

**SALES AND USE TAX ACT AMENDMENTS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jim Nielson**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill reduces the state sales and use tax rate if the Supreme Court of the United States authorizes or Congress permits the state to require certain sellers to collect a sales or use tax and establishes related reporting requirements.

**Highlighted Provisions:**

This bill:

- ▶ reduces the state sales and use tax rate if the Supreme Court of the United States authorizes or Congress permits the state to require certain sellers to collect a sales or use tax;
- ▶ modifies reporting requirements for the State Tax Commission and the Revenue and Taxation Interim Committee related to an action by the Supreme Court of the United States or Congress; 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**59-12-103 (Superseded 07/01/14)**, as last amended by Laws of Utah 2012, Chapters



28 207, 212, 254, and 255

29 **59-12-103 (Effective 07/01/14)**, as last amended by Laws of Utah 2012, Chapters 207,  
30 212, 254, 255, and 424

31 **59-12-103.1**, as last amended by Laws of Utah 2012, Chapter 312



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 Section **59-12-103 (Superseded 07/01/14)** is amended to read:

35 **59-12-103 (Superseded 07/01/14).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) subject to Section 59-12-103.1, 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 as provided in Subsections (4)(b)  
212 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 Section 2. Section **59-12-103 (Effective 07/01/14)** is amended to read:

392 **59-12-103 (Effective 07/01/14). Sales and use tax base -- Rates -- Effective dates --**  
393 **Use of sales and use tax revenues.**

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

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

397 (b) amounts paid for:

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

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

431 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:  
432 (i) the tangible personal property; and  
433 (ii) parts used in the repairs or renovations of the tangible personal property described  
434 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations  
435 of that tangible personal property;  
436 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for  
437 assisted cleaning or washing of tangible personal property;  
438 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court  
439 accommodations and services that are regularly rented for less than 30 consecutive days;  
440 (j) amounts paid or charged for laundry or dry cleaning services;  
441 (k) amounts paid or charged for leases or rentals of tangible personal property if within  
442 this state the tangible personal property is:  
443 (i) stored;  
444 (ii) used; or  
445 (iii) otherwise consumed;  
446 (l) amounts paid or charged for tangible personal property if within this state the  
447 tangible personal property is:  
448 (i) stored;  
449 (ii) used; or  
450 (iii) consumed; and  
451 (m) amounts paid or charged for a sale:  
452 (i) (A) of a product transferred electronically; or  
453 (B) of a repair or renovation of a product transferred electronically; and  
454 (ii) regardless of whether the sale provides:  
455 (A) a right of permanent use of the product; or  
456 (B) a right to use the product that is less than a permanent use, including a right:  
457 (I) for a definite or specified length of time; and  
458 (II) that terminates upon the occurrence of a condition.  
459 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax  
460 is imposed on a transaction described in Subsection (1) equal to the sum of:  
461 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

462 (A) subject to Section 59-12-103.1, 4.70%; and

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

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

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

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

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

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

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

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

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

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

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

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

489 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State  
490 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
491 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,  
492 Additional State Sales and Use Tax Act; and



493 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State  
494 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
495 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which  
496 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

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

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

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

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

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

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

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

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

520 (II) state or federal law provides otherwise.

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

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

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

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

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

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

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

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

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

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

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

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

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

- 560 (i) Subsection (2)(a)(i)(A);
- 561 (ii) Subsection (2)(b)(i);
- 562 (iii) Subsection (2)(c)(i); or
- 563 (iv) Subsection (2)(d)(i)(A)(I).

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

- 567 (A) Subsection (2)(a)(i)(A);
- 568 (B) Subsection (2)(b)(i);
- 569 (C) Subsection (2)(c)(i); or
- 570 (D) Subsection (2)(d)(i)(A)(I).

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

- 574 (A) Subsection (2)(a)(i)(A);
- 575 (B) Subsection (2)(b)(i);
- 576 (C) Subsection (2)(c)(i); or
- 577 (D) Subsection (2)(d)(i)(A)(I).

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

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

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

- 584 (A) Subsection (2)(a)(i)(A);
- 585 (B) Subsection (2)(b)(i);

586 (C) Subsection (2)(c)(i); or  
587 (D) Subsection (2)(d)(i)(A)(I).  
588 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
589 the commission may by rule define the term "catalogue sale."  
590 (3) (a) The following state taxes shall be deposited into the General Fund:  
591 (i) the tax imposed by Subsection (2)(a)(i)(A);  
592 (ii) the tax imposed by Subsection (2)(b)(i);  
593 (iii) the tax imposed by Subsection (2)(c)(i); or  
594 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).  
595 (b) The following local taxes shall be distributed to a county, city, or town as provided  
596 in this chapter:  
597 (i) the tax imposed by Subsection (2)(a)(ii);  
598 (ii) the tax imposed by Subsection (2)(b)(ii);  
599 (iii) the tax imposed by Subsection (2)(c)(ii); and  
600 (iv) the tax imposed by Subsection (2)(d)(i)(B).  
601 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
602 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)  
603 through (g):  
604 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:  
605 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and  
606 (B) for the fiscal year; or  
607 (ii) \$17,500,000.  
608 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount  
609 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the  
610 Department of Natural Resources to:  
611 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to  
612 protect sensitive plant and animal species; or  
613 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
614 act, to political subdivisions of the state to implement the measures described in Subsections  
615 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.  
616 (ii) Money transferred to the Department of Natural Resources under Subsection

