

**Senator Wayne A. Harper** proposes the following substitute bill:

**AMENDMENTS TO SALES AND USE TAX**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

House Sponsor: \_\_\_\_\_

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**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;
- ▶ requires the Division of Finance to make certain deposits; 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**59-12-103 (Superseded 07/01/14)**, as last amended by Laws of Utah 2012, Chapters 207, 212, 254, and 255



26           **59-12-103 (Effective 07/01/14)**, as last amended by Laws of Utah 2012, Chapters 207,  
27 212, 254, 255, and 424

28           **59-12-103.1**, as last amended by Laws of Utah 2012, Chapter 312

29           **59-12-103.2**, as last amended by Laws of Utah 2004, Third Special Session, Chapter 1

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

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 Section **59-12-103 (Superseded 07/01/14)** is amended to read:

33           **59-12-103 (Superseded 07/01/14). Sales and use tax base -- Rates -- Effective dates**  
34 **-- Use of sales and use tax revenues.**

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

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

38           (b) amounts paid for:

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

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

44           (iii) an ancillary service associated with a:

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

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

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

48           (i) gas;

49           (ii) electricity;

50           (iii) heat;

51           (iv) coal;

52           (v) fuel oil; or

53           (vi) other fuels;

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

55           (i) gas;

56           (ii) electricity;

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

88 tangible personal property is:

89 (i) stored;

90 (ii) used; or

91 (iii) consumed; and

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

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

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

95 (ii) regardless of whether the sale provides:

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

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

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

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

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

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

103 (A) 4.70%; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

161 (II) state or federal law provides otherwise.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

208 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
209 2003, the lesser of the following amounts shall be ~~used~~ expended as provided in Subsections  
210 (4)(b) through (g):

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

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

213 (B) for the fiscal year; or

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

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

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

217 Department of Natural Resources to:

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

271 (iii) develop surface water sources.

272 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
273 2006, the difference between the following amounts shall be expended as provided in this

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

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

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

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

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

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

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

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

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

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

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

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

299 (i) preconstruction costs:

300 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
301 26, Bear River Development Act; and

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

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

305 Chapter 26, Bear River Development Act;

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

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

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

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

317 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
318 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%  
319 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in  
320 the Transportation Fund created by Section 72-2-102.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

367 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund  
368 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

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

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

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

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

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

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

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

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

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

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

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

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

433 (i) the tangible personal property; and

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

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

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

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

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

444 (i) stored;

445 (ii) used; or

446 (iii) otherwise consumed;

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

449 (i) stored;

450 (ii) used; or

451 (iii) consumed; and

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

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

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

455 (ii) regardless of whether the sale provides:

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

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

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

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

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

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

463 (A) 4.70%; and

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

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

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

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

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

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

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

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

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

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

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

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

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



491 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
492 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,  
493 Additional State Sales and Use Tax Act; and

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

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

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

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

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

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

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

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

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

521 (II) state or federal law provides otherwise.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

602 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
603 2003, the lesser of the following amounts shall be ~~used~~ expended as provided in Subsections  
604 (4)(b) through (g):

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

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

607 (B) for the fiscal year; or

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

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

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

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

615 act, to political subdivisions of the state to implement the measures described in Subsections  
616 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

665 (iii) develop surface water sources.

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

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

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

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

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

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

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

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

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

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

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

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

693 (i) preconstruction costs:

694 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
695 26, Bear River Development Act; and

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

787 **59-12-103.1. Definitions -- Action by Supreme Court of the United States**  
788 **authorizing or action by Congress permitting a state to require certain sellers to collect a**  
789 **sales or use tax -- Collection of tax by commission -- Commission report to Revenue and**  
790 **Taxation Interim Committee -- Revenue and Taxation Interim Committee study --**  
791 **Division of Finance requirement to make certain deposits.**

792 (1) As used in this section:

793 (a) "Aggregate local revenue collected from remote sellers" means the aggregate local  
794 revenue the commission collects under this section for a fiscal year from sellers who obtain a  
795 license under Section 59-12-106 for the first time on or after the earlier of:

796 (i) the date a decision described in Subsection (2)(a) becomes a final, unappealable  
797 decision; or

798 (ii) the effective date of the action by Congress described in Subsection (2)(b).

