

**SALES AND USE TAX - UNIFORM SALES
AND USE TAX ADMINISTRATION ACT AND
SALES AND USE TAX REVISIONS**

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Lyle W. Hillyard

This act authorizes certain delegates to enter into multistate discussions regarding a Streamlined Sales and Use Tax Agreement, including particularly whether the state should enter into the Streamlined Sales and Use Tax Agreement with one or more other states. The act provides definitions, prescribes reporting requirements for the delegates, and provides requirements for the Streamlined Sales and Use Tax Agreement. The act authorizes the Utah State Tax Commission to enter into the Streamlined Sales and Use Tax Agreement under certain circumstances. This act clarifies the relationship between the Streamlined Sales and Use Tax Agreement and state law, clarifies the relationship between the states that are entering into or considering whether to enter into the Streamlined Sales and Use Tax Agreement, and clarifies the binding and beneficial effect of the Streamlined Sales and Use Tax Agreement. The act clarifies statutes pertaining to the collection of sales and use taxes by remote vendors, including particularly the application of penalties to remote vendors, the distribution to counties, cities, and towns of sales and use taxes collected by remote vendors, and the amount of revenues to be deposited into the Remote Sales Restricted Account. The act clarifies the application of certain local option sales and use taxes and sales and use tax refunds, and makes technical changes. This act provides an immediate effective date for the uncodified sections of this act, and provides a July 1, 2001 effective date for the codified sections of the act. The uncodified sections of this act are repealed June 30, 2003.

AMENDS:

59-1-401 (Effective 07/01/01), as last amended by Chapter 253, Laws of Utah 2000

59-12-103 (Effective 07/01/01), as last amended by Chapters 147, 253 and 325, Laws of



28 Utah 2000

29 **59-12-103.2 (Effective 07/01/01)**, as enacted by Chapter 253, Laws of Utah 2000

30 **59-12-107 (Effective 07/01/01)**, as last amended by Chapters 86 and 253, Laws of Utah

31 2000

32 **59-12-802 (Effective 07/01/01)**, as last amended by Chapter 253, Laws of Utah 2000

33 **59-12-804 (Effective 07/01/01)**, as last amended by Chapter 253, Laws of Utah 2000

34 **59-12-902 (Effective 07/01/01)**, as last amended by Chapters 253 and 325, Laws of Utah

35 2000

36 This act enacts uncodified material.

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

38 Section 1. Section **59-1-401 (Effective 07/01/01)** is amended to read:

39 **59-1-401 (Effective 07/01/01). Penalties.**

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

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

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

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

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

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

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

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

57 (3) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or
58 quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there

59 shall be added a penalty in an amount determined by applying the interest rate provided under
60 Section 59-1-402 plus four percentage points to the amount of the underpayment for the period of
61 the underpayment.

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

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

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

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

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

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

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

79 (5) (a) Additional penalties for underpayments of tax are as provided in Subsections
80 (5)(a)(i) through (iv).

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

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

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

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

89 (b) If the commission determines that a person is liable for a penalty imposed under

90 Subsection (5)(a)(ii), (iii), or (iv), the commission shall notify the taxpayer of the proposed penalty.

91 (i) The notice of proposed penalty shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

150 (b) Any person who, with intent to evade any tax or requirement of this title or any lawful
151 requirement of the commission, fails to make, render, sign, or verify any return or to supply any

152 information within the time required under this title, or who makes, renders, signs, or verifies any
153 false or fraudulent return or statement, or who supplies any false or fraudulent information, is
154 guilty of a third degree felony, except that, notwithstanding Section 76-3-301, the fine is not less
155 than \$1,000 nor more than \$5,000.

156 (c) Any person who willfully attempts to evade or defeat any tax or the payment thereof
157 is, in addition to other penalties provided by law, guilty of a second degree felony, except that,
158 notwithstanding Section 76-3-301, the fine is not less than \$1,500 nor more than \$25,000.

