

AMENDMENTS TO SALES AND USE TAX

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: _____

LONG TITLE

General Description:

This bill addresses sales and use taxes.

Highlighted Provisions:

This bill:

- ▶ addresses the disposition of sales and use tax revenue if Congress or the Supreme Court of the United States take certain actions related to the collection of sales and use taxes by certain sellers that are not currently collecting sales and use taxes;
- ▶ establishes certain reporting requirements;
- ▶ amends certain funds to provide for the receipt of certain sales and use taxes collected by certain sellers that are not currently collecting sales and use taxes; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides effective dates.

Utah Code Sections Affected:

AMENDS:

59-12-103 (Superseded 07/01/14), as last amended by Laws of Utah 2012, Chapters 207, 212, 254, and 255

59-12-103 (Effective 07/01/14), as last amended by Laws of Utah 2012, Chapters 207,



28 212, 254, 255, and 424

29 **59-12-103.1**, as last amended by Laws of Utah 2012, Chapter 312

30 **59-12-103.2**, as last amended by Laws of Utah 2004, Third Special Session, Chapter 1

31 **72-2-124**, as last amended by Laws of Utah 2012, Chapters 207, 397, and 400



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

34 Section 1. Section **59-12-103 (Superseded 07/01/14)** is amended to read:

35 **59-12-103 (Superseded 07/01/14). Sales and use tax base -- Rates -- Effective dates**

36 **-- Use of sales and use tax revenues.**

37 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
38 charged for the following transactions:

39 (a) retail sales of tangible personal property made within the state;

40 (b) amounts paid for:

41 (i) telecommunications service, other than mobile telecommunications service, that
42 originates and terminates within the boundaries of this state;

43 (ii) mobile telecommunications service that originates and terminates within the
44 boundaries of one state only to the extent permitted by the Mobile Telecommunications
45 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

46 (iii) an ancillary service associated with a:

47 (A) telecommunications service described in Subsection (1)(b)(i); or

48 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

49 (c) sales of the following for commercial use:

50 (i) gas;

51 (ii) electricity;

52 (iii) heat;

53 (iv) coal;

54 (v) fuel oil; or

55 (vi) other fuels;

56 (d) sales of the following for residential use:

57 (i) gas;

58 (ii) electricity;

- 59 (iii) heat;
- 60 (iv) coal;
- 61 (v) fuel oil; or
- 62 (vi) other fuels;
- 63 (e) sales of prepared food;
- 64 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 65 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 66 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 67 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 68 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 69 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 70 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 71 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 72 exhibition, cultural, or athletic activity;
- 73 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 74 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 75 (i) the tangible personal property; and
- 76 (ii) parts used in the repairs or renovations of the tangible personal property described
- 77 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
- 78 of that tangible personal property;
- 79 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 80 assisted cleaning or washing of tangible personal property;
- 81 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 82 accommodations and services that are regularly rented for less than 30 consecutive days;
- 83 (j) amounts paid or charged for laundry or dry cleaning services;
- 84 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 85 this state the tangible personal property is:
- 86 (i) stored;
- 87 (ii) used; or
- 88 (iii) otherwise consumed;
- 89 (l) amounts paid or charged for tangible personal property if within this state the

90 tangible personal property is:

91 (i) stored;

92 (ii) used; or

93 (iii) consumed; and

94 (m) amounts paid or charged for a sale:

95 (i) (A) of a product transferred electronically; or

96 (B) of a repair or renovation of a product transferred electronically; and

97 (ii) regardless of whether the sale provides:

98 (A) a right of permanent use of the product; or

99 (B) a right to use the product that is less than a permanent use, including a right:

100 (I) for a definite or specified length of time; and

101 (II) that terminates upon the occurrence of a condition.

102 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
103 is imposed on a transaction described in Subsection (1) equal to the sum of:

104 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

105 (A) 4.70%; and

106 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
107 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
108 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
109 State Sales and Use Tax Act; and

110 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
111 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
112 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
113 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

114 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
115 transaction under this chapter other than this part.

116 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
117 on a transaction described in Subsection (1)(d) equal to the sum of:

118 (i) a state tax imposed on the transaction at a tax rate of 2%; and

119 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
120 transaction under this chapter other than this part.

121 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
122 on amounts paid or charged for food and food ingredients equal to the sum of:

123 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
124 a tax rate of 1.75%; and

125 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
126 amounts paid or charged for food and food ingredients under this chapter other than this part.

127 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
128 tangible personal property other than food and food ingredients, a state tax and a local tax is
129 imposed on the entire bundled transaction equal to the sum of:

130 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

131 (I) the tax rate described in Subsection (2)(a)(i)(A); and

132 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
133 Sales and Use Tax Act, if the location of the transaction as determined under Sections
134 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
135 Additional State Sales and Use Tax Act; and

136 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
137 Sales and Use Tax Act, if the location of the transaction as determined under Sections
138 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
139 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

140 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
141 described in Subsection (2)(a)(ii).

