

**TAXES OR CHARGES ON
TELECOMMUNICATIONS SERVICE**

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Curtis S. Bramble

This act amends the Public Utilities Code, the Revenue and Taxation Code, and the Telegraphic and Telephonic Transactions Code as follows. This act provides definitions, brings certain laws into compliance with the federal Mobile Telecommunications Sourcing Act, and makes technical changes. This act takes effect on July 1, 2002, and applies to customer bills issued after August 1, 2002. This act provides a coordination clause.

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

AMENDS:

54-8b-2, as last amended by Chapter 291, Laws of Utah 2000

54-8b-15, as enacted by Chapter 122, Laws of Utah 1997

59-12-102, as last amended by Chapter 11, Laws of Utah 2001, First Special Session

59-12-103, as last amended by Chapter 11, Laws of Utah 2001, First Special Session

59-12-207, as renumbered and amended by Chapters 5 and 47, Laws of Utah 1987

69-2-2, as last amended by Chapter 86, Laws of Utah 1996

69-2-5, as last amended by Chapter 354, Laws of Utah 1998

69-2-5.5, as enacted by Chapter 354, Laws of Utah 1998

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

Section 1. Section **54-8b-2** is amended to read:

54-8b-2. Definitions.

As used in this chapter:

(1) (a) "Aggregator" means any person or entity that:

(i) is not a telecommunications corporation;

(ii) in the ordinary course of its business makes operator assisted services available to the public or to customers and transient users of its business or property through an operator service provider; and

(iii) receives from an operator service provider by contract, tariff, or otherwise, commissions or compensation for calls delivered from the aggregator's location to the operator service provider.

(b) "Aggregator" may include any hotel, motel, hospital, educational institution, government agency, or coin or coinless telephone service provider so long as that entity qualifies under Subsection (1)(a).

(2) "Certificate" means a certificate of public convenience and necessity issued by the commission authorizing a telecommunications corporation to provide specified public telecommunications services within a defined geographic service territory in the state.

(3) "Division" means the Division of Public Utilities established in Section 54-4a-1.

(4) "Essential facility or service" means any portion, component, or function of the network or service offered by a provider of local exchange services:

(a) that is necessary for a competitor to provide a public telecommunications service;

(b) that cannot be reasonably duplicated; and

(c) for which there is no adequate economic alternative to the competitor in terms of quality, quantity, and price.

(5) "Federal Telecommunications Act" means the Federal Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56.

(6) "Incumbent telephone corporation" means a telephone corporation, its successors or assigns, which, as of May 1, 1995, held a certificate to provide local exchange services in a defined geographic service territory in the state.

(7) "Intrastate telecommunications service" means any public telecommunications service in which the information transmitted originates and terminates within the boundaries of this state.

(8) "Local exchange service" means the provision of telephone lines to customers with the associated transmission of two-way interactive, switched voice communication within the geographic area encompassing one or more local communities as described in maps, tariffs, or rate schedules filed with and approved by the commission.

(9) "Mobile telecommunications service" means a mobile telecommunications service:

(a) that is defined as a mobile telecommunications service in the Mobile

Telecommunications Sourcing Act, 4 U.S.C. Sec. 124; and

(b) in which the information transmitted originates and terminates in one state.

~~[(9)]~~ (10) (a) "New public telecommunications service" means a service offered by a telecommunications corporation which that corporation has never offered before.

(b) "New public telecommunications service" does not include:

(i) a tariff, price list, or competitive contract that involves a new method of pricing any existing public telecommunications service;

(ii) a package of public telecommunications services that includes an existing public telecommunications service; or

(iii) a public telecommunications service that is a direct replacement for:

(A) a fully regulated service;

(B) an existing service offered pursuant to a tariff, price list, or competitive contract; or

(C) an essential facility or an essential service ~~[as defined in Section 54-8b-2]~~.

~~[(10)]~~ (11) "Operator assisted services" means services which assist callers in the placement or charging of a telephone call, either through live intervention or automated intervention.

~~[(11)]~~ (12) "Operator service provider" means any person or entity that provides, for a fee to a caller, operator assisted services.

~~[(12)]~~ (13) "Price-regulated service" means any public telecommunications service governed by Section 54-8b-2.3.

~~[(13)]~~ (14) "Public telecommunications service" means the two-way transmission of signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwaves, or other electromagnetic means offered to the public generally.