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

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

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

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

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

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

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

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

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

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

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

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

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

647 (A) conduct hydrologic and geotechnical investigations by the Division of Water

648 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
649 quantifying surface and ground water resources and describing the hydrologic systems of an  
650 area in sufficient detail so as to enable local and state resource managers to plan for and  
651 accommodate growth in water use without jeopardizing the resource;

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

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

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

658 (g) 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 Drinking Water Loan Program Subaccount  
660 created in Section 73-10c-5 for use by the Division of Drinking Water to:

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

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

664 (iii) develop surface water sources.

665 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
666 2006, the difference between the following amounts shall be expended as provided in this  
667 Subsection (5), if that difference is greater than \$1:

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

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

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

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

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

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

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

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

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

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

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

692 (i) preconstruction costs:

693 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
694 26, Bear River Development Act; and

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

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

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

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

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

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

710 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
711 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%  
712 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in  
713 the Transportation Fund created by Section 72-2-102.

714 (7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of  
715 Finance shall deposit into the Transportation Investment Fund of 2005 created in Section  
716 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated  
717 by a 1/64% tax rate on the taxable transactions under Subsection (1).

718 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in  
719 Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1,  
720 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005  
721 created by Section 72-2-124:

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

- 726 (A) the tax imposed by Subsection (2)(a)(i)(A);
- 727 (B) the tax imposed by Subsection (2)(b)(i);
- 728 (C) the tax imposed by Subsection (2)(c)(i); and
- 729 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

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

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

- 740 (A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the



741 previous fiscal year; and

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

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

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

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

759 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
760 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund  
761 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

762 (11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b),  
763 and in addition to any amounts deposited under Subsections (7), (8), and (9), beginning on July  
764 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005  
765 created by Section 72-2-124 the amount of tax revenue generated by a .025% tax rate on the  
766 transactions described in Subsection (1).

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

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

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

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

783 **59-12-103.1. Action by Supreme Court of the United States authorizing or action**  
784 **by Congress permitting a state to require certain sellers to collect a sales or use tax --**  
785 **Collection of tax by commission -- Commission report to Revenue and Taxation Interim**  
786 **Committee -- Revenue and Taxation Interim Committee study -- Reduction in state sales**  
787 **and use tax rate.**

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

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

792 (i) a seller that does not meet one or more of the criteria described in Subsection  
793 59-12-107(2)(a); or

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

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

798 (i) a seller that does not meet one or more of the criteria described in Subsection  
799 59-12-107(2)(a); or

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

802 (2) The commission shall:

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

804 (i) to the extent:

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

806 (B) permitted by Congress; and

807 (ii) beginning on the first day of a calendar quarter as prescribed by the Revenue and

808 Taxation Interim Committee; and

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

810 (i) regarding the actions taken by:

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

812 (B) Congress; ~~and~~

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

814 and

815 (B) estimating the state sales and use tax rate reduction that would offset the amount of

816 state revenue estimated to be collected for the current fiscal year and the next fiscal year; and

817 ~~(iii) (A)~~ (iii) (A) at the Revenue and Taxation Interim Committee meeting immediately

818 following the day on which the actions of the Supreme Court of the United ~~[States' or~~

819 ~~Congress' actions]~~ States or Congress become effective~~[-]; and~~

820 (B) any other meeting of the Revenue and Taxation Interim Committee as requested by

821 the chairs of the committee.

822 (3) The Revenue and Taxation Interim Committee shall after hearing the commission's

823 report under Subsection (2)(b):

824 (a) review the actions taken by:

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

826 (ii) Congress;

827 (b) direct the commission regarding the day on which the commission is required to

828 collect the tax described in Subsection (1); and

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

830 (i) regarding whether as a result of the actions of the Supreme Court of the United

831 ~~[States' or Congress' actions]~~ States or Congress any provisions of this chapter should be

832 amended or repealed, including whether the state sales and use tax rate reduction required by

833 Subsection (4) should be amended; and

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

836 (4) Beginning on the first day of the first calendar quarter after the earlier of the date a  
837 decision described in Subsection (1)(a) becomes a final, unappealable decision, or the effective  
838 date of the action by Congress described in Subsection (1)(b), the state sales and use tax rate  
839 described in Subsection 59-12-103(2)(a)(i)(A) is 4.45%.

840 Section 4. **Effective date.**

841 (1) Except as provided in Subsection (2), this bill takes effect on May 14, 2013.

842 (2) The actions affecting Section 59-12-103 (Effective 07/01/14) take effect on July 1,  
843 2014.

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**Legislative Review Note**  
**as of 3-5-13 2:08 PM**

**Office of Legislative Research and General Counsel**