142 (ii) If an optional computer software maintenance contract is a bundled transaction that
143 consists of taxable and nontaxable products that are not separately itemized on an invoice or
144 similar billing document, the purchase of the optional computer software maintenance contract
145 is 40% taxable under this chapter and 60% nontaxable under this chapter.

146 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
147 transaction described in Subsection (2)(d)(i) or (ii):

148 (A) if the sales price of the bundled transaction is attributable to tangible personal
149 property, a product, or a service that is subject to taxation under this chapter and tangible
150 personal property, a product, or service that is not subject to taxation under this chapter, the
151 entire bundled transaction is subject to taxation under this chapter unless:

152 (I) the seller is able to identify by reasonable and verifiable standards the tangible
153 personal property, product, or service that is not subject to taxation under this chapter from the
154 books and records the seller keeps in the seller's regular course of business; or

155 (II) state or federal law provides otherwise; or

156 (B) if the sales price of a bundled transaction is attributable to two or more items of
157 tangible personal property, products, or services that are subject to taxation under this chapter
158 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
159 higher tax rate unless:

160 (I) the seller is able to identify by reasonable and verifiable standards the tangible
161 personal property, product, or service that is subject to taxation under this chapter at the lower
162 tax rate from the books and records the seller keeps in the seller's regular course of business; or

163 (II) state or federal law provides otherwise.

164 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
165 seller's regular course of business includes books and records the seller keeps in the regular
166 course of business for nontax purposes.

167 (e) Subject to Subsections (2)(f) and (g), a tax rate repeal or tax rate change for a tax
168 rate imposed under the following shall take effect on the first day of a calendar quarter:

169 (i) Subsection (2)(a)(i)(A);

170 (ii) Subsection (2)(b)(i);

171 (iii) Subsection (2)(c)(i); or

172 (iv) Subsection (2)(d)(i)(A)(I).

173 (f) (i) A tax rate increase takes effect on the first day of the first billing period that
174 begins on or after the effective date of the tax rate increase if the billing period for the
175 transaction begins before the effective date of a tax rate increase imposed under:

176 (A) Subsection (2)(a)(i)(A);

177 (B) Subsection (2)(b)(i);

178 (C) Subsection (2)(c)(i); or

179 (D) Subsection (2)(d)(i)(A)(I).

180 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
181 statement for the billing period is rendered on or after the effective date of the repeal of the tax
182 or the tax rate decrease imposed under:

183 (A) Subsection (2)(a)(i)(A);

184 (B) Subsection (2)(b)(i);

185 (C) Subsection (2)(c)(i); or

186 (D) Subsection (2)(d)(i)(A)(I).

187 (g) (i) For a tax rate described in Subsection (2)(g)(ii), if a tax due on a catalogue sale
188 is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal
189 or change in a tax rate takes effect:

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

191 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

192 (ii) Subsection (2)(g)(i) applies to the tax rates described in the following:

193 (A) Subsection (2)(a)(i)(A);

194 (B) Subsection (2)(b)(i);

195 (C) Subsection (2)(c)(i); or

196 (D) Subsection (2)(d)(i)(A)(I).

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

199 (3) (a) The following state taxes shall be deposited into the General Fund:

200 (i) the tax imposed by Subsection (2)(a)(i)(A);

201 (ii) the tax imposed by Subsection (2)(b)(i);

202 (iii) the tax imposed by Subsection (2)(c)(i); or

203 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

204 (b) The following local taxes shall be distributed to a county, city, or town as provided
205 in this chapter:

206 (i) the tax imposed by Subsection (2)(a)(ii);

207 (ii) the tax imposed by Subsection (2)(b)(ii);

208 (iii) the tax imposed by Subsection (2)(c)(ii); and

209 (iv) the tax imposed by Subsection (2)(d)(i)(B).

210 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
211 2003, the lesser of the following amounts shall be ~~used~~ expended as provided in Subsections
212 (4)(b) through (g):

213 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

214 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

215 (B) for the fiscal year; or

216 (ii) \$17,500,000.

217 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount

218 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the

219 Department of Natural Resources to:

220 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
221 protect sensitive plant and animal species; or

222 (B) award grants, up to the amount authorized by the Legislature in an appropriations
223 act, to political subdivisions of the state to implement the measures described in Subsections
224 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

225 (ii) Money transferred to the Department of Natural Resources under Subsection
226 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
227 person to list or attempt to have listed a species as threatened or endangered under the
228 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

229 (iii) At the end of each fiscal year:

230 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
231 Conservation and Development Fund created in Section 73-10-24;

232 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
233 Program Subaccount created in Section 73-10c-5; and

234 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
235 Program Subaccount created in Section 73-10c-5.