~~[(14)]~~ (15) "Same or substitutable" with reference to a public telecommunications service means that the service is comparable to another service in terms of function, price, and quality to an end user customer.

~~[(15)]~~ (16) "Substantial compliance" with reference to a rule or order of the commission means satisfaction of all material obligations in a manner consistent with the rule or order.

~~[(16)]~~ (17) "Telecommunications corporation" means any corporation or person, and their

lessees, trustees, receivers, or trustees appointed by any court, owning, controlling, operating, managing, or reselling a public telecommunications service.

~~[(17)]~~ (18) "Total service long-run incremental cost" means the forward-looking incremental cost to a telecommunications corporation caused by providing the entire quantity of a public telecommunications service, network function, or group of public telecommunications services or network functions, by using forward-looking technology, reasonably available, without assuming relocation of existing plant and equipment. The "long-run" means a period of time long enough so that cost estimates are based on the assumption that all inputs are variable.

Section 2. Section **54-8b-15** is amended to read:

54-8b-15. Universal Public Telecommunications Service Support Fund -- Established.

(1) For purposes of this section:

(a) "Basic telephone service" means local exchange service and may include such other functions and elements, if any, as the commission determines to be eligible for support by the fund.

(b) "Fund" means the Universal Public Telecommunications Service Support Fund established in this section.

(2) The commission shall establish an expendable trust fund known as the Universal Public Telecommunications Service Support Fund, which is to be implemented by January 1, 1998.

(3) The commission shall:

(a) institute a proceeding within 30 days of the effective date of this section to establish rules governing the administration of the fund; and

(b) issue those rules by October 1, 1997.

(4) The rules in Subsection (3) shall:

(a) include rules governing the mechanics of phasing out the trust fund established under Section 54-8b-12;

(b) specify the relationship between the payments made to the trust fund in Section 54-8b-12 and the payments made to the fund established in this section; and

(c) be consistent with the Federal Telecommunications Act.

(5) Operation of the fund shall be nondiscriminatory and competitively and technologically

neutral in the collection and distribution of funds, neither providing a competitive advantage for, nor imposing a competitive disadvantage upon, any telecommunications provider operating in the state.

(6) The fund shall be designed to:

(a) promote equitable cost recovery of basic telephone service through the imposition of just and reasonable rates for telecommunications access and usage; and

(b) preserve and promote universal service within the state by ensuring that customers have access to affordable basic telephone service.

(7) To the extent not funded by a federal universal service fund or other federal jurisdictional revenues or by the fund established pursuant to Section 54-8b-12, the fund shall be used to defray the costs, as determined by the commission, of any qualifying telecommunications corporation in providing public telecommunications services to:

(a) customers that qualify for a commission-approved lifeline program; and

(b) customers, where the basic telephone service rate considered affordable by the commission in a particular geographic area is less than the costs, as determined by the commission for that geographic area, of basic telephone service.

(8) The fund shall be portable among qualifying telecommunications corporations. Requirements to qualify for funds under this section shall be defined by rules established by the commission.

(9) As necessary to accomplish the purposes of this section, the fund shall provide a mechanism for specific, predictable, and sufficient funds in addition to those provided under the federal universal service fund.

(10) (a) ~~Each~~ Subject to Subsection (10)(b):

(i) each telecommunications corporation that provides intrastate public telecommunication service shall contribute to the fund on an equitable and nondiscriminatory basis[-];

~~[(b) For]~~ (ii) for purposes of funding the fund, the commission shall have the authority to require all corporations that provide intrastate telecommunication services in this state to contribute monies to the fund through explicit charges determined by the commission[-];

~~[(c) Any]~~ (iii) any charge described in Subsection ~~[(b)]~~ (10)(a)(ii) ~~[shall]~~ may not apply to

wholesale services, including access and interconnection~~[. Charges]; and~~

(iv) charges associated with being a provider of public telecommunications service shall be in the form of end-user surcharges applied to intrastate retail rates.

(b) A telecommunications corporation that provides mobile telecommunications service shall contribute to the fund only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

~~(c)~~ (c) In establishing any surcharge under this section, the commission is not limited by the restrictions in Subsection 54-8b-12(2).

(11) Nothing in this section shall be construed to enlarge or reduce the commission's jurisdiction or authority, as provided in other provisions of this title.