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

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

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

165 **59-12-103 (Effective 07/01/01). Sales and use tax base -- Rate -- Use of sales and use**
166 **tax revenues.**

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

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

170 (b) amounts paid to common carriers or to telephone or telegraph corporations, whether
171 the corporations are municipally or privately owned, for:

172 (i) all transportation;

173 (ii) intrastate telephone service; or

174 (iii) telegraph service;

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

176 (i) gas;

177 (ii) electricity;

178 (iii) heat;

179 (iv) coal;

180 (v) fuel oil; or

181 (vi) other fuels;

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

- 183 (i) gas;
- 184 (ii) electricity;
- 185 (iii) heat;
- 186 (iv) coal;
- 187 (v) fuel oil; or
- 188 (vi) other fuels;
- 189 (e) sales of meals;
- 190 (f) amounts paid or charged as admission or user fees for theaters, movies, operas,
- 191 museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement
- 192 parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances,
- 193 boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool
- 194 parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski
- 195 lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs,
- 196 jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement,
- 197 entertainment, recreation, exhibition, cultural, or athletic activity;
- 198 (g) amounts paid or charged for services:
- 199 (i) for repairs or renovations of tangible personal property; or
- 200 (ii) to install tangible personal property in connection with other tangible personal
- 201 property;
- 202 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for cleaning
- 203 or washing of tangible personal property;
- 204 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations
- 205 and services for less than 30 consecutive days;
- 206 (j) amounts paid or charged for laundry or dry cleaning services;
- 207 (k) amounts paid or charged for leases or rentals of tangible personal property if:
- 208 (i) the tangible personal property's situs is in this state;
- 209 (ii) the lessee took possession of the tangible personal property in this state; or
- 210 (iii) within this state the tangible personal property is:
- 211 (A) stored;
- 212 (B) used; or
- 213 (C) otherwise consumed;

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

- 216 (i) stored;
- 217 (ii) used; or
- 218 (iii) consumed; and

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

220 (2) (a) Except as provided in Subsections (2)(b) and (c), beginning on July 1, 2001, a state
221 tax and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

- 222 (i) a state tax imposed on the transaction at a rate of 4.75%; and
- 223 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
224 transaction under this chapter other than this part.

225 (b) Notwithstanding Subsection (2)(a), beginning on July 1, 2001, a state tax and a local
226 tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

- 227 (i) a state tax imposed on the transaction at a rate of 2%; and
- 228 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
229 transaction under this chapter other than this part.

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

- 233 (i) a state tax imposed on the transaction at a rate of:
- 234 (A) 4.75% for a transaction other than a transaction described in Subsection (1)(d); or
- 235 (B) 2% for a transaction described in Subsection (1)(d); and
- 236 (ii) except as provided in Subsection (2)(d), a local tax imposed on the transaction at a rate
237 equal to the sum of the following tax rates:

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

240 or

241 [~~(B)~~] (II) the lowest tax rate imposed by a county, city, or town under Section 59-12-205,
242 but only if all of the counties, cities, and towns in the state impose the tax under Section
243 59-12-205; and

244 [~~(C)~~] (B) the tax rate authorized by Section 59-12-1102, but only if all of the counties in

245 the state impose the tax under Section 59-12-1102.

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

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

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

249 (iii) Subsection (2)(c)(i);

250 (iv) Section 59-12-301;

251 (v) Section 59-12-352;

252 (vi) Section 59-12-353;

253 (vii) Section 59-12-401;

254 (viii) Section 59-12-402;

255 (ix) Section 59-12-501;

256 (x) Section 59-12-502;

257 (xi) Section 59-12-603;

258 (xii) Section 59-12-703;

259 (xiii) Section 59-12-802;

260 (xiv) Section 59-12-804;

261 (xv) Section 59-12-1001;

262 (xvi) Section 59-12-1201; or

263 (xvii) Section 59-12-1302.

264 (3) (a) Except as provided in Subsections (4) through (9), the state taxes described in
265 Subsections (2)(a)(i), (2)(b)(i), and (2)(c)(i) shall be deposited into the General Fund.

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

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

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

273 (A) [~~dividing the population of the county, city, or town by~~] calculating an amount equal
274 to:

275 (I) the population of the county, city, or town; divided by

276 (II) the total population of the state; and
277 (B) multiplying the [percentage] amount determined under Subsection (3)(c)(ii)(A) by the
278 total amount of revenues generated by the local tax under Subsection (2)(c)(ii) for all counties,
279 cities, and towns.
280 (iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for purposes
281 of this section shall be derived from the most recent official census or census estimate of the
282 United States Census Bureau.
283 (B) Notwithstanding Subsection (3)(c)(iii)(A), if a needed population estimate is not
284 available from the United States Census Bureau, population figures shall be derived from the
285 estimate from the Utah Population Estimates Committee created by executive order of the
286 governor.
287 (C) For purposes of this section, the population of a county may only include the
288 population of the unincorporated areas of the county.
289 (4) (a) Notwithstanding Subsection (3)(a), there shall be deposited in an Olympics special
290 revenue fund or funds as determined by the Division of Finance under Section 51-5-4, for the use
291 of the Utah Sports Authority created under Title 63A, Chapter 7, Utah Sports Authority Act:
292 (i) from January 1, 1990, through December 31, 1999, the amount of sales and use tax
293 generated by a 1/64% tax rate on the taxable transactions under Subsection (1);
294 (ii) from January 1, 1990, through June 30, 1999, the amount of revenue generated by a
295 1/64% tax rate under Section 59-12-204 or Section 59-12-205 on the taxable transactions under
296 Subsection (1); and
297 (iii) interest earned on the amounts under Subsections (4)(a)(i) and (ii).
298 (b) These funds shall be used:
299 (i) by the Utah Sports Authority as follows:
300 (A) to the extent funds are available, to transfer directly to a debt service fund or to
301 otherwise reimburse to the state any amount expended on debt service or any other cost of any
302 bonds issued by the state to construct any public sports facility as defined in Section 63A-7-103;
303 (B) to pay for the actual and necessary operating, administrative, legal, and other expenses
304 of the Utah Sports Authority, but not including protocol expenses for seeking and obtaining the
305 right to host the Winter Olympic Games;
306 (C) as otherwise appropriated by the Legislature; and

307 (D) unless the Legislature appropriates additional funds from the Olympics Special
308 Revenue Fund to the Utah Sports Authority, the Utah Sports Authority may not expend, loan, or
309 pledge in the aggregate more than:

310 (I) \$59,000,000 of sales and use tax deposited into the Olympics Special Revenue Fund
311 under Subsection (4)(a);

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

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

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

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

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

324 (i) contracts in writing for the full reimbursement of the monies to the Olympics Special
325 Revenue Fund by a public sports entity or other person benefitting from the expenditure; and

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

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

329 (5) (a) Notwithstanding Subsection (3)(a), beginning on July 1, 2001, the amount of sales
330 and use tax generated annually by a 1/16% tax rate on the taxable transactions under Subsection
331 (1) shall be used as provided in Subsections (5)(b) through (g).

332 (b) (i) Beginning on July 1, 2001, \$2,300,000 each year shall be transferred as dedicated
333 credits to the Department of Natural Resources to:

334 (A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to protect
335 sensitive plant and animal species; or

336 (B) award grants, up to the amount authorized by the Legislature in an appropriations act,
337 to political subdivisions of the state to implement the measures described in Subsections

338 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

339 (ii) Money transferred to the Department of Natural Resources under Subsection (5)(b)(i)
340 may not be used to assist the United States Fish and Wildlife Service or any other person to list or
341 attempt to have listed a species as threatened or endangered under the Endangered Species Act of
342 1973, 16 U.S.C. Sec. 1531 et seq.

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

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

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

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

350 (c) Five hundred thousand dollars each year shall be deposited in the Agriculture Resource
351 Development Fund created in Section 4-18-6.

352 (d) (i) One hundred thousand dollars each year shall be transferred as dedicated credits to
353 the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the
354 adjudication of water rights.

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

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

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

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

362 (e) Fifty percent of the remaining amount generated by the 1/16% tax rate shall be
363 deposited in the Water Resources Conservation and Development Fund created in Section
364 73-10-24 for use by the Division of Water Resources. In addition to the uses allowed of the fund
365 under Section 73-10-24, the fund may also be used to:

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

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

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

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

377 (f) Twenty-five percent of the remaining amount generated by the 1/16% tax rate shall be
378 deposited in the Utah Wastewater Loan Program subaccount created in Section 73-10c-5 for use
379 by the Water Quality Board to fund wastewater projects as defined in Section 73-10b-2.

380 (g) Twenty-five percent of the remaining amount generated by the 1/16% tax rate shall be
381 deposited in the Drinking Water Loan Program subaccount created in Section 73-10c-5 for use by
382 the Division of Drinking Water to:

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

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

386 (iii) develop surface water sources.

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

390 (b) (i) Five hundred thousand dollars each year shall be deposited in the Transportation
391 Corridor Preservation Revolving Loan Fund created in Section 72-2-117.

392 (ii) At least 50% of the money deposited in the Transportation Corridor Preservation
393 Revolving Loan Fund under Subsection (6)(b)(i) shall be used to fund loan applications made by
394 the Department of Transportation at the request of local governments.

395 (c) From July 1, 1997, through June 30, 2006, \$500,000 each year shall be transferred as
396 nonlapsing dedicated credits to the Department of Transportation for the State Park Access
397 Highways Improvement Program created in Section 72-3-207.

