

1 **SALES AND USE TAX MODIFICATIONS**

2 2000 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Lyle W. Hillyard**

5 AN ACT RELATING TO THE SALES AND USE TAX ACT; CLARIFYING THE DUTY TO
6 COLLECT SALES AND USE TAXES; AMENDING PROVISIONS RELATING TO THE
7 SALES AND USE TAX BASE AND RATES; PROVIDING FOR THE DISTRIBUTION OF
8 CERTAIN SALES AND USE TAX REVENUES TO COUNTIES, CITIES, OR TOWNS;
9 CLARIFYING SALES AND USE TAX REVENUES TO BE DEPOSITED INTO THE
10 GENERAL FUND; AMENDING DEFINITIONS; AUTHORIZING CERTAIN VENDORS TO
11 COLLECT A SALES OR USE TAX; REQUIRING THE STATE TAX COMMISSION TO
12 COLLECT A SALES OR USE TAX FROM CERTAIN VENDORS THAT ARE NOT
13 CURRENTLY REQUIRED TO COLLECT SALES OR USE TAXES IF PERMITTED BY
14 CONGRESS OR AUTHORIZED BY THE SUPREME COURT OF THE UNITED STATES;
15 REQUIRING THE STATE TAX COMMISSION TO MAKE A REPORT TO THE TAX
16 REVIEW COMMISSION UNDER CERTAIN CIRCUMSTANCES; REQUIRING THE TAX
17 REVIEW COMMISSION TO CONDUCT A STUDY UNDER CERTAIN CIRCUMSTANCES;
18 ADDRESSING THE AUTHORITY OF COUNTIES, CITIES, OR TOWNS TO COLLECT
19 SALES OR USE TAXES; MAKING TECHNICAL CHANGES; DELETING OBSOLETE
20 LANGUAGE; AND PROVIDING AN EFFECTIVE DATE.

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

22 AMENDS:

23 **17A-2-1064**, as enacted by Chapter 133, Laws of Utah 1999

24 **59-12-102**, as last amended by Chapters 63 and 362, Laws of Utah 1999

25 **59-12-103**, as last amended by Chapter 133, Laws of Utah 1999

26 **59-12-106**, as last amended by Chapter 16, Laws of Utah 1995

27 **59-12-107**, as last amended by Chapter 210, Laws of Utah 1999

28 **59-12-110**, as last amended by Chapter 71, Laws of Utah 1999
29 **59-12-204**, as last amended by Chapter 133, Laws of Utah 1999
30 **59-12-205**, as last amended by Chapter 133, Laws of Utah 1999
31 **59-12-401**, as last amended by Chapter 291, Laws of Utah 1998
32 **59-12-402**, as last amended by Chapter 291, Laws of Utah 1998
33 **59-12-501**, as last amended by Chapter 291, Laws of Utah 1998
34 **59-12-502**, as last amended by Chapter 291, Laws of Utah 1998
35 **59-12-703**, as last amended by Chapters 209 and 291, Laws of Utah 1998
36 **59-12-704**, as last amended by Chapters 193 and 209, Laws of Utah 1998
37 **59-12-801**, as last amended by Chapter 261, Laws of Utah 1998
38 **59-12-802**, as last amended by Chapters 261 and 291, Laws of Utah 1998
39 **59-12-803**, as last amended by Chapter 261, Laws of Utah 1998
40 **59-12-804**, as enacted by Chapter 111, Laws of Utah 1994
41 **59-12-902**, as enacted by Chapter 264, Laws of Utah 1997
42 **59-12-1001**, as last amended by Chapter 291, Laws of Utah 1998
43 **59-12-1102**, as last amended by Chapter 13, Laws of Utah 1998
44 **59-12-1302**, as enacted by Chapter 243, Laws of Utah 1998

45 ENACTS:

46 **59-12-103.1**, Utah Code Annotated 1953

47 **59-12-805**, Utah Code Annotated 1953

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

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

50 **17A-2-1064. Airport to University of Utah Light Rail Restricted Account -- Creation**
51 **-- Use of revenues.**

52 (1) There is created within the General Fund a restricted account known as the "Airport
53 to University of Utah Light Rail Restricted Account."

54 (2) The account shall be funded from the portion of the sales and use tax under Sections
55 59-12-204 and 59-12-205 that is:

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

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

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

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

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

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

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

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

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

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

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

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

77 Section 2. Section **59-12-102** is amended to read:

78 **59-12-102. Definitions.**

79 As used in this chapter:

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

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

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

84 (3) "Authorized carrier" means:

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

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

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

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

- 94 (i) a coin-operated amusement, skill, or ride device;
- 95 (ii) that is not controlled through vendor-assisted, over-the-counter, sales of tokens; and
- 96 (iii) includes a music machine, pinball machine, billiard machine, video game machine,
97 arcade machine, and a mechanical or electronic skill game or ride.

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

- 100 (i) accepts and registers multiple denominations of coins; and
- 101 (ii) allows the vendor to collect the sales and use tax at the time an amusement device is
102 activated and operated by a person inserting coins into the device.

103 (5) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels
104 that does not constitute industrial use under Subsection (13) or residential use under Subsection
105 (21).

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

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

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

114 (7) "Component part" includes:

- 115 (a) poultry, dairy, and other livestock feed, and their components;
- 116 (b) baling ties and twine used in the baling of hay and straw;
- 117 (c) fuel used for providing temperature control of orchards and commercial greenhouses
118 doing a majority of their business in wholesale sales, and for providing power for off-highway type
119 farm machinery; and

120 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

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

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

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

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

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

141 (II) correct impaired human hearing; and

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

143 (II) affixed behind the human ear;

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

145 (iii) a telephone amplifying device.

146 (b) "Hearing aid" does not include:

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

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

151 (A) a personal amplifying system;

- 152 (B) a personal FM system;
- 153 (C) a television listening system; or
- 154 (D) a device or system similar to a device or system described in Subsections
- 155 (10)(b)(ii)(A) through (C); or
- 156 (iii) an assistive listening device or system designed to be used by more than one
- 157 individual, including:
- 158 (A) a device or system installed in:
- 159 (I) an auditorium;
- 160 (II) a church;
- 161 (III) a conference room;
- 162 (IV) a synagogue; or
- 163 (V) a theater; or
- 164 (B) a device or system similar to a device or system described in Subsections
- 165 (10)(b)(iii)(A)(I) through (V).
- 166 (11) (a) "Hearing aid accessory" means a hearing aid:
- 167 (i) component;
- 168 (ii) attachment; or
- 169 (iii) accessory.
- 170 (b) "Hearing aid accessory" includes:
- 171 (i) a hearing aid neck loop;
- 172 (ii) a hearing aid cord;
- 173 (iii) a hearing aid ear mold;
- 174 (iv) hearing aid tubing;
- 175 (v) a hearing aid ear hook; or
- 176 (vi) a hearing aid remote control.
- 177 (c) "Hearing aid accessory" does not include:
- 178 (i) a component, attachment, or accessory designed to be used only with an:
- 179 (A) instrument or device described in Subsection (10)(b)(i); or
- 180 (B) assistive listening device or system described in Subsection (10)(b)(ii) or (iii); or
- 181 (ii) a hearing aid battery.
- 182 (12) (a) "Home medical equipment and supplies" means equipment and supplies that:

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

186 (ii) are used exclusively by the person for whom they are prescribed to serve a medical
187 purpose; and

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

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

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

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

195 (iii) hearing aids or hearing aid accessories.

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

197 (i) a clinic;

198 (ii) a doctor's office; and

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

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

202 (a) mining or extraction of minerals;

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

205 (i) commercial greenhouses;

206 (ii) irrigation pumps;

207 (iii) farm machinery;

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

210 (v) other farming activities; and

211 (c) manufacturing tangible personal property at an establishment described in SIC Codes
212 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office
213 of the President, Office of Management and Budget.

214 (14) "Manufactured home" means any manufactured home or mobile home as defined in
215 Title 58, Chapter 56, Utah Uniform Building Standards Act.

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

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

220 (b) a scrap recycler if:

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

223 (A) iron;

224 (B) steel;

225 (C) nonferrous metal;

226 (D) paper;

227 (E) glass;

228 (F) plastic;

229 (G) textile; or

230 (H) rubber; and

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

233 (16) (a) "Medicine" means:

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

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

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

242 (b) "Medicine" does not include:

243 (i) any auditory, prosthetic, ophthalmic, or ocular device or appliance; or

244 (ii) any alcoholic beverage.

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

248 (a) one or more of the following terms:

249 (i) "Olympic[;]";

250 (ii) "Olympiad[;]"; or

251 (iii) "Citius Altius Fortius[;]";

252 (b) the symbol of the International Olympic Committee, consisting of five interlocking
253 rings;

254 (c) the emblem of the International Olympic Committee Corporation;

255 (d) a United States Olympic Committee designation, emblem, insignia, mark, logo, service
256 mark, symbol, terminology, trademark, or other copyrighted or protected material;

257 (e) any emblem of the Winter Olympic Games of 2002 that is officially designated by the
258 Salt Lake Organizing Committee of the Winter Olympic Games of 2002; or

259 (f) the mascot of the Winter Olympic Games of 2002.

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

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

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

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

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

272 (22) (a) "Retail sale" means any sale within the state of tangible personal property or any
273 other taxable [~~item or service~~] transaction under Subsection 59-12-103(1), other than resale of such
274 property, item, or service by a retailer or wholesaler to a user or consumer.

275 (b) "Retail sale" includes sales by any farmer or other agricultural producer of poultry,

276 eggs, or dairy products to consumers if the sales have an average monthly sales value of \$125 or
277 more.

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

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

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

288 (23) (a) "Retailer" means any person engaged in a regularly organized retail business in
289 tangible personal property or any other taxable ~~[item or service]~~ transaction under Subsection
290 59-12-103(1), and who is selling to the user or consumer and not for resale.