(12) Any telecommunications corporation failing to make contributions to this fund or failing to comply with the directives of the commission concerning its books, records, or other information required to administer this section shall be subject to applicable penalties.

(13) The commission shall have a bill prepared for the 1998 General Session of the Legislature to place in statute as much of the regulation implemented by rule pursuant to the act the commission believes is practicable.

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

59-12-102. Definitions.

As used in this chapter:

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

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

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

(3) "Authorized carrier" means:

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

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating

certificate or air carrier's operating certificate; or

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

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

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

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

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

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

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

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

(5) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (13) or residential use under Subsection (22).

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

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

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

(7) "Component part" includes:

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

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

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

farm machinery; and

(d) feed, seeds, and seedlings.

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

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

(i) (A) made by a school; or

(B) made by a school student;

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

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

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

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

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

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

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

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

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

(II) correct impaired human hearing; and

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

(II) affixed behind the human ear;

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

(iii) a telephone amplifying device.

(b) "Hearing aid" does not include:

(i) except as provided in Subsection (10)(a)(i)(B) or (10)(a)(ii), an instrument or device

having an electronic component that is designed to be worn on the body;

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

(A) a personal amplifying system;

(B) a personal FM system;

(C) a television listening system; or

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

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

(A) a device or system installed in:

(I) an auditorium;

(II) a church;

(III) a conference room;

(IV) a synagogue; or

(V) a theater; or

(B) a device or system similar to a device or system described in Subsections (10)(b)(iii)(A)(I) through (V).

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

(i) component;

(ii) attachment; or

(iii) accessory.

(b) "Hearing aid accessory" includes:

(i) a hearing aid neck loop;

(ii) a hearing aid cord;

(iii) a hearing aid ear mold;

(iv) hearing aid tubing;

(v) a hearing aid ear hook; or

- (vi) a hearing aid remote control.
- (c) "Hearing aid accessory" does not include:
 - (i) a component, attachment, or accessory designed to be used only with an:
 - (A) instrument or device described in Subsection (10)(b)(i); or
 - (B) assistive listening device or system described in Subsection (10)(b)(ii) or (iii); or
 - (ii) a hearing aid battery.
- (12) (a) "Home medical equipment and supplies" means equipment and supplies that:
 - (i) a licensed physician prescribes or authorizes in writing as necessary for the treatment of a medical illness or injury or as necessary to mitigate an impairment resulting from illness or injury;
 - (ii) are used exclusively by the person for whom they are prescribed to serve a medical purpose; and
 - (iii) are listed as eligible for payment under Title XVIII of the federal Social Security Act or under the state plan for medical assistance under Title XIX of the federal Social Security Act.
- (b) "Home medical equipment and supplies" does not include:
 - (i) equipment and supplies purchased by, for, or on behalf of any health care facility, as defined in Subsection (12)(c), doctor, nurse, or other health care provider for use in their professional practice;
 - (ii) eyeglasses, contact lenses, or equipment to correct impaired vision; or
 - (iii) hearing aids or hearing aid accessories.
- (c) For purposes of Subsection (12)(b)(i), "health care facility" includes:
 - (i) a clinic;
 - (ii) a doctor's office; and
 - (iii) a health care facility as defined in Section 26-21-2.
- (13) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:
 - (a) in mining or extraction of minerals;
 - (b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

- (i) commercial greenhouses;
- (ii) irrigation pumps;
- (iii) farm machinery;
- (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not registered under Title 41, Chapter 1a, Part 2, Registration; and
- (v) other farming activities;
- (c) in manufacturing tangible personal property at an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or
- (d) by a scrap recycler if:
 - (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:
 - (A) iron;
 - (B) steel;
 - (C) nonferrous metal;
 - (D) paper;
 - (E) glass;
 - (F) plastic;
 - (G) textile; or
 - (H) rubber; and
 - (ii) the new products under Subsection (13)(d)(i) would otherwise be made with nonrecycled materials.

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

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

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

(b) a scrap recycler if:

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

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

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

(16) (a) "Medicine" means:

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

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

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

(b) "Medicine" does not include:

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

(ii) any alcoholic beverage.

(17) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

~~[(17)]~~ (18) "Olympic merchandise" means tangible personal property bearing an Olympic

designation, emblem, insignia, mark, logo, service mark, symbol, terminology, trademark, or other copyrighted or protected material, including:

(a) one or more of the following terms:

(i) "Olympic";

(ii) "Olympiad"; or

(iii) "Citius Altius Fortius";

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

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

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

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

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

~~[(18)]~~ (19) (a) "Other fuels" means products that burn independently to produce heat or energy.