236 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
237 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
238 created in Section 4-18-6.

239 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
240 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
241 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
242 water rights.

243 (ii) At the end of each fiscal year:

244 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources

245 Conservation and Development Fund created in Section 73-10-24;

246 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
247 Program Subaccount created in Section 73-10c-5; and

248 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
249 Program Subaccount created in Section 73-10c-5.

250 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
251 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
252 Fund created in Section 73-10-24 for use by the Division of Water Resources.

253 (ii) In addition to the uses allowed of the Water Resources Conservation and
254 Development Fund under Section 73-10-24, the Water Resources Conservation and
255 Development Fund may also be used to:

256 (A) conduct hydrologic and geotechnical investigations by the Division of Water
257 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
258 quantifying surface and ground water resources and describing the hydrologic systems of an
259 area in sufficient detail so as to enable local and state resource managers to plan for and
260 accommodate growth in water use without jeopardizing the resource;

261 (B) fund state required dam safety improvements; and

262 (C) protect the state's interest in interstate water compact allocations, including the
263 hiring of technical and legal staff.

264 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
265 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
266 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

267 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
268 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
269 created in Section 73-10c-5 for use by the Division of Drinking Water to:

270 (i) provide for the installation and repair of collection, treatment, storage, and
271 distribution facilities for any public water system, as defined in Section 19-4-102;

272 (ii) develop underground sources of water, including springs and wells; and

273 (iii) develop surface water sources.

274 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
275 2006, the difference between the following amounts shall be expended as provided in this

276 Subsection (5), if that difference is greater than \$1:

277 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
278 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

279 (ii) \$17,500,000.

280 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

281 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
282 credits; and

283 (B) expended by the Department of Natural Resources for watershed rehabilitation or
284 restoration.

285 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
286 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
287 created in Section 73-10-24.

288 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
289 remaining difference described in Subsection (5)(a) shall be:

290 (A) transferred each fiscal year to the Division of Water Resources as dedicated
291 credits; and

292 (B) expended by the Division of Water Resources for cloud-seeding projects
293 authorized by Title 73, Chapter 15, Modification of Weather.

294 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
295 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
296 created in Section 73-10-24.

297 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
298 remaining difference described in Subsection (5)(a) shall be deposited into the Water
299 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
300 Division of Water Resources for:

301 (i) preconstruction costs:

302 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
303 26, Bear River Development Act; and

304 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
305 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

306 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,

307 Chapter 26, Bear River Development Act;

308 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
309 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

310 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
311 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

312 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
313 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be
314 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
315 incurred for employing additional technical staff for the administration of water rights.

316 (f) At the end of each fiscal year, any unexpended dedicated credits described in
317 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
318 Fund created in Section 73-10-24.

319 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
320 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
321 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
322 the Transportation Fund created by Section 72-2-102.

323 (7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of
324 Finance shall deposit into the Transportation Investment Fund of 2005 created in Section
325 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
326 by a 1/64% tax rate on the taxable transactions under Subsection (1).

327 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
328 Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1,
329 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
330 created by Section 72-2-124:

331 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
332 the revenues collected from the following taxes, which represents a portion of the
333 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
334 on vehicles and vehicle-related products:

335 (A) the tax imposed by Subsection (2)(a)(i)(A);

336 (B) the tax imposed by Subsection (2)(b)(i);

337 (C) the tax imposed by Subsection (2)(c)(i); and

338 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus
339 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
340 current fiscal year from the sales and use taxes described in Subsections (8)(a)(i)(A) through
341 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
342 (8)(a)(i)(A) through (D) in the 2010-11 fiscal year.

343 (b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of
344 the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total
345 lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) through (D)
346 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
347 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
348 (8)(a) equal to the product of:

349 (A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the
350 previous fiscal year; and

351 (B) the total sales and use tax revenue generated by the taxes described in Subsections
352 (8)(a)(i)(A) through (D) in the current fiscal year.

353 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
354 Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes
355 described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year, the Division of
356 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
357 Subsections (8)(a)(i)(A) through (D) for the current fiscal year under Subsection (8)(a).

358 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
359 from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) was deposited
360 under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the revenues
361 collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the
362 current fiscal year under Subsection (8)(a).

363 (9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
364 Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of
365 Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under
366 Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section
367 72-2-124.

368 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year

369 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
370 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

371 (11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b),
372 and in addition to any amounts deposited under Subsections (7), (8), and (9), beginning on July
373 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
374 created by Section 72-2-124 the amount of tax revenue generated by a .025% tax rate on the
375 transactions described in Subsection (1).