398 (d) The remaining amount generated by the 1/16% tax rate shall be deposited in the class
399 B and class C roads account to be expended as provided in Title 72, Chapter 2, Transportation

400 Finances Act, for the use of class B and C roads.

401 (7) (a) Notwithstanding Subsection (3)(a), beginning on January 1, 2000, the Division of
402 Finance shall deposit into the Centennial Highway Fund created in Section 72-2-118 a portion of
403 the state sales and use tax under Subsection (2) equal to the revenues generated by a 1/64% tax rate
404 on the taxable transactions under Subsection (1).

405 (b) Except for sales and use taxes deposited under Subsection (8), beginning on July 1,
406 1999, the revenues generated by the 1/64% tax rate:

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

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

411 (8) Notwithstanding Subsection (3)(a), beginning on July 1, 1999, the commission shall
412 deposit into the Airport to University of Utah Light Rail Restricted Account created in Section
413 17A-2-1064 the portion of the sales and use tax under Sections 59-12-204 and 59-12-205 that is:

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

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

419 (9) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal year
420 2002-03, the commission shall on or before September 30 of each year deposit the difference
421 described in Subsection (9)(b) into the Remote Sales Restricted Account created in Section
422 59-12-103.2 if that difference is greater than \$0.

423 (b) The difference described in Subsection (9)(a) is equal to the difference between:

424 (i) the total amount of revenues under Subsection (2)(c)(i) the commission received from
425 vendors collecting a tax under Subsection 59-12-107(1)(b) for the [previous] fiscal year
426 immediately preceding the September 30 described in Subsection (9)(a); and

427 (ii) the total amount of revenues under Subsection (2)(c)(i) the commission estimates that
428 the commission received from vendors [collecting a tax under] described in Subsection
429 59-12-107(1)(b) for fiscal year 2000-01.

430 (10) (a) For purposes of amounts paid or charged as admission or user fees relating to the

431 Olympic Winter Games of 2002, the amounts are considered to be paid or charged on the day on
432 which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 or a person
433 designated by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 sends
434 a purchaser confirmation of the purchase of an admission or user fee described in Subsection
435 (1)(f).

436 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
437 commission shall make rules defining what constitutes sending a purchaser confirmation under
438 Subsection (10)(a).

439 Section 3. Section **59-12-103.2 (Effective 07/01/01)** is amended to read:

440 **59-12-103.2 (Effective 07/01/01). Remote Sales Restricted Account -- Creation.**

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

443 (2) The account shall be funded from the portion of the sales and use tax deposited by the
444 commission as provided in Subsection 59-12-103[~~(8)~~](9).

445 Section 4. Section **59-12-107 (Effective 07/01/01)** is amended to read:

446 **59-12-107 (Effective 07/01/01). Collection, remittance, and payment of tax by**
447 **vendors or other persons -- Returns -- Direct payment by purchaser of vehicle -- Other**
448 **liability for collection -- Credits -- Deposit and sale of security -- Penalties.**

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

451 (i) has or utilizes:

452 (A) an office;

453 (B) a distribution house;

454 (C) a sales house;

455 (D) a warehouse;

456 (E) a service enterprise; or

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

458 (ii) maintains a stock of goods;

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

461 (A) advertising; or

462 (B) solicitation by:
463 (I) direct mail;
464 (II) electronic mail;
465 (III) the Internet;
466 (IV) telephone; or
467 (V) a means similar to Subsections (1)(a)(iii)(A) or (B);
468 (iv) regularly engages in the delivery of property in the state other than by:
469 (A) common carrier; or
470 (B) United States mail; or
471 (v) regularly engages in an activity directly related to the leasing or servicing of property
472 located within the state.

473 (b) If a vendor does not meet one or more of the criteria provided for in Subsection (1)(a),
474 the vendor:

475 (i) except as provided in Subsection (1)(b)(ii), may voluntarily:
476 (A) collect a tax as provided in Subsection 59-12-103(2)(c) on a transaction described in
477 Subsection 59-12-103(1); and
478 (B) remit the tax to the commission as provided in this part; or
479 (ii) notwithstanding Subsection (1)(b)(i), shall collect a tax as provided in Subsection
480 59-12-103(2)(c) on a transaction described in Subsection 59-12-103(1) if Section 59-12-103.1
481 requires the vendor to collect the tax.

