period to be covered by construction of the projects plus a period of  
2850 six months after the end of the construction period, interest estimated to accrue on any bond  
2851 anticipation notes issued under the authority of Chapter 11, Part 6, 2002 Highway General  
2852 Obligation Bond Anticipation Notes for Salt Lake County, and all related engineering,  
2853 architectural, and legal fees.
- 2854 (d) Bond proceeds may not be expended on the State Street Reconstruction: 7800 to  
2855 8000 South project until the Transportation Commission has received the certification  
2856 required by Subsection (2)(b) from the Utah Transit Authority.
- 2857 (e) As the following projects or future projects identified by Salt Lake County and the

2858 Legislature are prepared and ready for construction by the Department of Transportation, it is  
2859 the intent of the Legislature that they will be accelerated and funded from future general  
2860 obligation bonds issued in anticipation of receiving debt service funds from [~~Salt Lake~~  
2861 ~~County's 1/4 of 1/4% sales tax proceeds earmarked by Section 59-12-502]~~ the amount  
2862 described in Subsection 59-12-2214(3)(b) and from other funding sources available to the  
2863 Department of Transportation, including monies available from the Centennial Highway Fund  
2864 and the Statewide Transportation Improvement Plan: 5600 West Reconstruction: 4500 South  
2865 to 7000 South; Redwood Road: 12600 South to Bangerter Highway; I-15: Beck Street  
2866 Overpass; I-215: 4700 South to SR-201; acquisition of rights-of-way for the Western  
2867 Transportation Corridor; 11400 South: I-15 to Redwood Road; and State Street Reconstruction  
2868 6400 South to 7800 South and 8000 South to 9000 South.

2869 (3) If any portion of the proceeds of the tax paid to the state are not required to pay  
2870 principal, interest, and issuance costs of the bonds and the principal, interest, and issuance  
2871 costs of the bond have been paid off, or if, after completion of the projects authorized under  
2872 Subsection (2)(a) and payment of the costs of issuing and selling the bonds under Section  
2873 63B-11-503, any bond proceeds remain unexpended, the Department of Transportation may  
2874 use those unexpended proceeds to pay all or part of the costs of construction projects in Salt  
2875 Lake County that have been approved and prioritized by the Transportation Commission.

2876 (4) The commission, by resolution, or the state treasurer may make any statement of  
2877 intent relating to a reimbursement that is necessary or desirable to comply with federal tax law.

2878 (5) The Department of Transportation may enter into agreements related to the  
2879 projects before the receipt of proceeds of bonds issued under this chapter.

2880 Section 29. Section **72-2-117.5** is amended to read:

2881 **72-2-117.5. Definitions -- Local Transportation Corridor Preservation Fund --**  
2882 **Disposition of fund monies.**

2883 (1) As used in this section:

2884 (a) "Council of governments" means a decision-making body in each county  
2885 composed of the county governing body and the mayors of each municipality in the county.

2886 (b) "Metropolitan planning organization" has the same meaning as defined in Section  
2887 72-1-208.5.

2888 (2) There is created the Local Transportation Corridor Preservation Fund within the  
2889 Transportation Fund.

2890 (3) The fund shall be funded from the following sources:

2891 (a) a local option highway construction and transportation corridor preservation fee  
2892 imposed under Section 41-1a-1222;

2893 (b) appropriations made to the fund by the Legislature;

2894 (c) contributions from other public and private sources for deposit into the fund;

2895 (d) all monies collected from rents and sales of real property acquired with fund  
2896 monies;

2897 (e) proceeds from general obligation bonds, revenue bonds, or other obligations issued  
2898 as authorized by Title 63B, Bonds;

2899 (f) the portion of the sales and use tax described in Subsection [~~59-12-1703(4)(a)(ii)~~]  
2900 59-12-2217(2)(b) and required by Subsection [~~59-12-1703(7)(b)(i)~~] 59-12-2217(8)(a) to be  
2901 deposited into the fund; and

2902 (g) sales and use tax revenues deposited into the fund in accordance with Section  
2903 [~~59-12-1903~~] 59-12-2218.

