

1 **AMENDMENTS TO SALES AND USE TAX**

2 2013 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Wayne A. Harper**

5 House Sponsor: Steve Eliason

7 **LONG TITLE**

8 **General Description:**

9 This bill addresses sales and use taxes.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ addresses the disposition of sales and use tax revenue if Congress or the Supreme
13 Court of the United States take certain actions related to the collection of sales and
14 use taxes by certain sellers that are not currently collecting sales and use taxes;

15 ▶ establishes certain reporting requirements;

16 ▶ requires the Division of Finance to make certain deposits and separately account for
17 certain revenue; and

18 ▶ makes technical and conforming changes.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 This bill provides effective dates.

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **59-12-103 (Superseded 07/01/14)**, as last amended by Laws of Utah 2012, Chapters
26 207, 212, 254, and 255

27 **59-12-103 (Effective 07/01/14)**, as last amended by Laws of Utah 2012, Chapters 207,
28 212, 254, 255, and 424

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

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



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

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 Section **59-12-103 (Superseded 07/01/14)** is amended to read:

34 **59-12-103 (Superseded 07/01/14).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

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

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

39 (b) amounts paid for:

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

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

45 (iii) an ancillary service associated with a:

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

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

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

49 (i) gas;

50 (ii) electricity;

51 (iii) heat;

52 (iv) coal;

53 (v) fuel oil; or

54 (vi) other fuels;

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

56 (i) gas;

57 (ii) electricity;

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

- 86 (ii) used; or
- 87 (iii) otherwise consumed;
- 88 (l) amounts paid or charged for tangible personal property if within this state the
- 89 tangible personal property is:
 - 90 (i) stored;
 - 91 (ii) used; or
 - 92 (iii) consumed; and
 - 93 (m) amounts paid or charged for a sale:
 - 94 (i) (A) of a product transferred electronically; or
 - 95 (B) of a repair or renovation of a product transferred electronically; and
 - 96 (ii) regardless of whether the sale provides:
 - 97 (A) a right of permanent use of the product; or
 - 98 (B) a right to use the product that is less than a permanent use, including a right:
 - 99 (I) for a definite or specified length of time; and
 - 100 (II) that terminates upon the occurrence of a condition.
 - 101 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
 - 102 is imposed on a transaction described in Subsection (1) equal to the sum of:
 - 103 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
 - 104 (A) 4.70%; and
 - 105 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
 - 106 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
 - 107 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
 - 108 State Sales and Use Tax Act; and
 - 109 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
 - 110 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
 - 111 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
 - 112 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
 - 113 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

114 transaction under this chapter other than this part.

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

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

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

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

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

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

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

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

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

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

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

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

141 (ii) If an optional computer software maintenance contract is a bundled transaction that

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

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

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

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

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

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

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

162 (II) state or federal law provides otherwise.

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

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

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

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

170 (iii) Subsection (2)(c)(i); or
171 (iv) Subsection (2)(d)(i)(A)(I).
172 (f) (i) A tax rate increase takes effect on the first day of the first billing period that
173 begins on or after the effective date of the tax rate increase if the billing period for the
174 transaction begins before the effective date of a tax rate increase imposed under:
175 (A) Subsection (2)(a)(i)(A);
176 (B) Subsection (2)(b)(i);
177 (C) Subsection (2)(c)(i); or
178 (D) Subsection (2)(d)(i)(A)(I).
179 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
180 statement for the billing period is rendered on or after the effective date of the repeal of the tax
181 or the tax rate decrease imposed under:
182 (A) Subsection (2)(a)(i)(A);
183 (B) Subsection (2)(b)(i);
184 (C) Subsection (2)(c)(i); or
185 (D) Subsection (2)(d)(i)(A)(I).
186 (g) (i) For a tax rate described in Subsection (2)(g)(ii), if a tax due on a catalogue sale
187 is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal
188 or change in a tax rate takes effect:
189 (A) on the first day of a calendar quarter; and
190 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
191 (ii) Subsection (2)(g)(i) applies to the tax rates described in the following:
192 (A) Subsection (2)(a)(i)(A);
193 (B) Subsection (2)(b)(i);
194 (C) Subsection (2)(c)(i); or
195 (D) Subsection (2)(d)(i)(A)(I).
196 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
197 the commission may by rule define the term "catalogue sale."