482 (c) A person shall pay a use tax imposed by this chapter on a transaction described in
483 Subsection 59-12-103(1) if:

484 (i) the vendor did not collect a use tax imposed by this chapter on the transaction; and
485 (ii) the person:
486 (A) stores the tangible personal property in the state;
487 (B) uses the tangible personal property in the state; or
488 (C) consumes the tangible personal property in the state.

489 (d) Notwithstanding the provisions of Subsection (1)(a), the ownership of property that
490 is located at the premises of a printer's facility with which the retailer has contracted for printing
491 and that consists of the final printed product, property that becomes a part of the final printed
492 product, or copy from which the printed product is produced, shall not result in the retailer being

493 considered to have or maintain an office, distribution house, sales house, warehouse, service
494 enterprise, or other place of business, or to maintain a stock of goods, within this state.

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

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

498 (c) (i) Each vendor shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

542 (5) If any sale of tangible personal property or any other taxable transaction under
543 Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not responsible
544 for the collection or payment of the tax imposed on the sale if the retailer represents that the
545 personal property is purchased by the retailer for resale and the personal property thereafter is not
546 resold. Instead, the retailer is solely liable for the tax.

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

554 (7) Credit is allowed for prepaid taxes and for taxes paid on that portion of an account

555 determined to be worthless and actually charged off for income tax purposes or on the portion of
556 the purchase price remaining unpaid at the time of a repossession made under the terms of a
557 conditional sales contract.

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

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

563 (c) (i) The commission shall serve notice of the sale upon the person who deposited the
564 securities.

565 (ii) Notice under Subsection (8)(c)(i) sent to the last-known address as it appears in the
566 records of the commission is sufficient for the purposes of this requirement.

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

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

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

572 (c) Each person who fails to pay any tax to the state or any amount of tax required to be
573 paid to the state, except amounts determined to be due by the commission under Sections
574 59-12-110 and 59-12-111, within the time required by this chapter, or who fails to file any return
575 as required by this chapter, shall pay, in addition to the tax, penalties and interest as provided in
576 Section 59-12-110.

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

580 Section 5. Section **59-12-802 (Effective 07/01/01)** is amended to read:

581 **59-12-802 (Effective 07/01/01). Imposition of rural county health care facilities tax**
582 **-- Base -- Rate.**

583 (1) (a) A county legislative body may impose a sales and use tax of up to 1%:

584 (i) except as provided in Subsection (1)(b), on the transactions described in Subsection
585 59-12-103(1); and

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

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

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

591 (ii) any amounts paid or charged by a vendor that collects a tax under Subsection
592 59-12-107(1)(b).

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

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

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

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

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

601 (a) ongoing operating expenses of a rural county health care facility;

602 (b) the acquisition of land for a rural county health care facility; or

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

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

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

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

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

612 Section 6. Section **59-12-804 (Effective 07/01/01)** is amended to read:

613 **59-12-804 (Effective 07/01/01). Imposition of rural city hospital tax -- Base -- Rate.**

614 (1) (a) A city legislative body may impose a sales and use tax of up to 1%:

615 (i) except as provided in Subsection (1)(b), on the transactions described in Subsection
616 59-12-103(1); and

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

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

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

622 (ii) any amounts paid or charged by a vendor that collects a tax under Subsection
623 59-12-107(1)(b).

624 (2) (a) Before imposing [~~or increasing~~] a tax under Subsection (1)(a), a city legislative
625 body shall obtain approval to impose the tax from a majority of the:

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

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

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

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

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

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

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

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

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

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

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

643 Section 7. Section **59-12-902 (Effective 07/01/01)** is amended to read:

644 **59-12-902 (Effective 07/01/01). Sales tax refund for qualified emergency food**
645 **agencies -- Administration -- Rulemaking authority.**

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

648 food agency.

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

652 (i) \$1.70; and

653 (ii) the sum of:

654 (A) 4.75%; and

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

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

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

660 or

661 [~~(ii)~~] (B) the lowest tax rate imposed by a county, city, or town under Section 59-12-205,
662 but only if all of the counties, cities, and towns in the state impose the tax under Section
663 59-12-205;

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

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

667 (B) under Section 59-12-1001;

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

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

672 [~~(vi)~~] (v) the tax rate authorized by Section 59-12-1102, but only if all of the counties in
673 the state impose the tax under Section 59-12-1102.