2904 (4) (a) The fund shall earn interest.

2905 (b) All interest earned on fund monies shall be deposited into the fund.

2906 (c) All monies appropriated to the Local Transportation Corridor Preservation Fund  
2907 are nonlapsing.

2908 (d) The State Tax Commission shall provide the department with sufficient data for  
2909 the department to allocate the revenues:

2910 (i) provided under Subsection (3)(a) to each county imposing a local option highway  
2911 construction and transportation corridor preservation fee under Section 41-1a-1222;

2912 (ii) provided under Subsection [~~59-12-1703(4)(a)(ii)~~] 59-12-2217(2)(b) to each county  
2913 imposing a county option sales and use tax for transportation; and



2914 (iii) provided under Subsection (3)(g) to each county of the second class or city or  
2915 town within a county of the second class that imposes the sales and use tax authorized by  
2916 Section [~~59-12-1903~~] 59-12-2218.

2917 (e) (i) The department shall annually allocate the interest earned on fund monies to  
2918 each county based on the proportionate amount of interest earned on each county's allocation  
2919 of funds under Subsection (4)(d) on an average monthly balance basis.

2920 (ii) The initial annual allocation of fund interest shall include all interest earned on  
2921 fund monies since the creation of the fund.

2922 (f) The monies allocated under Subsection (4)(d):

2923 (i) shall be used for the purposes provided in this section for each county, city, or  
2924 town; and

2925 (ii) are allocated to each county, city or town as provided in this section:

2926 (A) with the condition that the state will not be charged for any asset purchased with  
2927 the monies allocated under Subsections (4)(d) and (e); and

2928 (B) are considered a local matching contribution for the purposes described under  
2929 Section 72-2-123 if used on a state highway.

2930 (g) Administrative costs of the department to implement this section shall be paid  
2931 from the fund.

2932 (5) (a) The department shall authorize the expenditure of fund monies to allow a  
2933 highway authority to acquire real property or any interests in real property for state, county,  
2934 and municipal highway corridors subject to:

2935 (i) monies available in the fund to each county under Subsections (4)(d) and (e); and

2936 (ii) the provisions of this section.

2937 (b) Fund monies may be used to pay interest on debts incurred in accordance with this  
2938 section.

2939 (c) (i) (A) Fund monies may be used to pay maintenance costs of properties acquired  
2940 under this section but limited to a total of 5% of the purchase price of the property.

2941 (B) Any additional maintenance cost shall be paid from funds other than under this

2942 section.

2943 (C) Revenue generated by any property acquired under this section is excluded from  
2944 the limitations under this Subsection (5)(c)(i).

2945 (ii) Fund monies may be used to pay direct costs of acquisition of properties acquired  
2946 under this section.

2947 (d) Fund monies allocated under Subsections (4)(d) and (e) may be used by a county  
2948 highway authority for countywide transportation planning if:

2949 (i) the county is not included in a metropolitan planning organization;

2950 (ii) the transportation planning is part of the county's continuing, cooperative, and  
2951 comprehensive process for transportation planning, corridor preservation, right-of-way  
2952 acquisition, and project programming;

2953 (iii) no more than four years allocation every 20 years to each county is used for  
2954 transportation planning under this Subsection (5)(d); and

2955 (iv) the county otherwise qualifies to use the fund monies as provided under this  
2956 section.

2957 (e) (i) Subject to Subsection (11), fund monies allocated under Subsections (4)(d) and  
2958 (e) may be used by a county highway authority for transportation corridor planning that is part  
2959 of the corridor elements of an ongoing work program of transportation projects.

2960 (ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the  
2961 direction of:

2962 (A) the metropolitan planning organization if the county is within the boundaries of a  
2963 metropolitan planning organization; or

2964 (B) the department if the county is not within the boundaries of a metropolitan  
2965 planning organization.

2966 (6) (a) (i) The Local Transportation Corridor Preservation Fund shall be used to  
2967 preserve highway corridors, promote long-term statewide transportation planning, save on  
2968 acquisition costs, and promote the best interests of the state in a manner which minimizes  
2969 impact on prime agricultural land.