376 (b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into
377 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or
378 charged for food and food ingredients, except for tax revenue generated by a bundled
379 transaction attributable to food and food ingredients and tangible personal property other than
380 food and food ingredients described in Subsection (2)(d).

381 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection
382 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the
383 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a
384 .025% tax rate on the transactions described in Subsection (1) to be expended to address
385 chokepoints in construction management.

386 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into
387 the Transportation Fund any tax revenue generated by amounts paid or charged for food and
388 food ingredients, except for tax revenue generated by a bundled transaction attributable to food
389 and food ingredients and tangible personal property other than food and food ingredients
390 described in Subsection (2)(d).

391 (13) Notwithstanding Subsections (4) through (12), an amount required to be expended
392 or deposited in accordance with Subsections (4) through (12) may not include an amount the
393 Division of Finance deposits in accordance with Section 59-12-103.1.

394 Section 2. Section **59-12-103 (Effective 07/01/14)** is amended to read:

395 **59-12-103 (Effective 07/01/14). Sales and use tax base -- Rates -- Effective dates --**
396 **Use of sales and use tax revenues.**

397 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
398 charged for the following transactions:

399 (a) retail sales of tangible personal property made within the state;

- 400 (b) amounts paid for:
- 401 (i) telecommunications service, other than mobile telecommunications service, that
- 402 originates and terminates within the boundaries of this state;
- 403 (ii) mobile telecommunications service that originates and terminates within the
- 404 boundaries of one state only to the extent permitted by the Mobile Telecommunications
- 405 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
- 406 (iii) an ancillary service associated with a:
- 407 (A) telecommunications service described in Subsection (1)(b)(i); or
- 408 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
- 409 (c) sales of the following for commercial use:
- 410 (i) gas;
- 411 (ii) electricity;
- 412 (iii) heat;
- 413 (iv) coal;
- 414 (v) fuel oil; or
- 415 (vi) other fuels;
- 416 (d) sales of the following for residential use:
- 417 (i) gas;
- 418 (ii) electricity;
- 419 (iii) heat;
- 420 (iv) coal;
- 421 (v) fuel oil; or
- 422 (vi) other fuels;
- 423 (e) sales of prepared food;
- 424 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 425 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 426 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 427 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 428 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 429 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 430 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,

431 horseback rides, sports activities, or any other amusement, entertainment, recreation,
432 exhibition, cultural, or athletic activity;

433 (g) amounts paid or charged for services for repairs or renovations of tangible personal
434 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

435 (i) the tangible personal property; and
436 (ii) parts used in the repairs or renovations of the tangible personal property described
437 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
438 of that tangible personal property;

439 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
440 assisted cleaning or washing of tangible personal property;

441 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
442 accommodations and services that are regularly rented for less than 30 consecutive days;

443 (j) amounts paid or charged for laundry or dry cleaning services;

444 (k) amounts paid or charged for leases or rentals of tangible personal property if within
445 this state the tangible personal property is:

446 (i) stored;
447 (ii) used; or
448 (iii) otherwise consumed;

449 (l) amounts paid or charged for tangible personal property if within this state the
450 tangible personal property is:

451 (i) stored;
452 (ii) used; or
453 (iii) consumed; and
454 (m) amounts paid or charged for a sale:

455 (i) (A) of a product transferred electronically; or
456 (B) of a repair or renovation of a product transferred electronically; and
457 (ii) regardless of whether the sale provides:
458 (A) a right of permanent use of the product; or
459 (B) a right to use the product that is less than a permanent use, including a right:
460 (I) for a definite or specified length of time; and
461 (II) that terminates upon the occurrence of a condition.

462 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
463 is imposed on a transaction described in Subsection (1) equal to the sum of:

464 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

465 (A) 4.70%; and

466 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
467 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
468 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
469 State Sales and Use Tax Act; and

470 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
471 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
472 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
473 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

474 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
475 transaction under this chapter other than this part.

476 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
477 on a transaction described in Subsection (1)(d) equal to the sum of:

478 (i) a state tax imposed on the transaction at a tax rate of 2%; and

479 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
480 transaction under this chapter other than this part.

481 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
482 on amounts paid or charged for food and food ingredients equal to the sum of:

483 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
484 a tax rate of 1.75%; and

485 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
486 amounts paid or charged for food and food ingredients under this chapter other than this part.

487 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
488 tangible personal property other than food and food ingredients, a state tax and a local tax is
489 imposed on the entire bundled transaction equal to the sum of:

490 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

491 (I) the tax rate described in Subsection (2)(a)(i)(A); and

492 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State

493 Sales and Use Tax Act, if the location of the transaction as determined under Sections
494 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
495 Additional State Sales and Use Tax Act; and

496 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
497 Sales and Use Tax Act, if the location of the transaction as determined under Sections
498 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
499 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

500 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
501 described in Subsection (2)(a)(ii).