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

~~[(19)]~~ (20) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

~~[(20)]~~ (21) "Purchase price" means the amount paid or charged for tangible personal property or any other taxable transaction under Subsection 59-12-103(1), excluding only cash discounts taken or any excise tax imposed on the purchase price by the federal government.

~~[(21)]~~ (22) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; and

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

~~[(22)]~~ (23) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

~~[(23)]~~ (24) (a) "Retail sale" means any sale within the state of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), other than resale of such property, item, or service by a retailer or wholesaler to a user or consumer.

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

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

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

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

~~[(24)]~~ (25) (a) "Retailer" means any person engaged in a regularly organized retail business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

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

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

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

distributors, supervisors, or employers, except that:

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

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

~~[(25)]~~ (26) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration. It includes:

- (a) installment and credit sales;
- (b) any closed transaction constituting a sale;
- (c) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;
- (d) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

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

~~[(26)]~~ (27) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

- (i) sales that are directly related to the school's educational functions or activities including:
 - (A) the sale of:
 - (I) textbooks;
 - (II) textbook fees;
 - (III) laboratory fees;
 - (IV) laboratory supplies; or

- (V) safety equipment;
- (B) the sale of clothing that:
 - (I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and
 - (II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;
 - (C) sales of food if the net or gross revenues generated by the food sales are deposited into a school district fund or school fund dedicated to school meals; or
 - (D) transportation charges for official school activities; or
 - (ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.
- (b) "Sales relating to schools" does not include:
 - (i) bookstore sales of items that are not educational materials or supplies;
 - (ii) except as provided in Subsection [~~(26)~~] (27)(a)(i)(B), clothing; or
 - (iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:
 - (A) other than a:
 - (I) school;
 - (II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or
 - (III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and
 - (B) that is required to collect sales and use taxes under this chapter.
- (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."
 - [~~(27)~~] (28) For purposes of this section and Section 59-12-104, "school" means:
 - (a) an elementary school or a secondary school that:
 - (i) is a:

- (A) public school; or
- (B) private school; and
- (ii) provides instruction for one or more grades kindergarten through 12; or
- (b) a public school district.

~~[(28)]~~ (29) (a) "Semiconductor fabricating or processing materials" means tangible personal property:

- (i) used primarily in the process of:
 - (A) (I) manufacturing a semiconductor; or
 - (II) fabricating a semiconductor; or
 - (B) maintaining an environment suitable for a semiconductor; or
- (ii) consumed primarily in the process of:
 - (A) (I) manufacturing a semiconductor; or
 - (II) fabricating a semiconductor; or
 - (B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating or processing materials" includes a chemical, catalyst, or other material used to:

- (i) produce or induce in a semiconductor a:
 - (A) chemical change; or
 - (B) physical change;
- (ii) remove impurities from a semiconductor; or
- (iii) improve the marketable condition of a semiconductor.

~~[(29)]~~ (30) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

~~[(30)]~~ (31) "State" means the state of Utah, its departments, and agencies.

~~[(31)]~~ (32) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

~~[(32)]~~ (33) (a) "Tangible personal property" means:

- (i) all goods, wares, merchandise, produce, and commodities;
- (ii) all tangible or corporeal things and substances which are dealt in or capable of being possessed or exchanged;
- (iii) water in bottles, tanks, or other containers; and
- (iv) all other physically existing articles or things, including property severed from real estate.

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

- (i) real estate or any interest or improvements in real estate;
 - (ii) bank accounts, stocks, bonds, mortgages, notes, and other evidence of debt;
 - (iii) insurance certificates or policies;
 - (iv) personal or governmental licenses;
 - (v) water in pipes, conduits, ditches, or reservoirs;
 - (vi) currency and coinage constituting legal tender of the United States or of a foreign nation;
- and

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

~~[(33)]~~ (34) (a) "Telephone corporation" means a corporation that:

- (i) owns, controls, operates, or manages a telephone service; and
- (ii) engages in an activity described in Subsection ~~[(33)]~~ (34)(a)(i) for the shared use with or resale to any person of the telephone service.