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

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

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

300 ~~[(e)] (d)~~ For purposes of this chapter the commission may regard as retailers the following
301 if they determine it is necessary for the efficient administration of this chapter: salesmen,
302 representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, or
303 employers under whom they operate or from whom they obtain the tangible personal property sold
304 by them, irrespective of whether they are making sales on their own behalf or on behalf of these
305 dealers, distributors, supervisors, or employers, except that:

306 (i) a printer's facility with which a retailer has contracted for printing shall not be

307 considered to be a salesman, representative, peddler, canvasser, or agent of the retailer; and

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

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

317 (a) installment and credit sales;

318 (b) any closed transaction constituting a sale;

319 (c) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

320 (d) any transaction if the possession of property is transferred but the seller retains the title
321 as security for the payment of the price; and

322 (e) any transaction under which right to possession, operation, or use of any article of
323 tangible personal property is granted under a lease or contract and the transfer of possession would
324 be taxable if an outright sale were made.

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

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

330 (ii) the sale of clothing that:

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

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

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

337 (iv) transportation charges for official school activities.

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

339 (i) gate receipts;

340 (ii) special event admission fees;

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

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

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

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

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

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

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

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

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

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

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

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

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

359 (iii) insurance certificates or policies;

360 (iv) personal or governmental licenses;

361 (v) water in pipes, conduits, ditches, or reservoirs;

362 (vi) currency and coinage constituting legal tender of the United States or of a foreign
363 nation; and

364 (vii) all gold, silver, or platinum ingots, bars, medallions, or decorative coins, not
365 constituting legal tender of any nation, with a gold, silver, or platinum content of not less than
366 80%.

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

369 service.

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

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

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

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

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

386 (b) "Vendor" does not mean a printer's facility described in Subsection (23)(e).

387 Section 3. Section **59-12-103** is amended to read:

388 **59-12-103. Sales and use tax base -- Rate -- Use of sales and use tax revenues.**

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

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

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

394 (i) all transportation;

395 (ii) intrastate telephone service; or

396 (iii) telegraph service;

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

398 (i) gas~~[-,];~~

399 (ii) electricity~~[-,];~~

- 400 (iii) heat[-];
- 401 (iv) coal[-];
- 402 (v) fuel oil[-]; or
- 403 (vi) other fuels [~~sold for commercial use~~];
- 404 (d) sales of the following for residential use:
- 405 (i) gas[-];
- 406 (ii) electricity[-];
- 407 (iii) heat[-];
- 408 (iv) coal[-];
- 409 (v) fuel oil[-]; or
- 410 (vi) other fuels [~~sold for residential use~~];
- 411 (e) sales of meals [~~sold~~];
- 412 (f) amounts paid or charged as admission or user fees for theaters, movies, operas,
- 413 museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement
- 414 parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances,
- 415 boxing [~~and~~] matches, wrestling matches, closed circuit television broadcasts, billiard [~~or~~] parlors,
- 416 pool parlors, bowling lanes, golf [~~and~~], miniature golf, golf driving ranges, batting cages, skating
- 417 rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides,
- 418 river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other
- 419 amusement, entertainment, recreation, exhibition, cultural, or athletic activity;
- 420 (g) amounts paid or charged for services:
- 421 (i) for repairs or renovations of tangible personal property; or [services]
- 422 (ii) to install tangible personal property in connection with other tangible personal
- 423 property;
- 424 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for cleaning
- 425 or washing of tangible personal property;
- 426 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations
- 427 and services for less than 30 consecutive days;
- 428 (j) amounts paid or charged for laundry [~~and~~] or dry cleaning services;
- 429 (k) amounts paid or charged for leases [~~and~~] or rentals of tangible personal property if:
- 430 (i) the [property] tangible personal property's situs is in this state[-, if];

- 431 (ii) the lessee took possession of the tangible personal property in this state[-]; or [if the]
432 (iii) within this state the tangible personal property is:
433 (A) stored[-];
434 (B) used[-]; or
435 (C) otherwise consumed [in this state];
436 (l) amounts paid or charged for tangible personal property if within this state the tangible
437 personal property is:
438 (i) stored[-];
439 (ii) used[-]; or
440 (iii) consumed [in this state]; and
441 (m) amounts paid or charged for prepaid telephone calling cards.
442 (2) (a) Except [for Subsection (1)(d), the rates of the tax levied under] as provided in
443 Subsections (2)(b) and (c), beginning on July 1, 2001, a state tax and a local tax is imposed on a
444 transaction described in Subsection (1) [shall be:] equal to the sum of:
445 [~~(a) 5% through June 30, 1994;~~
446 [~~(b) 4.875% beginning on July 1, 1994 through June 30, 1997; and]~~
447 [~~(c) 4.75% beginning on July 1, 1997.]~~
448 (i) a state tax imposed on the transaction at a rate of 4.75%; and
449 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
450 transaction under this chapter other than this part.
451 [~~(3) (b) [The rates of the tax levied under] Notwithstanding Subsection (2)(a), beginning~~
452 on July 1, 2001, a state tax and a local tax is imposed on a transaction described in Subsection
453 (1)(d) [shall be 2% from and after January 1, 1990] equal to the sum of:
454 (i) a state tax imposed on the transaction at a rate of 2%; and
455 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
456 transaction under this chapter other than this part.
457 (c) Notwithstanding Subsections (2)(a) and (b), beginning on July 1, 2001, if a vendor
458 described in Subsection 59-12-107(1)(b) collects a tax on a transaction described in Subsection
459 (1) pursuant to Subsection 59-12-107(1)(b), a state tax and a local tax is imposed on the transaction
460 equal to the sum of:
461 (i) a state tax imposed on the transaction at a rate of:

- 462 (A) 4.75% for a transaction other than a transaction described in Subsection (1)(d); or
463 (B) 2% for a transaction described in Subsection (1)(d); and
464 (ii) except as provided in Subsection (2)(d), a local tax imposed on the transaction at a rate
465 equal to the sum of the following tax rates:
- 466 (A) the lowest tax rate imposed by a county, city, or town under Section 59-12-204, but
467 only if all of the counties, cities, and towns in the state impose the tax under Section 59-12-204;
468 (B) the lowest tax rate imposed by a county, city, or town under Section 59-12-205, but
469 only if all of the counties, cities, and towns in the state impose the tax under Section 59-12-205;
470 (C) the tax rate authorized by Section 59-12-501, but only if all of the counties, cities, and
471 towns in the state impose the tax under Section 59-12-501;
472 (D) the tax rate authorized by Section 59-12-502, but only if all of the counties, cities, and
473 towns in the state impose the tax under Section 59-12-502;
474 (E) the tax rate authorized by Section 59-12-703, but only if all of the counties in the state
475 impose the tax under Section 59-12-703;
476 (F) the tax rate authorized by Section 59-12-1001, but only if all of the cities and towns
477 in the state impose the tax under Section 59-12-1001; and
478 (G) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the
479 state impose the tax under Section 59-12-1102.
- 480 (d) Taxes authorized under the following do not apply to Subsection (2)(c)(ii):
481 (i) Subsection (2)(a)(i);
482 (ii) Subsection (2)(b)(i);
483 (iii) Subsection (2)(c)(i);
484 (iv) Section 59-12-301;
485 (v) Section 59-12-352;
486 (vi) Section 59-12-353;
487 (vii) Section 59-12-401;
488 (viii) Section 59-12-402;
489 (ix) Section 59-12-603;
490 (x) Section 59-12-802;
491 (xi) Section 59-12-804;
492 (xii) Section 59-12-1201; or

493 (xiii) Section 59-12-1302.

494 (3) (a) Except as provided in Subsections (4) through (7), the state taxes described in
495 Subsections (2)(a)(i), (2)(b)(i), and (2)(c)(i) shall be deposited into the General Fund.

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

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

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

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

505 (B) multiplying the percentage determined under Subsection (3)(c)(ii)(A) by the total
506 amount of revenues generated by the local tax under Subsection (2)(c)(ii) for all counties, cities,
507 and towns.

508 (iii) (A) Except as provided in Subsection (3)(c)(iii)(B), for purposes of this section, the
509 commission shall calculate the population of a county, city, or town on the basis of the most recent
510 official census or census estimate of the United States Census Bureau.

511 (B) Notwithstanding Subsection (3)(c)(iii)(A), if population estimates are not made for a
512 county, city, or town by the United States Bureau of the Census, the commission shall calculate
513 the population estimates according to the biennial estimate of the population of the county, city,
514 or town from the Utah Population Estimates Committee created by executive order of the
515 governor.

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

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

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

524 (1);

525 (ii) from January 1, 1990, through June 30, 1999, the amount of revenue generated by a
526 1/64% tax rate under Section 59-12-204 or Section 59-12-205 on the taxable [~~items and services~~]
527 transactions under Subsection (1); and

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

529 (b) These funds shall be used:

530 (i) by the Utah Sports Authority as follows:

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

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

537 (C) unless the Legislature appropriates additional funds from the Olympics Special
538 Revenue Fund to the Utah Sports Authority, the Utah Sports Authority may not expend, loan, or
539 pledge in the aggregate more than:

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

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

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

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

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

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

554 (i) contracts in writing for the full reimbursement of the monies to the Olympics special

555 revenue fund by a public sports entity or other person benefitting from the expenditure; and

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

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

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

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

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

566 (b) Five hundred thousand dollars each year shall be transferred to the Agriculture
567 Resource Development Fund created in Section 4-18-6.

568 (c) Fifty percent of the remaining amount generated by 50% of the 1/8% tax rate shall be
569 transferred to the Water Resources Conservation and Development Fund created in Section
570 73-10-24 for use by the Division of Water Resources. In addition to the uses allowed of the fund
571 under Section 73-10-24, the fund may also be used to:

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

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

580 (iii) fund state required dam safety improvements; and

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

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

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

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

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

592 (iii) develop surface water sources.

593 (f) Notwithstanding Subsections (5)(b), (c), (d), and (e), \$100,000 of the remaining amount
594 generated by 50% of the 1/8% tax rate each year shall be transferred as dedicated credits to the
595 Division of Water Rights to cover the costs incurred in hiring legal and other technical staff for the
596 adjudication of water rights. Any remaining balance at the end of each fiscal year shall lapse back
597 to the contributing funds on a prorated basis.