502 (ii) If an optional computer software maintenance contract is a bundled transaction that
503 consists of taxable and nontaxable products that are not separately itemized on an invoice or
504 similar billing document, the purchase of the optional computer software maintenance contract
505 is 40% taxable under this chapter and 60% nontaxable under this chapter.

506 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
507 transaction described in Subsection (2)(d)(i) or (ii):

508 (A) if the sales price of the bundled transaction is attributable to tangible personal
509 property, a product, or a service that is subject to taxation under this chapter and tangible
510 personal property, a product, or service that is not subject to taxation under this chapter, the
511 entire bundled transaction is subject to taxation under this chapter unless:

512 (I) the seller is able to identify by reasonable and verifiable standards the tangible
513 personal property, product, or service that is not subject to taxation under this chapter from the
514 books and records the seller keeps in the seller's regular course of business; or

515 (II) state or federal law provides otherwise; or

516 (B) if the sales price of a bundled transaction is attributable to two or more items of
517 tangible personal property, products, or services that are subject to taxation under this chapter
518 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
519 higher tax rate unless:

520 (I) the seller is able to identify by reasonable and verifiable standards the tangible
521 personal property, product, or service that is subject to taxation under this chapter at the lower
522 tax rate from the books and records the seller keeps in the seller's regular course of business; or

523 (II) state or federal law provides otherwise.

524 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
525 seller's regular course of business includes books and records the seller keeps in the regular
526 course of business for nontax purposes.

527 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
528 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
529 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
530 of tangible personal property, other property, a product, or a service that is not subject to
531 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
532 the seller, at the time of the transaction:

533 (A) separately states the portion of the transaction that is not subject to taxation under
534 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

535 (B) is able to identify by reasonable and verifiable standards, from the books and
536 records the seller keeps in the seller's regular course of business, the portion of the transaction
537 that is not subject to taxation under this chapter.

538 (ii) A purchaser and a seller may correct the taxability of a transaction if:

539 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
540 the transaction that is not subject to taxation under this chapter was not separately stated on an
541 invoice, bill of sale, or similar document provided to the purchaser because of an error or
542 ignorance of the law; and

543 (B) the seller is able to identify by reasonable and verifiable standards, from the books
544 and records the seller keeps in the seller's regular course of business, the portion of the
545 transaction that is not subject to taxation under this chapter.

546 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
547 in the seller's regular course of business includes books and records the seller keeps in the
548 regular course of business for nontax purposes.

549 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
550 personal property, products, or services that are subject to taxation under this chapter at
551 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
552 unless the seller, at the time of the transaction:

553 (A) separately states the items subject to taxation under this chapter at each of the
554 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

555 (B) is able to identify by reasonable and verifiable standards the tangible personal
556 property, product, or service that is subject to taxation under this chapter at the lower tax rate
557 from the books and records the seller keeps in the seller's regular course of business.

558 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
559 seller's regular course of business includes books and records the seller keeps in the regular
560 course of business for nontax purposes.

561 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
562 rate imposed under the following shall take effect on the first day of a calendar quarter:

- 563 (i) Subsection (2)(a)(i)(A);
- 564 (ii) Subsection (2)(b)(i);
- 565 (iii) Subsection (2)(c)(i); or
- 566 (iv) Subsection (2)(d)(i)(A)(I).

567 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
568 begins on or after the effective date of the tax rate increase if the billing period for the
569 transaction begins before the effective date of a tax rate increase imposed under:

- 570 (A) Subsection (2)(a)(i)(A);
- 571 (B) Subsection (2)(b)(i);
- 572 (C) Subsection (2)(c)(i); or
- 573 (D) Subsection (2)(d)(i)(A)(I).

574 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
575 statement for the billing period is rendered on or after the effective date of the repeal of the tax
576 or the tax rate decrease imposed under:

- 577 (A) Subsection (2)(a)(i)(A);
- 578 (B) Subsection (2)(b)(i);
- 579 (C) Subsection (2)(c)(i); or
- 580 (D) Subsection (2)(d)(i)(A)(I).

581 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
582 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
583 change in a tax rate takes effect:

- 584 (A) on the first day of a calendar quarter; and
- 585 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

586 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

587 (A) Subsection (2)(a)(i)(A);

588 (B) Subsection (2)(b)(i);

589 (C) Subsection (2)(c)(i); or

590 (D) Subsection (2)(d)(i)(A)(I).