(b) A corporation described in Subsection ~~[(33)]~~ (34)(a) is a telephone corporation whether or not the Public Service Commission of Utah regulates:

- (i) the corporation; or
- (ii) the telephone service that the corporation owns, controls, operates, or manages.

~~[(34)]~~ (35) (a) For purposes of Subsection ~~[(33)]~~ (34) and Section 59-12-103, "telephone service" means a two-way transmission:

- (i) by:
 - (A) wire;

- (B) radio;
- (C) lightwave; or
- (D) other electromagnetic means; and

(ii) of one or more of the following:

- (A) a sign;
- (B) a signal;
- (C) writing;
- (D) an image;
- (E) sound;
- (F) a message;
- (G) data; or
- (H) other information of any nature.

(b) "Telephone service" includes:

- (i) cellular telephone service;
- (ii) private communications service; or
- (iii) automated digital telephone answering service.

(c) "Telephone service" does not include a service or a transaction that a state or a political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet Tax Freedom Act, Pub. L. No. 105-277.

~~[(35)]~~ (36) (a) "Use" means the exercise of any right or power over tangible personal property under Subsection 59-12-103(1), incident to the ownership or the leasing of that property, item, or service.

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

~~[(36)]~~ (37) "Vehicle" means any aircraft, as defined in Section 72-10-102; any vehicle, as defined in Section 41-1a-102; any off-highway vehicle, as defined in Section 41-22-2; and any vessel, as defined in Section 41-1a-102; that is required to be titled, registered, or both. "Vehicle," for purposes of Subsection 59-12-104(36) only, also includes any locomotive, freight car, railroad

work equipment, or other railroad rolling stock.

~~[(37)]~~ (38) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging vehicles as defined in Subsection ~~[(36)]~~ (37).

~~[(38)]~~ (39) (a) "Vendor" means any person receiving any payment or consideration upon a sale of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), or to whom the payment or consideration is payable.

(b) "Vendor" does not mean a printer's facility described in Subsection ~~[(24)]~~ (25)(d).

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

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

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

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

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

(i) all transportation;

(ii) ~~[intrastate]~~ telephone service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state; ~~[or]~~

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

~~[(iii)]~~ (iv) telegraph service;

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of meals;

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

(g) amounts paid or charged for services:

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

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

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

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

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

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

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

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

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

- (A) stored;
- (B) used; or
- (C) otherwise consumed;

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

- (i) stored;
 - (ii) used; or
 - (iii) consumed; and
- (m) amounts paid or charged for prepaid telephone calling cards.

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

- (i) a state tax imposed on the transaction at a rate of 4.75%; and
- (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

transaction under this chapter other than this part.

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

- (i) a state tax imposed on the transaction at a rate of 2%; and
- (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

transaction under this chapter other than this part.

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

- (i) a state tax imposed on the transaction at a rate of:
 - (A) 4.75% for a transaction other than a transaction described in Subsection (1)(d); or
 - (B) 2% for a transaction described in Subsection (1)(d); and
- (ii) except as provided in Subsection (2)(d), a local tax imposed on the transaction at a rate

equal to the sum of the following tax rates:

- (A) (I) the lowest tax rate imposed by a county, city, or town under Section 59-12-204, but

only if all of the counties, cities, and towns in the state impose the tax under Section 59-12-204; or

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

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

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

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

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

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

(iv) Section 59-12-301;

(v) Section 59-12-352;

(vi) Section 59-12-353;

(vii) Section 59-12-401;

(viii) Section 59-12-402;

(ix) Section 59-12-501;

(x) Section 59-12-502;

(xi) Section 59-12-603;

(xii) Section 59-12-703;

(xiii) Section 59-12-802;

(xiv) Section 59-12-804;

(xv) Section 59-12-1001;

(xvi) Section 59-12-1201; or

(xvii) Section 59-12-1302.

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

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

(c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the state

shall receive the county's, city's, or town's proportionate share of the revenues generated by the local tax described in Subsection (2)(c)(ii) as provided in Subsection (3)(c)(ii).

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

(A) calculating an amount equal to:

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

(II) the total population of the state; and

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

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

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

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

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

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

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

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

(b) These funds shall be used:

(i) by the Utah Sports Authority as follows:

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

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

(C) as otherwise appropriated by the Legislature; and

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

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

(iii) At the end of each fiscal year:

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

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

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

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

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

(ii) At the end of each fiscal year:

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

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

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

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

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

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

(iii) fund state required dam safety improvements; and

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

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

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

(i) provide for the installation and repair of collection, treatment, storage, and distribution

facilities for any public water system, as defined in Section 19-4-102;

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

(iii) develop surface water sources.