- 2970           (ii) The Local Transportation Corridor Preservation Fund shall only be used to  
2971 preserve a highway corridor that is right-of-way:
- 2972           (A) in a county of the first or second class for a:
- 2973           (I) state highway;
- 2974           (II) a principal arterial highway as defined in Section 72-4-102.5;
- 2975           (III) a minor arterial highway as defined in Section 72-4-102.5; or
- 2976           (IV) a collector highway in an urban area as defined in Section 72-4-102.5; or
- 2977           (B) in a county of the third, fourth, fifth, or sixth class for a:
- 2978           (I) state highway;
- 2979           (II) a principal arterial highway as defined in Section 72-4-102.5;
- 2980           (III) a minor arterial highway as defined in Section 72-4-102.5;
- 2981           (IV) a major collector highway as defined in Section 72-4-102.5; or
- 2982           (V) a minor collector road as defined in Section 72-4-102.5.
- 2983           (iii) The Local Transportation Corridor Preservation Fund may not be used for a  
2984 highway corridor that is primarily a recreational trail as defined under Section 79-5-102.
- 2985           (b) (i) The department shall develop and implement a program to educate highway  
2986 authorities on the objectives, application process, use, and responsibilities of the Local  
2987 Transportation Corridor Preservation Fund as provided under this section to promote the most  
2988 efficient and effective use of fund monies including priority use on designated high priority  
2989 corridor preservation projects.
- 2990           (ii) The department shall develop a model transportation corridor property acquisition  
2991 policy or ordinance that meets federal requirements for the benefit of a highway authority to  
2992 acquire real property or any interests in real property under this section.
- 2993           (c) The department shall authorize the expenditure of fund monies after determining  
2994 that the expenditure is being made in accordance with this section from applications that are:
- 2995           (i) made by a highway authority;
- 2996           (ii) endorsed by the council of governments; and
- 2997           (iii) for a right-of-way purchase for a highway authorized under Subsection (6)(a)(ii).

2998 (7) (a) (i) A council of governments shall establish a council of governments  
2999 endorsement process which includes prioritization and application procedures for use of the  
3000 monies allocated to each county under this section.

3001 (ii) The endorsement process under Subsection (7)(a)(i) may include review or  
3002 endorsement of the preservation project by the:

3003 (A) metropolitan planning organization if the county is within the boundaries of a  
3004 metropolitan planning organization; or

3005 (B) the department if the county is not within the boundaries of a metropolitan  
3006 planning organization.

3007 (b) All fund monies shall be prioritized by each highway authority and council of  
3008 governments based on considerations, including:

3009 (i) areas with rapidly expanding population;

3010 (ii) the willingness of local governments to complete studies and impact statements  
3011 that meet department standards;

3012 (iii) the preservation of corridors by the use of local planning and zoning processes;

3013 (iv) the availability of other public and private matching funds for a project;

3014 (v) the cost-effectiveness of the preservation projects;

3015 (vi) long and short-term maintenance costs for property acquired; and

3016 (vii) whether the transportation corridor is included as part of:

3017 (A) the county and municipal master plan; and

3018 (B) (I) the statewide long range plan; or

3019 (II) the regional transportation plan of the area metropolitan planning organization if  
3020 one exists for the area.

3021 (c) The council of governments shall:

3022 (i) establish a priority list of highway corridor preservation projects within the county;

3023 (ii) submit the list described in Subsection (7)(c)(i) to the county's legislative body for  
3024 approval; and

3025 (iii) obtain approval of the list described in Subsection (7)(c)(i) from a majority of the

3026 members of the county legislative body.

3027           (d) A county's council of governments may only submit one priority list described in  
3028 Subsection (7)(c)(i) per calendar year.

3029           (e) A county legislative body may only consider and approve one priority list  
3030 described in Subsection (7)(c)(i) per calendar year.

3031           (8) (a) Unless otherwise provided by written agreement with another highway  
3032 authority, the highway authority that holds the deed to the property is responsible for  
3033 maintenance of the property.