198 (3) (a) The following state taxes shall be deposited into the General Fund:
199 (i) the tax imposed by Subsection (2)(a)(i)(A);
200 (ii) the tax imposed by Subsection (2)(b)(i);
201 (iii) the tax imposed by Subsection (2)(c)(i); or
202 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
203 (b) The following local taxes shall be distributed to a county, city, or town as provided
204 in this chapter:
205 (i) the tax imposed by Subsection (2)(a)(ii);
206 (ii) the tax imposed by Subsection (2)(b)(ii);
207 (iii) the tax imposed by Subsection (2)(c)(ii); and
208 (iv) the tax imposed by Subsection (2)(d)(i)(B).
209 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
210 2003, the lesser of the following amounts shall be ~~used~~ expended as provided in Subsections
211 (4)(b) through (g):
212 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
213 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
214 (B) for the fiscal year; or
215 (ii) \$17,500,000.
216 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
217 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
218 Department of Natural Resources to:
219 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
220 protect sensitive plant and animal species; or
221 (B) award grants, up to the amount authorized by the Legislature in an appropriations
222 act, to political subdivisions of the state to implement the measures described in Subsections
223 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.
224 (ii) Money transferred to the Department of Natural Resources under Subsection
225 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other

226 person to list or attempt to have listed a species as threatened or endangered under the
227 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

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

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

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

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

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

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

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

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

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

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

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

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

254 Development Fund may also be used to:

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

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

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

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

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

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

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

272 (iii) develop surface water sources.

273 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
274 2006, the difference between the following amounts shall be expended as provided in this
275 Subsection (5), if that difference is greater than \$1:

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

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

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

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

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

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

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

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

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

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

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

300 (i) preconstruction costs:

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

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

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

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

309 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and

310 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

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

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

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

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

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

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

- 334 (A) the tax imposed by Subsection (2)(a)(i)(A);
- 335 (B) the tax imposed by Subsection (2)(b)(i);
- 336 (C) the tax imposed by Subsection (2)(c)(i); and
- 337 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

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

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

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

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

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

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

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

366 72-2-124.

367 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
368 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
369 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

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

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

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

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

390 (13) Notwithstanding Subsections (4) through (12), an amount required to be expended
391 or deposited in accordance with Subsections (4) through (12) may not include an amount the
392 Division of Finance deposits in accordance with Section 59-12-103.2.

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

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

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

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

399 (b) amounts paid for:

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

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

405 (iii) an ancillary service associated with a:

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

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

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

409 (i) gas;

410 (ii) electricity;

411 (iii) heat;

412 (iv) coal;

413 (v) fuel oil; or

414 (vi) other fuels;

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

416 (i) gas;

417 (ii) electricity;

418 (iii) heat;

419 (iv) coal;

420 (v) fuel oil; or

421 (vi) other fuels;

422 (e) sales of prepared food;

423 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
424 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
425 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
426 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
427 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
428 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
429 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
430 horseback rides, sports activities, or any other amusement, entertainment, recreation,
431 exhibition, cultural, or athletic activity;

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

434 (i) the tangible personal property; and

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

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

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

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

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

445 (i) stored;

446 (ii) used; or

447 (iii) otherwise consumed;

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

- 450 (i) stored;
- 451 (ii) used; or
- 452 (iii) consumed; and
- 453 (m) amounts paid or charged for a sale:
 - 454 (i) (A) of a product transferred electronically; or
 - 455 (B) of a repair or renovation of a product transferred electronically; and
 - 456 (ii) regardless of whether the sale provides:
 - 457 (A) a right of permanent use of the product; or
 - 458 (B) a right to use the product that is less than a permanent use, including a right:
 - 459 (I) for a definite or specified length of time; and
 - 460 (II) that terminates upon the occurrence of a condition.
 - 461 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
 - 462 is imposed on a transaction described in Subsection (1) equal to the sum of:
 - 463 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
 - 464 (A) 4.70%; and
 - 465 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
 - 466 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
 - 467 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
 - 468 State Sales and Use Tax Act; and
 - 469 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
 - 470 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
 - 471 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
 - 472 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
 - 473 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
 - 474 transaction under this chapter other than this part.
 - 475 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
 - 476 on a transaction described in Subsection (1)(d) equal to the sum of:
 - 477 (i) a state tax imposed on the transaction at a tax rate of 2%; and

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

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

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

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

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

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

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

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

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

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

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

505 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled

506 transaction described in Subsection (2)(d)(i) or (ii):

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

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

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

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

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

522 (II) state or federal law provides otherwise.

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

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

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

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

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

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

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

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

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

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

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

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

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

- 562 (i) Subsection (2)(a)(i)(A);
- 563 (ii) Subsection (2)(b)(i);
- 564 (iii) Subsection (2)(c)(i); or
- 565 (iv) Subsection (2)(d)(i)(A)(I).
- 566 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
- 567 begins on or after the effective date of the tax rate increase if the billing period for the
- 568 transaction begins before the effective date of a tax rate increase imposed under:
 - 569 (A) Subsection (2)(a)(i)(A);
 - 570 (B) Subsection (2)(b)(i);
 - 571 (C) Subsection (2)(c)(i); or
 - 572 (D) Subsection (2)(d)(i)(A)(I).
- 573 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
- 574 statement for the billing period is rendered on or after the effective date of the repeal of the tax
- 575 or the tax rate decrease imposed under:
 - 576 (A) Subsection (2)(a)(i)(A);
 - 577 (B) Subsection (2)(b)(i);
 - 578 (C) Subsection (2)(c)(i); or
 - 579 (D) Subsection (2)(d)(i)(A)(I).
- 580 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
- 581 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
- 582 change in a tax rate takes effect:
 - 583 (A) on the first day of a calendar quarter; and
 - 584 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 585 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:
 - 586 (A) Subsection (2)(a)(i)(A);
 - 587 (B) Subsection (2)(b)(i);
 - 588 (C) Subsection (2)(c)(i); or
 - 589 (D) Subsection (2)(d)(i)(A)(I).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

608 (B) for the fiscal year; or

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

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

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

615 (B) award grants, up to the amount authorized by the Legislature in an appropriations
616 act, to political subdivisions of the state to implement the measures described in Subsections
617 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

666 (iii) develop surface water sources.

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

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

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

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

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

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

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

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

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

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

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

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

694 (i) preconstruction costs:

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

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

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

701 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project

702 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

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

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

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

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

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

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

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

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

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

730 (C) the tax imposed by Subsection (2)(c)(i); and
731 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus
732 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
733 current fiscal year from the sales and use taxes described in Subsections (8)(a)(i)(A) through
734 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
735 (8)(a)(i)(A) through (D) in the 2010-11 fiscal year.

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

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

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

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

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

756 (9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
757 Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of

758 Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under
759 Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section
760 72-2-124.

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

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

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

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

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

784 (13) Notwithstanding Subsections (4) through (12), an amount required to be expended
785 or deposited in accordance with Subsections (4) through (12) may not include an amount the

786 Division of Finance deposits in accordance with Section 59-12-103.2.

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

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

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

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

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

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

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

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

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

807 (2) The commission shall:

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

809 (i) to the extent:

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

811 (B) permitted by Congress; and

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

814 (b) make a report to the Revenue and Taxation Interim Committee:
815 (i) regarding the actions taken by:
816 (A) the Supreme Court of the United States; or
817 (B) Congress; [~~and~~]
818 (ii) (A) stating the amount of state revenue collected at the time of the report, if any;
819 and
820 (B) estimating the state sales and use tax rate reduction that would offset the amount of
821 state revenue estimated to be collected for the current fiscal year and the next fiscal year; and
822 [~~(ii)~~] (iii) (A) at the Revenue and Taxation Interim Committee meeting immediately
823 following the day on which the actions of the Supreme Court of the United States or Congress
824 [actions] become effective[-]; and
825 (B) any other meeting of the Revenue and Taxation Interim Committee as requested by
826 the chairs of the committee.
827 (3) The Revenue and Taxation Interim Committee shall after hearing the commission's
828 report under Subsection (2)(b):
829 (a) review the actions taken by:
830 (i) the Supreme Court of the United States; or
831 (ii) Congress;
832 (b) direct the commission regarding the day on which the commission is required to
833 collect the tax described in Subsection (1); and
834 (c) make recommendations to the Legislative Management Committee:
835 (i) regarding whether as a result of the actions of the Supreme Court of the United
836 States or Congress [~~actions~~] any provisions of this chapter should be amended or repealed; and
837 (ii) within a one-year period after the day on which the commission makes a report
838 under Subsection (2)(b).
839 (4) The Division of Finance shall deposit a portion of the revenue collected under this
840 section into the Remote Sales Restricted Account as required by Section 59-12-103.2.
841 Section 4. Section **59-12-103.2** is amended to read:

842 **59-12-103.2. Definitions -- Remote Sales Restricted Account -- Creation --**
843 **Funding for account -- Interest -- Division of Finance accounting.**

844 (1) As used in this section:

845 (a) "Qualified local revenue collected from remote sellers" means the local revenue the
846 commission collects under Section 59-12-103.1 for a fiscal year from sellers who obtain a
847 license under Section 59-12-106 for the first time on or after the earlier of:

848 (i) the date a decision described in Subsection 59-12-103.1(1)(a) becomes a final,
849 unappealable decision; or

850 (ii) the effective date of the action by Congress described in Subsection
851 59-12-103.1(1)(b).

852 (b) "Qualified state revenue collected from remote sellers" means the state revenue the
853 commission collects under Section 59-12-103.1 for a fiscal year from sellers who obtain a
854 license under Section 59-12-106 for the first time on or after the earlier of:

855 (i) the date a decision described in Subsection 59-12-103.1(1)(a) becomes a final,
856 unappealable decision; or

857 (ii) the effective date of the action by Congress described in Subsection
858 59-12-103.1(1)(b).

859 ~~[(+)]~~ (2) There is created within the General Fund a restricted account known as the
860 "Remote Sales Restricted Account."

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

863 (3) The account shall be funded by:

864 (a) the qualified local revenue collected from remote sellers; and

865 (b) the qualified state revenue collected from remote sellers.

866 ~~[(3)]~~ (4) (a) The account shall earn interest.

867 (b) The interest described in Subsection ~~[(3)]~~ (4)(a) shall be deposited into the account.

868 (5) The Division of Finance shall deposit the revenue described in Subsection (3) into
869 the account.

870 (6) The Division of Finance shall separately account for:
871 (a) (i) the qualified local revenue collected from remote sellers; and
872 (ii) interest earned on the amount described in Subsection (6)(a)(i); and
873 (b) (i) the qualified state revenue collected from remote sellers; and
874 (ii) interest earned on the amount described in Subsection (6)(b)(i).
875 (7) (a) The revenue and interest described in Subsection (6)(a) may be used to lower
876 local sales and use tax rates as the Legislature may provide by statute.
877 (b) The revenue and interest described in Subsection (6)(b) may be used to lower state
878 sales and use tax rates as the Legislature may provide by statute.
879 **Section 5. Effective date.**
880 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2013.
881 (2) The actions affecting Section 59-12-103 (Effective 07/01/14) take effect on July 1,
882 2014.