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

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

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

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

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

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

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

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

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

(8) Notwithstanding Subsection (3)(a), beginning on July 1, 1999, the commission shall

deposit into the Airport to University of Utah Light Rail Restricted Account created in Section 17A-2-1064 the portion of the sales and use tax under Sections 59-12-204 and 59-12-205 that is:

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

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

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

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

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

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

(10) (a) For purposes of amounts paid or charged as admission or user fees relating to the Olympic Winter Games of 2002, the amounts are considered to be paid or charged on the day on which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 or a person designated by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 sends a purchaser confirmation of the purchase of an admission or user fee described in Subsection (1)(f).

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

Section 5. Section **59-12-207** is amended to read:

59-12-207. Report of tax collections -- Point of sale when retailer has no permanent place of business or more than one place of business is determined by rule of commission --

Public utilities -- Mobile telecommunications service.

~~[A]~~ (1) Except as provided in Subsection (4), all sales and use taxes collected under this part shall be reported to the commission on forms ~~[which]~~ that accurately identify the location where the sale or use transaction was consummated. ~~[H]~~

~~(2) Except as provided in Subsection (4), if a retailer has no permanent place of business in the state or has more than one place of business, the place or places at which the retail sales are consummated for the purposes of this part shall be determined under rules of the commission. [In those counties where the taxes herein authorized are imposed,]~~

~~(3) (a) Except as provided in Subsection (4), a public [utilities] utility as defined [by Title 54, are] in Section 54-2-1 is not obligated to determine the place or places within any county where public utility services are rendered[, and the].~~

~~(b) The commission shall apportion the sales and use taxes collected under this part from public utility services to cities and towns within the respective counties[, revenues arising from such services,];~~

~~(i) on an equitable basis [pursuant to an appropriate]; and~~

~~(ii) in accordance with a formula and [under] rules [to be] prescribed [and adopted by it] by the commission.~~

~~(4) Notwithstanding Subsections (1) through (3), mobile telecommunications service is subject to the sourcing rules provided in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.~~

Section 6. Section **69-2-2** is amended to read:

69-2-2. Definitions.

As used in this chapter:

~~[(3)]~~ (1) "911 emergency telephone service" means a communication system which provides citizens with rapid direct access to public emergency operation centers by dialing the telephone number "911" with the objective of reducing the response time to situations requiring law enforcement, fire, medical, rescue, and other emergency services.

~~[(4)]~~ (2) "Local exchange service" means the provision of public telecommunications

services by a wireline common carrier to customers within a geographic area encompassing one or more local communities as described in the carrier's service territory maps, tariffs, price lists, or rate schedules filed with and approved by the Public Service Commission.

~~[(2)]~~ (3) "Local exchange service switched access line" means the transmission facility and local switching equipment used by a wireline common carrier to connect a customer location to a carrier's local exchange switching network for providing two-way interactive voice, or voice capable, services.

(4) "Mobile telecommunications service" is as defined in Section 54-8b-2.

~~[(4)]~~ (5) "Public agency" means any county, city, town, special service district, or public authority located within the state which provides or has authority to provide fire fighting, law enforcement, ambulance, medical, or other emergency services.

~~[(5)]~~ (6) "Public safety agency" means a functional division of a public agency which provides fire fighting, law enforcement, medical, or other emergency services.

~~[(6)]~~ (7) "Radio communications access line" means the radio equipment and assigned customer identification number used to connect a mobile or fixed radio customer in Utah to a radio communication service provider's network for two-way interactive voice, or voice capable, services.

~~[(7)]~~ (8) "Radio communications service" means a public telecommunications service providing the capability of two-way interactive telecommunications between mobile and fixed radio customers, and between mobile or fixed radio customers and the local exchange service network customers of a wireline common carrier. Radio communications service providers include corporations, persons or entities offering cellular telephone service, enhanced specialized mobile radio service, rural radio service, radio common carrier services, personal communications services, and any equivalent wireless public telecommunications service, as defined in 47 CFR, parts 20, 21, 22, 24, and 90.