3034           (b) The transfer of ownership for property acquired under this section from one  
3035 highway authority to another shall include a recorded deed for the property and a written  
3036 agreement between the highway authorities.

3037           (9) (a) The proceeds from any bonds or other obligations secured by revenues of the  
3038 Local Transportation Corridor Preservation Fund shall be used for the purposes authorized for  
3039 funds under this section.

3040           (b) The highway authority shall pledge the necessary part of the revenues of the Local  
3041 Transportation Corridor Preservation Fund to the payment of principal and interest on the  
3042 bonds or other obligations.

3043           (10) (a) A highway authority may not apply for monies under this section to purchase  
3044 a right-of-way for a state highway unless the highway authority has:

3045           (i) a transportation corridor property acquisition policy or ordinance in effect that  
3046 meets federal requirements for the acquisition of real property or any interests in real property  
3047 under this section; and

3048           (ii) an access management policy or ordinance in effect that meets the requirements  
3049 under Subsection 72-2-117(9).

3050           (b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a  
3051 written agreement with the department for the acquisition of real property or any interests in  
3052 real property under this section.

3053           (11) (a) The department shall, in expending or authorizing the expenditure of fund

3054 monies, ensure to the extent possible that the fund monies allocated to a city or town in  
3055 accordance with Subsection (4) are expended:

3056 (i) to fund a project or service as allowed by this section within the city or town to  
3057 which the fund monies are allocated;

3058 (ii) to pay debt service, principal, or interest on a bond or other obligation as allowed  
3059 by this section if that bond or other obligation is:

3060 (A) secured by monies allocated to the city or town; and

3061 (B) issued to finance a project or service as allowed by this section within the city or  
3062 town to which the fund monies are allocated;

3063 (iii) to fund transportation planning as allowed by this section within the city or town  
3064 to which the fund monies are allocated; or

3065 (iv) for another purpose allowed by this section within the city or town to which the  
3066 fund monies are allocated.

3067 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
3068 the department may make rules to implement the requirements of Subsection (11)(a).

3069 Section 30. Section **72-2-121** is amended to read:

3070 **72-2-121. County of the First Class State Highway Projects Fund.**

3071 (1) There is created a special revenue fund entitled the County of the First Class State  
3072 Highway Projects Fund.

3073 (2) The fund consists of monies generated from the following revenue sources:

3074 (a) any voluntary contributions received for new construction, major renovations, and  
3075 improvements to state highways within a county of the first class;

3076 (b) the portion of the sales and use tax described in Subsection [~~59-12-502(5)(a)~~]  
3077 59-12-2214(3)(b) deposited in or transferred to the fund;

3078 (c) the portion of the sales and use tax described in Subsection [~~59-12-1703(4)(a)(ii)~~]  
3079 59-12-2217(2)(b) and required by Subsection [~~59-12-1703(7)(b)(ii)~~] 59-12-2217(8)(b) to be  
3080 deposited in or transferred to the fund; and

3081 (d) a portion of the local option highway construction and transportation corridor

3082 preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited in  
3083 or transferred to the fund.

3084 (3) (a) The fund shall earn interest.

3085 (b) All interest earned on fund monies shall be deposited into the fund.

3086 (4) The executive director shall use fund monies only:

3087 (a) to pay debt service and bond issuance costs for bonds issued under Sections  
3088 63B-16-102 and 63B-18-402;

3089 (b) for right-of-way acquisition, new construction, major renovations, and  
3090 improvements to state highways within a county of the first class and to pay any debt service  
3091 and bond issuance costs related to those projects;

3092 (c) for fiscal year 2008-09 only, to pay for or to provide funds to a municipality or  
3093 county to pay for right-of-way acquisition, construction, reconstruction, renovations, and  
3094 improvements to highways described in Subsection 63B-16-102(3); and

3095 (d) for fiscal year 2009-10 only, to pay for or to provide funds to a municipality or  
3096 county to pay for right-of-way acquisition, construction, reconstruction, renovations, and  
3097 improvements to highways described in Subsection 63B-18-402(2).

3098 (5) (a) For fiscal years beginning with fiscal year 2010-11 and ending with fiscal year  
3099 2012-13, the executive director shall use at least 20% of fund monies available that are not  
3100 required to pay principal, interest, and issuance costs of bonds issued under Sections  
3101 63B-16-102 and 63B-18-402 to pay for:

3102 (i) east-west transportation route improvements in a county of the first class; and

3103 (ii) state highway capacity improvement and congestion mitigation projects in a  
3104 county of the first class.

3105 (b) For a fiscal year beginning on or after July 1, 2013, the executive director shall use  
3106 at least 25% of fund monies available that are not required to pay principal, interest, and  
3107 issuance costs of bonds issued under Sections 63B-16-102 and 63B-18-402 to pay for:

3108 (i) east-west transportation route improvements in a county of the first class; and

3109 (ii) state highway capacity improvement and congestion mitigation projects in a

3110 county of the first class.

3111 (6) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the  
3112 fund and bond proceeds from bonds issued under Sections 63B-16-102 and 63B-18-402 are  
3113 considered a local matching contribution for the purposes described under Section 72-2-123.

3114 (7) The additional administrative costs of the department to administer this fund shall  
3115 be paid from the monies in the fund.

3116 Section 31. Section **72-2-121.1** is amended to read:

3117 **72-2-121.1. Highway Projects Within Counties Fund -- Accounting for revenues**  
3118 **-- Interest -- Expenditure of revenues.**

3119 (1) There is created a special revenue fund known as the Highway Projects Within  
3120 Counties Fund.

3121 (2) The Highway Projects Within Counties Fund shall be funded by revenues  
3122 generated by a tax imposed by a county under [~~Title 59, Chapter 12, Part 15, County Option~~  
3123 ~~Sales and Use Tax for Highways, Fixed Guideways, or Systems for Public Transit Act~~] Section  
3124 59-12-2216, if those revenues are allocated:

3125 (a) for a purpose described in Subsection [~~59-12-1503(2)(a)(iii)~~] 59-12-2216(2)(c);  
3126 and

3127 (b) in accordance with Section [~~59-12-1503~~] 59-12-2216.

3128 (3) The department shall make a separate accounting for:

3129 (a) the revenues described in Subsection (2); and

3130 (b) each county for which revenues are deposited into the Highway Projects Within  
3131 Counties Fund.

3132 (4) (a) The Highway Projects Within Counties Fund shall earn interest.

3133 (b) The department shall allocate the interest earned on the [State] Highway Projects  
3134 Within Counties Fund:

3135 (i) proportionately;

3136 (ii) to each county's balance in the Highway Projects Within Counties Fund; and

3137 (iii) on the basis of each county's balance in the Highway Projects Within Counties



3138 Fund.

3139 (5) ~~[(a)]~~ The department shall expend the revenues and interest deposited into the  
3140 Highway Projects Within Counties Fund to pay:

3141 ~~[(i)]~~ (a) for a state highway project within the county:

3142 ~~[(A)]~~ (i) described in Subsection ~~[59-12-1503(2)(a)(iii)(A)]~~ 59-12-2216(2)(c)(i); and

3143 ~~[(B)]~~ (ii) for which the requirements of Subsection ~~[59-12-1503(5)]~~ 59-12-2216(6) are  
3144 met;

3145 ~~[(ii)]~~ (b) debt service on a project described in Subsection (5)(a); or

3146 ~~[(iii)]~~ (c) bond issuance costs ~~[relating]~~ related to a project described in Subsection  
3147 (5)(a).

