

SALES AND USE TAX MODIFICATIONS

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Lyle W. Hillyard

AN ACT RELATING TO REVENUE AND TAXATION; AMENDING SALES AND USE TAX COLLECTION DUTIES; MODIFYING TAX PENALTY PROVISIONS; AMENDING PROVISIONS RELATING TO THE SALES AND USE TAX BASE AND RATES; PROVIDING FOR THE DISTRIBUTION OF CERTAIN SALES AND USE TAX REVENUES TO COUNTIES, CITIES, OR TOWNS; CLARIFYING SALES AND USE TAX REVENUES TO BE DEPOSITED INTO THE GENERAL FUND; CREATING THE REMOTE SALES RESTRICTED ACCOUNT; REQUIRING CERTAIN REVENUES GENERATED BY THE STATE PORTION OF THE SALES AND USE TAX TO BE DEPOSITED INTO THE REMOTE SALES RESTRICTED ACCOUNT; AMENDING DEFINITIONS; AUTHORIZING CERTAIN VENDORS TO COLLECT A SALES OR USE TAX; REQUIRING THE STATE TAX COMMISSION TO COLLECT A SALES OR USE TAX FROM CERTAIN VENDORS THAT ARE NOT CURRENTLY REQUIRED TO COLLECT SALES OR USE TAXES IF PERMITTED BY CONGRESS OR AUTHORIZED BY THE SUPREME COURT OF THE UNITED STATES; REQUIRING THE STATE TAX COMMISSION TO MAKE A REPORT TO THE TAX REVIEW COMMISSION UNDER CERTAIN CIRCUMSTANCES; REQUIRING THE TAX REVIEW COMMISSION TO CONDUCT A STUDY UNDER CERTAIN CIRCUMSTANCES; ADDRESSING THE AUTHORITY OF COUNTIES, CITIES, OR TOWNS TO COLLECT SALES OR USE TAXES; MAKING TECHNICAL CHANGES; DELETING OBSOLETE LANGUAGE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING A COORDINATION CLAUSE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

17A-2-1064, as enacted by Chapter 133, Laws of Utah 1999

59-1-401, as last amended by Chapter 205, Laws of Utah 1995

59-12-102, as last amended by Chapters 63 and 362, Laws of Utah 1999

59-12-103, as last amended by Chapter 133, Laws of Utah 1999
59-12-106, as last amended by Chapter 16, Laws of Utah 1995
59-12-107, as last amended by Chapter 210, Laws of Utah 1999
59-12-110, as last amended by Chapter 71, Laws of Utah 1999
59-12-204, as last amended by Chapter 133, Laws of Utah 1999
59-12-205, as last amended by Chapter 133, Laws of Utah 1999
59-12-401, as last amended by Chapter 291, Laws of Utah 1998
59-12-402, as last amended by Chapter 291, Laws of Utah 1998
59-12-501, as last amended by Chapter 291, Laws of Utah 1998
59-12-502, as last amended by Chapter 291, Laws of Utah 1998
59-12-703, as last amended by Chapters 209 and 291, Laws of Utah 1998
59-12-801, as last amended by Chapter 261, Laws of Utah 1998
59-12-802, as last amended by Chapters 261 and 291, Laws of Utah 1998
59-12-803, as last amended by Chapter 261, Laws of Utah 1998
59-12-804, as enacted by Chapter 111, Laws of Utah 1994
59-12-902, as enacted by Chapter 264, Laws of Utah 1997
59-12-1001, as last amended by Chapter 291, Laws of Utah 1998
59-12-1102, as last amended by Chapter 13, Laws of Utah 1998
59-12-1302, as enacted by Chapter 243, Laws of Utah 1998

ENACTS:

59-12-103.1, Utah Code Annotated 1953
59-12-103.2, Utah Code Annotated 1953
59-12-805, Utah Code Annotated 1953

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

Section 1. Section **17A-2-1064** is amended to read:

17A-2-1064. Airport to University of Utah Light Rail Restricted Account -- Creation -- Use of revenues.

(1) There is created within the General Fund a restricted account known as the "Airport to

University of Utah Light Rail Restricted Account."

(2) The account shall be funded from the portion of the sales and use tax under Sections 59-12-204 and 59-12-205 that is:

(a) generated by a city or town that will have constructed within its boundaries the Airport to University of Utah Light Rail described in the Transportation Equity Act for the 21st Century, Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

(b) equal to the revenues generated by a 1/64% tax rate on the taxable ~~[items and services]~~ transactions under Subsection 59-12-103(1).

(3) The Utah State Tax Commission shall deposit the revenues described in Subsection (2) into the account.

(4) The account shall earn interest which shall be deposited into the account.

(5) (a) A district may use the revenues in the account for a purpose described in Subsection (5)(b) if:

(i) more than 200,000 people reside within the district boundaries; and

(ii) the district receives a grant or a loan under 49 U.S.C. Sec. 5309:

(A) for the Airport to University of Utah Light Rail project described in the Transportation Equity Act for the 21st Century, Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

(B) before the construction of the Airport to University of Utah Light Rail project described in Subsection (5)(a)(ii)(A) is completed.

(b) Subsection (5)(a) applies to:

(i) maintaining the Airport to University of Utah Light Rail described in Subsection (5)(a)(ii)(A); or

(ii) operating the Airport to University of Utah Light Rail described in Subsection (5)(a)(ii)(A).

Section 2. Section **59-1-401** is amended to read:

59-1-401. Penalties.

(1) (a) The penalty for failure to file a tax return within the time prescribed by law including extensions is the greater of \$20 or 10% of the unpaid tax due on the return.

(b) Subsection (1) does not apply to amended returns.

(2) The penalty for failure to pay tax due shall be the greater of \$20 or 10% of the unpaid tax for:

(a) failure to pay any tax, as reported on a timely filed return;

(b) failure to pay any tax within 90 days of the due date of the return, if there was a late filed return subject to the penalty provided under Subsection (1)(a);

(c) failure to pay any tax within 30 days of the date of mailing any notice of deficiency of tax unless a petition for redetermination or a request for agency action is filed within 30 days of the date of mailing the notice of deficiency;

(d) failure to pay any tax within 30 days after the date the commission's order constituting final agency action resulting from a timely filed petition for redetermination or request for agency action is issued or is considered to have been issued under Subsection 63-46b-13(3)(b); and

(e) failure to pay any tax within 30 days after the date of a final judicial decision resulting from a timely filed petition for judicial review.

(3) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there shall be added a penalty in an amount determined by applying the interest rate provided under Section 59-1-402 plus four percentage points to the amount of the underpayment for the period of the underpayment.

(b) (i) For purposes of Subsection (3)(a), the amount of the underpayment shall be the excess of the required installment over the amount, if any, of the installment paid on or before the due date for the installment.

(ii) The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier:

(A) the original due date of the tax return, without extensions, for the taxable year; or

(B) with respect to any portion of the underpayment, the date on which that portion is paid.

(iii) For purposes of this Subsection (3), a payment of estimated tax shall be credited against unpaid required installments in the order in which the installments are required to be paid.

(4) (a) In case of an extension of time to file an individual income tax or corporate franchise tax return, if the lesser of 90% of the total tax reported on the tax return or 100% of the prior year's tax is not paid by the due date of the return, not including extensions, a 2% per month penalty shall apply on the unpaid tax during the period of extension.

(b) If a return is not filed within the extension time period as provided in Section 59-7-505 or 59-10-516, penalties as provided in Subsection (1) and Subsection (2)(b) shall be added in lieu of the penalty assessed under this Subsection (4) as if no extension of time for filing a return had been granted.

(5) (a) Additional penalties for underpayments of tax are as ~~[follows:]~~ provided in Subsections (5)(a)(i) through (iv).

(i) ~~[Hf]~~ Except as provided in Subsection (5)(c), if any underpayment of tax is due to negligence, the penalty is 10% of the underpayment.

(ii) ~~[Hf]~~ Except as provided in Subsection (5)(d), if any underpayment of tax is due to intentional disregard of law or rule, the penalty is 15% of the underpayment.

(iii) For intent to evade the tax, the penalty is the greater of \$500 per period or 50% of the tax due.

(iv) If the underpayment is due to fraud with intent to evade the tax, the penalty is the greater of \$500 per period or 100% of the underpayment.

(b) If the commission determines that a person is liable for a penalty imposed under Subsection (5)(a)(ii), (iii), or (iv), the commission shall notify the taxpayer of the proposed penalty.

(i) The notice of proposed penalty shall:

(A) set forth the basis of the assessment; and

(B) be mailed by registered mail, postage prepaid, to the person's last-known address.

(ii) Upon receipt of the notice of proposed penalty, the person against whom the penalty is proposed may:

(A) pay the amount of the proposed penalty at the place and time stated in the notice; or

(B) proceed in accordance with the review procedures of Subsection (5)(b)(iii).

(iii) Any person against whom a penalty has been proposed in accordance with this

Subsection (5) may contest the proposed penalty by filing a petition for an adjudicative proceeding with the commission.

(iv) If the commission determines that a person is liable for a penalty under this Subsection (5), the commission shall assess the penalty and give notice and demand for payment. The notice and demand for payment shall be mailed by registered mail, postage prepaid, to the person's last-known address.

(c) Notwithstanding Subsection (5)(a)(i), a vendor that collects a tax under Subsection 59-12-107(1)(b) is not subject to the penalty under Subsection (5)(a)(i) if on or after July 1, 2001:

(i) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(A) the vendor meets one or more of the criteria described in Subsection 59-12-107(1)(a);
and

(B) the commission or a county, city, or town may require the vendor to collect a tax under Subsection 59-12-103(2)(a) or (b); or

(ii) the commission issues a final unappealable administrative order determining that:

(A) the vendor meets one or more of the criteria described in Subsection 59-12-107(1)(a);
and

(B) the commission or a county, city, or town may require the vendor to collect a tax under Subsection 59-12-103(2)(a) or (b).

(d) Notwithstanding Subsection (5)(a)(ii), a vendor that collects a tax under Subsection 59-12-107(1)(b) is not subject to the penalty under Subsection (5)(a)(ii) if:

(i) (A) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(I) the vendor meets one or more of the criteria described in Subsection 59-12-107(1)(a); and

(II) the commission or a county, city, or town may require the vendor to collect a tax under Subsection 59-12-103(2)(a) or (b); or

(B) the commission issues a final unappealable administrative order determining that:

(I) the vendor meets one or more of the criteria described in Subsection 59-12-107(1)(a); and

(II) the commission or a county, city, or town may require the vendor to collect a tax under Subsection 59-12-103(2)(a) or (b); and

(ii) the vendor's intentional disregard of law or rule is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.

(6) The penalty for failure to file an information return or a complete supporting schedule is \$50 for each return or schedule up to a maximum of \$1,000.

(7) If any taxpayer, in furtherance of a frivolous position, has a prima facie intent to delay or impede administration of the tax law and files a purported return that fails to contain information from which the correctness of reported tax liability can be determined or that clearly indicates that the tax liability shown must be substantially incorrect, the penalty is \$500.

(8) For monthly payment of sales and use taxes under Section 59-12-108, in addition to any other penalties for late payment, a vendor may not retain a percentage of sales and use taxes collected as otherwise allowable under Section 59-12-108.

(9) As provided in Section 76-8-1101, the following are criminal penalties:

(a) Any person who is required by this title or any laws the commission administers or regulates to register with or obtain a license or permit from the commission, or who operates without having registered or secured a license or permit, or who operates when the registration, license, or permit is expired or not current, is guilty of a class B misdemeanor, except that, notwithstanding Section 76-3-301, the fine is not less than \$500 nor more than \$1,000.