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

593 (3) (a) The following state taxes shall be deposited into the General Fund:

594 (i) the tax imposed by Subsection (2)(a)(i)(A);

595 (ii) the tax imposed by Subsection (2)(b)(i);

596 (iii) the tax imposed by Subsection (2)(c)(i); or

597 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

598 (b) The following local taxes shall be distributed to a county, city, or town as provided
599 in this chapter:

600 (i) the tax imposed by Subsection (2)(a)(ii);

601 (ii) the tax imposed by Subsection (2)(b)(ii);

602 (iii) the tax imposed by Subsection (2)(c)(ii); and

603 (iv) the tax imposed by Subsection (2)(d)(i)(B).

604 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
605 2003, the lesser of the following amounts shall be ~~used~~ expended as provided in Subsections
606 (4)(b) through (g):

607 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

608 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

609 (B) for the fiscal year; or

610 (ii) \$17,500,000.

611 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
612 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
613 Department of Natural Resources to:

614 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
615 protect sensitive plant and animal species; or

616 (B) award grants, up to the amount authorized by the Legislature in an appropriations

617 act, to political subdivisions of the state to implement the measures described in Subsections
618 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

619 (ii) Money transferred to the Department of Natural Resources under Subsection
620 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
621 person to list or attempt to have listed a species as threatened or endangered under the
622 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

623 (iii) At the end of each fiscal year:

624 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
625 Conservation and Development Fund created in Section 73-10-24;

626 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
627 Program Subaccount created in Section 73-10c-5; and

628 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
629 Program Subaccount created in Section 73-10c-5.

630 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
631 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
632 created in Section 4-18-6.

633 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
634 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
635 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
636 water rights.

637 (ii) At the end of each fiscal year:

638 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
639 Conservation and Development Fund created in Section 73-10-24;

640 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
641 Program Subaccount created in Section 73-10c-5; and

642 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
643 Program Subaccount created in Section 73-10c-5.

644 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
645 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
646 Fund created in Section 73-10-24 for use by the Division of Water Resources.

647 (ii) In addition to the uses allowed of the Water Resources Conservation and

648 Development Fund under Section 73-10-24, the Water Resources Conservation and
649 Development Fund may also be used to:

650 (A) conduct hydrologic and geotechnical investigations by the Division of Water
651 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
652 quantifying surface and ground water resources and describing the hydrologic systems of an
653 area in sufficient detail so as to enable local and state resource managers to plan for and
654 accommodate growth in water use without jeopardizing the resource;

655 (B) fund state required dam safety improvements; and

656 (C) protect the state's interest in interstate water compact allocations, including the
657 hiring of technical and legal staff.

658 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
659 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
660 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

661 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
662 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
663 created in Section 73-10c-5 for use by the Division of Drinking Water to:

664 (i) provide for the installation and repair of collection, treatment, storage, and
665 distribution facilities for any public water system, as defined in Section 19-4-102;

666 (ii) develop underground sources of water, including springs and wells; and

667 (iii) develop surface water sources.

668 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
669 2006, the difference between the following amounts shall be expended as provided in this
670 Subsection (5), if that difference is greater than \$1:

671 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
672 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

673 (ii) \$17,500,000.

674 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

675 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
676 credits; and

677 (B) expended by the Department of Natural Resources for watershed rehabilitation or
678 restoration.

679 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
680 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
681 created in Section 73-10-24.

682 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
683 remaining difference described in Subsection (5)(a) shall be:

684 (A) transferred each fiscal year to the Division of Water Resources as dedicated
685 credits; and

686 (B) expended by the Division of Water Resources for cloud-seeding projects
687 authorized by Title 73, Chapter 15, Modification of Weather.

688 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
689 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
690 created in Section 73-10-24.

691 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
692 remaining difference described in Subsection (5)(a) shall be deposited into the Water
693 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
694 Division of Water Resources for:

695 (i) preconstruction costs:

696 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
697 26, Bear River Development Act; and

698 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
699 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

700 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
701 Chapter 26, Bear River Development Act;

702 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
703 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

704 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
705 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

706 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
707 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be
708 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
709 incurred for employing additional technical staff for the administration of water rights.

710 (f) At the end of each fiscal year, any unexpended dedicated credits described in
711 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
712 Fund created in Section 73-10-24.

713 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
714 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
715 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
716 the Transportation Fund created by Section 72-2-102.

717 (7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of
718 Finance shall deposit into the Transportation Investment Fund of 2005 created in Section
719 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
720 by a 1/64% tax rate on the taxable transactions under Subsection (1).

721 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
722 Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1,
723 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
724 created by Section 72-2-124:

725 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
726 the revenues collected from the following taxes, which represents a portion of the
727 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
728 on vehicles and vehicle-related products:

- 729 (A) the tax imposed by Subsection (2)(a)(i)(A);
730 (B) the tax imposed by Subsection (2)(b)(i);
731 (C) the tax imposed by Subsection (2)(c)(i); and
732 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

733 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
734 current fiscal year from the sales and use taxes described in Subsections (8)(a)(i)(A) through
735 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
736 (8)(a)(i)(A) through (D) in the 2010-11 fiscal year.