~~[(8)]~~ (9) "Wireline common carrier" means a public telecommunications service provider that primarily uses metallic or nonmetallic cables and wires for connecting customers to its local exchange service networks.

Section 7. Section **69-2-5** is amended to read:

69-2-5. Funding for 911 emergency telephone service.

(1) In providing funding of 911 emergency telephone service, any public agency establishing a 911 emergency telephone service may:

(a) seek assistance from the federal or state government, to the extent constitutionally permissible, in the form of loans, advances, grants, subsidies, and otherwise, directly or indirectly;

(b) seek funds appropriated by local governmental taxing authorities for the funding of public safety agencies; and

(c) seek gifts, donations, or grants from individuals, corporations, or other private entities.

(2) For purposes of providing funding of 911 emergency telephone service, special service districts may raise funds as provided in Section 17A-2-1322 and may borrow money and incur indebtedness as provided in Section 17A-2-1316.

(3) (a) ~~[The]~~ Except as provided in Subsection (3)(b), and subject to Subsection (3)(f), the governing authority of any public agency providing 911 emergency telephone service may levy monthly an emergency services telephone charge on each local exchange service switched access line and each revenue producing radio communications access line with a billing address within the boundaries of the area served by the public agency~~[, except as provided in Subsection (3)(b)]~~.

(b) ~~[Access]~~ Notwithstanding Subsection (3)(a), access lines provided for public coin telephone service are exempt from emergency telephone charges.

(c) The amount of the charge levied under this section may not exceed 53 cents per month for each local exchange service switched access line and 53 cents per month for each radio communications access line.

(d) Notification of intent to levy the charge shall be given to the Public Service Commission at least 30 days prior to the effective date.

(e) ~~[An]~~ Subject to Subsection (3)(f), an emergency services telephone charge levied under this section shall be billed and collected by the corporation, person, or entity that provides the local exchange service switched access line services or radio communications access line services and remitted to the public agency providing 911 emergency telephone service in the billed customer location area as directed by the public agency.

(f) An emergency services telephone charge on a mobile telecommunications service may be levied, billed, and collected only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

(4) (a) Any money received by the public agency for the provision of 911 emergency telephone service shall be deposited in a special emergency telephone service fund.

(b) (i) The money in the emergency telephone service fund shall be expended by the public agency to pay the costs of establishing, installing, maintaining, and operating a 911 emergency telephone system or integrating a 911 system into an established public safety dispatch center, including contracting with the providers of local exchange service, radio communications service, and vendors of appropriate terminal equipment as necessary to implement the 911 emergency telephone service.

(ii) Revenues derived for the funding of 911 emergency telephone service may only be used for that portion of costs related to the operation of the 911 emergency telephone system when such a system is integrated with any public safety dispatch system.

Section 8. Section **69-2-5.5** is amended to read:

69-2-5.5. Emergency services telephone charge to fund the Poison Control Center.

(1) [~~There~~] Subject to Subsection (13), there is imposed an emergency services telephone charge of 7 cents per month on each local exchange service switched access line and each revenue producing radio communications access line that is subject to an emergency services telephone charge levied by a public agency under Section 69-2-5.

(2) The emergency services telephone charge imposed under this section shall be:

(a) subject to Subsection (13), billed and collected by the corporation, person, or entity that provides local exchange service switched access line services or radio communications access line services and remitted monthly to the State Tax Commission; and

(b) deposited into the General Fund as dedicated credits to pay for:

(i) costs of establishing, installing, maintaining, and operating the University of Utah Poison Control Center; and

(ii) expenses of the State Tax Commission to administer and enforce the collection of the

emergency services telephone charges.

(3) Funds for the University of Utah Poison Control Center program are nonlapsing.

(4) Emergency services telephone charges remitted to the State Tax Commission pursuant to Subsection (2) shall be accompanied by the form prescribed by the commission.

(5) The State Tax Commission may make rules to administer and enforce the collection of emergency services telephone charges imposed under this section.

(6) A provider of local exchange service switched access line services or radio communications access line services who fails to comply with this section is subject to penalties and interest as provided in Sections 59-1-401 and 59-1-402.

(7) (a) Except as provided in Subsections (8) through (11), and subject to Subsection (13), the State Tax Commission shall assess a charge imposed under this section within three years after a provider of local exchange service switched access line services or radio communications access line services files a return.