(b) Any person who, with intent to evade any tax or requirement of this title or any lawful requirement of the commission, fails to make, render, sign, or verify any return or to supply any information within the time required under this title, or who makes, renders, signs, or verifies any false or fraudulent return or statement, or who supplies any false or fraudulent information, is guilty of a third degree felony, except that, notwithstanding Section 76-3-301, the fine is not less than \$1,000 nor more than \$5,000.

(c) Any person who willfully attempts to evade or defeat any tax or the payment thereof is, in addition to other penalties provided by law, guilty of a second degree felony, except that,

notwithstanding Section 76-3-301, the fine is not less than \$1,500 nor more than \$25,000.

(d) The statute of limitations for prosecution for a violation of this section is six years from the date the tax should have been remitted.

(10) Upon making a record of its actions, and upon reasonable cause shown, the commission may waive, reduce, or compromise any of the penalties or interest imposed under this part.

Section 3. Section **59-12-102** is amended to read:

59-12-102. Definitions.

As used in this chapter:

(1) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include annual membership dues to private organizations.

(2) "Area agency on aging" is as defined in Section 62A-3-101.

(3) "Authorized carrier" means:

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

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

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, the holder of a certificate issued by the United States Interstate Commerce Commission.

(4) (a) For purposes of Subsection 59-12-104(43), "coin-operated amusement device" means:

(i) a coin-operated amusement, skill, or ride device;

(ii) that is not controlled through vendor-assisted, over-the-counter, sales of tokens; and

(iii) includes a music machine, pinball machine, billiard machine, video game machine, arcade machine, and a mechanical or electronic skill game or ride.

(b) For purposes of Subsection 59-12-104(43), "coin-operated amusement device" does not mean a coin-operated amusement device possessing a coinage mechanism that:

(i) accepts and registers multiple denominations of coins; and

(ii) allows the vendor to collect the sales and use tax at the time an amusement device is activated and operated by a person inserting coins into the device.

(5) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (13) or residential use under Subsection (21).

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

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

(ii) For purposes of Subsection (6)(b)(i), in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(7) "Component part" includes:

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

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

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

(d) feed, seeds, and seedlings.

(8) "Construction materials" means any tangible personal property that will be converted into real property.

(9) (a) "Fundraising sales" means sales:

(i) (A) made by a public or private elementary or secondary school; or

(B) made by a public or private elementary or secondary school student, grades kindergarten through 12;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

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

(b) For purposes of Subsection (9)(a)(iii), "officially sanctioned school activity" means a school activity:

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

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

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

(10) (a) "Hearing aid" means:

(i) an instrument or device having an electronic component that is designed to:

(A) (I) improve impaired human hearing; or

(II) correct impaired human hearing; and

(B) (I) be worn in the human ear; or

(II) affixed behind the human ear;

(ii) an instrument or device that is surgically implanted into the cochlea; or

(iii) a telephone amplifying device.

(b) "Hearing aid" does not include:

(i) except as provided in Subsection (10)(a)(i)(B) or (10)(a)(ii), an instrument or device having an electronic component that is designed to be worn on the body;

(ii) except as provided in Subsection (10)(a)(iii), an assistive listening device or system designed to be used by one individual, including:

(A) a personal amplifying system;

(B) a personal FM system;

(C) a television listening system; or

(D) a device or system similar to a device or system described in Subsections (10)(b)(ii)(A) through (C); or

(iii) an assistive listening device or system designed to be used by more than one individual, including:

(A) a device or system installed in:

(I) an auditorium;

(II) a church;

(III) a conference room;

(IV) a synagogue; or

(V) a theater; or

(B) a device or system similar to a device or system described in Subsections

(10)(b)(iii)(A)(I) through (V).

(11) (a) "Hearing aid accessory" means a hearing aid:

(i) component;

(ii) attachment; or

(iii) accessory.

(b) "Hearing aid accessory" includes:

(i) a hearing aid neck loop;

(ii) a hearing aid cord;

(iii) a hearing aid ear mold;

(iv) hearing aid tubing;

(v) a hearing aid ear hook; or

(vi) a hearing aid remote control.

(c) "Hearing aid accessory" does not include:

(i) a component, attachment, or accessory designed to be used only with an:

(A) instrument or device described in Subsection (10)(b)(i); or

(B) assistive listening device or system described in Subsection (10)(b)(ii) or (iii); or

(ii) a hearing aid battery.

(12) (a) "Home medical equipment and supplies" means equipment and supplies that:

(i) a licensed physician prescribes or authorizes in writing as necessary for the treatment of a medical illness or injury or as necessary to mitigate an impairment resulting from illness or injury;

(ii) are used exclusively by the person for whom they are prescribed to serve a medical

purpose; and

(iii) are listed as eligible for payment under Title 18 of the federal Social Security Act or under the state plan for medical assistance under Title 19 of the federal Social Security Act.

(b) "Home medical equipment and supplies" does not include:

(i) equipment and supplies purchased by, for, or on behalf of any health care facility, as defined in Subsection (12)(c), doctor, nurse, or other health care provider for use in their professional practice;

(ii) eyeglasses, contact lenses, or equipment to correct impaired vision; or

(iii) hearing aids or hearing aid accessories.

(c) For purposes of Subsection (12)(b)(i), "health care facility" includes:

(i) a clinic;

(ii) a doctor's office; and

(iii) a health care facility as defined in Section 26-21-2.

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

(a) mining or extraction of minerals;

(b) agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities; and

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

(14) "Manufactured home" means any manufactured home or mobile home as defined in Title

58, Chapter 56, Utah Uniform Building Standards Act.

(15) For purposes of Subsection 59-12-104(14), "manufacturing facility" means:

(a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(b) a scrap recycler if:

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

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (15)(b)(i) would otherwise be made with nonrecycled materials.

(16) (a) "Medicine" means:

(i) insulin, syringes, and any medicine prescribed for the treatment of human ailments by a person authorized to prescribe treatments and dispensed on prescription filled by a registered pharmacist, or supplied to patients by a physician, surgeon, or podiatric physician;

(ii) any medicine dispensed to patients in a county or other licensed hospital if prescribed for that patient and dispensed by a registered pharmacist or administered under the direction of a physician; and

(iii) any oxygen or stoma supplies prescribed by a physician or administered under the direction of a physician or paramedic.

(b) "Medicine" does not include:

- (i) any auditory, prosthetic, ophthalmic, or ocular device or appliance; or
- (ii) any alcoholic beverage.

(17) "Olympic merchandise" means tangible personal property bearing an Olympic designation, emblem, insignia, mark, logo, service mark, symbol, terminology, trademark, or other copyrighted or protected material, including:

- (a) one or more of the following terms:
 - (i) "Olympic[;]";
 - (ii) "Olympiad[;]"; or
 - (iii) "Citius Altius Fortius[;]";
- (b) the symbol of the International Olympic Committee, consisting of five interlocking rings;
- (c) the emblem of the International Olympic Committee Corporation;
- (d) a United States Olympic Committee designation, emblem, insignia, mark, logo, service mark, symbol, terminology, trademark, or other copyrighted or protected material;
- (e) any emblem of the Olympic Winter [~~Olympic~~] Games of 2002 that is officially designated by the Salt Lake Organizing Committee of the Olympic Winter [~~Olympic~~] Games of 2002; or
- (f) the mascot of the Olympic Winter [~~Olympic~~] Games of 2002.

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

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

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

(20) "Purchase price" means the amount paid or charged for tangible personal property or any other taxable [~~item or service~~] transaction under Subsection 59-12-103(1), excluding only cash discounts taken or any excise tax imposed on the purchase price by the federal government.

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

(22) (a) "Retail sale" means any sale within the state of tangible personal property or any

other taxable ~~[item or service]~~ transaction under Subsection 59-12-103(1), other than resale of such property, item, or service by a retailer or wholesaler to a user or consumer.

(b) "Retail sale" includes sales by any farmer or other agricultural producer of poultry, eggs, or dairy products to consumers if the sales have an average monthly sales value of \$125 or more.

(c) "Retail sale" does not include, and no additional sales or use tax shall be assessed against, those transactions where a purchaser of tangible personal property pays applicable sales or use taxes on its initial nonexempt purchases of property and then enters into a sale-leaseback transaction by which title to such property is transferred by the purchaser-lessee to a lessor for consideration, provided:

(i) the transaction is intended as a form of financing for the property to the purchaser-lessee; and

(ii) pursuant to generally accepted accounting principles, the purchaser-lessee is required to capitalize the subject property for financial reporting purposes, and account for the lease payments as payments made under a financing arrangement.

(23) (a) "Retailer" means any person engaged in a regularly organized retail business in tangible personal property or any other taxable ~~[item or service]~~ transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

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

~~[(c) "Retailer" includes any person who engages in regular or systematic solicitation of a consumer market in this state by the distribution of catalogs, periodicals, advertising flyers, or other advertising, or by means of print, radio or television media, by mail, telegraphy, telephone, computer data base, cable, optic, microwave, or other communication system.]~~

~~[(d)]~~ (c) "Retailer" does not include farmers, gardeners, stockmen, poultrymen, or other growers or agricultural producers producing and doing business on their own premises, except those who are regularly engaged in the business of buying or selling for a profit.

~~[(e)]~~ (d) For purposes of this chapter the commission may regard as retailers the following if they determine it is necessary for the efficient administration of this chapter: salesmen,

representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of these dealers, distributors, supervisors, or employers, except that:

(i) a printer's facility with which a retailer has contracted for printing shall not be considered to be a salesman, representative, peddler, canvasser, or agent of the retailer; and

(ii) the ownership of property that is located at the premises of a printer's facility with which the retailer has contracted for printing and that consists of the final printed product, property that becomes a part of the final printed product, or copy from which the printed product is produced, shall not result in the retailer being deemed to have or maintain an office, distribution house, sales house, warehouse, service enterprise, or other place of business, or to maintain a stock of goods, within this state.

(24) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable ~~[item or service]~~ transaction under Subsection 59-12-103(1), for [a] consideration. It includes:

- (a) installment and credit sales;
- (b) any closed transaction constituting a sale;
- (c) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;
- (d) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and
- (e) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(25) (a) "Sales relating to schools" means sales by a public school district or public or private elementary or secondary school, grades kindergarten through 12, that are directly related to the school's or school district's educational functions or activities and include:

- (i) the sale of textbooks, textbook fees, laboratory fees, laboratory supplies, and safety equipment;

(ii) the sale of clothing that:

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

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

(iii) sales of food if the net or gross revenues generated by the food sales are deposited into a school district fund or school fund dedicated to school meals; and

(iv) transportation charges for official school activities.

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

(i) gate receipts;

(ii) special event admission fees;

(iii) bookstore sales of items that are not educational materials or supplies; and

(iv) except as provided in Subsection (25)(a)(ii), clothing.

(26) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

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

(28) "Storage" means any keeping or retention of tangible personal property or any other taxable [~~item or service~~] transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(29) (a) "Tangible personal property" means:

(i) all goods, wares, merchandise, produce, and commodities;

(ii) all tangible or corporeal things and substances which are dealt in or capable of being possessed or exchanged;

(iii) water in bottles, tanks, or other containers; and

(iv) all other physically existing articles or things, including property severed from real estate.

(b) "Tangible personal property" does not include:

(i) real estate or any interest or improvements in real estate;

(ii) bank accounts, stocks, bonds, mortgages, notes, and other evidence of debt;

- (iii) insurance certificates or policies;
- (iv) personal or governmental licenses;
- (v) water in pipes, conduits, ditches, or reservoirs;
- (vi) currency and coinage constituting legal tender of the United States or of a foreign nation;

and

(vii) all gold, silver, or platinum ingots, bars, medallions, or decorative coins, not constituting legal tender of any nation, with a gold, silver, or platinum content of not less than 80%.

(30) (a) "Use" means the exercise of any right or power over tangible personal property under Subsection 59-12-103(1), incident to the ownership or the leasing of that property, item, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of that property in the regular course of business and held for resale.

(31) "Vehicle" means any aircraft, as defined in Section 72-10-102; any vehicle, as defined in Section 41-1a-102; any off-highway vehicle, as defined in Section 41-22-2; and any vessel, as defined in Section 41-1a-102; that is required to be titled, registered, or both. "Vehicle" for purposes of Subsection 59-12-104(36) only, also includes any locomotive, freight car, railroad work equipment, or other railroad rolling stock.

(32) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging vehicles as defined in Subsection (31).

(33) (a) "Vendor" means ~~[(i)]~~ any person receiving any payment or consideration upon a sale of tangible personal property or any other taxable ~~[item or service]~~ transaction under Subsection 59-12-103(1), or to whom ~~[such]~~ the payment or consideration is payable ~~[-and]~~.

~~[(ii) any person who engages in regular or systematic solicitation of a consumer market in this state by the distribution of catalogs, periodicals, advertising flyers, or other advertising, or by means of print, radio or television media, by mail, telegraphy, telephone, computer data base, cable, optic, microwave, or other communication system.]~~

(b) "Vendor" does not mean a printer's facility described in Subsection (23) ~~[(e)]~~ (d).

Section 4. Section **59-12-103** is amended to read:

59-12-103. Sales and use tax base -- Rates -- Use of sales and use tax revenues.

(1) ~~[There is levied a]~~ A tax is imposed on the purchaser as provided in this part for ~~[the amount]~~ amounts paid or charged for the following transactions:

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

(b) ~~[amount]~~ amounts paid to common carriers or to telephone or telegraph corporations, whether the corporations are municipally or privately owned, for:

(i) all transportation;

(ii) intrastate telephone service; or

(iii) telegraph service;

(c) sales of the following for commercial use:

(i) gas[~~;~~];

(ii) electricity[~~;~~];

(iii) heat[~~;~~];

(iv) coal[~~;~~];

(v) fuel oil[~~;~~]; or

(vi) other fuels [~~sold for commercial use~~];

(d) sales of the following for residential use:

(i) gas[~~;~~];

(ii) electricity[~~;~~];

(iii) heat[~~;~~];

(iv) coal[~~;~~];

(v) fuel oil[~~;~~]; or

(vi) other fuels [~~sold for residential use~~];

(e) sales of meals [~~sold~~];

(f) amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing [~~and~~] matches, wrestling matches, closed circuit television broadcasts, billiard [~~or~~] parlors, pool parlors,

bowling lanes, golf ~~and~~, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services;

(i) for repairs or renovations of tangible personal property; or ~~services~~

(ii) to install tangible personal property in connection with other tangible personal property;

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

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

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

(k) amounts paid or charged for leases ~~and~~ or rentals of tangible personal property if:

(i) the ~~property~~ tangible personal property's situs is in this state~~;~~ ~~if~~;

(ii) the lessee took possession of the tangible personal property in this state~~;~~ or ~~if the~~

(iii) within this state the tangible personal property is;

(A) stored~~;~~;

(B) used~~;~~; or

(C) otherwise consumed ~~[in this state]~~;

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

(i) stored~~;~~;

(ii) used~~;~~; or

(iii) consumed ~~[in this state]~~; and

(m) amounts paid or charged for prepaid telephone calling cards.

(2) (a) Except ~~[for Subsection (1)(d), the rates of the tax levied under]~~ as provided in Subsections (2)(b) and (c), beginning on July 1, 2001, a state tax and a local tax is imposed on a transaction described in Subsection (1) [shall be:] equal to the sum of:

~~[(a) 5% through June 30, 1994;]~~

~~[(b) 4.875% beginning on July 1, 1994 through June 30, 1997; and]~~

~~[(c) 4.75% beginning on July 1, 1997.]~~

(i) a state tax imposed on the transaction at a rate of 4.75%; and

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

~~[(3)]~~ (b) [The rates of the tax levied under] Notwithstanding Subsection (2)(a), beginning on July 1, 2001, a state tax and a local tax is imposed on a transaction described in Subsection (1)(d) [shall be 2% from and after January 1, 1990] equal to the sum of:

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

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

(c) Notwithstanding Subsections (2)(a) and (b), beginning on July 1, 2001, if a vendor collects a tax under Subsection 59-12-107(1)(b) on a transaction described in Subsection (1), a state tax and a local tax is imposed on the transaction equal to the sum of:

(i) a state tax imposed on the transaction at a rate of:

(A) 4.75% for a transaction other than a transaction described in Subsection (1)(d); or

(B) 2% for a transaction described in Subsection (1)(d); and

(ii) except as provided in Subsection (2)(d), a local tax imposed on the transaction at a rate equal to the sum of the following tax rates:

(A) the lowest tax rate imposed by a county, city, or town under Section 59-12-204, but only if all of the counties, cities, and towns in the state impose the tax under Section 59-12-204;

(B) the lowest tax rate imposed by a county, city, or town under Section 59-12-205, but only if all of the counties, cities, and towns in the state impose the tax under Section 59-12-205; and

(C) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the state impose the tax under Section 59-12-1102.

(d) Tax rates authorized under the following do not apply to Subsection (2)(c)(ii):

(i) Subsection (2)(a)(i);

- (ii) Subsection (2)(b)(i);
- (iii) Subsection (2)(c)(i);
- (iv) Section 59-12-301;
- (v) Section 59-12-352;
- (vi) Section 59-12-353;
- (vii) Section 59-12-401;
- (viii) Section 59-12-402;
- (ix) Section 59-12-501;
- (x) Section 59-12-502;
- (xi) Section 59-12-603;
- (xii) Section 59-12-703;
- (xiii) Section 59-12-802;
- (xiv) Section 59-12-804;
- (xv) Section 59-12-1001;
- (xvi) Section 59-12-1201; or
- (xvii) Section 59-12-1302.

(3) (a) Except as provided in Subsections (4) through (8), the state taxes described in Subsections (2)(a)(i), (2)(b)(i), and (2)(c)(i) shall be deposited into the General Fund.

(b) The local taxes described in Subsections (2)(a)(ii) and (2)(b)(ii) shall be distributed to a county, city, or town as provided in this chapter.

(c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the state shall receive the county's, city's, or town's proportionate share of the revenues generated by the local tax described in Subsection (2)(c)(ii) as provided in Subsection (3)(c)(ii).

(ii) The commission shall determine a county's, city's, or town's proportionate share of the revenues under Subsection (3)(c)(i) by:

(A) dividing the population of the county, city, or town by the total population of the state;

and

(B) multiplying the percentage determined under Subsection (3)(c)(ii)(A) by the total amount

of revenues generated by the local tax under Subsection (2)(c)(ii) for all counties, cities, and towns.

(iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for purposes of this section shall be derived from the most recent official census or census estimate of the United States Census Bureau.

(B) Notwithstanding Subsection (3)(c)(iii)(A), if a needed population estimate is not available from the United States Census Bureau, population figures shall be derived from the estimate from the Utah Population Estimates Committee created by executive order of the governor.

(C) For purposes of this section, the population of a county may only include the population of the unincorporated areas of the county.

(4) (a) ~~[There]~~ Notwithstanding Subsection (3)(a), there shall be deposited in an Olympics special revenue fund or funds as determined by the Division of Finance under Section 51-5-4, for the use of the Utah Sports Authority created under Title 63A, Chapter 7, Utah Sports Authority Act:

(i) from January 1, 1990, through December 31, 1999, the amount of sales and use tax generated by a 1/64% tax rate on the taxable ~~[items and services]~~ transactions under Subsection (1);

(ii) from January 1, 1990, through June 30, 1999, the amount of revenue generated by a 1/64% tax rate under Section 59-12-204 or Section 59-12-205 on the taxable ~~[items and services]~~ transactions under Subsection (1); and

(iii) interest earned on the amounts under Subsections (4)(a)(i) and (ii).

(b) These funds shall be used:

(i) by the Utah Sports Authority as follows:

(A) to the extent funds are available, to transfer directly to a debt service fund or to otherwise reimburse to the state any amount expended on debt service or any other cost of any bonds issued by the state to construct any public sports facility as defined in Section 63A-7-103;

(B) to pay for the actual and necessary operating, administrative, legal, and other expenses of the Utah Sports Authority, but not including protocol expenses for seeking and obtaining the right to host the Winter Olympic Games; and

(C) unless the Legislature appropriates additional funds from the Olympics Special Revenue Fund to the Utah Sports Authority, the Utah Sports Authority may not expend, loan, or pledge in the

aggregate more than:

(I) \$59,000,000 of sales and use tax deposited into the Olympics special revenue fund under Subsection (4)(a);

(II) the interest earned on the amount described in Subsection (4)(b)(i)(C)(I); and

(III) the revenues deposited into the Olympics Special Revenue Fund that are not sales and use taxes deposited under Subsection (4)(a) or interest on the sales and use taxes;

(ii) to pay salary, benefits, or administrative costs associated with the State Olympic Officer under Subsection 63A-10-103(3), except that the salary, benefits, or administrative costs may not be paid from the sales and tax revenues generated by municipalities or counties and deposited under Subsection (4)(a)(ii).

(c) A payment of salary, benefits, or administrative costs under Subsection 63A-10-103(3) is not considered an expenditure of the Utah Sports Authority.

(d) If the Legislature appropriates additional funds under Subsection (4)(b)(i)(C), the authority may not expend, loan, pledge, or enter into any agreement to expend, loan, or pledge the appropriated funds unless the authority:

(i) contracts in writing for the full reimbursement of the monies to the Olympics special revenue fund by a public sports entity or other person benefitting from the expenditure; and

(ii) obtains a security interest that secures payment or performance of the obligation to reimburse.

(e) A contract or agreement entered into in violation of Subsection (4)(d) is void.

(5) (a) ~~[From]~~ Notwithstanding Subsection (3)(a), beginning on July 1, 1997, the annual amount of sales and use tax generated by a 1/8% tax rate on the taxable items and services under Subsection (1) shall be used as follows:

(i) 50% shall be used for water and wastewater projects as provided in Subsections (5)(b) through (f); and

(ii) 50% shall be used for transportation projects as provided in Subsections (5)(g) through (h).

(b) Five hundred thousand dollars each year shall be transferred to the Agriculture Resource

Development Fund created in Section 4-18-6.

(c) Fifty percent of the remaining amount generated by 50% of the 1/8% tax rate shall be transferred to the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources. In addition to the uses allowed of the fund under Section 73-10-24, the fund may also be used to:

(i) provide a portion of the local cost share, not to exceed in any fiscal year 50% of the funds made available to the Division of Water Resources under this section, of potential project features of the Central Utah Project;

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

(iii) fund state required dam safety improvements; and

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

(d) Twenty-five percent of the remaining amount generated by 50% of the 1/8% tax rate shall be transferred to the Utah Wastewater Loan Program subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects as defined in Section 73-10b-2.

(e) Twenty-five percent of the remaining amount generated by 50% of the 1/8% tax rate shall be transferred to the Drinking Water Loan Program subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

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

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

(iii) develop surface water sources.

(f) Notwithstanding Subsections (5)(b), (c), (d), and (e), \$100,000 of the remaining amount generated by 50% of the 1/8% tax rate each year shall be transferred as dedicated credits to the

Division of Water Rights to cover the costs incurred in hiring legal and other technical staff for the adjudication of water rights. Any remaining balance at the end of each fiscal year shall lapse back to the contributing funds on a prorated basis.

(g) Fifty percent of the 1/8% tax rate shall be transferred to the class B and class C roads account to be expended as provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class B and C road funds except as provided in Subsection (5)(h).

(h) (i) If H.B. 53, "Transportation Corridor Preservation," passes in the 1996 General Session, \$500,000 each year shall be transferred to the Transportation Corridor Preservation Revolving Loan Fund, and if H.B. 121, "State Park Access Roads," passes in the 1996 General Session, from July 1, 1997, through June 30, 2006, \$500,000 shall be transferred to the Department of Transportation for the State Park Access Highways Improvement Program. The remaining amount

generated by 50% of the 1/8% tax rate shall be transferred to the class B and class C roads account.

(ii) At least 50% of the money transferred to the Transportation Corridor Preservation Revolving Loan Fund under Subsection (5)(h)(i) shall be used to fund loan applications made by the Department of Transportation at the request of local governments.

(6) (a) [~~Beginning~~] Notwithstanding Subsection (3)(a), beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial Highway Fund created in Section 72-2-118 a portion of the state sales and use tax under [~~Subsections~~] Subsection (2) [and (3)] equal to the revenues generated by a 1/64% tax rate on the taxable [~~items and services~~] transactions under Subsection (1).

(b) Except for sales and use taxes deposited under Subsection (7), beginning on July 1, 1999, the revenues generated by the 1/64% tax rate:

(i) retained under Subsection 59-12-204(7)(a) shall be retained by the counties, cities, or towns as provided in Section 59-12-204; and

(ii) retained under Subsection 59-12-205(4)(a) shall be distributed to each county, city, and town as provided in Section 59-12-205.

(7) [~~Beginning~~] Notwithstanding Subsection (3)(a), beginning on July 1, 1999, the commission shall deposit into the Airport to University of Utah Light Rail Restricted Account created

in Section 17A-2-1064 the portion of the sales and use tax under Sections 59-12-204 and 59-12-205 that is:

(a) generated by a city or town that will have constructed within its boundaries the Airport to University of Utah Light Rail described in the Transportation Equity Act for the 21st Century, Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

(b) equal to the revenues generated by a 1/64% tax rate on the taxable items and services under Subsection (1).

(8) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal year 2002-03, the commission shall on or before September 30 of each year deposit the difference described in Subsection (8)(b) into the Remote Sales Restricted Account created in Section 59-12-103.2 if that difference is greater than \$0.

(b) The difference described in Subsection (8)(a) is equal to the difference between:

(i) the total amount of revenues the commission received from vendors collecting a tax under Subsection 59-12-107(1)(b) for the previous fiscal year; and

(ii) the total amount of revenues the commission received from vendors collecting a tax under Subsection 59-12-107(1)(b) for fiscal year 2000-01.

Section 5. Section **59-12-103.1** is enacted to read:

59-12-103.1. Action by Supreme Court of the United States authorizing or action by Congress permitting a state to require certain vendors to collect a sales or use tax -- Collection of tax by commission -- Commission report to Utah Tax Review Commission -- Utah Tax Review Commission study.

(1) A vendor shall remit to the commission a tax as provided in Subsection 59-12-103(2)(c) and Section 59-12-107 if:

(a) the Supreme Court of the United States issues a decision authorizing a state to require a vendor that does not meet one or more of the criteria described in Subsection 59-12-107(1)(a) to collect a sales or use tax; or

(b) Congress permits the state to require a vendor that does not meet one or more of the criteria described in Subsection 59-12-107(1)(a) to collect a sales or use tax.

(2) The commission shall:

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

(i) to the extent:

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

(B) permitted by Congress;

(ii) beginning on the first day of a calendar quarter as prescribed by the Utah Tax Review

Commission; and

(b) make a report to the Utah Tax Review Commission:

(i) regarding the actions taken by:

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

(B) Congress; and

(ii) at the Utah Tax Review Commission meeting immediately following the day on which the Supreme Court of the United States' or Congress' actions become effective.

(3) The Utah Tax Review Commission shall after hearing the commission's report under Subsection (2)(b):

(a) review the actions taken by:

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

(ii) Congress;

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

(c) make recommendations to the Revenue and Taxation Interim Committee:

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

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

Section 6. Section **59-12-103.2** is enacted to read:

59-12-103.2. Remote Sales Restricted Account -- Creation.

(1) There is created within the General Fund a restricted account known as the "Remote

Sales Restricted Account."

(2) The account shall be funded from the portion of the sales and use tax deposited by the commission as provided in Subsection 59-12-103(8).

Section 7. Section **59-12-106** is amended to read:

59-12-106. Sales and use tax license -- No fee -- Exemption certificates -- Exemption certificate license number to accompany contract bids.

(1) It is unlawful for any person required by this chapter to collect sales or use tax, to engage in business within the state without first having obtained a license to do so. This license shall be granted and issued by the commission. The license is not assignable and is valid only for the person in whose name it is issued until that person ceases to do business or changes his business address, or until the license is revoked by the commission. Such license shall be granted only upon application stating the name and address of the applicant and other information the commission may require. At the time of application, the commission shall notify the applicant of the responsibilities and liability of a business owner successor under Section 59-12-112. If business is transacted at two or more separate places by one person, a separate license for each place of business shall be required. The commission shall, on a reasonable notice and after a hearing, revoke the license of any person violating any provisions of this chapter and no license may be issued to such person until the taxpayer has complied with the requirements of this chapter. Any person required by this chapter to collect sales or use tax within this state without having secured a license to do so, is guilty of a criminal violation as provided in Section 59-1-401. No license is required for any person engaged exclusively in the business of selling commodities which are exempt from taxation under this chapter. A license shall be issued to the applicant by the commission without a license fee.

(2) For the purpose of the proper administration of this chapter and to prevent evasion of the tax and the duty to collect the tax, it shall be presumed that tangible personal property or any other taxable ~~[item or service]~~ transaction under Subsection 59-12-103 (1), sold by any person for delivery in this state is sold for storage, use, or other consumption in this state unless the person selling such property, item, or service has taken from the purchaser an exemption certificate signed by and bearing the name and address of the purchaser to the effect that the property, item, or service was exempted

under Section 59-12-104. The exemption certificates shall contain information as prescribed by the commission.

(3) All persons filing contract bids with the state or any of its political subdivisions for sale of tangible personal property or any other taxable ~~[item or service]~~ transaction under Subsection 59-12-103(1), shall include with the bid the sales tax license number issued to them under Subsection (1).

Section 8. Section **59-12-107** is amended to read:

59-12-107. Collection, remittance, and payment of tax by vendors or other persons -- Returns -- Direct payment by purchaser of vehicle -- Other liability for collection -- Credits -- Deposit and sale of security -- Penalties.

(1) (a) Each vendor shall pay or collect and remit the sales and use taxes imposed by this chapter if within this state the vendor:

(i) has or utilizes;

(A) an office[;];

(B) a distribution house[;];

(C) a sales house[;];

(D) a warehouse[;];

(E) a service enterprise[;]; or ~~[other]~~

(F) a place of business similar to Subsections (1)(a)(i)(A) through (E);

(ii) maintains a stock of goods;

~~[(iii) engages in regular or systematic solicitation of sale of tangible personal property, whether or not accepted in this state, by the distribution of catalogs, periodicals, advertising flyers, or other advertising by means of print, radio, or television, or by mail, telegraphy, telephone, computer data base, optic, microwave, or other communication system for the purpose of selling, at retail, tangible personal property;]~~

(iii) regularly solicits orders, regardless of whether or not the orders are accepted in the state, unless the vendor's only activity in the state is:

(A) advertising; or

(B) solicitation by:

(I) direct mail;

(II) electronic mail;

(III) the Internet;

(IV) telephone; or

(V) a means similar to Subsections (1)(a)(iii)(A) or (B);

(iv) regularly engages in the delivery of property in ~~[this]~~ the state other than by:

(A) common carrier; or

(B) United States mail; or

(v) regularly engages in ~~[any]~~ an activity ~~[in connection with]~~ directly related to the leasing or servicing of property located within ~~[this]~~ the state.

(b) If ~~[none of the conditions listed under]~~ a vendor does not meet one or more of the criteria provided for in Subsection (1)(a) ~~[exist]~~, the vendor ~~[is not responsible for the collection of the use tax but each person storing, using, or consuming]:~~

(i) except as provided in Subsection (1)(b)(ii), may voluntarily:

(A) collect a tax as provided in Subsection 59-12-103(2)(c) on a transaction described in Subsection 59-12-103(1); and

(B) remit the tax to the commission as provided in this part; or

(ii) notwithstanding Subsection (1)(b)(i), shall collect a tax as provided in Subsection 59-12-103(2)(c) on a transaction described in Subsection 59-12-103(1) if Section 59-12-103.1 requires the vendor to collect the tax.

(c) A person shall pay a use tax imposed by this chapter on a transaction if:

(i) the vendor did not collect a use tax imposed by this chapter on the transaction; and

(ii) the person:

(A) stores the tangible personal property in the state;

(B) uses the tangible personal property in the state; or

(C) consumes the tangible personal property ~~[is responsible for remitting the use tax]~~ in the state.

~~[(e)]~~ (d) Notwithstanding the provisions of Subsection (1)(a), the ownership of property that is located at the premises of a printer's facility with which the retailer has contracted for printing and that consists of the final printed product, property that becomes a part of the final printed product, or copy from which the printed product is produced, shall not result in the retailer being considered to have or maintain an office, distribution house, sales house, warehouse, service enterprise, or other place of business, or to maintain a stock of goods, within this state.

(2) (a) Each vendor shall collect the sales or use tax from the purchaser.

(b) A vendor may not collect as tax an amount, without regard to fractional parts of one cent, in excess of the tax computed at the rates prescribed by this chapter.

(c) (i) Each vendor shall:

(A) give the purchaser a receipt for the use tax collected; or

(B) bill the use tax as a separate item and declare the name of this state and the vendor's use tax license number on the invoice for the sale.

(ii) The receipt or invoice is prima facie evidence that the vendor has collected the use tax and relieves the purchaser of the liability for reporting the use tax to the commission as a consumer.

(d) A vendor is not required to maintain a separate account for the tax collected, but is considered to be a person charged with receipt, safekeeping, and transfer of public moneys.

(e) Taxes collected by a vendor pursuant to this chapter shall be held in trust for the benefit of the state and for payment to the commission in the manner and at the time provided for in this chapter.

(f) If any vendor, during any reporting period, collects as a tax an amount in excess of the lawful state and local percentage of total taxable sales allowed under this part and Part 2, Local Sales and Use Tax Act, the vendor shall remit to the commission the full amount of the tax imposed under this part and Part 2, Local Sales and Use Tax Act, plus any excess.

(g) If the accounting methods regularly employed by the vendor in the transaction of the vendor's business are such that reports of sales made during a calendar month or quarterly period will impose unnecessary hardships, the commission may accept reports at intervals that will, in its opinion, better suit the convenience of the taxpayer or vendor and will not jeopardize collection of the tax.

~~[(3) Each person storing, using, or consuming tangible personal property under Subsection 59-12-103(1) is liable for the use tax imposed under this chapter.]~~

~~[(4)]~~ (3) (a) Except as provided in Subsection ~~[(5)]~~ (4) and in Section 59-12-108, the sales or use tax imposed by this chapter is due and payable to the commission quarterly on or before the last day of the month next succeeding each calendar quarterly period.

(b) (i) Each vendor shall, on or before the last day of the month next succeeding each calendar quarterly period, file with the commission a return for the preceding quarterly period.

(ii) The vendor shall remit with the return under Subsection (3)(b)(i) the amount of the tax required under this chapter to be collected or paid for the period covered by the return.

(c) Each return shall contain information and be in a form the commission prescribes by rule.

(d) The sales tax as computed in the return shall be based upon the total nonexempt sales made during the period, including both cash and charge sales.

(e) The use tax as computed in the return shall be based upon the total amount of sales or purchases for storage, use, or other consumption in this state made during the period, including both by cash and by charge.

(f) The commission may by rule extend the time for making returns and paying the taxes. No extension may be for more than 90 days.

(g) The commission may require returns and payment of the tax to be made for other than quarterly periods if it considers it necessary in order to ensure the payment of the tax imposed by this chapter.

~~[(5)]~~ (4) On each vehicle sale made by other than a regular licensed vehicle dealer, the purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to titling or registration under the laws of this state. The commission shall collect the tax when the vehicle is titled or registered.

~~[(6)]~~ (5) If any sale of tangible personal property or any other taxable ~~[item or service]~~ transaction under Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not responsible for the collection or payment of the tax imposed on the sale if the retailer represents that the personal property is purchased by the retailer for resale and the personal property thereafter

is not resold. Instead, the retailer is solely liable for the tax.

~~[(7)]~~ (6) If any sale of property or service subject to the tax is made to a person prepaying sales or use tax in accordance with Title 63, Chapter 51, Resource Development, or to a contractor or subcontractor of that person, the person to whom such payment or consideration is payable is not responsible for the collection or payment of the sales or use tax if the person prepaying the sales or use tax represents that the amount prepaid as sales or use tax has not been fully credited against sales or use tax due and payable under the rules promulgated by the commission. Instead, the person prepaying the sales or use tax is solely liable for the tax.

~~[(8)]~~ (7) Credit is allowed for prepaid taxes and for taxes paid on that portion of an account determined to be worthless and actually charged off for income tax purposes or on the portion of the purchase price remaining unpaid at the time of a repossession made under the terms of a conditional sales contract.

~~[(9)]~~ (8) (a) The commission may require any person subject to the tax imposed under this chapter to deposit with it security as the commission determines, if the commission considers it necessary to ensure compliance with this chapter.

(b) The commission may sell the security at public sale if it becomes necessary to do so in order to recover any tax, interest, or penalty due.

(c) (i) The commission shall serve notice of the sale upon the person who deposited the securities either personally or by mail.

(ii) If the notice under Subsection (8)(c)(i) is by mail, notice sent to the last-known address as it appears in the records of the commission is sufficient for the purposes of this requirement.

(d) The commission shall return to the person who deposited the security any amount of the sale proceeds that exceed the amounts due under this chapter.

~~[(10)]~~ (9) (a) A vendor may not, with intent to evade any tax, fail to timely remit the full amount of tax required by this chapter.

(b) A violation of this section is punishable as provided in Section 59-1-401.

~~[(b)]~~ (c) Each person who fails to pay any tax to the state or any amount of tax required to be paid to the state, except amounts determined to be due by the commission under Sections

59-12-110 and 59-12-111, within the time required by this chapter, or who fails to file any return as required by this chapter, shall pay, in addition to the tax, penalties and interest as provided in Section 59-12-110.

~~[(c)]~~ (d) For purposes of prosecution under this section, each quarterly tax period in which a vendor, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the tax required to be remitted, constitutes a separate offense.

Section 9. Section **59-12-110** is amended to read:

59-12-110. Overpayments, deficiencies, and refunds procedures.

(1) (a) As soon as practicable after a return is filed, the commission shall examine the return.

(b) If the commission determines that the correct amount of tax to be remitted is greater or less than the amount shown to be due on the return, the commission shall recompute the tax.

(c) If the amount paid exceeds the amount due, the excess, plus interest as provided in Section 59-1-402, shall be credited or refunded to the taxpayer as provided in Subsection (2).

(d) The commission may not credit or refund to the taxpayer interest on an overpayment under Subsection (1)(c) if the commission determines that the overpayment was made for the purpose of investment.

(2) (a) If a taxpayer pays a tax, penalty, or interest more than once or the commission erroneously receives, collects, or computes any tax, penalty, or interest, including an overpayment described in Subsection (1)(c), the commission shall:

(i) credit the amount of tax, penalty, or interest paid by the taxpayer against any amounts of tax, penalties, or interest the taxpayer owes; and

(ii) refund any balance to the taxpayer or the taxpayer's successors, administrators, executors, or assigns.

(b) Except as provided in Subsection (2)(c) or Section 19-2-124, a taxpayer shall file a claim with the commission to obtain a refund or credit under this Subsection (2) within three years from the day on which the taxpayer overpaid the tax, penalty, or interest.

(c) Notwithstanding Subsection (2)(b), beginning on July 1, 1998, the commission shall extend the period for a taxpayer to file a claim under Subsection (2)(b) if:

- (i) the three-year period under Subsection (2)(b) has not expired; and
- (ii) the commission and the taxpayer sign a written agreement:
 - (A) authorizing the extension; and
 - (B) providing for the length of the extension.

(d) A taxpayer may file a claim to obtain a refund or credit under this Subsection (2) regardless of whether the taxpayer received or objected to a notice of deficiency or a notice of assessment as provided in Subsection 59-12-114(1).

(e) A taxpayer may obtain a refund under this Subsection (2) of a tax paid under this chapter on a ~~sale or use~~ transaction that is taxable under Section 59-12-103 if:

(i) the sale or use was exempt from sales and use taxes under Section 59-12-104 on the date of purchase; and

(ii) except as provided in Subsection (2)(c), the taxpayer files a claim for a refund with the commission as provided in Subsections (2)(b) through (d).

(f) If the commission denies a claim for a refund or credit under this Subsection (2), the taxpayer may request a redetermination of the denial by filing a petition or request for agency action with the commission as provided in Title 63, Chapter 46b, Administrative Procedures Act.

(3) If the commission erroneously determines an amount to be due from a taxpayer, the commission shall authorize the amounts to be cancelled upon its records.

(4) (a) Subject to the provisions of Subsection (4)(b), the commission may impose on a deficiency under this section:

- (i) a penalty as provided in Section 59-1-401; and
- (ii) interest as provided in Section 59-1-402.

(b) The commission may impose a penalty and interest on the entire deficiency if any part of the deficiency is due to:

- (i) negligence;
- (ii) intentional disregard of law or rule; or
- (iii) fraud with intent to evade the tax.

(5) (a) Except as provided in Subsection (5)(b), a taxpayer shall pay a tax deficiency,

including penalties or interest under this section, within ten days after the commission provides the taxpayer notice and demand of the deficiency, penalty, or interest.

(b) Notwithstanding Subsection (5)(a), a taxpayer may pay a tax deficiency, penalty, or interest within 30 days after the commission provides the taxpayer notice and demand of the deficiency, penalty, or interest if the commission determines:

- (i) that a greater amount was due than was shown on the return; and
- (ii) the tax is not in jeopardy.

(6) (a) Except as provided in Subsections (6)(c) through (f), the commission shall assess the amount of taxes imposed by this chapter, and any penalties and interest, within three years after a taxpayer files a return.

(b) Except as provided in Subsections (6)(c) through (f), if the commission does not make an assessment under Subsection (6)(a) within three years, the commission may not commence a proceeding for the collection of the taxes after the expiration of the three-year period.

(c) Notwithstanding Subsections (6)(a) and (b), the commission may make an assessment or commence a proceeding to collect a tax at any time if a deficiency is due to:

- (i) fraud; or
- (ii) failure to file a return.

(d) Notwithstanding Subsections (6)(a) and (b), beginning on July 1, 1998, the commission may extend the period to make an assessment or to commence a proceeding to collect the tax under this chapter if:

- (i) the three-year period under this Subsection (6) has not expired; and
- (ii) the commission and the taxpayer sign a written agreement:
 - (A) authorizing the extension; and
 - (B) providing for the length of the extension.

(e) If the commission delays an audit at the request of a taxpayer, the commission may make an assessment as provided in Subsection (6)(f) if:

- (i) the taxpayer subsequently refuses to agree to an extension request by the commission; and
- (ii) the three-year period under this Subsection (6) expires before the commission completes

the audit.

(f) An assessment under Subsection (6)(e) shall be:

(i) for the time period for which the commission could not make an assessment because of the expiration of the three-year period; and

(ii) in an amount equal to the difference between:

(A) the commission's estimate of the amount of taxes the taxpayer would have been assessed for the time period described in Subsection (6)(f)(i); and

(B) the amount of taxes the taxpayer actually paid for the time period described in Subsection (6)(f)(i).

Section 10. Section **59-12-204** is amended to read:

59-12-204. Sales and use tax ordinance provisions -- Tax rate -- Distribution of tax revenues.

(1) The tax ordinance adopted pursuant to this part shall impose a tax upon those [items] transactions listed in [Section] Subsection 59-12-103(1).

(2) (a) Except as provided in [Subsection] Subsections (2)(b) and (c), (6)(b) and (c), and 59-12-205(2), such tax ordinance shall include a provision imposing a tax upon every [retail sale of items] transaction listed in [Section] Subsection 59-12-103(1) made within a county, including areas contained within the cities and towns thereof at the rate of 3/4% or any fractional part of such 3/4% of the purchase price paid or charged.

(b) (i) Notwithstanding Subsection (2)(a), a tax ordinance under this Subsection (2) shall include a provision prohibiting a county, city, or town from imposing a tax under this section on:

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

(B) subject to Subsection (2)(b)(ii), any amounts paid or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b) unless all of the counties, cities, and towns in the state impose the tax under this section.

(ii) Notwithstanding Subsection (2)(a), if a county, city, or town imposes a tax under Subsection (2)(b)(i)(B), the tax ordinance under this Subsection (2) shall include a provision that the

tax rate is equal to the lowest tax rate imposed by a county, city, or town under this section.

(c) (i) Notwithstanding Section 59-12-205, a tax ordinance under this Subsection (2) shall include a provision prohibiting a county, city, or town from imposing a tax under Section 59-12-205 on:

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

(B) subject to Subsection (2)(c)(ii), any amounts paid or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b) unless all of the counties, cities, and towns in the state impose the tax under Section 59-12-205.

(ii) Notwithstanding Section 59-12-205, if a county, city, or town imposes a tax under Subsection (2)(c)(i)(B), the tax ordinance under this Subsection (2) shall include a provision that the tax rate is equal to the lowest tax rate imposed by a county, city, or town under Section 59-12-205.

(3) Such tax ordinance shall include provisions substantially the same as those contained in Part 1, Tax Collection, insofar as they relate to sales or use tax, except that the name of the county as the taxing agency shall be substituted for that of the state where necessary for the purpose of this part and that an additional license is not required if one has been or is issued under Section 59-12-106.

(4) Such tax ordinance shall include a provision that the county shall contract, prior to the effective date of the ordinance, with the commission to perform all functions incident to the administration or operation of the ordinance.

(5) Such tax ordinance shall include a provision that the sale, storage, use, or other consumption of tangible personal property, the purchase price or the cost of which has been subject to sales or use tax under a sales and use tax ordinance enacted in accordance with this part by any county, city, or town in any other county in this state, shall be exempt from the tax due under this ordinance.

(6) Such tax ordinance shall include a provision that any person subject to the provisions of a city or town sales and use tax shall be exempt from the county sales and use tax if the city or town sales and use tax is levied under an ordinance including provisions in substance as follows:

(a) a provision imposing a tax upon every ~~[retail sale of items]~~ transaction listed in Section 59-12-103 made within the city or town at the rate imposed by the county in which it is situated pursuant to Subsection (2);

(b) (i) notwithstanding Subsection (2)(a), and subject to Subsection (6)(b)(ii), a provision prohibiting the city or town from imposing a tax under this section on any amounts paid or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b) unless all of the counties, cities, and towns in the state impose a tax under this section; and

(ii) notwithstanding Subsection (2)(a), if a city or town imposes a tax under Subsection (6)(b)(i), a provision that the tax rate is equal to the lowest tax rate imposed by a county, city, or town under this section;

(c) (i) notwithstanding Section 59-12-205 and subject to Subsection (6)(c)(ii), a provision prohibiting the city or town from imposing a tax under Section 59-12-205 on any amounts paid or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b) unless all of the counties, cities, and towns in the state impose a tax under Section 59-12-205; and

(ii) notwithstanding Section 59-12-205, if a city or town imposes a tax under Subsection (6)(c)(i), a provision that the tax rate is equal to the lowest tax rate imposed by a county, city, or town under Section 59-12-205;

~~[(b)]~~ (d) provisions substantially the same as those contained in Part 1, Tax Collection, insofar as they relate to sales and use taxes, except that the name of the city or town as the taxing agency shall be substituted for that of the state where necessary for the purposes of this part;

~~[(c)]~~ (e) a provision that the city or town shall contract prior to the effective date of the city or town sales and use tax ordinance with the commission to perform all functions incident to the administration or operation of the sales and use tax ordinance of the city or town;

~~[(d)]~~ (f) a provision that the sale, storage, use, or other consumption of tangible personal property, the gross receipts from the sale of or the cost of which has been subject to sales or use tax under a sales and use tax ordinance enacted in accordance with this part by any county other than the county in which the city or town is located, or city or town in this state, shall be exempt from the tax; and

~~[(e)]~~ (g) a provision that the amount of any tax paid under Part 1, Tax Collection, shall not be included as a part of the purchase price paid or charged for a taxable item.

(7) (a) Notwithstanding any other provision of this section, from January 1, 1990, through June 30, 1999, the commission shall determine and retain the amount of revenue generated by a 1/64% tax rate and deposit it in the Olympics Special Revenue Fund or funds provided for in Subsection 59-12-103(4) for the purposes of the Utah Sports Authority described in Title 63A, Chapter 7, Utah Sports Authority Act.

(b) Except for sales and use taxes deposited under Subsection (7)(c), beginning on July 1, 1999, the amount of revenue generated by the 1/64% tax rate under Subsection (7)(a) shall be retained by the county, city, or town levying a tax under this section.

(c) Notwithstanding any other provision of this section, beginning on July 1, 1999, the commission shall:

(i) determine and retain the portion of the sales and use tax imposed under this section:

(A) by a city or town that will have constructed within its boundaries the Airport to University of Utah Light Rail described in the Transportation Equity Act for the 21st Century, Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

(B) that is equal to the revenues generated by a 1/64% tax rate; and

(ii) deposit the revenues described in Subsection (7)(c)(i) in the Airport to University of Utah Light Rail Restricted Account created in Section 17A-2-1064 for the purposes described in Section 17A-2-1064.

(8) If a county, city, or town imposes a tax under this section on any amounts paid or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b), the revenues generated by the tax shall be distributed as provided in Subsection 59-12-103(3)(c).

Section 11. Section **59-12-205** is amended to read:

59-12-205. Ordinances to conform with statutory amendments -- Distribution of tax revenues.

(1) Each county, city, and town, in order to maintain in effect sales and use tax ordinances adopted pursuant to ~~[this part]~~ Section 59-12-204, shall, within 30 days of any amendment of any

applicable provisions of Part 1, Tax Collection, adopt amendments of their respective sales and use tax ordinances to conform with the amendments to Part 1, Tax Collection, insofar as they relate to sales and use taxes.

(2) (a) Any county, city, or town may distribute its sales or use tax revenues by means other than point of sale or use by notifying the commission in writing of such decision, no later than 30 days before commencement of the next tax accrual period. ~~[After]~~

(b) Except as provided in Subsections 59-12-204(2)(b) and (c) and (6)(b) and (c), after such notice is given, a county, city, or town may increase the tax authorized by this part to a total of 1% [from and after] beginning on January 1, 1990, of the purchase price paid or charged[~~excluding a public transit sales and use tax as provided in Section 59-12-501 and a resort communities sales tax as provided in Section 59-12-401. This tax shall be collected and distributed as follows:~~].

~~[(a) from July 1, 1992, through June 30, 1993, 45% of each dollar collected from the sales and use tax authorized by this part shall be paid to each county, city, and town providing notice under this section, based upon the percentage that the population of the county, city, or town bears to the total population of all such entities providing notice under this section, and 55% based upon the point of sale or use of the transaction; and (b) from and after July 1, 1993,]~~

(c) Except as provided in Subsections (2)(d), (3), and (4):

(i) 50% of each dollar collected from the sales and use tax authorized by this part shall be paid to each county, city, and town providing notice under this section, based upon the percentage that the population of the county, city, or town bears to the total population of all such entities providing notice under this section[;]; and

(ii) 50% of each dollar collected from the sales and use tax authorized by this part shall be paid to each county, city, and town providing notice under this section, based upon the point of sale or use of the transaction.

(d) Notwithstanding Subsection (2)(c), if a county, city, or town imposes a tax under this section on any amounts paid or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b), the revenues generated by the tax shall be distributed as provided in Subsection 59-12-103(3)(c).

(3) (a) Notwithstanding any provision of Subsection (2), a county, city, or town that has given notice under this section may not receive a tax revenue distribution less than 3/4 of 1% of the taxable sales within its boundaries.

(b) The commission shall proportionally reduce quarterly distributions to any county, city, or town, which, but for the reduction, would receive a distribution in excess of 1% beginning January 1, 1990, of the sales and use tax revenue collected within its boundaries.

(4) (a) Notwithstanding any other provision of this section, from January 1, 1990, through June 30, 1999, the commission shall determine and retain the amount of revenue generated by a 1/64% tax rate and deposit it in the Olympics Special Revenue Fund or funds provided for in Subsection 59-12-103(4) for the purposes of the Utah Sports Authority described in Title 63A, Chapter 7, Utah Sports Authority Act.

(b) Except for sales and use taxes deposited under Subsection (4)(c), beginning on July 1, 1999, the amount of revenue generated by the 1/64% tax rate under Subsection (4)(a) shall be distributed to each county, city, and town as provided in this section.

(c) Notwithstanding any other provision of this section, beginning on July 1, 1999, the commission shall:

(i) determine and retain the portion of the sales and use tax imposed under this section:

(A) by a city or town that will have constructed within its boundaries the Airport to University of Utah Light Rail described in the Transportation Equity Act for the 21st Century, Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

(B) that is equal to the revenues generated by a 1/64% tax rate; and

(ii) deposit the revenues described in Subsection (4)(c)(i) in the Airport to University of Utah Light Rail Restricted Account created in Section 17A-2-1064 for the purposes described in Section 17A-2-1064.

(5) (a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Census Bureau [~~of the Census~~].

(b) If population estimates are not made for any county, city, or town by the United States Census Bureau [~~of Census~~], population figures shall be determined according to the biennial estimate

from the Utah Population Estimates Committee created by executive order of the governor.

(6) The population of a county for purposes of this section shall be determined solely from the unincorporated area of the county.

Section 12. Section **59-12-401** is amended to read:

59-12-401. Resort communities tax -- Base -- Rate -- Collection fees.

(1) (a) ~~In~~ Except as provided in Subsection (1)(b), and in addition to other sales taxes, a city or town in which the transient room capacity is greater than or equal to 66% of the permanent census population may impose a sales tax of up to 1% on the ~~[sales and uses]~~ transactions described in Subsection 59-12-103(1)~~], subject to exemptions provided for in Section 59-12-104, and shall exempt from that additional tax wholesale sales and sales of single items for which consideration paid is \$2,500 or more].~~

(b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this section on:

(i) wholesale sales;

(ii) the sale of a single item for which consideration paid is \$2,500 or more;

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

(iv) any amounts paid or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b).

(2) (a) An amount equal to the total of any costs incurred by the state in connection with the implementation of Subsection (1) which exceed, in any year, the revenues received by the state from its collection fees received in connection with the implementation of Subsection (1) shall be paid over to the state General Fund by the cities and towns which impose the tax provided for in Subsection (1). ~~[Payment costs]~~

(b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those cities and towns according to the amount of revenue the respective cities and towns generate in that year through imposition of that tax.

Section 13. Section **59-12-402** is amended to read:

59-12-402. Additional resort communities sales tax -- Base -- Rate -- Collection fees -- Resolution and voter approval requirements -- Election requirements -- Notice requirements -- Ordinance requirements.

(1) (a) ~~[Subject] Except as provided in Subsection (1)(b), and subject to the limitations of Subsections (2) through (6), the governing body of a municipality in which the transient room capacity is greater than or equal to 66% of the permanent census population may, in addition to the sales tax authorized under Section 59-12-401, impose an additional resort communities sales tax in an amount that is less than or equal to 1/2% on the [sales and uses] transactions described in Subsection 59-12-103(1)[, subject to the exemptions provided for in Section 59-12-104, and shall exempt from that additional tax wholesale sales and sales of single items for which consideration paid is \$2,500 or more].~~

(b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not impose a tax under this section on:

(i) wholesale sales;

(ii) the sale of a single item for which consideration paid is \$2,500 or more;

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

(iv) any amounts paid or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b).

(2) (a) An amount equal to the total of any costs incurred by the state in connection with the implementation of Subsection (1) which exceed, in any year, the revenues received by the state from its collection fees received in connection with the implementation of Subsection (1) shall be paid over to the state General Fund by the cities and towns which impose the tax provided for in Subsection (1). ~~[Payment costs]~~

(b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those cities and towns according to the amount of revenue the respective cities and towns generate in that year through imposition of that tax.

(3) To impose an additional resort communities sales tax under this section, the governing

body of the municipality shall:

- (a) pass a resolution approving the tax; and
- (b) except as provided in Subsection (6), obtain voter approval for the tax as provided in

Subsection (4).

(4) To obtain voter approval for an additional resort communities sales tax under Subsection (3)(b), a municipality shall:

- (a) hold the additional resort communities sales tax election during:
 - (i) a regular general election; or
 - (ii) a municipal general election; and
- (b) publish notice of the election:
 - (i) 15 days or more before the day on which the election is held; and
 - (ii) in a newspaper of general circulation in the municipality.

(5) (a) An ordinance approving an additional resort communities sales tax under this section shall provide an effective date for the tax.

(b) A municipality imposing a tax under this section shall:

- (i) collect the tax on the first day of a calendar quarter; and
- (ii) notify the commission at least 30 days before the day on which the commission is required

to collect the tax.

(6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the municipality imposed a license fee or tax on businesses based on gross receipts pursuant to Section 10-1-203.

(b) The exception from the voter approval requirements in Subsection (6)(a) does not apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts pursuant to Section 10-1-203.

Section 14. Section **59-12-501** is amended to read:

59-12-501. Public transit tax -- Base -- Rate -- Voter approval.

(1) (a) (i) ~~Except as provided in Subsection (1)(a)(ii), in~~ addition to other sales and use taxes, any county, city, or town within a transit district organized under Title 17A, Chapter 2, Part

10, Utah Public Transit District Act, may impose a sales and use tax of 1/4 of 1% on the [~~sales and uses~~] transactions described in Subsection 59-12-103(1), [~~subject to the exemptions provided for in Section 59-12-104,~~] to fund a public transportation system.

(ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax under this section on:

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

(B) any amounts paid or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b).

(b) A county, city, or town may impose a tax under this section only if the governing body of the county, city, or town, by resolution, submits the proposal to all the qualified voters within the county, city, or town for approval at a general or special election conducted in the manner provided by statute.

(2) (a) If only a portion of a county is included within a public transit district, the proposal may be submitted only to the qualified voters residing within the boundaries of the proposed or existing public transit district.

(b) Notice of any such election shall be given by the county, city, or town governing body 15 days in advance in the manner prescribed by statute.

(c) If a majority of the voters voting in such election approve the proposal, it shall become effective on the date provided by the county, city, or town governing body.

(3) This section may not be construed to require an election in jurisdictions where voters have previously approved a public transit sales or use tax.

Section 15. Section **59-12-502** is amended to read:

59-12-502. Additional public transit tax for expanded system and fixed guideway and interstate improvements -- Base -- Rate -- Voter approval.

(1) (a) (i) [~~It~~] Except as provided in Subsection (1)(a)(ii), and in addition to other sales and use taxes, [~~and~~] including the public transit district tax authorized by Section 59-12-501, [~~any~~] a county, city, or town within a transit district organized under Title 17A, Chapter 2, Part 10, Utah

Public Transit District Act, may impose a sales and use tax of 1/4 of 1% on the [~~sales and uses~~] transactions described in Subsection 59-12-103(1), [~~subject to the exemptions provided in Section 59-12-104,~~] to fund a fixed guideway and expanded public transportation system.

(ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax under this section on:

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

(B) any amounts paid or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b).

(b) A county, city, or town may impose the tax under this section only if the governing body of the county, city, or town submits, by resolution, the proposal to all the qualified voters within the county, city, or town for approval at a general or special election conducted in the manner provided by statute. Notice of the election shall be given by the county, city, or town governing body 15 days in advance in the manner prescribed by statute.

(2) If the majority of the voters voting in this election approve the proposal, it shall become effective on the date provided by the county, city, or town governing body.

(3) (a) This section may not be construed to require an election in jurisdictions where voters have previously approved a public transit sales or use tax.

(b) This section shall be construed to require an election to impose the sales and use tax authorized by this section, including jurisdictions where the voters have previously approved the [~~transit district~~] sales and use tax authorized by Section 59-12-501, but this section may not be construed to affect the sales and use tax authorized by Section 59-12-501.

(4) No public funds shall be spent to promote the required election.

(5) Notwithstanding the designated use of revenues in Subsection (1), of the revenues generated by the tax imposed under this section by any county of the first class, 75% shall be allocated to fund a fixed guideway and expanded public transportation system and 25% shall be allocated to fund renovations, repairs, and improvements to Interstate 15.

Section 16. Section **59-12-703** is amended to read:

59-12-703. Opinion question election -- Imposition of tax -- Uses of tax monies.

(1) (a) (i) ~~[Any]~~ Except as provided in Subsection (1)(a)(ii), a county legislative body may, by majority vote of all members, submit an opinion question to the residents of that county so that each resident has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of 1/10 of 1% on the ~~[sales and uses]~~ transactions described in Subsection 59-12-103(1), ~~[subject to the exemptions provided for in Section 59-12-104,]~~ to fund recreational and zoological facilities and botanical, cultural, and zoological organizations in that county.

(ii) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a tax under this section on:

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

(B) any amounts paid or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b).

(b) The election shall follow the procedures outlined in Title 11, Chapter 14, Utah Municipal Bond Act.

(2) (a) If the county legislative body determines that a majority of the qualified electors voting on the opinion question has assented to the imposition of a local sales and use tax as prescribed in Subsection (1)(a), the county legislative body may, by a majority vote of all members, impose such a tax.

(b) If the county legislative body imposes a tax under Subsection (2)(a), the tax shall be imposed at the beginning of the quarter following the county legislative body's decision to impose such a tax.

(3) The monies generated from any tax imposed under Subsection (2) shall be used for financing recreational and zoological facilities and ongoing operating expenses of botanical, cultural, and zoological organizations within the county.

(4) Taxes imposed under this part shall be:

(a) levied at the same time and collected in the same manner as provided in Title 59, Chapter 12, Part 2, ~~[The]~~ Local Sales and Use Tax Act, except that the collection and distribution of the tax

revenue is not subject to Subsection 59-12-205(2); and

(b) levied for a period of ten years and may be reauthorized at the end of the ten-year period in accordance with this section.

Section 17. Section **59-12-801** is amended to read:

59-12-801. Definitions.

As used in this part:

(1) "Nursing care facility" is as defined in Section 26-21-2.

(2) "Rural city hospital" means a hospital owned by a city that is located within a third, fourth, fifth, or sixth class county.

~~[(2)]~~ (3) "Rural county health care facility" means a rural county hospital or a rural county nursing care facility.

~~[(3)]~~ (4) "Rural county hospital" means a hospital owned by a third, fourth, fifth, or sixth class county, as defined in Section 17-16-13, which is located outside of a standard metropolitan statistical area, as designated by the United States Bureau of the Census.

~~[(4)]~~ (5) "Rural county nursing care facility" means a nursing care facility owned by a third, fourth, fifth, or sixth class county, as defined in Section 17-16-13, which is located outside of a standard metropolitan statistical area, as designated by the United States Census Bureau ~~[of the Census]~~.

Section 18. Section **59-12-802** is amended to read:

59-12-802. Imposition of rural county health care facilities tax -- Base -- Rate.

(1) (a) ~~[Any]~~ A county legislative body may ~~[, by a majority vote of all members, submit an opinion question to the residents of that county so that each resident has an opportunity to express the resident's opinion on the imposition of a local]~~ impose a sales and use tax of up to 1%:

(i) except as provided in Subsection (1)(b), on the [sales and uses] transactions described in Subsection 59-12-103(1) ~~[, subject to the exemptions provided for in Section 59-12-104,]; and~~

(ii) to fund rural county health care facilities in that county.

(b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a tax under this section on:

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

(ii) any amounts paid or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b).

(2) (a) Before imposing or increasing a tax under Subsection (1)(a), a county legislative body shall obtain approval to impose or increase the tax from a majority of the:

(i) members of the county's legislative body; and

(ii) county's registered voters voting on the imposition of the tax.

(b) The county legislative body shall conduct the election [shall follow] according to the procedures [outlined in] and requirements of Title 11, Chapter 14, Utah Municipal Bond Act.

~~[(2) If the legislative governing body determines that a majority of the qualified electors voting on the opinion question has assented to the imposition of a local sales and use tax as prescribed~~

~~in Subsection (1)(a), the county legislative body may, by majority vote of all members, impose such a tax.]~~

(3) The monies generated ~~[from]~~ by a tax imposed under Subsection (1) may only be used for the financing of:

(a) ongoing operating expenses of a rural county health care facility; ~~[and]~~

(b) the acquisition of land for ~~[-and]~~ a rural county health care facility; or

(c) the design, construction, equipping, [and] or furnishing of a rural county health care facility.

(4) Taxes imposed under this ~~[part]~~ section shall be:

(a) levied at the same time and collected in the same manner as provided in ~~[Title 59, Chapter 12,]~~ Part 2, ~~[The]~~ Local Sales and Use Tax Act, except that the collection and distribution of the tax revenue is not subject to Subsection 59-12-205(2); and

(b) levied for a period of ten years and may be reauthorized at the end of the ten-year period by the county legislative body as provided in ~~[Section]~~ Subsection (1).

(5) The ~~[tax]~~ commission may retain an amount not to exceed 1-1/2% of the ~~[county option funding]~~ tax collected under this ~~[part]~~ section for the cost of administering this tax.

Section 19. Section **59-12-803** is amended to read:

59-12-803. Distribution of revenues generated by rural county health care facilities tax.

~~[A]~~ (1) Except as provided in Subsection 59-12-802(5) and Subsection (2), all revenues collected by a county under ~~[this part]~~ Section 59-12-802 shall be distributed quarterly by the county legislative body to rural county health care facilities. ~~[F]~~

(2) Notwithstanding Subsection (1), if there is more than one rural county health care facility in a county, the revenues collected by a county under Section 59-12-802 shall be distributed as determined by the county legislative body.

Section 20. Section **59-12-804** is amended to read:

59-12-804. Imposition of rural city hospital tax -- Base -- Rate.

~~[(1) As used in this section, "rural city hospital" means any hospital owned by a city which is located within a third, fourth, fifth, or sixth class county.]~~

~~[(2) Any] (1) (a) A city legislative body may ~~[, by a majority vote of all members submit an opinion question to the residents of that city so that each resident has an opportunity to express his opinion on the imposition of a local]~~ impose a sales and use tax of up to 1%:~~

(i) except as provided in Subsection (1)(b), on the transactions described in Subsection 59-12-103(1); and

(ii) to fund rural city hospitals in that city.

~~[(3) The city legislative body and the tax commission shall follow the procedures and requirements established in Sections 59-12-802 and 59-12-803 for the tax imposed under this section.]~~

(b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax under this section on:

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

(ii) any amounts paid or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b).

(2) (a) Before imposing or increasing a tax under Subsection (1)(a), a city legislative body

shall obtain approval to impose the tax from a majority of the:

- (i) members of the city legislative body; and
- (ii) city's registered voters voting on the imposition of the tax.

(b) The city legislative body shall conduct the election according to the procedures and requirements of Title 11, Chapter 14, Utah Municipal Bond Act.

(3) The monies generated by a tax imposed under Subsection (1) may only be used for the financing of:

- (a) ongoing operating expenses of a rural city hospital;
- (b) the acquisition of land for a rural city hospital; or
- (c) the design, construction, equipping, or furnishing of a rural city hospital.

(4) Taxes imposed under this section shall be:

(a) levied at the same time and collected in the same manner as provided in Part 2, Local Sales and Use Tax Act, except that the collection and distribution of the tax revenue is not subject to Subsection 59-12-205; and

(b) levied for a period of ten years and may be reauthorized at the end of the ten-year period by the city legislative body as provided in Subsection (1).

(5) The commission may retain an amount not to exceed 1-1/2% of the tax collected under this section for the cost of administering the tax.

Section 21. Section **59-12-805** is enacted to read:

59-12-805. Distribution of revenues generated by rural city hospital tax.

(1) Except as provided in Subsection 59-12-804(5) and Subsection (2), all revenues collected by a city under Section 59-12-804 shall be distributed quarterly by the city legislative body to rural city hospitals.

(2) Notwithstanding Subsection (1), if there is more than one rural city hospital in a city, the revenues collected by the city under Section 59-12-804 shall be distributed as determined by the city legislative body.

Section 22. Section **59-12-902** is amended to read:

59-12-902. Sales tax refund for qualified emergency food agencies -- Administration

-- Rulemaking authority.

(1) Beginning on January 1, 1998, a qualified emergency food agency may claim a sales tax refund as provided in this section on the pounds of food donated to the qualified emergency food agency.

(2) (a) Subject to the adjustments provided for in Subsection (2)(b), a qualified emergency food agency may claim a refund in an amount equal to the pounds of food donated to the qualified emergency food agency multiplied by:

(i) \$1.70; and

(ii) ~~[the lowest percentage of combined state and local sales and use taxes collected by a municipality in the state under this chapter, except that the lowest percentage of combined state and local sales and use taxes does not include the levy under Subsection 59-12-103(3);]~~ the sum of:

(A) 4.75%; and

(B) except as provided in Subsection (2)(c), the sum of the tax rates provided for in Subsection (2)(b).

(b) Tax rates authorized under the following apply to Subsection (2)(a)(ii)(B):

(i) the lowest tax rate imposed by a county, city, or town under Section 59-12-204, but only if all of the counties, cities, and towns in the state impose the tax under Section 59-12-204;

(ii) the lowest tax rate imposed by a county, city, or town under Section 59-12-205, but only if all of the counties, cities, and towns in the state impose the tax under Section 59-12-205;

(iii) the tax rate authorized by Section 59-12-501 or Section 59-12-1001, but only if all of the counties, cities, and towns in the state impose the tax:

(A) under Section 59-12-501; or

(B) under Section 59-12-1001;

(iv) the tax rate authorized by Section 59-12-502, but only if all of the counties, cities, and towns in the state impose the tax under Section 59-12-502;

(v) the tax rate authorized by Section 59-12-703, but only if all of the counties in the state impose the tax under Section 59-12-703; and

(vi) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the state

impose the tax under Section 59-12-1102.

(c) Tax rates authorized under the following do not apply to Subsection (2)(a)(ii)(B):

(i) Subsection 59-12-103(2)(a)(i);

(ii) Subsection 59-12-103(2)(b)(i);

(iii) Subsection 59-12-103(2)(c)(i);

(iv) Section 59-12-301;

(v) Section 59-12-352;

(vi) Section 59-12-353;

(vii) Section 59-12-401;

(viii) Section 59-12-402;

(ix) Section 59-12-603;

(x) Section 59-12-802;

(xi) Section 59-12-804;

(xii) Section 59-12-1201; or

(xiii) Section 59-12-1302.