3148 ~~[(b)(i) If a county legislative body submits a request to the department in writing, the~~  
3149 ~~department shall transfer revenues and interest deposited into the Highway Projects Within~~  
3150 ~~Counties Fund to the county legislative body to pay:]~~

3151 ~~[(A) for a local highway of regional significance project described in Subsection~~  
3152 ~~59-12-1503(2)(a)(iii)(A);]~~

3153 ~~[(B) debt service on a project described in Subsection (5)(b)(i)(A); or]~~

3154 ~~[(C) bond issuance costs relating to a project described in Subsection (5)(b)(i)(A).]~~

3155 ~~[(ii) The request submitted under Subsection (5)(b)(i) shall specify:]~~

3156 ~~[(A) the amount of revenues requested for transfer; and]~~

3157 ~~[(B) the local highway of regional significance project that the funds requested under~~  
3158 ~~this Subsection (5)(b) will be expended on:]~~

3159 Section 32. Section **72-2-121.2** is amended to read:

3160 **72-2-121.2. Definition -- County of the Second Class State Highway Projects**  
3161 **Fund -- Use of fund monies.**

3162 (1) As used in this section, "fund" means the County of the Second Class State  
3163 Highway Projects Fund created by this section.

3164 (2) There is created within the Transportation Fund a special revenue fund known as  
3165 the County of the Second Class State Highway Projects Fund.

- 3166 (3) The fund shall be funded by monies collected from:
- 3167 (a) any voluntary contributions the department receives for new construction, major
- 3168 renovations, and improvements to state highways within a county of the second class; and
- 3169 (b) sales and use taxes deposited into the fund in accordance with Section
- 3170 ~~[59-12-1903]~~ 59-12-2218.
- 3171 (4) The department shall make a separate accounting for:
- 3172 (a) the revenues described in Subsection (3); and
- 3173 (b) each county of the second class or city or town within a county of the second class
- 3174 for which revenues are deposited into the fund.
- 3175 (5) (a) The fund shall earn interest.
- 3176 (b) Interest earned on fund monies shall be deposited into the fund.
- 3177 (6) Subject to Subsection (9), the executive director may use fund monies only:
- 3178 (a) for right-of-way acquisition, new construction, major renovations, and
- 3179 improvements to state highways within a county of the second class or a city or town within a
- 3180 county of the second class in an amount that does not exceed the amounts deposited for or
- 3181 allocated to that county of the second class or city or town within a county of the second class
- 3182 in accordance with this section;
- 3183 (b) to pay any debt service and bond issuance costs related to a purpose described in
- 3184 Subsection (6)(a) in an amount that does not exceed the amounts deposited for or allocated to
- 3185 that county of the second class or city or town within a county of the second class described in
- 3186 Subsection (6)(a) in accordance with this section; and
- 3187 (c) to pay the costs of the department to administer the fund in an amount not to
- 3188 exceed interest earned by the fund monies.
- 3189 (7) If interest remains in the fund after the executive director pays the costs of the
- 3190 department to administer the fund, the interest shall be:
- 3191 (a) allocated to each county of the second class or city or town within a county of the
- 3192 second class for which revenues are deposited into the fund in proportion to the deposits made
- 3193 into the fund for that county of the second class or city or town within a county of the second

3194 class; and

3195 (b) expended for the purposes described in Subsection (6).

3196 (8) Revenues described in Subsection (3)(b) that are deposited into the fund are  
3197 considered to be a local matching contribution for the purposes described in Section 72-2-123.

3198 (9) (a) The executive director shall, in using fund monies, ensure to the extent possible  
3199 that the fund monies deposited for or allocated to a city or town are used:

3200 (i) for a purpose described in Subsection (6)(a) within the city or town to which the  
3201 fund monies are allocated;

3202 (ii) to pay debt service and bond issuance costs described in Subsection (6)(b) if the  
3203 debt service and bond issuance costs are:

3204 (A) secured by monies deposited for or allocated to the city or town; and

3205 (B) related to a project described in Subsection (6)(a) within the city or town to which  
3206 the fund monies are allocated; or

3207 (iii) for a purpose described in Subsection (6)(c).

3208 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
3209 the department may make rules to implement the requirements of Subsection (9)(a).

3210 Section 33. Section **72-10-215** is amended to read:

3211 **72-10-215. Restrictions on use of airport revenue to finance a fixed guideway.**

3212 An airport operator may not use airport revenue to contribute to the cost of  
3213 constructing, equipping, maintaining, or operating any portion of a fixed guideway as defined  
3214 in Section [~~59-12-1702~~] 59-12-102.