(b) Except as provided in Subsections (8) through (11), if the commission does not assess a charge imposed under this section within the three-year period provided in Subsection (7)(a), the commission may not commence a proceeding to collect the charge.

(8) Notwithstanding Subsection (7), and subject to Subsection (13), the State Tax Commission may assess a charge at any time if a provider of local exchange service switched access line services or radio communications access line services:

- (a) files a false or fraudulent return with intent to evade; or
- (b) does not file a return.

(9) Notwithstanding Subsection (7), beginning on July 1, 1998, the State Tax Commission may extend the period to make an assessment or commence a proceeding to collect the charge imposed under this section if:

- (a) the three-year period under Subsection (7) has not expired; and
- (b) the commission and the provider of local exchange service switched access line services or radio communications access line services sign a written agreement:
 - (i) authorizing the extension; and

(ii) providing for the length of the extension.

(10) If the State Tax Commission delays an audit at the request of a provider of local exchange service switched access line services or radio communications access line services, the commission may make an assessment as provided in Subsection (11) if:

(a) the provider of local exchange service switched access line services or radio communications access line services subsequently refuses to agree to an extension request by the commission; and

(b) the three-year period under Subsection (7) expires before the commission completes the audit.

(11) An assessment under Subsection (10) shall be:

(a) for the time period for which the State Tax Commission could not make an assessment because of the expiration of the three-year period; and

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

(i) the commission's estimate of the amount of the charge the provider of local exchange service switched access line services or radio communications access line services would have been assessed for the time period described in Subsection (11)(a); and

(ii) the amount of the charge the provider of local exchange service switched access line services or radio communications access line services actually paid for the time period described in Subsection (11)(a).

(12) (a) Except as provided in Subsection (12)(b), the State Tax Commission may not make a credit or refund unless the provider of local exchange service switched access line services or radio communications access line services files a claim with the commission within three years of the date of overpayment.

(b) Notwithstanding Subsection (12)(a), beginning on July 1, 1998, the commission shall extend the period for a provider of local exchange service switched access line services or radio communications access line services to file a claim under Subsection (12)(a) if:

(i) the three-year period under Subsection (12)(a) has not expired; and

(ii) the commission and the provider of local exchange service switched access line services

or radio communications access line services sign a written agreement:

- (A) authorizing the extension; and
- (B) providing for the length of the extension.

(13) An emergency services telephone charge under this section on a mobile telecommunications service may be imposed, billed, and collected only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

Section 9. Effective date.

This act takes effect on July 1, 2002, and applies to customer bills issued after August 1, 2002, in accordance with the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

Section 10. Coordination clause.

If this bill and H.B. 249, Sales and Use Tax -- Location of Transactions, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the database so that Section 59-12-207 shall read:

59-12-207. Report of tax collections -- Point of sale when retailer has no permanent place of business or more than one place of business is determined by rule of commission -- Public utilities -- Mobile telecommunications service.

[AH] (1) Except as provided in Subsection (5), any sales and use taxes collected under this part shall be reported to the commission on forms [which] that accurately identify the location where the [sale or use] transaction [was] resulting in a tax under this chapter is consummated. [If]

(2) Except as provided in Subsection (5), for purposes of this part, the location of where a transaction is consummated:

(a) is determined under rules of the commission if:

(i) a retailer has no permanent place of business in the state; or

(ii) has more than one place of business[~~the place or places at which the retail sales are consummated for the purposes of this part shall be determined under rules of the commission. In those counties where the taxes herein authorized are imposed, public utilities as defined by Title 54, are not obligated to determine the place or places within any county where public utility services are rendered, and the commission shall apportion to cities and towns within the respective counties,~~

~~revenues arising from such services, on an equitable basis pursuant to an appropriate formula and under rules to be prescribed and adopted by it.]; and~~

(b) is where a purchaser receives the following products or services sold by a public utility, as defined in Section 54-2-1, to that purchaser:

(i) gas;

(ii) electricity; or

(iii) telephone services.

(3) The form required under Subsection (1) shall:

(a) accompany the sales and use tax returns required under this chapter; and

(b) identify the location of any transaction consummated during the return filing period.

(4) Subject to Subsection (5) and in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules regarding the determination of the location of where under Subsection (2)(a) a transaction is consummated.

(5) Notwithstanding Subsections (1) and (2), mobile telecommunications service is subject to the sourcing rules provided in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.