~~[(b)]~~ (d) Beginning on January 1, 1999, the commission shall annually adjust on or before the second Monday of February the \$1.70 provided in Subsection (2)(a)(i) by a percentage equal to the percentage difference between the food at home category of the Consumer Price Index for:

(i) the preceding calendar year; and

(ii) calendar year 1997.

(3) To claim a sales tax refund under this section, a qualified emergency food agency shall file an application with the commission.

(4) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for implementing the sales tax refund under this section, including:

(a) procedures for an organization to apply for recognition as a qualified emergency food agency;

(b) standards for determining and verifying the amount of the sales tax refund; and

(c) procedures for a qualified emergency food agency to apply for a sales tax refund, including the frequency with which a qualified emergency food agency may apply for a sales tax refund.

(5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the Division of Community Development may establish rules providing for the certification of emergency food agencies to claim a refund under this part.

Section 23. Section **59-12-1001** is amended to read:

59-12-1001. Authority to impose highways tax -- Resolution and voter approval requirements -- Election requirements -- Notice requirements -- Ordinance requirements.

(1) (a) [~~A~~] Except as provided in Subsection (1)(b), a municipality in which [sales and uses] the transactions described in Subsection 59-12-103(1) are not subject to a sales and use tax under Section 59-12-501 may as provided in this part impose a sales and use tax of 1/4% on the [sales and uses] transactions described in Subsection 59-12-103(1)[, subject to the exemptions provided for in Section 59-12-104].

(b) Notwithstanding Subsection (1)(a), a municipality may not impose a tax under this section on:

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

(ii) any amounts paid or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b).

(2) A tax imposed under this part by a municipality shall be used for the construction and maintenance of highways under the jurisdiction of the municipality imposing the tax.

(3) To impose a highways tax under this part, the governing body of the municipality shall:

(a) pass an ordinance approving the tax; and

(b) except as provided in Subsection (7), obtain voter approval for the tax as provided in Subsection (4).

(4) To obtain voter approval for a highways tax under Subsection (3)(b), a municipality shall:

(a) hold the highways tax election during:

- (i) a regular general election; or
- (ii) a municipal general election; and
- (b) publish notice of the election:
 - (i) 15 days or more before the day on which the election is held; and
 - (ii) in a newspaper of general circulation in the municipality.

(5) An ordinance approving a highways tax under this part shall provide an effective date for the tax.

(6) A municipality imposing a tax under this part shall:

(a) begin collecting the tax on the first day of a calendar quarter; and

(b) notify the commission at least 30 days before the day on which the commission is required to collect the tax.

(7) (a) Except as provided in Subsection (7)(b), a municipality is not subject to the voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the municipality imposed a licensee fee or tax on businesses based on gross receipts pursuant to Section 10-1-203.

(b) The exception from the voter approval requirements in Subsection (7)(a) does not apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts pursuant to Section 10-1-203.

Section 24. Section **59-12-1102** is amended to read:

59-12-1102. Base -- Rate -- Imposition of tax -- Distribution of revenue --

Administration.

(1) (a) (i) [Subject] Except as provided in Subsection (1)(a)(ii), subject to the provisions of Subsections (2) through (4), and in addition to any other tax authorized by this chapter, a county may impose by ordinance a county option sales and use tax of 1/4% upon the [sales and uses] transactions described in Subsection 59-12-103(1)[, subject to the exemptions provided for in Section 59-12-104].

(ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this section on:

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

(B) any amounts paid or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b) unless all of the counties in the state impose a tax under this section.

(b) The county option sales and use tax under this section shall be imposed:

(i) upon sales and uses made in the county, including sales and uses made within municipalities in the county; and

(ii) except as provided in Subsection (1)(c), beginning on the first day of January:

(A) of the next calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted on or before May 25; or

(B) of the second calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted after May 25.

(c) Notwithstanding Subsection (1)(b)(ii), the county option sales and use tax under this section shall be imposed:

(i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before September 4, 1997; or

(ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997 but after September 4, 1997.

(2) (a) Before imposing a county option sales and use tax under Subsection (1), a county shall:

(i) hold two public hearings on separate days in geographically diverse locations in the county; and

(ii) notify the commission at least 30 days prior to the adoption of the ordinance.

(b) (i) At least one of the hearings required by Subsection (2)(a)(i) shall have a starting time of no earlier than ~~[6:00]~~ 6 p.m.

(ii) The earlier of the hearings required by Subsection (2)(a)(i) shall be no less than seven days after the day the first advertisement required by Subsection (2)(c) is published.

(c) (i) Before holding the public hearings required by Subsection (2)(a)(i), the county shall advertise in a newspaper of general circulation in the county:

(A) its intent to adopt a county option sales and use tax;

(B) the date, time, and location of each public hearing; and
(C) a statement that the purpose of each public hearing is to obtain public comments regarding the proposed tax.

(ii) The advertisement shall be published once each week for the two weeks preceding the earlier of the two public hearings.

(iii) The advertisement shall be no less than 1/8 page in size, and the type used shall be no smaller than 18 point and surrounded by a 1/4-inch border.

(iv) The advertisement may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(v) Whenever possible:

(A) the advertisement shall appear in a newspaper that is published at least five days a week, unless the only newspaper in the county is published less than five days a week; and

(B) the newspaper selected shall be one of general interest and readership in the community, and not one of limited subject matter.

(d) The adoption of an ordinance imposing a county option sales and use tax is subject to a local referendum election as provided in Title 20A, Chapter 7, Part 6, Local Referenda - Procedures, except that:

(i) notwithstanding Subsection 20A-7-609(2)(a), the county clerk shall hold a referendum election that qualifies for the ballot on the earlier of the next regular general election date or the next municipal general election date more than 155 days after adoption of an ordinance under this section;

(ii) for 1997 only, the 120-day period in Subsection 20A-7-606(1) shall be 30 days; and

(iii) the deadlines in Subsection 20A-7-606(2) and (3) do not apply, and the clerk shall take the actions required by those subsections before the referendum election.

(3) (a) [Hf] Except as provided in Subsection (4), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is less than 75% of the state population, the tax levied under Subsection (1) shall be distributed to the county in which the tax was collected.

(b) [Hf] Except as provided in Subsection (4), if the aggregate population of the counties

imposing a county option sales and use tax under Subsection (1) is greater than or equal to 75% of the state population:

(i) 50% of the tax collected under Subsection (1) in each county shall be distributed to the county in which the tax was collected; and

(ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection (1) in each county shall be distributed proportionately among all counties imposing the tax, based on the total population of each county.

(c) If the amount to be distributed annually to a county under Subsection (3)(b)(ii), when combined with the amount distributed to the county under Subsection (3)(b)(i), does not equal at least \$75,000, then:

(i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall be increased so that, when combined with the amount distributed to the county under Subsection (3)(b)(i), the amount distributed annually to the county is \$75,000; and

(ii) the amount to be distributed annually to all other counties under Subsection (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under Subsection (3)(c)(i).

(d) The commission shall establish rules to implement the distribution of the tax under Subsections (3)(a), (b), and (c).

(4) Notwithstanding Subsections (3)(a) and (b), if a county imposes a tax under this section on any amounts paid or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b), the revenues generated by the tax shall be distributed as provided in Subsection 59-12-103(3)(c).

~~[(4)]~~ (5) (a) Except as provided in Subsections ~~[(4)]~~ (5)(b) and (c), a county option sales and use tax under Subsection (1) shall be imposed and administered in the same manner as a tax imposed under Title 59, Chapter 12, Part 2, ~~[The]~~ Local Sales and Use Tax Act.

(b) A county option sales and use tax imposed under this part is not subject to:

(i) the distribution provisions of Subsections 59-12-205(2) and (3); and

(ii) the earmarking provisions of Subsection 59-12-205(4).

(c) The fee charged by the commission under Section 59-12-206 shall be based on the distribution amounts resulting after all the applicable distribution calculations under Subsection (3)

have been made.

Section 25. Section **59-12-1302** is amended to read:

59-12-1302. Authority to impose -- Base -- Rate.

(1) Beginning on or after January 1, 1998, the governing body of a town may impose a tax as provided in this part in an amount that does not exceed 1%.

(2) A town may impose a tax as provided in this part if the town imposed a license fee or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1, 1996.

(3) A town imposing a tax under this section shall:

(a) adopt an ordinance:

(i) except as provided in Subsection (4), imposing the tax on the [sales and uses] transactions described in [Section] Subsection 59-12-103(1); and

~~[(ii) exempting from the tax the sales and uses described in Section 59-12-104; and]~~

~~[(iii)]~~ (ii) providing an effective date for the tax;

(b) impose the tax on the first day of a calendar quarter; and

(c) notify the commission at least 30 days before the day on which the commission is required to collect the tax.

(4) Notwithstanding Subsection (3)(a)(i), a town may not impose a tax under this section on:

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

(b) any amounts paid or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b).

~~[(4)]~~ (5) The commission shall:

(a) except as provided in Subsection ~~[(4)]~~ (5)(c), distribute the revenues generated by the tax under this section to the town imposing the tax;

(b) administer, collect, and enforce the tax authorized under this section pursuant to:

(i) the same procedures used to administer, collect, and enforce the sales and use tax under ~~[Title 59, Chapter 12,]~~ Part 1, Tax Collection; and

(ii) ~~[Title 59,]~~ Chapter 1, General Taxation Policies; and

(c) deduct from the distribution under Subsection [~~(4)~~] (5)(a) an administrative charge for collecting the tax as provided in Section 59-12-206.

Section 26. **Effective date.**

This act takes effect on July 1, 2001.

Section 27. **Coordination clause.**

(1) If this bill and S.B. 206, State and Local Amendments, both pass, it is the intent of the Legislature that Subsection 59-12-103(3)(c)(iii) of the enrolled version of this bill shall read as follows:

(iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for purposes of this section shall be derived from the most recent official census or census estimate of the United States Census Bureau.

(B) Notwithstanding Subsection (3)(c)(iii)(A), if a needed population estimate is not available from the United States Census Bureau, population figures shall be derived from the estimate from the Utah Population Estimates Committee created by executive order of the governor.

(C) For purposes of this section, the population of a county may only include the population of the unincorporated areas of the county.

(2) If this bill and H.B. 275, Sales and Use Tax Allocation for Species Protection, both pass, it is the intent of the Legislature that in preparing the database for publication, the Office of Legislative Research and General Counsel shall revise Subsection 59-12-103(5)(a) to read as follows:

(5) (a) [~~From~~] Notwithstanding Subsection (3)(a), beginning on July 1, [~~1997~~] 2001, the [~~annual~~] amount of sales and use tax generated annually by a [~~1/8%~~] 1/16% tax rate on the taxable [~~items and services~~] transactions under Subsection (1) shall be used [~~as follows~~]:

[~~(i) 50% shall be used for water and wastewater projects~~] as provided in Subsections (5)(b) through [~~(f); and~~] (g).

[~~(ii) 50% shall be used for transportation projects as provided in Subsections (5)(g) through (h)~~].

(3) If this bill and H.B. 275, Sales and Use Tax Allocation for Species Protection, both pass, it is the intent of the Legislature that in preparing the database for publication, the Office of

Legislative Research and General Counsel shall revise Subsection 59-12-103(6)(a) to read as follows:

(6) (a) Notwithstanding Subsection (3)(a), beginning on July 1, 2001, the amount of sales and use tax generated annually by a 1/16% tax rate on the taxable transactions under Subsection (1) shall be used as provided in Subsections (6)(b) through (d).