737 (b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of
738 the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total
739 lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) through (D)
740 generated in the current fiscal year than the total percentage of sales and use taxes deposited in

741 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
742 (8)(a) equal to the product of:

743 (A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the
744 previous fiscal year; and

745 (B) the total sales and use tax revenue generated by the taxes described in Subsections
746 (8)(a)(i)(A) through (D) in the current fiscal year.

747 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
748 Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes
749 described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year, the Division of
750 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
751 Subsections (8)(a)(i)(A) through (D) for the current fiscal year under Subsection (8)(a).

752 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
753 from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) was deposited
754 under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the revenues
755 collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the
756 current fiscal year under Subsection (8)(a).

757 (9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
758 Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of
759 Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under
760 Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section
761 72-2-124.

762 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
763 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
764 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

765 (11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b),
766 and in addition to any amounts deposited under Subsections (7), (8), and (9), beginning on July
767 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
768 created by Section 72-2-124 the amount of tax revenue generated by a .025% tax rate on the
769 transactions described in Subsection (1).

770 (b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into
771 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or

772 charged for food and food ingredients, except for tax revenue generated by a bundled
773 transaction attributable to food and food ingredients and tangible personal property other than
774 food and food ingredients described in Subsection (2)(d).

775 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection
776 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the
777 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a
778 .025% tax rate on the transactions described in Subsection (1) to be expended to address
779 chokepoints in construction management.

780 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into
781 the Transportation Fund any tax revenue generated by amounts paid or charged for food and
782 food ingredients, except for tax revenue generated by a bundled transaction attributable to food
783 and food ingredients and tangible personal property other than food and food ingredients
784 described in Subsection (2)(d).

785 (13) Notwithstanding Subsections (4) through (12), an amount required to be expended
786 or deposited in accordance with Subsections (4) through (12) may not include an amount the
787 Division of Finance deposits in accordance with Section 59-12-103.1.

788 Section 3. Section **59-12-103.1** is amended to read:

789 **59-12-103.1. Action by Supreme Court of the United States authorizing or action**
790 **by Congress permitting a state to require certain sellers to collect a sales or use tax --**
791 **Collection of tax by commission -- Commission report to Revenue and Taxation Interim**
792 **Committee -- Revenue and Taxation Interim Committee study.**

793 (1) Except as provided in Section 59-12-107.1, a seller shall remit a tax to the
794 commission as provided in Section 59-12-107 if:

795 (a) the Supreme Court of the United States issues a decision authorizing a state to
796 require the following sellers to collect a sales or use tax:

797 (i) a seller that does not meet one or more of the criteria described in Subsection
798 59-12-107(2)(a); or

799 (ii) a seller that is not a seller required to pay or collect and remit sales and use taxes
800 under Subsection 59-12-107(2)(b); or

801 (b) Congress permits the state to require the following sellers to collect a sales or use
802 tax:

803 (i) a seller that does not meet one or more of the criteria described in Subsection
804 59-12-107(2)(a); or

805 (ii) a seller that is not a seller required to pay or collect and remit sales and use taxes
806 under Subsection 59-12-107(2)(b).

807 (2) The commission shall:

808 (a) collect the tax described in Subsection (1) from the seller:

809 (i) to the extent:

810 (A) authorized by the Supreme Court of the United States; or

811 (B) permitted by Congress; and

812 (ii) beginning on the first day of a calendar quarter as prescribed by the Revenue and
813 Taxation Interim Committee; and

814 (b) make a report to the Revenue and Taxation Interim Committee:

815 (i) regarding the actions taken by:

816 (A) the Supreme Court of the United States; or

817 (B) Congress; ~~and~~

818 (ii) (A) stating the amount of revenue collected at the time of the report, if any; and

819 (B) estimating the state sales and use tax rate reduction that would offset the amount of
820 revenue estimated to be collected for the current fiscal year and the next fiscal year; and

821 ~~[(ii)]~~ (iii) at the Revenue and Taxation Interim Committee meeting immediately
822 following the day on which the actions of the Supreme Court of the United States or Congress
823 ~~[actions]~~ become effective.

824 (3) Notwithstanding Section 59-12-103 or any other provision of law, the Division of
825 Finance shall deposit, as provided in Subsection (4), the total revenue the commission collects
826 under this section from sellers who obtain a license under Section 59-12-106 for the first time
827 on or after the earlier of:

828 (a) the date a decision described in Subsection (1)(a) becomes a final, unappealable
829 decision; or

830 (b) the effective date of the action by Congress described in Subsection (1)(b).