3215 Section 34. **Repealer.**

3216 This bill repeals:

3217 Section **59-12-501, Public transit tax -- Base -- Rate -- Voter approval.**

3218 Section **59-12-502, Additional public transit tax for a fixed guideway, expanded**  
3219 **public transportation system, airport facility, or to be deposited into the County of the**  
3220 **First Class State Highway Projects Fund -- Base -- Rate -- Voter approval -- Exception to**  
3221 **voter approval requirement.**

- 3222           Section **59-12-503, Public transit taxes -- Local option direct transfer.**
- 3223           Section **59-12-504, Enactment or repeal of tax -- Effective date -- Notice**
- 3224 **requirements -- Administration, collection, and enforcement of tax.**
- 3225           Section **59-12-506, Seller or certified service provider reliance on commission**
- 3226 **information.**
- 3227           Section **59-12-507, Certified service provider or model 2 seller reliance on**
- 3228 **commission certified software.**
- 3229           Section **59-12-508, Purchaser relief from liability.**
- 3230           Section **59-12-1001, Authority to impose tax for highways or to fund a system for**
- 3231 **public transit -- Base -- Rate -- Ordinance requirements -- Voter approval requirements**
- 3232 **-- Election requirements -- Notice of election requirements -- Exceptions to voter**
- 3233 **approval requirements -- Enactment or repeal of tax -- Effective date -- Notice**
- 3234 **requirements.**
- 3235           Section **59-12-1002, Collection of taxes by commission -- Administration,**
- 3236 **collection, and enforcement of tax -- Charge for service.**
- 3237           Section **59-12-1004, Seller or certified service provider reliance on commission**
- 3238 **information.**
- 3239           Section **59-12-1005, Certified service provider or model 2 seller reliance on**
- 3240 **commission certified software.**
- 3241           Section **59-12-1006, Purchaser relief from liability.**
- 3242           Section **59-12-1501, Title.**
- 3243           Section **59-12-1502, Definitions.**
- 3244           Section **59-12-1503, Opinion question election -- Base -- Rate -- Imposition of tax**
- 3245 **-- Use of tax revenues -- Administration, collection, and enforcement of tax by**
- 3246 **commission -- Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**
- 3247           Section **59-12-1505, Seller or certified service provider reliance on commission**
- 3248 **information.**
- 3249           Section **59-12-1506, Certified service provider or model 2 seller reliance on**

- 3250 **commission certified software.**
- 3251       Section **59-12-1507, Purchaser relief from liability.**
- 3252       Section **59-12-1701, Title.**
- 3253       Section **59-12-1702, Definitions.**
- 3254       Section **59-12-1703, Opinion question election -- Base -- Rate -- Imposition of tax**
- 3255 **-- Use of tax revenues -- Administration, collection, and enforcement of tax by**
- 3256 **commission -- Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**
- 3257       Section **59-12-1704, Written project prioritization process for new transportation**
- 3258 **capacity projects.**
- 3259       Section **59-12-1705, Project selection using the written prioritization process --**
- 3260 **Report.**
- 3261       Section **59-12-1706, Seller or certified service provider reliance on commission**
- 3262 **information.**
- 3263       Section **59-12-1707, Certified service provider or model 2 seller reliance on**
- 3264 **commission certified software.**
- 3265       Section **59-12-1708, Purchaser relief from liability.**
- 3266       Section **59-12-1901, Title.**
- 3267       Section **59-12-1902, Definitions.**
- 3268       Section **59-12-1904, Seller or certified service provider reliance on commission**
- 3269 **information.**
- 3270       Section **59-12-1905, Certified service provider or model 2 seller reliance on**
- 3271 **commission certified software.**
- 3272       Section **59-12-1906, Purchaser relief from liability.**
- 3273       Section 35. **Effective date.**
- 3274       This bill takes effect on July 1, 2010.
- 3275       Section 36. **Revisor instructions.**
- 3276       It is the intent of the Legislature that, in preparing the Utah Code database for
- 3277 publication, the Office of Legislative Research and General Counsel shall replace the

3278 references in Section 59-12-2212.1 from "this bill" to the bill's designated chapter number in  
3279 the Laws of Utah.