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

601 (h) (i) If H.B. 53, "Transportation Corridor Preservation," passes in the 1996 General
602 Session, \$500,000 each year shall be transferred to the Transportation Corridor Preservation
603 Revolving Loan Fund, and if H.B. 121, "State Park Access Roads," passes in the 1996 General
604 Session, from July 1, 1997, through June 30, 2006, \$500,000 shall be transferred to the Department
605 of Transportation for the State Park Access Highways Improvement Program. The remaining
606 amount generated by 50% of the 1/8% tax rate shall be transferred to the class B and class C roads
607 account.

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

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

616 (b) Except for sales and use taxes deposited under Subsection (7), beginning on July 1,

617 1999, the revenues generated by the 1/64% tax rate:

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

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

622 (7) [Beginning] Notwithstanding Subsection (3)(a), beginning on July 1, 1999, the
623 commission shall deposit into the Airport to University of Utah Light Rail Restricted Account
624 created in Section 17A-2-1064 the portion of the sales and use tax under Sections 59-12-204 and
625 59-12-205 that is:

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

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

631 Section 4. Section **59-12-103.1** is enacted to read:

632 **59-12-103.1. Action by Supreme Court of the United States authorizing or action by**
633 **Congress permitting a state to require certain vendors to collect a sales or use tax --**
634 **Collection of tax by commission -- Tax Review Commission study.**

635 (1) A vendor shall remit to the commission a tax as provided in Subsection
636 59-12-103(2)(c) and Section 59-12-107 if:

637 (a) the Supreme Court of the United States issues a decision authorizing a state to require
638 a vendor described in Subsection 59-12-107(1)(b) to collect a sales or use tax; or

639 (b) Congress permits the state to require a vendor described in Subsection 59-12-107(1)(b)
640 to collect a sales or use tax.

641 (2) The commission shall:

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

643 (i) to the extent:

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

645 (B) permitted by Congress;

646 (ii) beginning on the first day of a calendar quarter as prescribed by the Utah Tax Review
647 Commission; and

- 648 (b) make a report to the Utah Tax Review Commission:
649 (i) regarding the actions taken by:
650 (A) the Supreme Court of the United States; or
651 (B) Congress; and
652 (ii) at the Utah Tax Review Commission meeting immediately following the day on which
653 the Supreme Court of the United States' or Congress' actions become effective.
654 (3) The Utah Tax Review Commission shall after hearing the commission's report under
655 Subsection (2)(b):
656 (a) review the actions taken by:
657 (i) the Supreme Court of the United States; or
658 (ii) Congress;
659 (b) direct the commission regarding the day on which the commission is required to collect
660 the tax described in Subsection (1); and
661 (c) make recommendations to the Revenue and Taxation Interim Committee:
662 (i) regarding whether as a result of the Supreme Court of the United States' or Congress'
663 actions any provisions of this chapter should be amended or repealed; and
664 (ii) within a one-year period after the day on which the commission makes a report under
665 Subsection (2)(b).

666 Section 5. Section **59-12-106** is amended to read:

667 **59-12-106. Sales and use tax license -- No fee -- Exemption certificate license number**
668 **to accompany contract bids.**

669 (1) It is unlawful for any person required by this chapter to collect sales or use tax, to
670 engage in business within the state without first having obtained a license to do so. This license
671 shall be granted and issued by the commission. The license is not assignable and is valid only for
672 the person in whose name it is issued until that person ceases to do business or changes his
673 business address, or until the license is revoked by the commission. Such license shall be granted
674 only upon application stating the name and address of the applicant and other information the
675 commission may require. At the time of application, the commission shall notify the applicant of
676 the responsibilities and liability of a business owner successor under Section 59-12-112. If
677 business is transacted at two or more separate places by one person, a separate license for each
678 place of business shall be required. The commission shall, on a reasonable notice and after a

679 hearing, revoke the license of any person violating any provisions of this chapter and no license
680 may be issued to such person until the taxpayer has complied with the requirements of this chapter.
681 Any person required by this chapter to collect sales or use tax within this state without having
682 secured a license to do so, is guilty of a criminal violation as provided in Section 59-1-401. No
683 license is required for any person engaged exclusively in the business of selling commodities
684 which are exempt from taxation under this chapter. A license shall be issued to the applicant by
685 the commission without a license fee.

686 (2) For the purpose of the proper administration of this chapter and to prevent evasion of
687 the tax and the duty to collect the tax, it shall be presumed that tangible personal property or any
688 other taxable [~~item or service~~] transaction under Subsection 59-12-103 (1), sold by any person for
689 delivery in this state is sold for storage, use, or other consumption in this state unless the person
690 selling such property, item, or service has taken from the purchaser an exemption certificate signed
691 by and bearing the name and address of the purchaser to the effect that the property, item, or
692 service was exempted under Section 59-12-104. The exemption certificates shall contain
693 information as prescribed by the commission.

694 (3) All persons filing contract bids with the state or any of its political subdivisions for sale
695 of tangible personal property or any other taxable [~~item or service~~] transaction under Subsection
696 59-12-103 (1), shall include with the bid the sales tax license number issued to them under
697 Subsection (1).

698 Section 6. Section **59-12-107** is amended to read:

699 **59-12-107. Collection, remittance, and payment of tax by vendors or other persons**
700 **-- Returns -- Direct payment by purchaser of vehicle -- Other liability for collection -- Credits**
701 **-- Deposit and sale of security -- Penalties.**

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

704 (i) has or utilizes;

705 (A) an office[.];

706 (B) a distribution house[.];

707 (C) a sales house[.];

708 (D) a warehouse[.];

709 (E) a service enterprise[.]; or [other]

710 (F) a place of business similar to Subsections (1)(a)(i)(A) through (E);
711 (ii) maintains a stock of goods;
712 [~~(iii) engages in regular or systematic solicitation of sale of tangible personal property,~~
713 ~~whether or not accepted in this state, by the distribution of catalogs, periodicals, advertising flyers,~~
714 ~~or other advertising by means of print, radio, or television, or by mail, telegraphy, telephone,~~
715 ~~computer data base, optic, microwave, or other communication system for the purpose of selling,~~
716 ~~at retail, tangible personal property;]~~

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

719 (A) advertising; or
720 (B) solicitation by:
721 (I) direct mail;
722 (II) electronic mail;
723 (III) the Internet;
724 (IV) telephone; or
725 (V) a means similar to Subsections (1)(a)(iii)(A) or (B);
726 (iv) regularly engages in the delivery of property in [this] the state other than by:
727 (A) common carrier; or
728 (B) United States mail; or
729 (v) regularly engages in [any] an activity [~~in connection with~~] directly related to the leasing
730 or servicing of property located within [this] the state.

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

734 (i) except as provided in Subsection (1)(b)(ii), may voluntarily:
735 (A) collect a tax as provided in Subsection 59-12-103(2)(c) on a transaction described in
736 Subsection 59-12-103(1); and
737 (B) remit the tax to the commission as provided in this part; or
738 (ii) notwithstanding Subsection (1)(b)(i), shall collect a tax as provided in Subsection
739 59-12-103(2)(c) on a transaction described in Subsection 59-12-103(1) if Section 59-12-103.1
740 requires the vendor to collect the tax.

741 (c) A person shall pay a use tax imposed by this chapter on a transaction if:
742 (i) the vendor did not collect a use tax imposed by this chapter on the transaction; and
743 (ii) the person:
744 (A) stores the tangible personal property in the state;
745 (B) uses the tangible personal property in the state; or
746 (C) consumes the tangible personal property [is responsible for remitting the use tax] in
747 the state.

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

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

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

757 (c) (i) Each vendor shall:

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

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

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

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

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

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

772 2 plus any excess.

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

778 [~~(3) Each person storing, using, or consuming tangible personal property under Subsection~~
779 ~~59-12-103(1) is liable for the use tax imposed under this chapter.~~]

780 [~~(4)~~] (3) (a) Except as provided in Subsection [~~(5)~~] (4) and in Section 59-12-108, the sales
781 or use tax imposed by this chapter is due and payable to the commission quarterly on or before the
782 last day of the month next succeeding each calendar quarterly period.

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

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

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

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

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

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

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

799 [~~(5)~~] (4) On each vehicle sale made by other than a regular licensed vehicle dealer, the
800 purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to titling
801 or registration under the laws of this state. The commission shall collect the tax when the vehicle
802 is titled or registered.

803 ~~[(6)]~~ (5) If any sale of tangible personal property or any other taxable ~~[item or service]~~
804 transaction under Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler
805 is not responsible for the collection or payment of the tax imposed on the sale if the retailer
806 represents that the personal property is purchased by the retailer for resale and the personal
807 property thereafter is not resold. Instead, the retailer is solely liable for the tax.

808 ~~[(7)]~~ (6) If any sale of property or service subject to the tax is made to a person prepaying
809 sales or use tax in accordance with Title 63, Chapter 51, Resource Development, or to a contractor
810 or subcontractor of that person, the person to whom such payment or consideration is payable is
811 not responsible for the collection or payment of the sales or use tax if the person prepaying the
812 sales or use tax represents that the amount prepaid as sales or use tax has not been fully credited
813 against sales or use tax due and payable under the rules promulgated by the commission. Instead,
814 the person prepaying the sales or use tax is solely liable for the tax.

815 ~~[(8)]~~ (7) Credit is allowed for prepaid taxes and for taxes paid on that portion of an account
816 determined to be worthless and actually charged off for income tax purposes or on the portion of
817 the purchase price remaining unpaid at the time of a repossession made under the terms of a
818 conditional sales contract.

819 ~~[(9)]~~ (8) (a) The commission may require any person subject to the tax imposed under this
820 chapter to deposit with it security as the commission determines, if the commission considers it
821 necessary to ensure compliance with this chapter.

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

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

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

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

830 ~~[(10)]~~ (9) (a) A vendor may not, with intent to evade any tax, fail to timely remit the full
831 amount of tax required by this chapter.

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

833 ~~[(b)]~~ (c) Each person who fails to pay any tax to the state or any amount of tax required

834 to be paid to the state, except amounts determined to be due by the commission under Sections
835 59-12-110 and 59-12-111, within the time required by this chapter, or who fails to file any return
836 as required by this chapter, shall pay, in addition to the tax, penalties and interest as provided in
837 Section 59-12-110.

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

841 Section 7. Section **59-12-110** is amended to read:

842 **59-12-110. Overpayments, deficiencies, and refunds procedures.**

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

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

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

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

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

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

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

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

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

864 (i) the three-year period under Subsection (2)(b) has not expired; and

865 (ii) the commission and the taxpayer sign a written agreement:

866 (A) authorizing the extension; and

867 (B) providing for the length of the extension.

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

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

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

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

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

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

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

884 (i) a penalty as provided in Section 59-1-401; and

885 (ii) interest as provided in Section 59-1-402.

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

888 (i) negligence;

889 (ii) intentional disregard of law or rule; or

890 (iii) fraud with intent to evade the tax.

891 (5) (a) Except as provided in Subsection (5)(b), a taxpayer shall pay a tax deficiency,
892 including penalties or interest under this section, within ten days after the commission provides
893 the taxpayer notice and demand of the deficiency, penalty, or interest.

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

896 deficiency, penalty, or interest if the commission determines:

897 (i) that a greater amount was due than was shown on the return; and

898 (ii) the tax is not in jeopardy.

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

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

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

907 (i) fraud; or

908 (ii) failure to file a return.

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

912 (i) the three-year period under this Subsection (6) has not expired; and

913 (ii) the commission and the taxpayer sign a written agreement:

914 (A) authorizing the extension; and

915 (B) providing for the length of the extension.

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

918 (i) the taxpayer subsequently refuses to agree to an extension request by the commission;

919 and

920 (ii) the three-year period under this Subsection (6) expires before the commission
921 completes the audit.

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

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

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

926 (A) the commission's estimate of the amount of taxes the taxpayer would have been

927 assessed for the time period described in Subsection (6)(f)(i); and

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

930 Section 8. Section **59-12-204** is amended to read:

931 **59-12-204. Sales and use tax ordinance provisions -- Tax rate -- Distribution of tax**
932 **revenues.**

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

935 (2) (a) Except as provided in [Subsection] Subsections (2)(b) and (c), (6)(b) and (c), and
936 59-12-205(2), such tax ordinance shall include a provision imposing a tax upon every [retail sale
937 of items] transaction listed in [Section] Subsection 59-12-103(1) made within a county, including
938 areas contained within the cities and towns thereof at the rate of 3/4% or any fractional part of such
939 3/4% of the purchase price paid or charged.

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

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

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

947 (ii) Notwithstanding Subsection (2)(a), if a county, city, or town imposes a tax under
948 Subsection (2)(b)(i)(B), the tax ordinance under this Subsection (2) shall include a provision that
949 the tax rate is equal to the lowest tax rate imposed by a county, city, or town under this section.

950 (c) (i) Notwithstanding Section 59-12-205, a tax ordinance under this Subsection (2) shall
951 include a provision prohibiting a county, city, or town from imposing a tax under Section
952 59-12-205 on:

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

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

958 (ii) Notwithstanding Section 59-12-205, if a county, city, or town imposes a tax under
959 Subsection (2)(c)(i)(B), the tax ordinance under this Subsection (2) shall include a provision that
960 the tax rate is equal to the lowest tax rate imposed by a county, city, or town under Section
961 59-12-205.

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

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

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

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

978 (a) a provision imposing a tax upon every [~~retail sale of items~~] transaction listed in Section
979 59-12-103 made within the city or town at the rate imposed by the county in which it is situated
980 pursuant to Subsection (2);

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

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

988 (c) (i) notwithstanding Section 59-12-205 and subject to Subsection (6)(c)(ii), a provision

989 prohibiting the city or town from imposing a tax under Section 59-12-205 on any amounts paid
990 or charged by a vendor described in Subsection 59-12-107(1)(b) unless all of the counties, cities,
991 and towns in the state impose a tax under Section 59-12-205; and

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

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

998 [~~(c)~~] (e) a provision that the city or town shall contract prior to the effective date of the city
999 or town sales and use tax ordinance with the commission to perform all functions incident to the
1000 administration or operation of the sales and use tax ordinance of the city or town;

1001 [~~(d)~~] (f) a provision that the sale, storage, use, or other consumption of tangible personal
1002 property, the gross receipts from the sale of or the cost of which has been subject to sales or use
1003 tax under a sales and use tax ordinance enacted in accordance with this part by any county other
1004 than the county in which the city or town is located, or city or town in this state, shall be exempt
1005 from the tax; and

1006 [~~(e)~~] (g) a provision that the amount of any tax paid under Part 1, Tax Collection, shall not
1007 be included as a part of the purchase price paid or charged for a taxable item.

1008 (7) (a) Notwithstanding any other provision of this section, from January 1, 1990, through
1009 June 30, 1999, the commission shall determine and retain the amount of revenue generated by a
1010 1/64% tax rate and deposit it in the Olympics Special Revenue Fund or funds provided for in
1011 Subsection 59-12-103(4) for the purposes of the Utah Sports Authority described in Title 63A,
1012 Chapter 7, Utah Sports Authority Act.

1013 (b) Except for sales and use taxes deposited under Subsection (7)(c), beginning on July 1,
1014 1999, the amount of revenue generated by the 1/64% tax rate under Subsection (7)(a) shall be
1015 retained by the county, city, or town levying a tax under this section.

1016 (c) Notwithstanding any other provision of this section, beginning on July 1, 1999, the
1017 commission shall:

1018 (i) determine and retain the portion of the sales and use tax imposed under this section:

1019 (A) by a city or town that will have constructed within its boundaries the Airport to

1020 University of Utah Light Rail described in the Transportation Equity Act for the 21st Century, Pub.
1021 L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

1022 (B) that is equal to the revenues generated by a 1/64% tax rate; and

1023 (ii) deposit the revenues described in Subsection (7)(c)(i) in the Airport to University of
1024 Utah Light Rail Restricted Account created in Section 17A-2-1064 for the purposes described in
1025 Section 17A-2-1064.

1026 (8) If a county, city, or town imposes a tax under this section on any amounts paid or
1027 charged by a vendor described in Subsection 59-12-107(1)(b), the revenues generated by the tax
1028 shall be distributed as provided in Subsection 59-12-103(3)(c).

1029 Section 9. Section **59-12-205** is amended to read:

1030 **59-12-205. Ordinances to conform with statutory amendments -- Distribution of tax**
1031 **revenues.**

1032 (1) Each county, city, and town, in order to maintain in effect sales and use tax ordinances
1033 adopted pursuant to [this part] Section 59-12-204, shall, within 30 days of any amendment of any
1034 applicable provisions of Part 1, Tax Collection, adopt amendments of their respective sales and
1035 use tax ordinances to conform with the amendments to Part 1, Tax Collection, insofar as they relate
1036 to sales and use taxes.

1037 (2) (a) Any county, city, or town may distribute its sales or use tax revenues by means
1038 other than point of sale or use by notifying the commission in writing of such decision, no later
1039 than 30 days before commencement of the next tax accrual period. [After]

1040 (b) Except as provided in Subsections 59-12-204(2)(b) and (c) and (6)(b) and (c), after
1041 such notice is given, a county, city, or town may increase the tax authorized by this part to a total
1042 of 1% [from and after] beginning on January 1, 1990, of the purchase price paid or charged[;
1043 excluding a public transit sales and use tax as provided in Section 59-12-501 and a resort
1044 communities sales tax as provided in Section 59-12-401. This tax shall be collected and
1045 distributed as follows:];

1046 [(a) from July 1, 1992, through June 30, 1993, 45% of each dollar collected from the sales
1047 and use tax authorized by this part shall be paid to each county, city, and town providing notice
1048 under this section, based upon the percentage that the population of the county, city, or town bears
1049 to the total population of all such entities providing notice under this section, and 55% based upon
1050 the point of sale or use of the transaction; and (b) from and after July 1, 1993,]

1051 (c) Except as provided in Subsections (2)(d), (3), and (4):

1052 (i) 50% of each dollar collected from the sales and use tax authorized by this part shall be
1053 paid to each county, city, and town providing notice under this section, based upon the percentage
1054 that the population of the county, city, or town bears to the total population of all such entities
1055 providing notice under this section[;]; and

1056 (ii) 50% of each dollar collected from the sales and use tax authorized by this part shall
1057 be paid to each county, city, and town providing notice under this section, based upon the point
1058 of sale or use of the transaction.

1059 (d) Notwithstanding Subsection (2)(c), if a county, city, or town imposes a tax under this
1060 section on any amounts paid or charged by a vendor described in Subsection 59-12-107(1)(b), the
1061 revenues generated by the tax shall be distributed as provided in Subsection 59-12-103(3)(c).

1062 (3) (a) Notwithstanding any provision of Subsection (2), a county, city, or town that has
1063 given notice under this section may not receive a tax revenue distribution less than 3/4 of 1% of
1064 the taxable sales within its boundaries.

1065 (b) The commission shall proportionally reduce quarterly distributions to any county, city,
1066 or town, which, but for the reduction, would receive a distribution in excess of 1% beginning
1067 January 1, 1990, of the sales and use tax revenue collected within its boundaries.

1068 (4) (a) Notwithstanding any other provision of this section, from January 1, 1990, through
1069 June 30, 1999, the commission shall determine and retain the amount of revenue generated by a
1070 1/64% tax rate and deposit it in the Olympics Special Revenue Fund or funds provided for in
1071 Subsection 59-12-103(4) for the purposes of the Utah Sports Authority described in Title 63A,
1072 Chapter 7, Utah Sports Authority Act.

1073 (b) Except for sales and use taxes deposited under Subsection (4)(c), beginning on July 1,
1074 1999, the amount of revenue generated by the 1/64% tax rate under Subsection (4)(a) shall be
1075 distributed to each county, city, and town as provided in this section.

1076 (c) Notwithstanding any other provision of this section, beginning on July 1, 1999, the
1077 commission shall:

1078 (i) determine and retain the portion of the sales and use tax imposed under this section:

1079 (A) by a city or town that will have constructed within its boundaries the Airport to
1080 University of Utah Light Rail described in the Transportation Equity Act for the 21st Century, Pub.
1081 L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

1082 (B) that is equal to the revenues generated by a 1/64% tax rate; and
1083 (ii) deposit the revenues described in Subsection (4)(c)(i) in the Airport to University of
1084 Utah Light Rail Restricted Account created in Section 17A-2-1064 for the purposes described in
1085 Section 17A-2-1064.

1086 (5) (a) Population figures for purposes of this section shall be based on the most recent
1087 official census or census estimate of the United States Census Bureau [~~of the Census~~].

1088 (b) If population estimates are not made for any county, city, or town by the United States
1089 Bureau of Census, population figures shall be determined according to the biennial estimate from
1090 the Utah Population Estimates Committee created by executive order of the governor.

1091 (6) The population of a county for purposes of this section shall be determined solely from
1092 the unincorporated area of the county.

1093 Section 10. Section **59-12-401** is amended to read:

1094 **59-12-401. Resort communities tax -- Rate -- Collection fees.**

1095 (1) (a) [~~In~~] Except as provided in Subsection (1)(b), and in addition to other sales taxes,
1096 a city or town in which the transient room capacity is greater than or equal to 66% of the
1097 permanent census population may impose a sales tax of up to 1% on the [~~sales and uses~~]
1098 transactions described in Subsection 59-12-103(1)[~~; subject to exemptions provided for in Section~~
1099 ~~59-12-104, and shall exempt from that additional tax wholesale sales and sales of single items for~~
1100 ~~which consideration paid is \$2,500 or more~~].

1101 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
1102 section on:

1103 (i) wholesale sales;

1104 (ii) the sale of a single item for which consideration paid is \$2,500 or more;

1105 (iii) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
1106 exempt from taxation under Section 59-12-104; and

1107 (iv) any amounts paid or charged by a vendor described in Subsection 59-12-107(1)(b).

1108 (2) (a) An amount equal to the total of any costs incurred by the state in connection with
1109 the implementation of Subsection (1) which exceed, in any year, the revenues received by the state
1110 from its collection fees received in connection with the implementation of Subsection (1) shall be
1111 paid over to the state General Fund by the cities and towns which impose the tax provided for in
1112 Subsection (1). [~~Payment costs~~]

1113 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those
1114 cities and towns according to the amount of revenue the respective cities and towns generate in that
1115 year through imposition of that tax.

1116 Section 11. Section **59-12-402** is amended to read:

1117 **59-12-402. Additional resort communities sales tax -- Rate -- Collection fees --**
1118 **Resolution and voter approval requirements -- Election requirements -- Notice requirements**
1119 **-- Ordinance requirements.**

1120 (1) (a) [Subject] Except as provided in Subsection (1)(b), and subject to the limitations of
1121 Subsections (2) through (6), the governing body of a municipality in which the transient room
1122 capacity is greater than or equal to 66% of the permanent census population may, in addition to
1123 the sales tax authorized under Section 59-12-401, impose an additional resort communities sales
1124 tax in an amount that is less than or equal to 1/2% on the [sales and uses] transactions described
1125 in Subsection 59-12-103(1)[, subject to the exemptions provided for in Section 59-12-104, and
1126 shall exempt from that additional tax wholesale sales and sales of single items for which
1127 consideration paid is \$2,500 or more].

1128 (b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not
1129 impose a tax under this section on:

1130 (i) wholesale sales;

1131 (ii) the sale of a single item for which consideration paid is \$2,500 or more;

1132 (iii) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
1133 exempt from taxation under Section 59-12-104; and

1134 (iv) any amounts paid or charged by a vendor described in Subsection 59-12-107(1)(b).

1135 (2) (a) An amount equal to the total of any costs incurred by the state in connection with
1136 the implementation of Subsection (1) which exceed, in any year, the revenues received by the state
1137 from its collection fees received in connection with the implementation of Subsection (1) shall be
1138 paid over to the state General Fund by the cities and towns which impose the tax provided for in
1139 Subsection (1). [Payment costs]

1140 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those
1141 cities and towns according to the amount of revenue the respective cities and towns generate in that
1142 year through imposition of that tax.

1143 (3) To impose an additional resort communities sales tax under this section, the governing

1144 body of the municipality shall:

1145 (a) pass a resolution approving the tax; and

1146 (b) except as provided in Subsection (6), obtain voter approval for the tax as provided in
1147 Subsection (4).

1148 (4) To obtain voter approval for an additional resort communities sales tax under
1149 Subsection (3)(b), a municipality shall:

1150 (a) hold the additional resort communities sales tax election during:

1151 (i) a regular general election; or

1152 (ii) a municipal general election; and

1153 (b) publish notice of the election:

1154 (i) 15 days or more before the day on which the election is held; and

1155 (ii) in a newspaper of general circulation in the municipality.

1156 (5) (a) An ordinance approving an additional resort communities sales tax under this
1157 section shall provide an effective date for the tax.

1158 (b) A municipality imposing a tax under this section shall:

1159 (i) collect the tax on the first day of a calendar quarter; and

1160 (ii) notify the commission at least 30 days before the day on which the commission is
1161 required to collect the tax.

1162 (6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the voter
1163 approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the municipality
1164 imposed a license fee or tax on businesses based on gross receipts pursuant to Section 10-1-203.

1165 (b) The exception from the voter approval requirements in Subsection (6)(a) does not
1166 apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only one
1167 class of businesses based on gross receipts pursuant to Section 10-1-203.

1168 Section 12. Section **59-12-501** is amended to read:

1169 **59-12-501. Public transit tax -- Rate -- Voter approval.**

1170 (1) (a) (i) [Hr] Except as provided in Subsection (1)(a)(ii), in addition to other sales and
1171 use taxes, any county, city, or town within a transit district organized under Title 17A, Chapter 2,
1172 Part 10, may impose a sales and use tax of 1/4 of 1% on the [sales and uses] transactions described
1173 in Subsection 59-12-103(1), [subject to the exemptions provided for in Section 59-12-104,] to fund
1174 a public transportation system.

1175 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax
1176 under this section on:

1177 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
1178 exempt from taxation under Section 59-12-104; and

1179 (B) any amounts paid or charged by a vendor described in Subsection 59-12-107(1)(b)
1180 unless all of the counties, cities, and towns in the state impose a tax under this section.

1181 (b) A county, city, or town may impose a tax under this section only if the governing body
1182 of the county, city, or town, by resolution, submits the proposal to all the qualified voters within
1183 the county, city, or town for approval at a general or special election conducted in the manner
1184 provided by statute.

1185 (2) (a) If only a portion of a county is included within a public transit district, the proposal
1186 may be submitted only to the qualified voters residing within the boundaries of the proposed or
1187 existing public transit district.

1188 (b) Notice of any such election shall be given by the county, city, or town governing body
1189 15 days in advance in the manner prescribed by statute.

1190 (c) If a majority of the voters voting in such election approve the proposal, it shall become
1191 effective on the date provided by the county, city, or town governing body.

1192 (3) This section may not be construed to require an election in jurisdictions where voters
1193 have previously approved a public transit sales or use tax.

1194 (4) If a county, city, or town imposes a tax under this section on any amounts paid or
1195 charged by a vendor described in Subsection 59-12-107(1)(b), the revenues generated by the tax
1196 shall be:

1197 (a) distributed as provided in Subsection 59-12-103(3)(c); and

1198 (b) used for a purpose authorized under this section.

1199 Section 13. Section **59-12-502** is amended to read:

1200 **59-12-502. Additional public transit tax for expanded system and fixed guideway**
1201 **and interstate improvements -- Rate -- Voter approval.**

1202 (1) (a) (i) [In] Except as provided in Subsection (1)(a)(ii), and in addition to other sales
1203 and use taxes, [and] including the public transit district tax authorized by Section 59-12-501, [any]
1204 a county, city, or town within a transit district organized under Title 17A, Chapter 2, Part 10, may
1205 impose a sales and use tax of 1/4 of 1% on the [sales and uses] transactions described in

1206 Subsection 59-12-103(1), [~~subject to the exemptions provided in Section 59-12-104,~~] to fund a
1207 fixed guideway and expanded public transportation system.

1208 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax
1209 under this section on:

1210 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
1211 exempt from taxation under Section 59-12-104; and

1212 (B) any amounts paid or charged by a vendor described in Subsection 59-12-107(1)(b)
1213 unless all of the counties, cities, and towns in the state impose a tax under this section.

1214 (b) A county, city, or town may impose the tax under this section only if the governing
1215 body of the county, city, or town submits, by resolution, the proposal to all the qualified voters
1216 within the county, city, or town for approval at a general or special election conducted in the
1217 manner provided by statute. Notice of the election shall be given by the county, city, or town
1218 governing body 15 days in advance in the manner prescribed by statute.

1219 (2) If the majority of the voters voting in this election approve the proposal, it shall
1220 become effective on the date provided by the county, city, or town governing body.

1221 (3) (a) This section may not be construed to require an election in jurisdictions where
1222 voters have previously approved a public transit sales or use tax.

1223 (b) This section shall be construed to require an election to impose the sales and use tax
1224 authorized by this section, including jurisdictions where the voters have previously approved the
1225 [~~transit district~~] sales and use tax authorized by Section 59-12-501, but this section may not be
1226 construed to affect the sales and use tax authorized by Section 59-12-501.

1227 (4) No public funds shall be spent to promote the required election.

1228 (5) Notwithstanding the designated use of revenues in Subsection (1), of the revenues
1229 generated by the tax imposed under this section by any county of the first class, 75% shall be
1230 allocated to fund a fixed guideway and expanded public transportation system and 25% shall be
1231 allocated to fund renovations, repairs, and improvements to Interstate 15.

1232 (6) If a county, city, or town imposes a tax under this section on any amounts paid or
1233 charged by a vendor described in Subsection 59-12-107(1)(b), the revenues generated by the tax
1234 shall be:

1235 (a) distributed as provided in Subsection 59-12-103(3)(c); and

1236 (b) used for a purpose authorized under this section.

1237 Section 14. Section **59-12-703** is amended to read:

1238 **59-12-703. Opinion question election -- Imposition of tax -- Uses of tax monies.**

1239 (1) (a) (i) [Any] Except as provided in Subsection (1)(a)(ii), a county legislative body may,
1240 by majority vote of all members, submit an opinion question to the residents of that county so that
1241 each resident has an opportunity to express the resident's opinion on the imposition of a local sales
1242 and use tax of 1/10 of 1% on the ~~[sales and uses]~~ transactions described in Subsection
1243 59-12-103(1), ~~[subject to the exemptions provided for in Section 59-12-104,]~~ to fund recreational
1244 and zoological facilities and botanical, cultural, and zoological organizations in that county.

1245 (ii) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a tax
1246 under this section on:

1247 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
1248 exempt from taxation under Section 59-12-104; and

1249 (B) any amounts paid or charged by a vendor described in Subsection 59-12-107(1)(b)
1250 unless all of the counties in the state impose a tax under this section.

1251 (b) The election shall follow the procedures outlined in Title 11, Chapter 14, Utah
1252 Municipal Bond Act.

1253 (2) (a) If the county legislative body determines that a majority of the qualified electors
1254 voting on the opinion question has assented to the imposition of a local sales and use tax as
1255 prescribed in Subsection (1)(a), the county legislative body may, by a majority vote of all
1256 members, impose such a tax.

1257 (b) If the county legislative body imposes a tax under Subsection (2)(a), the tax shall be
1258 imposed at the beginning of the quarter following the county legislative body's decision to impose
1259 such a tax.

1260 (3) The monies generated from any tax imposed under Subsection (2) shall be used for
1261 financing recreational and zoological facilities and ongoing operating expenses of botanical,
1262 cultural, and zoological organizations within the county.

1263 (4) Taxes imposed under this part shall be:

1264 (a) levied at the same time and collected in the same manner as provided in Title 59,
1265 Chapter 12, Part 2, The Local Sales and Use Tax Act, except that the collection and distribution
1266 of the tax revenue is not subject to Subsection 59-12-205(2); and

1267 (b) levied for a period of ten years and may be reauthorized at the end of the ten-year

1268 period in accordance with this section.

1269 Section 15. Section **59-12-704** is amended to read:

1270 **59-12-704. Distribution of revenues -- Advisory board creation -- Determining**
1271 **operating expenses.**

1272 (1) Except as provided in Subsections (3)(b) and (5), and subject to the requirements of
1273 this section, any revenues collected by a county of the first class under this part shall be distributed
1274 annually by the county legislative body to support recreational and zoological facilities and
1275 botanical, cultural, and zoological organizations within that first class county as follows:

1276 (a) 30% of the revenue collected by the county under this section shall be distributed by
1277 the county legislative body to support recreational facilities located within the county;

1278 (b) (i) 12.5% of the revenue collected by the county under this section shall be distributed
1279 by the county legislative body to support zoological facilities and organizations located within the
1280 county; and

1281 (ii) the county legislative body shall determine how the monies shall be distributed among
1282 the zoological organizations;

1283 (c) (i) 52.5% of the revenue collected by the county under this section shall be distributed
1284 to botanical and cultural organizations with average annual operating expenses of more than
1285 \$250,000 as determined under Subsection (3);

1286 (ii) subject to Subsection (1)(c)(iii), the county legislative body shall distribute the monies
1287 described in Subsection (1)(c)(i) among the organizations and in proportion to their average annual
1288 operating expenses as determined under Subsection (3); and

1289 (iii) the amount distributed to any organization described in Subsection (1)(c)(i) may not
1290 exceed 35% of the organization's budget; and

1291 (d) (i) 5% of the revenue collected by the county under this section shall be distributed to
1292 botanical and cultural organizations with average annual operating expenses of less than \$250,000
1293 as determined under Subsection (3); and

1294 (ii) the county legislative body shall determine how the monies shall be distributed among
1295 the organizations described in Subsection (1)(d)(i).

1296 (2)(a) The county legislative body of each county of the first class shall create an advisory
1297 board to advise the county legislative body on disbursement of funds to botanical and cultural
1298 organizations under Subsection (1)(c)(i).

1299 (b) (i) The advisory board under Subsection (2)(a) shall consist of seven members
1300 appointed by the county legislative body.

1301 (ii) Two of the seven members of the advisory board under Subsection (2)(a) shall be
1302 appointed from the Utah Arts Council.

1303 (3) (a) Except as provided in Subsection (3)(b), to be eligible to receive monies collected
1304 by the county under this part, a botanical, cultural, and zoological organization located within a
1305 county of the first class shall, every three years:

1306 (i) calculate their average annual expenses based upon audited expenses for three
1307 preceding fiscal years; and

1308 (ii) submit to the appropriate county legislative body:

1309 (A) a verified audit of annual expenses for each of those three preceding fiscal years; and

1310 (B) the average annual expenses as calculated under Subsection (3)(a)(i).

1311 (b) Notwithstanding Subsection (3)(a), the county legislative body may waive the expense
1312 reporting requirements under Subsection (3)(a) for organizations described in Subsection (1)(d)(i).

1313 (4) When calculating average annual expenses as described in Subsection (3), each
1314 botanical, cultural, and zoological organization shall use the same three-year fiscal period as
1315 determined by the county legislative body.

1316 (5) (a) By July 1 of each year, the county legislative body of a first class county may index
1317 the threshold amount in Subsections (1)(a), (b), and (d).

1318 (b) Any change under Subsection (5)(a) shall be rounded off to the nearest \$100.

1319 (6) In all other counties, the county legislative body shall distribute:

1320 (a) 30% of the revenues collected by the county as a result of a tax imposed under this
1321 section to support recreational facilities within the county; and

1322 (b) 70% of the revenues to botanical, cultural, and zoological facilities and organizations
1323 within the county as determined by the county legislative body.

1324 (7) If a county imposes a tax under this section on any amounts paid or charged by a
1325 vendor described in Subsection 59-12-107(1)(b), the revenues generated by the tax shall be:

1326 (a) distributed as provided in Subsection 59-12-103(3)(c); and

1327 (b) used for a purpose authorized under this section.

1328 [~~7~~] (8) The commission may retain an amount not to exceed 1-1/2% of the county option
1329 funding collected under this part for the cost of administering this part.

1330 Section 16. Section **59-12-801** is amended to read:

1331 **59-12-801. Definitions.**

1332 As used in this part:

1333 (1) "Nursing care facility" is as defined in Section 26-21-2.

1334 (2) "Rural city hospital" means a hospital owned by a city that is located within a third,
1335 fourth, fifth, or sixth class county.

1336 [(2)] (3) "Rural county health care facility" means a rural county hospital or a rural county
1337 nursing care facility.

1338 [(3)] (4) "Rural county hospital" means a hospital owned by a third, fourth, fifth, or sixth
1339 class county, as defined in Section 17-16-13, which is located outside of a standard metropolitan
1340 statistical area, as designated by the United States Bureau of the Census.

1341 [(4)] (5) "Rural county nursing care facility" means a nursing care facility owned by a
1342 third, fourth, fifth, or sixth class county, as defined in Section 17-16-13, which is located outside
1343 of a standard metropolitan statistical area, as designated by the United States Bureau of the Census.

1344 Section 17. Section **59-12-802** is amended to read:

1345 **59-12-802. Imposition of rural county health care facilities tax -- Base -- Rates.**

1346 (1) (a) [~~Any~~] A county legislative body may[~~, by a majority vote of all members, submit~~
1347 ~~an opinion question to the residents of that county so that each resident has an opportunity to~~
1348 ~~express the resident's opinion on the imposition of a local] impose a sales and use tax of up to 1%;~~

1349 (i) except as provided in Subsection (1)(b), on the [sales and uses] transactions described
1350 in Subsection 59-12-103(1)[, subject to the exemptions provided for in Section 59-12-104,]; and

1351 (ii) to fund rural county health care facilities in that county.

1352 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a tax
1353 under this section on:

1354 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
1355 exempt from taxation under Section 59-12-104; and

1356 (ii) any amounts paid or charged by a vendor described in Subsection 59-12-107(1)(b).

1357 (2) (a) Before imposing or increasing a tax under Subsection (1)(a), a county legislative
1358 body shall obtain approval to impose or increase the tax from a majority of the:

1359 (i) members of the county's legislative body; and

1360 (ii) county's registered voters voting on the imposition of the tax.

1361 (b) The county legislative body shall conduct the election [shall follow] according to the
1362 procedures [outlined in] and requirements of Title 11, Chapter 14, Utah Municipal Bond Act.

1363 [~~2) If the legislative governing body determines that a majority of the qualified electors~~
1364 ~~voting on the opinion question has assented to the imposition of a local sales and use tax as~~
1365 ~~prescribed in Subsection (1)(a), the county legislative body may, by majority vote of all members,~~
1366 ~~impose such a tax.]~~

1367 (3) The monies generated [from] by a tax imposed under Subsection (1) may only be used
1368 for the financing of:

1369 (a) ongoing operating expenses of a rural county health care facility; [and]

1370 (b) the acquisition of land for [~~and~~] a rural county health care facility; or

1371 (c) the design, construction, equipping, [and] or furnishing of a rural county health care
1372 facility.

1373 (4) Taxes imposed under this [part] section shall be:

1374 (a) levied at the same time and collected in the same manner as provided in [~~Title 59,~~
1375 ~~Chapter 12,~~] Part 2, The Local Sales and Use Tax Act, except that the collection and distribution
1376 of the tax revenue is not subject to Subsection 59-12-205(2); and

1377 (b) levied for a period of ten years and may be reauthorized at the end of the ten-year
1378 period by the county legislative body as provided in Section (1).

1379 (5) The [tax] commission may retain an amount not to exceed 1-1/2% of the [county
1380 ~~option funding] tax~~ collected under this [part] section for the cost of administering this tax.

1381 Section 18. Section **59-12-803** is amended to read:

1382 **59-12-803. Distribution of revenues generated by rural county health care facilities**
1383 **tax.**

1384 [~~All~~] (1) Except as provided in Subsection 59-12-802(5) and Subsection (2), all revenues
1385 collected by a county under [this part] Section 59-12-802 shall be distributed quarterly by the
1386 county legislative body to rural county health care facilities. [~~If~~]

1387 (2) Notwithstanding Subsection (1), if there is more than one rural county health care
1388 facility in a county, the revenues collected by a county under Section 59-12-802 shall be distributed
1389 as determined by the county legislative body.

1390 Section 19. Section **59-12-804** is amended to read:

1391 **59-12-804. Imposition of rural city hospital tax -- Base -- Rates.**

1392 ~~[(1) As used in this section, "rural city hospital" means any hospital owned by a city which~~
1393 ~~is located within a third, fourth, fifth, or sixth class county.]~~

1394 ~~[(2) Any] (1) (a) A city legislative body may[, by a majority vote of all members submit~~
1395 ~~an opinion question to the residents of that city so that each resident has an opportunity to express~~
1396 ~~his opinion on the imposition of a local] impose a sales and use tax of up to 1%:~~

1397 (i) except as provided in Subsection (1)(b), on the transactions described in Subsection
1398 59-12-103(1); and

1399 (ii) to fund rural city hospitals in that city.

1400 ~~[(3) The city legislative body and the tax commission shall follow the procedures and~~
1401 ~~requirements established in Sections 59-12-802 and 59-12-803 for the tax imposed under this~~
1402 ~~section.]~~

1403 (b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax
1404 under this section on:

1405 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
1406 exempt from taxation under Section 59-12-104; and

1407 (ii) any amounts paid or charged by a vendor described in Subsection 59-12-107(1)(b).

1408 (2) (a) Before imposing or increasing a tax under Subsection (1)(a), a city legislative body
1409 shall obtain approval to impose the tax from a majority of the:

1410 (i) members of the city legislative body; and

1411 (ii) city's registered voters voting on the imposition of the tax.

1412 (b) The city legislative body shall conduct the election according to the procedures and
1413 requirements of Title 11, Chapter 14, Utah Municipal Bond Act.

1414 (3) The monies generated by a tax imposed under Subsection (1) may only be used for the
1415 financing of:

1416 (a) ongoing operating expenses of a rural city hospital;

1417 (b) the acquisition of land for a rural city hospital; or

1418 (c) the design, construction, equipping, or furnishing of a rural city hospital.

1419 (4) Taxes imposed under this section shall be:

1420 (a) levied at the same time and collected in the same manner as provided in Part 2, The
1421 Local Sales and Use Tax Act, except that the collection and distribution of the tax revenue is not
1422 subject to Subsection 59-12-205; and

1423 (b) levied for a period of ten years and may be reauthorized at the end of the ten-year
1424 period by the city legislative body as provided in Subsection (1).

1425 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected under
1426 this section for the cost of administering the tax.

1427 Section 20. Section **59-12-805** is enacted to read:

1428 **59-12-805. Distribution of revenues generated by rural city hospital tax.**

1429 (1) Except as provided in Subsection 59-12-804(5) and Subsection (2), all revenues
1430 collected by a city under Section 59-12-804 shall be distributed quarterly by the city legislative
1431 body to rural city hospitals.

1432 (2) Notwithstanding Subsection (1), if there is more than one rural city hospital in a city,
1433 the revenues collected by the city under Section 59-12-804 shall be distributed as determined by
1434 the city legislative body.

1435 Section 21. Section **59-12-902** is amended to read:

1436 **59-12-902. Sales tax refund for qualified emergency food agencies -- Administration**
1437 **-- Rulemaking authority.**

1438 (1) Beginning on January 1, 1998, a qualified emergency food agency may claim a sales
1439 tax refund as provided in this section on the pounds of food donated to the qualified emergency
1440 food agency.

1441 (2) (a) Subject to the adjustments provided for in Subsection (2)(b), a qualified emergency
1442 food agency may claim a refund in an amount equal to the pounds of food donated to the qualified
1443 emergency food agency multiplied by:

1444 (i) \$1.70; and

1445 (ii) ~~[the lowest percentage of combined state and local sales and use taxes collected by a~~
1446 ~~municipality in the state under this chapter, except that the lowest percentage of combined state~~
1447 ~~and local sales and use taxes does not include the levy under Subsection 59-12-103(3).] the sum~~
1448 of:

1449 (A) 4.75%; and

1450 (B) except as provided in Subsection (2)(b), the sum of the following tax rates:

1451 (I) the lowest tax rate imposed by a county, city, or town under Section 59-12-204, but
1452 only if all of the counties, cities, and towns in the state impose the tax under Section 59-12-204;

1453 (II) the lowest tax rate imposed by a county, city, or town under Section 59-12-205, but

- 1454 only if all of the counties, cities, and towns in the state impose the tax under Section 59-12-205;
- 1455 (III) the tax rate authorized by Section 59-12-501, but only if all of the counties, cities, and
- 1456 towns in the state impose the tax under Section 59-12-501;
- 1457 (IV) the tax rate authorized by Section 59-12-502, but only if all of the counties, cities, and
- 1458 towns in the state impose the tax under Section 59-12-502;
- 1459 (V) the tax rate authorized by Section 59-12-703, but only if all of the counties in the state
- 1460 impose the tax under Section 59-12-703;
- 1461 (VI) the tax rate authorized by Section 59-12-1001, but only if all of the cities and towns
- 1462 in the state impose the tax under Section 59-12-1001; and
- 1463 (VII) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the
- 1464 state impose the tax under Section 59-12-1102.
- 1465 (b) Taxes authorized under the following do not apply to Subsection (2)(a)(ii):
- 1466 (i) Subsection 59-12-103(2)(a)(i);
- 1467 (ii) Subsection 59-12-103(2)(b)(i);
- 1468 (iii) Subsection 59-12-103(2)(c)(i);
- 1469 (iv) Section 59-12-301;
- 1470 (v) Section 59-12-352;
- 1471 (vi) Section 59-12-353;
- 1472 (vii) Section 59-12-401;
- 1473 (viii) Section 59-12-402;
- 1474 (ix) Section 59-12-603;
- 1475 (x) Section 59-12-802;
- 1476 (xi) Section 59-12-804;
- 1477 (xii) Section 59-12-1201; or
- 1478 (xiii) Section 59-12-1302.
- 1479 [(b)] (c) Beginning on January 1, 1999, the commission shall annually adjust on or before
- 1480 the second Monday of February the \$1.70 provided in Subsection (2)(a)(i) by a percentage equal
- 1481 to the percentage difference between the food at home category of the Consumer Price Index for:
- 1482 (i) the preceding calendar year; and
- 1483 (ii) calendar year 1997.
- 1484 (3) To claim a sales tax refund under this section, a qualified emergency food agency shall

1485 file an application with the commission.

1486 (4) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1487 commission may make rules providing procedures for implementing the sales tax refund under this
1488 section, including:

1489 (a) procedures for an organization to apply for recognition as a qualified emergency food
1490 agency;

1491 (b) standards for determining and verifying the amount of the sales tax refund; and

1492 (c) procedures for a qualified emergency food agency to apply for a sales tax refund,
1493 including the frequency with which a qualified emergency food agency may apply for a sales tax
1494 refund.

1495 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1496 Division of Community Development may establish rules providing for the certification of
1497 emergency food agencies to claim a refund under this part.

1498 Section 22. Section **59-12-1001** is amended to read:

1499 **59-12-1001. Authority to impose highways tax -- Resolution and voter approval**
1500 **requirements -- Election requirements -- Notice requirements -- Ordinance requirements.**

1501 (1) (a) ~~[A] Except as provided in Subsection (1)(b), a municipality in which [sales and~~
1502 ~~uses] the transactions described in Subsection 59-12-103(1) are not subject to a sales and use tax~~
1503 ~~under Section 59-12-501 may as provided in this part impose a sales and use tax of 1/4% on the~~
1504 ~~[sales and uses] transactions described in Subsection 59-12-103(1)[, subject to the exemptions~~
1505 ~~provided for in Section 59-12-104].~~

1506 (b) Notwithstanding Subsection (1)(a), a municipality may not impose a tax under this
1507 section on:

1508 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
1509 exempt from taxation under Section 59-12-104; and

1510 (ii) any amounts paid or charged by a vendor described in Subsection 59-12-107(1)(b)
1511 unless all of the municipalities in the state impose a tax under this section.

1512 (2) A tax imposed under this part by a municipality shall be used for the construction and
1513 maintenance of highways under the jurisdiction of the municipality imposing the tax.

1514 (3) To impose a highways tax under this part, the governing body of the municipality shall:

1515 (a) pass an ordinance approving the tax; and

1516 (b) except as provided in Subsection (7), obtain voter approval for the tax as provided in
1517 Subsection (4).

1518 (4) To obtain voter approval for a highways tax under Subsection (3)(b), a municipality
1519 shall:

1520 (a) hold the highways tax election during:

1521 (i) a regular general election; or

1522 (ii) a municipal general election; and

1523 (b) publish notice of the election:

1524 (i) 15 days or more before the day on which the election is held; and

1525 (ii) in a newspaper of general circulation in the municipality.

1526 (5) An ordinance approving a highways tax under this part shall provide an effective date
1527 for the tax.

1528 (6) A municipality imposing a tax under this part shall:

1529 (a) begin collecting the tax on the first day of a calendar quarter; and

1530 (b) notify the commission at least 30 days before the day on which the commission is
1531 required to collect the tax.

1532 (7) (a) Except as provided in Subsection (7)(b), a municipality is not subject to the voter
1533 approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the municipality
1534 imposed a licensee fee or tax on businesses based on gross receipts pursuant to Section 10-1-203.

1535 (b) The exception from the voter approval requirements in Subsection (7)(a) does not
1536 apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only one
1537 class of businesses based on gross receipts pursuant to Section 10-1-203.

1538 (8) If a municipality imposes a tax under this section on any amounts paid or charged by
1539 a vendor described in Subsection 59-12-107(1)(b), the revenues generated by the tax shall be:

1540 (a) distributed as provided in Subsection 59-12-103(3)(c); and

1541 (b) used for a purpose authorized under this section.

1542 Section 23. Section **59-12-1102** is amended to read:

1543 **59-12-1102. Base -- Rate -- Imposition of tax -- Distribution of revenue --**

1544 **Administration.**

1545 (1) (a) (i) [Subject] Except as provided in Subsection (1)(a)(ii), subject to the provisions
1546 of Subsections (2) through (4), and in addition to any other tax authorized by this chapter, a county

1547 may impose by ordinance a county option sales and use tax of 1/4% upon the [~~sales and uses~~]
1548 transactions described in Subsection 59-12-103(1)[~~, subject to the exemptions provided for in~~
1549 ~~Section 59-12-104~~].

1550 (ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this section
1551 on:

1552 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
1553 exempt from taxation under Section 59-12-104; and

1554 (B) any amounts paid or charged by a vendor described in Subsection 59-12-107(1)(b)
1555 unless all of the counties in the state impose a tax under this section.

1556 (b) The county option sales and use tax under this section shall be imposed:

1557 (i) upon sales and uses made in the county, including sales and uses made within
1558 municipalities in the county; and

1559 (ii) except as provided in Subsection (1)(c), beginning on the first day of January:

1560 (A) of the next calendar year after adoption of the ordinance imposing the tax if the
1561 ordinance is adopted on or before May 25; or

1562 (B) of the second calendar year after adoption of the ordinance imposing the tax if the
1563 ordinance is adopted after May 25.

1564 (c) Notwithstanding Subsection (1)(b)(ii), the county option sales and use tax under this
1565 section shall be imposed:

1566 (i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before
1567 September 4, 1997; or

1568 (ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997
1569 but after September 4, 1997.

1570 (2) (a) Before imposing a county option sales and use tax under Subsection (1), a county
1571 shall:

1572 (i) hold two public hearings on separate days in geographically diverse locations in the
1573 county; and

1574 (ii) notify the commission at least 30 days prior to the adoption of the ordinance.

1575 (b) (i) At least one of the hearings required by Subsection (2)(a)(i) shall have a starting
1576 time of no earlier than [~~6:00~~] 6 p.m.

1577 (ii) The earlier of the hearings required by Subsection (2)(a)(i) shall be no less than seven

1578 days after the day the first advertisement required by Subsection (2)(c) is published.

1579 (c) (i) Before holding the public hearings required by Subsection (2)(a)(i), the county shall
1580 advertise in a newspaper of general circulation in the county:

1581 (A) its intent to adopt a county option sales and use tax;

1582 (B) the date, time, and location of each public hearing; and

1583 (C) a statement that the purpose of each public hearing is to obtain public comments
1584 regarding the proposed tax.

1585 (ii) The advertisement shall be published once each week for the two weeks preceding the
1586 earlier of the two public hearings.

1587 (iii) The advertisement shall be no less than 1/8 page in size, and the type used shall be no
1588 smaller than 18 point and surrounded by a 1/4-inch border.

1589 (iv) The advertisement may not be placed in that portion of the newspaper where legal
1590 notices and classified advertisements appear.

1591 (v) Whenever possible:

1592 (A) the advertisement shall appear in a newspaper that is published at least five days a
1593 week, unless the only newspaper in the county is published less than five days a week; and

1594 (B) the newspaper selected shall be one of general interest and readership in the
1595 community, and not one of limited subject matter.

1596 (d) The adoption of an ordinance imposing a county option sales and use tax is subject to
1597 a local referendum election as provided in Title 20A, Chapter 7, Part 6, Local Referenda -
1598 Procedures, except that:

1599 (i) notwithstanding Subsection 20A-7-609(2)(a), the county clerk shall hold a referendum
1600 election that qualifies for the ballot on the earlier of the next regular general election date or the
1601 next municipal general election date more than 155 days after adoption of an ordinance under this
1602 section;

1603 (ii) for 1997 only, the 120-day period in Subsection 20A-7-606(1) shall be 30 days; and

1604 (iii) the deadlines in Subsection 20A-7-606(2) and (3) do not apply, and the clerk shall
1605 take the actions required by those subsections before the referendum election.

1606 (3) (a) [Hf] Except as provided in Subsection (4), if the aggregate population of the counties
1607 imposing a county option sales and use tax under Subsection (1) is less than 75% of the state
1608 population, the tax levied under Subsection (1) shall be distributed to the county in which the tax

1609 was collected.

1610 (b) [Hf] Except as provided in Subsection (4), if the aggregate population of the counties
1611 imposing a county option sales and use tax under Subsection (1) is greater than or equal to 75%
1612 of the state population:

1613 (i) 50% of the tax collected under Subsection (1) in each county shall be distributed to the
1614 county in which the tax was collected; and

1615 (ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection (1)
1616 in each county shall be distributed proportionately among all counties imposing the tax, based on
1617 the total population of each county.

1618 (c) If the amount to be distributed annually to a county under Subsection (3)(b)(ii), when
1619 combined with the amount distributed to the county under Subsection (3)(b)(i), does not equal at
1620 least \$75,000, then:

1621 (i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall
1622 be increased so that, when combined with the amount distributed to the county under Subsection
1623 (3)(b)(i), the amount distributed annually to the county is \$75,000; and

1624 (ii) the amount to be distributed annually to all other counties under Subsection (3)(b)(ii)
1625 shall be reduced proportionately to offset the additional amount distributed under Subsection
1626 (3)(c)(i).

1627 (d) The commission shall establish rules to implement the distribution of the tax under
1628 Subsections (3)(a), (b), and (c).

1629 (4) Notwithstanding Subsections (3)(a) and (b), if a county imposes a tax under this section
1630 on any amounts paid or charged by a vendor described in Subsection 59-12-107(1)(b), the revenues
1631 generated by the tax shall be distributed as provided in Subsection 59-12-103(3)(c).

1632 [~~4~~] (5) (a) Except as provided in Subsections [~~4~~] (5)(b) and (c), a county option sales
1633 and use tax under Subsection (1) shall be imposed and administered in the same manner as a tax
1634 imposed under Title 59, Chapter 12, Part 2, The Local Sales and Use Tax Act.

1635 (b) A county option sales and use tax imposed under this part is not subject to:

1636 (i) the distribution provisions of Subsections 59-12-205(2) and (3); and

1637 (ii) the earmarking provisions of Subsection 59-12-205(4).

1638 (c) The fee charged by the commission under Section 59-12-206 shall be based on the
1639 distribution amounts resulting after all the applicable distribution calculations under Subsection

1640 (3) have been made.

1641 Section 24. Section **59-12-1302** is amended to read:

1642 **59-12-1302. Authority to impose -- Base -- Rate.**

1643 (1) Beginning on or after January 1, 1998, the governing body of a town may impose a tax
1644 as provided in this part in an amount that does not exceed 1%.

1645 (2) A town may impose a tax as provided in this part if the town imposed a license fee or
1646 tax on businesses based on gross receipts under Section 10-1-203 on or before January 1, 1996.

1647 (3) A town imposing a tax under this section shall:

1648 (a) adopt an ordinance:

1649 (i) except as provided in Subsection (4), imposing the tax on the [sales and uses]

1650 transactions described in [Section] Subsection 59-12-103(1); and

1651 [~~ii~~] ~~exempting from the tax the sales and uses described in Section 59-12-104; and]~~

1652 [~~iii~~] (ii) providing an effective date for the tax;

1653 (b) impose the tax on the first day of a calendar quarter; and

1654 (c) notify the commission at least 30 days before the day on which the commission is
1655 required to collect the tax.

1656 (4) Notwithstanding Subsection (3)(a)(i), a town may not impose a tax under this section
1657 on:

1658 (a) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
1659 exempt from taxation under Section 59-12-104; and

1660 (b) any amounts paid or charged by a vendor described in Subsection 59-12-107(1)(b).

1661 [~~4~~] (5) The commission shall:

1662 (a) except as provided in Subsection [~~4~~] (5)(c), distribute the revenues generated by the
1663 tax under this section to the town imposing the tax;

1664 (b) administer, collect, and enforce the tax authorized under this section pursuant to:

1665 (i) the same procedures used to administer, collect, and enforce the sales and use tax under
1666 Title 59, Chapter 12, Part 1, Tax Collection; and

1667 (ii) Title 59, Chapter 1, General Taxation Policies; and

1668 (c) deduct from the distribution under Subsection [~~4~~] (5)(a) an administrative charge for
1669 collecting the tax as provided in Section 59-12-206.

1670 Section 25. **Effective date.**

This act takes effect on July 1, 2001.

Legislative Review Note
as of 2-15-00 8:03 AM

This legislation raises the following constitutional or statutory concerns:

Courts have interpreted the commerce clause of the Constitution of the United States to require that before a state can impose sales and use tax obligations on a person, the person must first have sufficient connections or "nexus" with the state. This legislation modifies the requirements necessary for a vendor to have nexus with the state and to be obligated to collect sales and use taxes. Because case law is still developing in this area, it is unclear whether a court would find that these requirements fall within parameters allowed by the federal constitution. The legislation also authorizes vendors not having nexus with the state to voluntarily collect sales and use taxes. However, if the Supreme Court of the United States authorizes or Congress permits a state to impose collection obligations on these vendors, the vendors would be required to collect sales and use taxes under the legislation. The legislation provides that a vendor not having nexus with the state that collects sales and use taxes would collect the taxes from its Utah customers at a lower rate than a vendor with nexus collecting sales and use taxes on its Utah transactions. Under equal protection principles of the Constitution of the United States and the uniform operation of the laws provisions of the Utah Constitution, there are limits on a legislature's ability to make distinctions between taxpayers. In examining the permissibility of taxpayer classes, courts look to factors such as the relationship between the class and the legislative objective being pursued.

Office of Legislative Research and General Counsel