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

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

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

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

678 (iv) Section 59-12-301;

- 679 (v) Section 59-12-352;
680 (vi) Section 59-12-353;
681 (vii) Section 59-12-401;
682 (viii) Section 59-12-402;
683 (ix) Section 59-12-603;
684 (x) Section 59-12-802;
685 (xi) Section 59-12-804;
686 (xii) Section 59-12-1201; or
687 (xiii) Section 59-12-1302.

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

- 691 (i) the preceding calendar year; and
692 (ii) calendar year 1997.

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

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

- 698 (a) procedures for an organization to apply for recognition as a qualified emergency food
699 agency;
700 (b) standards for determining and verifying the amount of the sales tax refund; and
701 (c) procedures for a qualified emergency food agency to apply for a sales tax refund,
702 including the frequency with which a qualified emergency food agency may apply for a sales tax
703 refund.

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

707 Section 8. **Title.**

708 The uncodified sections of this act are known as the "Uniform Sales and Use Tax
709 Administration Act."

710 Section 9. **Definitions.**711 As used in the uncodified sections of this act:712 (1) "Agreement" means the Streamlined Sales and Use Tax Agreement.713 (2) "Certified automated system" means software certified jointly by the states that are714 members of the Agreement to:715 (a) calculate the tax imposed by each taxing jurisdiction:716 (i) on a transaction; and717 (ii) in the states that are members of the Agreement;718 (b) determine the amount of tax to remit to the appropriate state; and719 (c) maintain a record of the sales or use transaction.720 (3) "Certified service provider" means an agent certified:721 (a) jointly by the states that are members of the Agreement; and722 (b) to perform all of a seller's sales and use tax functions.723 (4) "Person" means:724 (a) an individual;725 (b) a trust;726 (c) an estate;727 (d) a fiduciary;728 (e) a partnership;729 (f) a limited liability company;730 (g) a limited liability partnership;731 (h) a corporation; or732 (i) any other legal entity similar to Subsections (4)(a) through (h).733 (5) "Sales and use tax" means a tax imposed under Chapter 12, Sales and Use Tax Act.734 (6) "Seller" means a person making a sale, lease, or rental of:735 (a) personal property; or736 (b) a service.737 (7) "State" means:738 (a) a state of the United States; or739 (b) the District of Columbia.740 Section 10. **Authority to participate in multistate discussions.**

741 (1) As provided in this section, delegates shall enter into multistate discussions to address
742 the following issues:

743 (a) to consider whether the state should enter into the Agreement described in Section 13
744 with one or more other states to:

745 (i) simplify and modernize sales and use tax administration in order to substantially reduce
746 the burden of tax compliance for all sellers and for all types of commerce;

747 (ii) establish standards for certification of a:

748 (A) certified service provider; and

749 (B) certified automated system; and

750 (iii) establish performance standards for multistate sellers; and

751 (b) (i) to consider whether to review the Agreement described in Section 13; or

752 (ii) to consider whether to amend the Agreement described in Section 13.

753 (2) For purposes of Subsection (1), delegates shall be appointed as follows:

754 (a) one delegate shall be a member of the House of Representatives appointed by the
755 speaker of the House of Representatives;

756 (b) one delegate shall be a member of the Senate appointed by the president of the Senate;

757 and

758 (c) two delegates shall be appointed by the governor, at least one of whom shall be from
759 the Utah State Tax Commission.

760 (3) The delegates described in Subsection (2) shall:

761 (a) report to the Utah Tax Review Commission as requested by the Utah Tax Review
762 Commission;

763 (b) make recommendations to the Utah Tax Review Commission regarding:

764 (i) the issues the delegates are required to consider in accordance with Subsection (1); and

765 (ii) any other issue the Utah Tax Review Commission requests the delegates to consider.

766 (4) If the Utah Tax Review Commission determines that the state should enter into the

767 Agreement described in Section 13 with one or more other states, the Utah Tax Review

768 Commission shall request that legislation be prepared:

769 (a) amending Title 59, Chapter 12, Sales and Use Tax Act, or other statutes to bring the
770 state into substantial compliance with:

771 (i) the Agreement described in Section 13; and

772 (ii) any amendments made to the Agreement described in Section 13 as a result of
773 multistate discussions required by this section; and

774 (b) for consideration by the:

775 (i) Revenue and Taxation Interim Committee on or before the November 2002 interim
776 meeting; and

777 (ii) Legislature on or before the 2003 General Session.