799 (b) "Aggregate state and local revenue collected from remote sellers" means the  
800 aggregate state and local revenue the commission collects under this section for a fiscal year

801 from sellers who obtain a license under Section 59-12-106 for the first time on or after the  
802 earlier of:

803 (i) the date a decision described in Subsection (2)(a) becomes a final, unappealable  
804 decision; or

805 (ii) the effective date of the action by Congress described in Subsection (2)(b).

806 (c) "Aggregate state revenue collected from remote sellers" means the aggregate state  
807 revenue the commission collects under this section for a fiscal year from sellers who obtain a  
808 license under Section 59-12-106 for the first time on or after the earlier of:

809 (i) the date a decision described in Subsection (2)(a) becomes a final, unappealable  
810 decision; or

811 (ii) the effective date of the action by Congress described in Subsection (2)(b).

812 ~~[(+)]~~ (2) Except as provided in Section 59-12-107.1, a seller shall remit a tax to the  
813 commission as provided in Section 59-12-107 if:

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

816 (i) a seller that does not meet one or more of the criteria described in Subsection  
817 59-12-107(2)(a); or

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

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

822 (i) a seller that does not meet one or more of the criteria described in Subsection  
823 59-12-107(2)(a); or

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

826 ~~[(2)]~~ (3) The commission shall:

827 (a) collect the tax described in Subsection ~~[(+)]~~ (2) from the seller:

828 (i) to the extent:

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

830 (B) permitted by Congress; and

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

832 Taxation Interim Committee; and

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

834 (i) regarding the actions taken by:

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

836 (B) Congress; ~~and~~

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

838 and

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

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

841 ~~[(ii)]~~ (iii) (A) at the Revenue and Taxation Interim Committee meeting immediately

842 following the day on which the actions of the Supreme Court of the United States or Congress

843 [actions] become effective[-]; and

844 (B) any other meeting of the Revenue and Taxation Interim Committee as requested by  
845 the chairs of the committee.

846 (4) (a) Notwithstanding any other provision of this chapter, the Division of Finance  
847 shall make the deposits required by this Subsection (4).

848 (b) The Division of Finance shall deposit 10% of the aggregate state and local revenue  
849 collected from remote sellers into the Transportation Fund created by Section 72-2-102, to be  
850 expended for the operation and maintenance of state roads.

851 (c) The Division of Finance shall deposit 10% of the aggregate state and local revenue  
852 collected from remote sellers into the Transportation Fund created by Section 72-2-102:

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

855 (ii) to be expended for the operation and maintenance of county and municipal roads.

856 (d) (i) The Division of Finance shall calculate the difference between:

857 (A) the aggregate state revenue collected from remote sellers for a fiscal year; and

858 (B) the amount the Division of Finance deposits in accordance with Subsection (4)(b)  
859 for that fiscal year.

860 (ii) The Division of Finance shall deposit the difference described in Subsection  
861 (4)(d)(i) into the Remote Sales Restricted Account created in Section 59-12-103.2 for  
862 allocation as the Legislature may provide by statute.

863 (e) (i) The Division of Finance shall calculate the difference between:  
864 (A) the aggregate local revenue collected from remote sellers for a fiscal year; and  
865 (B) the amount the Division of Finance deposits in accordance with Subsection (4)(c)  
866 for that fiscal year.

867 (ii) The Division of Finance shall deposit the difference described in Subsection  
868 (4)(e)(i) into the Remote Sales Restricted Account created in Section 59-12-103.2 for  
869 allocation for local infrastructure or transportation purposes as the Legislature may provide by  
870 statute.

871 [~~(3)~~] (5) The Revenue and Taxation Interim Committee shall after hearing the  
872 commission's report under Subsection (2)(b):

873 (a) review the actions taken by:

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

875 (ii) Congress;

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

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

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

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

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

884 **59-12-103.2. Remote Sales Restricted Account -- Creation -- Funding for account**  
885 **-- Interest.**

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

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

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

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

892 Section 5. **Effective date.**

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

894            (2) The actions affecting Section 59-12-103 (Effective 07/01/14) take effect on July 1,  
895    2014.