831 (4) The Division of Finance shall deposit the revenue described in Subsection (3) as
832 follows:

833 (a) 80% of the revenue shall be deposited into the Remote Sales Restricted Account

834 created in Section 59-12-103.2;

835 (b) 10% of the revenue shall be deposited into the Transportation Fund created by
836 Section 72-2-102, for the operation and maintenance of state roads; and

837 (c) 10% of the revenue shall be deposited into the Transportation Fund created by
838 Section 72-2-102;

839 (i) to be distributed to counties and municipalities in proportion to each county's or
840 municipality's allocation made in accordance with Section 72-2-108; and

841 (ii) to be used for operation and maintenance of county and municipal roads.

842 ~~[(3)]~~ (5) The Revenue and Taxation Interim Committee shall after hearing the
843 commission's report under Subsection (2)(b):

844 (a) review the actions taken by:

845 (i) the Supreme Court of the United States; or

846 (ii) Congress;

847 (b) direct the commission regarding the day on which the commission is required to
848 collect the tax described in Subsection (1); and

849 (c) make recommendations to the Legislative Management Committee:

850 (i) regarding whether as a result of the actions of the Supreme Court of the United
851 States or Congress ~~[actions]~~ any provisions of this chapter should be amended or repealed; and

852 (ii) within a one-year period after the day on which the commission makes a report
853 under Subsection (2)(b).

854 Section 4. Section **59-12-103.2** is amended to read:

855 **59-12-103.2. Remote Sales Restricted Account -- Creation -- Funding for account**
856 **-- Interest.**

857 (1) There is created within the General Fund a restricted account known as the
858 "Remote Sales Restricted Account."

859 (2) The account shall be funded from the portion of the sales and use tax deposited by
860 the commission as provided in Section ~~[59-12-103]~~ 59-12-103.1.

861 (3) (a) The account shall earn interest.

862 (b) The interest described in Subsection (3)(a) shall be deposited into the account.

863 Section 5. Section **72-2-124** is amended to read:

864 **72-2-124. Transportation Investment Fund of 2005.**

865 (1) There is created a special revenue fund entitled the Transportation Investment Fund
866 of 2005.

867 (2) The fund consists of money generated from the following sources:

868 (a) any voluntary contributions received for the maintenance, construction,
869 reconstruction, or renovation of state and federal highways;

870 (b) appropriations made to the fund by the Legislature;

871 (c) the sales and use tax revenues deposited into the fund in accordance with Section
872 59-12-103 or 59-12-103.1; and

873 (d) registration fees designated under Section 41-1a-1201.

874 (3) (a) The fund shall earn interest.

875 (b) All interest earned on fund money shall be deposited into the fund.

876 (4) (a) Except as provided in Subsection (4)(b), the executive director may use fund
877 money only to pay:

878 (i) the costs of maintenance, construction, reconstruction, or renovation to state and
879 federal highways prioritized by the Transportation Commission through the prioritization
880 process for new transportation capacity projects adopted under Section 72-1-304;

881 (ii) the costs of maintenance, construction, reconstruction, or renovation to the highway
882 projects described in Subsections 63B-18-401(2), (3), and (4);

883 (iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401
884 minus the costs paid from the County of the First Class State Highway Projects Fund in
885 accordance with Subsection 72-2-121(4)(d); ~~and~~

886 (iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt
887 Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified
888 by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the
889 debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;

890 (v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101
891 for projects prioritized in accordance with Section 72-2-125; and

892 (vi) all highway general obligation bonds that are intended to be paid from revenues in
893 the Centennial Highway Fund Restricted Account created by Section 72-2-118[?].

894 (b) The executive director may use fund money to exchange for an equal or greater
895 amount of federal transportation funds to be used as provided in Subsection (4)(a).

896 (5) (a) Before bonds authorized by Section 63B-18-401 may be issued in any fiscal
897 year, the department and the commission shall appear before the Executive Appropriations
898 Committee of the Legislature and present the amount of bond proceeds that the department
899 needs to provide funding for the projects identified in Subsection 63B-18-401(2) for the next
900 fiscal year.

901 (b) The Executive Appropriations Committee of the Legislature shall review and
902 comment on the amount of bond proceeds needed to fund the projects.

903 (6) The Division of Finance shall, from money deposited into the fund, transfer the
904 amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by
905 Section 63B-18-401 in the current fiscal year to the appropriate debt service or sinking fund.

906 Section 6. **Effective date.**

907 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2013.

908 (2) The actions affecting Section 59-12-103 (Effective 07/01/14) take effect on July 1,
909 2014.

Legislative Review Note
as of 1-30-13 1:18 PM

Office of Legislative Research and General Counsel