778 **Section 11. Authority to enter into Agreement.**

779 If on or before the 2003 General Session the Legislature passes legislation to bring the state
780 into substantial compliance with the Agreement described in Section 13, the Legislature may:

781 (1) authorize and direct the Utah State Tax Commission to:

782 (a) enter into the Agreement with one or more states to:

783 (i) simplify and modernize sales and use tax administration in order to substantially reduce
784 the burden of tax compliance for all sellers and for all types of commerce;

785 (ii) establish standards for certification of a:

786 (A) certified service provider; and

787 (B) certified automated system; and

788 (iii) act jointly with other states that are members of the Agreement to establish
789 performance standards for multistate sellers; and

790 (b) take other actions reasonably required to implement the provisions of this Uniform
791 Sales and Use Tax Administration Act including:

792 (i) adopting administrative rules; and

793 (ii) in furtherance of the Agreement, jointly procuring goods and services with other states
794 that are members of the Agreement; and

795 (2) authorize the Utah State Tax Commission or a designee of the Utah State Tax
796 Commission to represent the state before the other states that are members of the Agreement.

797 **Section 12. Relationship to state law.**

798 (1) A provision of the Agreement described in Section 13 in whole or in part may not
799 invalidate or amend any provision of the law of this state.

800 (2) Adoption of the Agreement described in Section 13 by this state does not amend or
801 modify any law of this state.

802 (3) Implementation of any condition of the Agreement described in Section 13 in this state

803 shall be by action of this state regardless of whether the condition is adopted:

804 (a) before membership of this state in the Agreement;

805 (b) at the time of membership of this state in the Agreement; or

806 (c) after membership of this state in the Agreement.

807 Section 13. **Agreement requirements.**

808 The Legislature may not authorize and direct the Utah State Tax Commission to enter into
809 the Agreement unless the Agreement requires each state to abide by the following requirements:

810 (1) the Agreement shall set restrictions to achieve over time more uniform state tax rates

811 by:

812 (a) limiting the number of state rates;

813 (b) limiting the application of maximums on the amount of state tax that is due on a
814 transaction; and

815 (c) limiting the application of thresholds on the application of state tax.

816 (2) the Agreement shall establish uniform standards for the following:

817 (a) the sourcing of transactions to taxing jurisdictions;

818 (b) the administration of exempt sales;

819 (c) the allowance a seller may take for bad debts; and

820 (d) sales and use tax returns and remittances;

821 (3) the Agreement shall require states to develop and adopt uniform definitions:

822 (a) of sales and use tax terms; and

823 (b) that enable each state to preserve the state's ability to make policy choices consistent
824 with the uniform definitions;

825 (4) the Agreement shall provide a central, electronic registration system that allows a seller
826 to register to collect and remit sales and use taxes for all states that are members of the Agreement;

827 (5) the Agreement shall provide that the following may not be used as a factor in
828 determining whether the seller has nexus with a state for any tax:

829 (a) registration with the central registration system; or

830 (b) the collection of sales and use taxes in the states that are members of the Agreement;

831 (6) the Agreement shall provide for a reduction of the burdens of complying with local
832 sales and use taxes by:

833 (a) restricting variances between the state and local tax bases;

834 (b) requiring states to administer any sales and use taxes imposed by local jurisdictions
835 within the state so that a seller collecting and remitting the sales and use taxes will not have to:
836 (i) register with local taxing jurisdictions;
837 (ii) file returns with local taxing jurisdictions;
838 (iii) remit funds to local taxing jurisdictions; or
839 (iv) be subject to independent audits from local taxing jurisdictions;
840 (c) restricting the frequency of changes in local sales and use tax rates;
841 (d) setting effective dates for the application of local jurisdictional boundary changes to
842 local sales and use taxes; and
843 (e) providing notice of changes in:
844 (i) local sales and use tax rates; and
845 (ii) the boundaries of local taxing jurisdictions;
846 (7) the Agreement shall outline any monetary allowances that are to be provided by the
847 states to sellers or certified service providers;
848 (8) the Agreement shall require each state entering into the Agreement to:
849 (a) certify compliance with the terms of the Agreement prior to entering into the
850 Agreement; and
851 (b) maintain compliance with all of the provisions of the Agreement:
852 (i) during the time period that the state is a member of the Agreement; and
853 (ii) under the laws of the state entering into the Agreement;
854 (9) the Agreement shall require each state to adopt a uniform policy for certified service
855 providers that:
856 (a) protects the privacy of consumers; and
857 (b) maintains the confidentiality of tax information;
858 (10) the Agreement shall provide for the appointment of an advisory council consisting
859 of:
860 (a) private sector representatives to consult with in the administration of the Agreement;
861 and
862 (b) nonmember state representatives to consult with in the administration of the
863 Agreement; and
864 (11) the Agreement shall adopt provisions regarding seller and third party liability

865 consistent with Section 16.

866 Section 14. **Cooperating sovereigns.**

867 (1) The Agreement described in Section 13 is an accord among individual cooperating
868 sovereigns in furtherance of their governmental functions.

869 (2) The Agreement described in Section 13 provides a mechanism among the states that
870 are members of the Agreement to establish and maintain a cooperative, simplified system for the
871 application and administration of sales and use taxes under laws adopted by each state that is a
872 member of the Agreement.

873 Section 15. **Limited binding and beneficial effect.**

874 (1) (a) If the Legislature authorizes and directs the Utah State Tax Commission to enter
875 into the Agreement described in Section 13, the Agreement binds and inures only to the benefit
876 of this state and other states that are members of the Agreement.

877 (b) No person, other than a state that is a member of the Agreement, is an intended
878 beneficiary of the Agreement.

879 (c) Any benefit to a person other than a state is established by the law of this state and the
880 laws of other states that are members of the Agreement and not by the terms of the Agreement.

881 (2) (a) Consistent with Subsection (1), a person may not have any cause of action or
882 defense:

883 (i) under the Agreement; or

884 (ii) by virtue of this state's approval of the Agreement.

885 (b) A person may not challenge, in any action brought under any provision of law, an
886 action or inaction:

887 (i) by:

888 (A) a department;

889 (B) agency;

890 (C) commission;

891 (D) instrumentality of the state other than Subsections (2)(b)(i)(A) through (C); or

892 (E) political subdivision of the state; and

893 (ii) on the ground that the action or inaction is inconsistent with the Agreement.

894 (c) A law of this state, or the application of a law of this state, may not be declared invalid
895 as to any person or circumstance on the ground that the law or application is inconsistent with the

896 Agreement.

897 Section 16. **Seller and third party liability.**

898 (1) In accordance with Section 13, the Legislature may not authorize and direct the Utah
899 State Tax Commission to enter into the Agreement unless the Agreement requires each state to
900 abide by the requirements of Subsections (2) through (5).

901 (2) (a) A certified service provider is the agent of a seller, with whom the certified service
902 provider has contracted, for the collection and remittance of sales and use taxes.

903 (b) Except as provided in this section, the certified service provider that is the seller's agent
904 is liable for sales and use tax due:

905 (i) each state that is a member of the Agreement; and

906 (ii) on all sales or use transactions the certified service provider processes for the seller.

907 (3) (a) A seller that contracts with a certified service provider is not liable to the state for
908 sales or use tax due on transactions processed by the certified service provider unless the seller:

909 (i) misrepresented the type of items the seller sells; or

910 (ii) committed fraud.

911 (b) In the absence of probable cause to believe that the seller has committed fraud or made
912 a material misrepresentation, the seller is not subject to audit on the transactions processed by the
913 certified service provider.

914 (c) A seller is subject to audit for transactions not processed by the certified service
915 provider.

916 (d) The states that are members of the Agreement acting jointly may:

917 (i) perform a system check of the seller; and

918 (ii) review the seller's procedures to determine:

919 (A) if the certified service provider's system is functioning properly; and

920 (B) the extent to which the seller's transactions are being processed by the certified service
921 provider.

922 (4) (a) A person that provides a certified automated system is:

923 (i) responsible for the proper functioning of that system; and

924 (ii) liable to the state for underpayments of sales and use tax attributable to errors in the
925 functioning of the certified automated system.

926 (b) A seller that uses a certified automated system remains responsible and is liable to the

927 state for reporting and remitting sales and use tax.

928 (5) A seller that has a proprietary system for determining the amount of sales and use tax
929 due on transactions and has signed an agreement with the Utah State Tax Commission establishing
930 a performance standard for that proprietary system is liable for the failure of the proprietary system
931 to meet the performance standard.

932 **Section 17. Effective date.**

933 (1) If approved by two-thirds of all the members elected to each house, the uncodified
934 sections of this act take effect upon approval by the governor, or the day following the
935 constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's
936 signature, or in the case of a veto, the date of veto override.

937 (2) Sections 59-1-401, 59-12-103, 59-12-103.2, 59-12-107, 59-12-802, 59-12-804, and
938 59-12-902 take effect on July 1, 2001.

939 **Section 18. Repeal date.**

940 The uncodified sections of this act are repealed on June 30, 2003.

Legislative Review Note
as of 2-14-01 7:56 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel