

**STREAMLINED SALES TAX PROJECT****AMENDMENTS**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: Lyle W. Hillyard**

**This act modifies the Municipal Energy Sales and Use Tax Act and the Revenue and Taxation Code. The act provides income tax credits for certain hand tools used in a farming operation. The act provides and amends definitions relating to sales and use taxes. This act authorizes the State Tax Commission to enter into an agreement with one or more states relating to certain sales and use taxes. The act provides the purposes of the agreement and prescribes the scope of the agreement. The act grants the State Tax Commission rulemaking authority. The act provides that the agreement may require each state that is a member of the agreement to abide by certain requirements and establishes those requirements. The act modifies state and local sales and use tax rates for taxes collected by certain sellers. The act provides and modifies effective dates for state and local sales and use taxes. The act modifies requirements for enacting, repealing, or changing the tax rate of a local sales and use tax. The act repeals obsolete language. The act provides that revenues in the Remote Sales Restricted Account shall be deposited into the General Fund on a certain date. The act modifies transactions that are subject to sales and use taxes. The act provides, modifies, and repeals sales and use tax exemptions. The act modifies requirements to report certain sales and use tax information to or file certain returns with the State Tax Commission. The act modifies requirements pertaining to exemption certificates. The act amends provisions relating to the voluntary collection of sales and use taxes by a seller. The act addresses for certain sellers registered under the agreement the due dates for paying certain sales and use tax obligations and the requirements for calculating certain sales and use tax obligations. The act repeals provisions relating to credits for certain taxes paid. The act permits a seller or a seller's certified service provider to deduct or file a refund claim for bad debt under certain circumstances. The act addresses the recovery of bad debt. The act**

authorizes the commission to issue a direct payment permit to certain sellers to be used for certain types of transactions. This act provides procedures and requirements for the State Tax Commission to issue or revoke a direct payment permit and for sellers to use direct payment permits. The act addresses the procedures for apportioning and remitting to the State Tax Commission certain sales and use taxes on transactions involving certain goods or services that will be concurrently available for use in more than one location. The act addresses the collection, remittance, and payment of certain sales and use taxes on direct mail. The act modifies provisions relating to filing sales and use tax returns and retaining a portion of sales and use taxes collected. The act provides procedures and requirements for a seller to obtain a refund or credit for taxes overpaid by a purchaser. The act requires the State Tax Commission to grant a seller amnesty under certain circumstances and provides procedures and requirements for granting amnesty. The act modifies the procedures and requirements for determining the location of a transaction or where a transaction is consummated for certain sales and use taxes imposed by a county, city, or town. The act provides that a county, city, or town may impose a sales or use tax on transactions located within the county, city, or town. The act modifies the time period for notifying the commission of the enactment, repeal, or change in the rate of a tax. The act limits a seller's sales and use tax liability for failing to collect certain sales and use taxes if the seller relies on a database created by the State Tax Commission. The act addresses the collection and distribution of local sales and use taxes. The act addresses the State Tax Commission authority to retain an administrative fee for certain taxes the State Tax Commission collects. The act modifies the transactions that are subject to taxation by certain counties, cities, or towns. The act modifies the transactions for which a qualified emergency food agency may claim a tax refund. The act makes technical changes. The act requires the Revenue and Taxation Interim Committee to conduct a study and prescribes the scope of that study. The act provides an effective date.

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

AMENDS:

**10-1-304**, as last amended by Chapter 138, Laws of Utah 2002

**10-1-307**, as last amended by Chapter 305, Laws of Utah 1997

**17A-2-1064**, as last amended by Chapter 253, Laws of Utah 2000

**59-1-403**, as last amended by Chapters 52 and 175, Laws of Utah 2002

**59-12-102**, as last amended by Chapters 77, 117, 192, and 320, Laws of Utah 2002

**59-12-103**, as last amended by Chapter 2, Laws of Utah 2002, Sixth Special Session

**59-12-103.1**, as enacted by Chapter 253, Laws of Utah 2000

**59-12-103.2**, as last amended by Chapter 104, Laws of Utah 2001

**59-12-104**, as last amended by Chapters 117, 138, 217, and 286, Laws of Utah 2002

**59-12-104.1**, as last amended by Chapter 291, Laws of Utah 1998

**59-12-104.2**, as enacted by Chapter 243, Laws of Utah 2001

**59-12-105**, as last amended by Chapter 262, Laws of Utah 2001

**59-12-106**, as last amended by Chapter 253, Laws of Utah 2000

**59-12-107**, as last amended by Chapter 104, Laws of Utah 2001

**59-12-108**, as last amended by Chapter 289, Laws of Utah 1998

**59-12-110**, as last amended by Chapter 253, Laws of Utah 2000

**59-12-113**, as renumbered and amended by Chapter 5, Laws of Utah 1987

**59-12-115**, as renumbered and amended by Chapter 5, Laws of Utah 1987

**59-12-117**, as last amended by Chapter 9, Laws of Utah 2001

**59-12-204**, as last amended by Chapters 2 and 253, Laws of Utah 2000

**59-12-205**, as last amended by Chapters 2, 253, and 318, Laws of Utah 2000

**59-12-208.1**, as enacted by Chapter 319, Laws of Utah 2000

**59-12-210**, as enacted by Chapter 259, Laws of Utah 1994

**59-12-301**, as last amended by Chapter 207, Laws of Utah 2002

**59-12-302**, as last amended by Chapter 305, Laws of Utah 1997

**59-12-354**, as last amended by Chapter 319, Laws of Utah 2000

**59-12-355**, as enacted by Chapter 319, Laws of Utah 2000

**59-12-401**, as last amended by Chapter 253, Laws of Utah 2000

- 59-12-402**, as last amended by Chapters 253 and 319, Laws of Utah 2000
- 59-12-403**, as enacted by Chapter 319, Laws of Utah 2000
- 59-12-501**, as last amended by Chapter 253, Laws of Utah 2000
- 59-12-502**, as last amended by Chapter 217, Laws of Utah 2001
- 59-12-504**, as enacted by Chapter 319, Laws of Utah 2000
- 59-12-603**, as last amended by Chapter 11, Laws of Utah 2001, First Special Session
- 59-12-703**, as last amended by Chapter 192, Laws of Utah 2001
- 59-12-802**, as last amended by Chapters 104 and 226, Laws of Utah 2001
- 59-12-804**, as last amended by Chapter 104, Laws of Utah 2001
- 59-12-806**, as enacted by Chapter 319, Laws of Utah 2000
- 59-12-901**, as last amended by Chapter 162, Laws of Utah 2001
- 59-12-902**, as last amended by Chapters 104 and 162, Laws of Utah 2001
- 59-12-1001**, as last amended by Chapter 101, Laws of Utah 2002
- 59-12-1102**, as last amended by Chapters 253 and 319, Laws of Utah 2000
- 59-12-1302**, as last amended by Chapters 253 and 319, Laws of Utah 2000
- 59-12-1402**, as enacted by Chapter 192, Laws of Utah 2001

**ENACTS:**

- 59-7-614.1**, Utah Code Annotated 1953
- 59-10-134.1**, Utah Code Annotated 1953
- 59-12-102.1**, Utah Code Annotated 1953
- 59-12-107.1**, Utah Code Annotated 1953
- 59-12-107.2**, Utah Code Annotated 1953
- 59-12-107.3**, Utah Code Annotated 1953
- 59-12-110.1**, Utah Code Annotated 1953
- 59-12-121**, Utah Code Annotated 1953
- 59-12-207.1**, Utah Code Annotated 1953
- 59-12-207.2**, Utah Code Annotated 1953
- 59-12-207.3**, Utah Code Annotated 1953

- 59-12-207.4, Utah Code Annotated 1953
- 59-12-207.5, Utah Code Annotated 1953
- 59-12-356, Utah Code Annotated 1953
- 59-12-404, Utah Code Annotated 1953
- 59-12-505, Utah Code Annotated 1953
- 59-12-604, Utah Code Annotated 1953
- 59-12-706, Utah Code Annotated 1953
- 59-12-807, Utah Code Annotated 1953
- 59-12-1003, Utah Code Annotated 1953
- 59-12-1103, Utah Code Annotated 1953
- 59-12-1303, Utah Code Annotated 1953
- 59-12-1404, Utah Code Annotated 1953

REPEALS:

59-12-207, as last amended by Chapters 157 and 320, Laws of Utah 2002

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

Section 1. Section **10-1-304** is amended to read:

**10-1-304. Municipality may levy tax -- Rate -- Imposition or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Exemptions.**

(1) Except as provided in Subsection (4), a municipality may levy a municipal energy sales and use tax on the sale or use of taxable energy within the municipality:

- (a) by ordinance as provided in Section 10-1-305; and
- (b) of up to 6% of the delivered value of the taxable energy.

(2) A municipal energy sales and use tax imposed under this part may be in addition to any [~~local option~~] sales and use tax imposed by the municipality [~~as provided in~~] under Title 59, Chapter 12, [~~Part 2, Local Sales and Use Tax Act~~] Sales and Use Tax Act.

(3) (a) For purposes of this Subsection (3):

(i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a city or town.

(b) (i) If, on or after May 1, 2000, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a [~~75-day~~] 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b)(ii) from the city or town.

(ii) The notice described in Subsection (3)(b)(i)(B) shall state:

(A) that the city or town will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and

(D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (3)(b)(ii)(A), the new rate of the tax.

(c) (i) If, for an annexation that occurs on or after May 1, 2000, the annexation will result in a change in the rate of a tax under this part for an annexing area, the change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a [~~75-day~~] 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(c)(ii) from the city or town that annexes the annexing area.

(ii) The notice described in Subsection (3)(c)(i)(B) shall state:

(A) that the annexation described in Subsection (3)(c)(i) will result in a change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (3)(c)(ii)(A);

(C) the effective date of the tax described in Subsection (3)(c)(ii)(A); and

(D) the new rate of the tax described in Subsection (3)(c)(ii)(A).

(4) Notwithstanding Subsection (1), a sale or use of electricity within a municipality is exempt from the tax authorized by this section if the sale or use is:

(a) made under a tariff adopted by the Public Service Commission of Utah only for

purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy source, as designated in the tariff by the Public Service Commission of Utah; and

(b) for an amount of electricity that is:

(i) unrelated to the amount of electricity used by the person purchasing the electricity under the tariff described in Subsection (4)(a); and

(ii) equivalent to the number of kilowatthours specified in the tariff described in Subsection (4)(a) that may be purchased under the tariff described in Subsection (4)(a).

Section 2. Section **10-1-307** is amended to read:

**10-1-307. Collection of taxes by commission -- Distribution of revenues -- Charge for services -- Collection of taxes by municipality.**

(1) Except for the direct payment provisions provided in Subsection (3), the commission shall collect, enforce, and administer the municipal energy sales and use tax from energy suppliers according to the procedures established in Title 59, Chapter 12, Part 1, Tax Collection.

(2) (a) Except as provided in Subsections 10-1-203(3)(d), 10-1-305(5), and 10-1-310(2), the commission shall pay a municipality the difference between:

(i) the entire amount collected by the commission from the municipal energy sales and use tax authorized by this part based on:

(A) the point of sale of the taxable energy if a taxable sale occurs in a municipality that imposes a municipal energy sales and use tax as provided in this part; or

(B) the point of use of the taxable energy if the use occurs in a municipality that imposes a municipal energy sales and use tax as provided in this part; and

(ii) [~~minus~~] the administration fee charged in accordance with Subsection (2)(c).

(b) In accordance with Subsection (2)(a), the commission shall transfer to the municipality monthly by electronic transfer the revenues generated by the municipal energy sales and use tax levied by the municipality and collected by the commission.

(c) (i) The commission shall charge a municipality imposing a municipal energy sales and use tax a fee for administering the tax at the percentage provided in Section 59-12-206, except that the commission may not charge a fee for taxes collected by a municipality under

Subsection (3).

(ii) The fee charged under Subsection (2)(c)(i) shall be:

(A) deposited in the Sales and Use Tax Administrative Fees Account; and

(B) used for sales tax administration as provided in Subsection 59-12-206(2).

(3) An energy supplier shall pay the municipal energy sales and use tax revenues it collects from its customers under this part directly to each municipality in which the energy supplier has sales of taxable energy if:

(a) the municipality is the energy supplier; or

(b) (i) the energy supplier estimates that the municipal energy sales and use tax collected annually by the energy supplier from its Utah customers equals \$1,000,000 or more; and

(ii) the energy supplier collects the tax imposed by this part.

(4) An energy supplier paying a tax under this part directly to a municipality may retain the percentage of the tax authorized under Subsection 59-12-108[~~(3)~~] (2) for the energy supplier's costs of collecting and remitting the tax.

(5) An energy supplier paying the tax under this part directly to a municipality shall file an information return with the commission, at least annually, on a form prescribed by the commission.

Section 3. Section **17A-2-1064** is amended to read:

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

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

(2) The account shall be funded from the portion of the sales and use tax under ~~[Sections]~~ Section 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 transactions under

Subsection 59-12-103(1).

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

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

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

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

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

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

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

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

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

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

Section 4. Section **59-1-403** is amended to read:

**59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

(1) (a) Except as provided in this section, any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) Except as provided in Subsection (1)(c), an official charged with the custody of a

return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

- (i) in accordance with judicial order;
- (ii) on behalf of the commission in any action or proceeding under:
  - (A) this title; or
  - (B) other law under which persons are required to file returns with the commission;
- (iii) on behalf of the commission in any action or proceeding to which the commission is a party; or
- (iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (1)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(2) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

- (i) who brings action to set aside or review a tax based on the report or return;
- (ii) against whom an action or proceeding is contemplated or has been instituted under this title; or
- (iii) against whom the state has an unsatisfied money judgment.

(3) (a) Notwithstanding Subsection (1) and for purposes of administration, the commission may by rule, made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

- (i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if these political subdivisions or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (1), the commission shall provide to the Solid and Hazardous Waste Control Board executive secretary, as defined in Section 19-6-102, as requested by the executive secretary, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (1), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

(i) Chapter 13, Part 2, Motor Fuel; or

(ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (1), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (1), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through(c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (1), the commission shall, at the request of a committee of the Legislature, Office of the Legislative Fiscal Analyst, or Governor's Office of Planning and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (1), the commission shall at the request of the Legislature provide to the Legislature the total amount of sales or uses exempt under Subsection 59-12-104[~~(52)~~] (51) reported to the commission in accordance with Section 59-12-105.

(k) Notwithstanding Subsection (1), the commission shall make the list required by Subsection 59-14-408(3) available for public inspection.

(4) (a) Reports and returns shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (4)(a) the commission may destroy a report or return.

(5) (a) Any person who violates this section is guilty of a class A misdemeanor.

(b) If the person described in Subsection (5)(a) is an officer or employee of the state, the

person shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(6) This part does not apply to the property tax.

Section 5. Section **59-7-614.1** is enacted to read:

**59-7-614.1. Refundable tax credit for hand tools used in farming operations -- Procedures for refund -- Transfers from General Fund to Uniform School Fund -- Rulemaking authority.**

(1) For taxable years beginning on or after January 1, 2004, a taxpayer may claim a refundable tax credit:

(a) as provided in this section;

(b) against taxes otherwise due under this chapter; and

(c) in an amount equal to the amount of tax the taxpayer pays:

(i) on a purchase of a hand tool:

(A) if the purchase is made on or after July 1, 2004;

(B) if the hand tool is used or consumed primarily and directly in a farming operation in the state; and

(C) if the unit purchase price of the hand tool is more than \$250; and

(ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i).

(2) A taxpayer:

(a) shall retain the following to establish the amount of tax the resident or nonresident individual paid under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i):

(i) a receipt;

(ii) an invoice; or

(iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and

(b) may not carry forward or carry back a tax credit under this section.

(3) (a) In accordance with any rules prescribed by the commission under Subsection

(3)(b), the commission shall:

(i) make a refund to a taxpayer that claims a tax credit under this section if the amount of the tax credit exceeds the taxpayer's tax liability under this chapter; and

(ii) transfer at least annually from the General Fund into the Uniform School Fund an amount equal to the amount of tax credit claimed under this section.

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making:

(i) a refund to a taxpayer as required by Subsection (3)(a)(i); or

(ii) transfers from the General Fund into the Uniform School Fund as required by Subsection (3)(a)(ii).

Section 6. Section **59-10-134.1** is enacted to read:

**59-10-134.1. Refundable tax credit for hand tools used in farming operations -- Procedures for refund -- Transfers from General Fund to Uniform School Fund -- Rulemaking authority.**

(1) For taxable years beginning on or after January 1, 2004, a resident or nonresident individual may claim a refundable tax credit:

(a) as provided in this section;

(b) against taxes otherwise due under this chapter; and

(c) in an amount equal to the amount of tax the resident or nonresident individual pays:

(i) on a purchase of a hand tool:

(A) if the purchase is made on or after July 1, 2004;

(B) if the hand tool is used or consumed primarily and directly in a farming operation in the state; and

(C) if the unit purchase price of the hand tool is more than \$250; and

(ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i).

(2) A resident or nonresident individual:

(a) shall retain the following to establish the amount of tax the resident or nonresident

individual paid under Chapter 12, Sales and Use Tax Act, on the purchase described in

Subsection (1)(c)(i):

(i) a receipt;

(ii) an invoice; or

(iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and

(b) may not carry forward or carry back a tax credit under this section.

(3) (a) In accordance with any rules prescribed by the commission under Subsection

(3)(b), the commission shall:

(i) make a refund to a resident or nonresident individual who claims a tax credit under this section if the amount of the tax credit exceeds the resident or nonresident individual's tax liability under this chapter; and

(ii) transfer at least annually from the General Fund into the Uniform School Fund an amount equal to the amount of tax credit claimed under this section.

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making:

(i) a refund to a resident or nonresident individual as required by Subsection (3)(a)(i); or

(ii) transfers from the General Fund into the Uniform School Fund as required by

Subsection (3)(a)(ii).

Section 7. 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) "Agreement" means the Streamlined Sales and Use Tax Agreement described in Section 59-12-102.1.

(3) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (4); and

(b) that are imposed within a local taxing jurisdiction.

(4) "Agreement sales and use tax" means a tax imposed under:

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

(b) Section 59-12-204;

(c) Section 59-12-401;

(d) Section 59-12-402;

(e) Section 59-12-501;

(f) Section 59-12-502;

(g) Section 59-12-703;

(h) Section 59-12-802;

(i) Section 59-12-804;

(j) Section 59-12-1001;

(k) Section 59-12-1102;

(l) Section 59-12-1302; or

(m) Section 59-12-1402.

(5) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

~~[(2)]~~ (6) "Area agency on aging" is as defined in Section 62A-3-101.

~~[(3)]~~ (7) "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 Surface Transportation Board.

(8) "Certified automated system" means software certified by the governing board of the

agreement in accordance with Section 59-12-102.1 that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (8)(a)(i).

(9) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement in accordance with Section 59-12-102.1; and

(b) to perform all of a seller's sales and use tax functions for an agreement sales and use tax.

(10) (a) Subject to Subsection (10)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

~~[(4)]~~ (11) (a) For purposes of Subsection 59-12-104[~~(43)~~] (42), "coin-operated amusement device" means:

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

(ii) that is not controlled through [~~vendor-assisted~~] seller-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)~~] (42), "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]~~ seller 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)]~~ (12) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection ~~[(13)]~~ (30) or residential use under Subsection ~~[(23)]~~ (52).

~~[(6)]~~ (13) (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)]~~ (13)(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)]~~ (14) "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.

(15) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(16) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

~~[(8)]~~ (17) "Construction materials" means any tangible personal property that will be

converted into real property.

(18) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(19) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property; or

(B) services; and

(ii) for preparation and delivery of the tangible personal property or services described in Subsection (19)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(20) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (20)(b)(i) through (v);

(c) (i) except as provided in Subsection (20)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) notwithstanding Subsection (20)(c)(i), if the product is not intended for ingestion in a form described in Subsections (20)(c)(i)(A) through (F), is not represented:

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the "Supplemental Facts" box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

(21) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided by a purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address.

(22) (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

- (A) the official United States Pharmacopoeia;
- (B) the official Homeopathic Pharmacopoeia of the United States;
- (C) the official National Formulary; or
- (D) a supplement to a publication listed in Subsections (22)(a)(i)(A) through (C);
  - (ii) intended for use in the:
    - (A) diagnosis of disease;
    - (B) cure of disease;
    - (C) mitigation of disease;
    - (D) treatment of disease; or
    - (E) prevention of disease; or
  - (iii) intended to affect:
    - (A) the structure of the body; or
    - (B) any function of the body.
- (b) "Drug" does not include:
  - (i) food and food ingredients;
  - (ii) a dietary supplement;
  - (iii) an alcoholic beverage; or
  - (iv) a prosthetic device.

(23) (a) Except as provided in Subsection (23)(c), "durable medical equipment" means equipment that:

- (i) can withstand repeated use;
- (ii) is primarily and customarily used to serve a medical purpose;
- (iii) generally is not useful to a person in the absence of illness or injury;
- (iv) is not worn in or on the body; and
- (v) is listed as eligible for payment under:
  - (A) Title XVIII of the federal Social Security Act; or
  - (B) the state plan for medical assistance under Title XIX of the federal Social Security

Act.

(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (23)(a).

(c) Notwithstanding Subsection (23)(a), "durable medical equipment" does not include mobility enhancing equipment.

(24) "Electronic" means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections (24)(b)(i) through (vi).

(25) (a) "Food and food ingredients" means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance's:

(I) taste; or

(II) nutritional value.

(b) "Food and food ingredients" does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

~~[(9)]~~ (26) (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)]~~ (26)(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.

(27) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

~~[(10)]~~ (28) (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)~~] (28)(a)(i)(B) or [~~(10)~~] (28)(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)~~] (28)(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)~~] (28)(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)~~] (28)(b)(iii)(A)(I) through (V).
- [~~(11)~~] (29) (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)]~~ (28)(b)(i); or
    - (B) assistive listening device or system described in Subsection ~~[(10)]~~ (28)(b)(ii) or (iii);

or

- (ii) a hearing aid battery.

~~[(12)(a) Except as provided in Subsection (12)(c), "home medical equipment or supplies" means equipment or supplies that:]~~

~~[(i) a licensed physician prescribes or authorizes in writing as necessary:]~~

~~[(A) for the treatment of a medical illness or injury; or]~~

~~[(B) 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:]~~

~~[(A) Title XVIII of the federal Social Security Act; or]~~

~~[(B) the state plan for medical assistance under Title XIX of the federal Social Security Act.]~~

~~[(b) "Home medical equipment or supplies" includes parts used in the repairs or renovations of equipment or supplies described in Subsection (12)(a).]~~

~~[(c) Notwithstanding Subsection (12)(a), "home medical equipment or supplies" does not include:]~~

~~[(i) equipment or supplies purchased by, for, or on behalf of any:]~~

~~[(A) health care facility, as defined in Subsection (12)(d); or]~~

~~[(B) one or more of the following for use in a professional practice:]~~

~~[(I) a doctor;]~~

~~[(II) a nurse; or]~~

~~[(III) another health care provider;]~~

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

~~[(iii) hearing aids or hearing aid accessories.]~~

~~[(d) For purposes of Subsection (12)(c)(i)(A), "health care facility" includes:]~~

~~[(i) a clinic;]~~

~~[(ii) a doctor's office; or]~~

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

~~[(13)]~~ (30) "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)~~] (30)(d)(i) would otherwise be made with nonrecycled materials.

(31) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property for:

- (i) (A) a fixed term; or
- (B) an indeterminate term; and
- (ii) consideration.

(b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.

(c) "Lease" or "rental" does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement:

(A) that requires the transfer of title upon completion of required payments; and

(B) in which the payment of an option price does not exceed the greater of:

(I) \$100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of

time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (31)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

- (i) set-up of tangible personal property;
- (ii) maintenance of tangible personal property; or
- (iii) inspection of tangible personal property.

(32) "Local taxing jurisdiction" means a:

- (a) county that is authorized to impose an agreement sales and use tax;
- (b) city that is authorized to impose an agreement sales and use tax; or
- (c) town that is authorized to impose an agreement sales and use tax.

~~[(14)]~~ (33) "Manufactured home" means any manufactured home or mobile home as defined in Title 58, Chapter 56, Utah Uniform Building Standards Act.

~~[(15)]~~ (34) 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)]~~ (34)(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)]~~ (35) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(36) (a) Except as provided in Subsection (36)(c), "mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle;

(iii) not generally used by persons with normal mobility; and

(iv) listed as eligible for payment under:

(A) Title XVIII of the federal Social Security Act; or

(B) the state plan for medical assistance under Title XIX of the federal Social Security

Act.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (36)(a).

(c) Notwithstanding Subsection (36)(a), "mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(37) "Model 1 seller" means a seller that has selected a certified service provider as the seller's agent to perform all of the seller's sales tax functions for agreement sales and use taxes.

(38) "Model 2 seller" means a seller that:

(a) except as provided in Subsection (38)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) notwithstanding Subsection (38)(a), retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(39) (a) Subject to Subsection (39)(b), "model 3 seller" means a seller that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least \$500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (39)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

~~[(18)]~~ (40) "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.

~~[(19)]~~ (41) (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.

~~[(20)]~~ (42) "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.

~~[(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.]~~

(43) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (43)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes; or

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (43)(b)(ii)(A)(I) through (IV);

and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in

Subsection (43)(b)(ii)(A) to prevent food borne illness.

(c) Notwithstanding Subsection (43)(a)(iii), an eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

(44) "Prescription" means an order, formula, or recipe that is issued:

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(45) (a) Except as provided in Subsection (45)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) notwithstanding Subsection (45)(a), computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) notwithstanding Subsection (45)(a) and except as provided in Subsection (45)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (45)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) Notwithstanding Subsection (45)(b)(iii), "prewritten computer software" does not include a modification or enhancement described in Subsection (45)(b)(iii) if the charges for the modification or enhancement are:

- (i) reasonable; and
- (ii) separately stated on the invoice or other statement of price provided to the purchaser.

(46) (a) "Prosthetic device" means a device that is:

- (i) worn on or in the body to:
  - (A) artificially replace a missing portion of the body;
  - (B) prevent or correct a physical deformity or physical malfunction; or
  - (C) support a weak or deformed portion of the body; and
- (ii) listed as eligible for payment under:
  - (A) Title XVIII of the federal Social Security Act; or
  - (B) the state plan for medical assistance under Title XIX of the federal Social Security

Act.

(b) "Prosthetic device" includes:

- (i) parts used in the repairs or renovation of a prosthetic device; or
- (ii) replacement parts for a prosthetic device.

(c) "Prosthetic device" does not include:

- (i) corrective eyeglasses;
- (ii) contact lenses;
- (iii) hearing aids; or
- (iv) dental prostheses.

(47) (a) "Protective equipment" means an item:

- (i) for human wear; and
- (ii) that is:
  - (A) designed as protection:
    - (I) to the wearer against injury or disease; or
    - (II) against damage or injury of other persons or property; and

(B) not suitable for general use.

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "protective equipment"; and

(ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

(48) (a) "Purchase price" and "sales price" mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property or services are:

(A) sold;

(B) leased; or

(C) rented.

(b) "Purchase price" and "sales price" include:

(i) the seller's cost of the tangible personal property or services sold;

(ii) expenses of the seller, including:

(A) the cost of materials used;

(B) a labor cost;

(C) a service cost;

(D) interest;

(E) a loss;

(F) the cost of transportation to the seller; or

(G) a tax imposed on the seller;

(iii) a charge by the seller for any service necessary to complete the sale;

(iv) a delivery charge; or

(v) an installation charge.

(c) "Purchase price" and "sales price" do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser:

(A) the amount of a trade-in;

(B) the following from credit extended on the sale of tangible personal property or services:

(I) interest charges;

(II) financing charges; or

(III) carrying charges; or

(C) a tax or fee legally imposed directly on the consumer.

(49) "Purchaser" means a person to whom:

(a) a sale of tangible personal property is made; or

(b) a service is furnished.

~~[(22)]~~ (50) "Regularly rented" means:

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

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

(51) "Rental" is as defined in Subsection (31).

~~[(23)]~~ (52) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

~~[(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.]~~

(53) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

~~[(25)]~~ (54) (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.]~~

~~[(26)]~~ (55) (a) "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]~~

(b) "Sale" includes:

~~[(a)]~~ (i) installment and credit sales;

~~[(b)]~~ (ii) any closed transaction constituting a sale;

~~[(c)]~~ (iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

~~[(d)]~~ (iv) 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)]~~ (v) 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.

(56) "Sale at retail" is as defined in Subsection (53).

(57) "Sale-leaseback transaction" means a transaction by which title to tangible personal property that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property;

(ii) the sale of the tangible personal property to the lessor is intended as a form of financing;

(A) for the property; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the property for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(58) "Sales price" is as defined in Subsection (48).

~~[(27)]~~ (59) (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]~~ a uniform, protective equipment, or sports or recreational equipment 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]~~ the following 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]~~:

(I) food and food ingredients; or

(II) prepared food; 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 ~~[(27)]~~ (59)(a)(i)(B)~~[-clothing; or]~~:

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; 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."

~~[(28)]~~ (60) 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.

(61) "Seller" means a person that makes a sale, lease, or rental of:

- (a) tangible personal property; or
- (b) a service.

~~[(29)]~~ (62) (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:
  - (i) parts used in the repairs or renovations of tangible personal property described in

Subsection ~~[(29)]~~ (62)(a); or

- (ii) a chemical, catalyst, or other material used to:
  - (A) produce or induce in a semiconductor a:
    - (I) chemical change; or
    - (II) physical change;
  - (B) remove impurities from a semiconductor; or
  - (C) improve the marketable condition of a semiconductor.

~~[(30)]~~ (63) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(64) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

~~[(31)]~~ (65) "State" means the state of Utah, its departments, and agencies.

~~[(32)]~~ (66) "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.

~~[(33)]~~ (67) (a) "Tangible personal property" means~~[:]~~ personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software.

~~[(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%.]~~

~~[(34)] (68) (a) For purposes of Subsection ~~[(35)]~~ (69) 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~~] mobile telecommunications 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)~~] (69) (a) "Telephone service provider" means a person that:

- (i) owns, controls, operates, or manages a telephone service; and
- (ii) engages in an activity described in Subsection [~~(35)~~] (69)(a)(i) for the shared use with or resale to any person of the telephone service.

(b) A person described in Subsection [~~(35)~~] (69)(a) is a telephone service provider whether or not the Public Service Commission of Utah regulates:

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

(70) "Tobacco" means:

- (a) a cigarette;
- (b) a cigar;
- (c) chewing tobacco;

(d) pipe tobacco; or

(e) any other item that contains tobacco.

~~[(36)]~~ (71) (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.

~~[(37)]~~ (72) "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)]~~ (35) only, also includes any locomotive, freight car, railroad work equipment, or other railroad rolling stock.

~~[(38)]~~ (73) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging vehicles as defined in Subsection ~~[(37)]~~ (72).

~~[(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 (25)(d).]~~

Section 8. Section **59-12-102.1** is enacted to read:

**59-12-102.1. Authority to enter into agreement -- Purpose and scope of agreement -- Rulemaking authority -- Agreement may require a state that is a member of the agreement to abide by certain requirements.**

(1) The commission may:

(a) enter into the agreement described in Subsection (2) with one or more states to:

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

(ii) establish standards for certification of a:

- (A) certified service provider; and
- (B) certified automated system; and
- (iii) act jointly with other states that are members of the agreement to establish performance standards for multistate sellers; and
- (b) take other actions reasonably required to implement the provisions of the agreement:
  - (i) if those actions are not in conflict with statute; and
  - (ii) subject to Subsection (1)(b)(i), including:
    - (A) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, adopting administrative rules; and
    - (B) in furtherance of the agreement, jointly procuring goods or services with other states that are members of the agreement.
- (2) The agreement the commission may enter into under Subsection (1), may require each state that is a member of the agreement to abide by the following requirements:
  - (a) establish restrictions to achieve over time more uniform state sales and use tax rates by:
    - (i) limiting the number of sales and use tax rates within the state;
    - (ii) limiting the application of maximums on the amount of sales and use tax that is due on a transaction; and
    - (iii) limiting the application of thresholds on the application of sales and use taxes;
  - (b) establish uniform standards for:
    - (i) the sourcing of transactions to local taxing jurisdictions;
    - (ii) the administration of exempt sales;
    - (iii) the allowance a seller may take for bad debts; and
    - (iv) agreement sales and use tax:
      - (A) returns; and
      - (B) remittances;
  - (c) develop and adopt uniform definitions:
    - (i) of sales and use tax terms; and

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

(d) provide a central, electronic registration system that allows a seller to register to collect and remit agreement sales and use tax for all states that are members of the agreement;

(e) require that the following may not be used as a factor in determining whether a seller has sufficient contacts with a state to be required to collect a sales or use tax:

(i) registration with a central registration system; or

(ii) the collection of sales or use taxes in the states that are members of the agreement;

(f) reduce the burdens of collecting and remitting local sales and use taxes by:

(i) restricting variances between transactions that are subject to state sales and use tax and transactions that are subject to local sales and use taxes;

(ii) requiring states to administer any agreement sales and use tax imposed by a local taxing jurisdiction within the state so that a seller that collects or remits the agreement sales and use tax will not have to:

(A) register with the local taxing jurisdiction;

(B) file a return with the local taxing jurisdiction;

(C) remit funds to the local taxing jurisdiction; or

(D) be subject to an independent audit by a local taxing jurisdiction;

(iii) restricting the frequency of changes in sales and use tax rates for an agreement sales and use tax imposed by a local taxing jurisdiction;

(iv) establishing effective dates for the application of a change in a local taxing jurisdiction boundary to an agreement sales and use tax imposed by the local taxing jurisdiction;  
and

(v) providing notice of a change in:

(A) a sales and use tax rate for an agreement sales and use tax imposed by a local taxing jurisdiction; and

(B) a boundary of a local taxing jurisdiction;

(g) provide a monetary allowance to a seller or certified service provider;

(h) (i) certify compliance with the terms of the agreement prior to entering into the agreement; and

(ii) maintain compliance with all of the provisions of the agreement:

(A) during the time period that the state is a member of the agreement; and

(B) under the laws of the state entering into the agreement;

(i) adopt a uniform policy for certified service providers that:

(i) protects the privacy of consumers; and

(ii) maintains the confidentiality of tax information;

(j) appoint the following advisory councils:

(i) a council consisting of private sector representatives to consult with in the administration of the agreement; and

(ii) a council consisting of state government representatives to consult with in the administration of the agreement;

(k) (i) require that a certified service provider is the agent of a seller with whom the certified service provider has contracted for the collection and remittance of agreement sales and use tax; and

(ii) except as provided in Subsection (2)(l), require that the certified service provider that is the seller's agent is liable for agreement sales and use tax due:

(A) to each state that is a member of the agreement; and

(B) on all agreement sales and use tax transactions that the certified service provider processes for the seller;

(l) notwithstanding Subsection (2)(k), require that:

(i) a seller that contracts with a certified service provider is not liable to the state for agreement sales and use tax due on a transaction processed by the certified service provider or subject to audit on a transaction processed by the certified service provider unless the seller:

(A) misrepresented the type of items the seller sells; or

(B) committed fraud;

(ii) a seller is subject to audit for transactions not processed by the certified service

provider; and

(iii) the states that are members of the agreement acting jointly may perform a system check of a seller or review a seller's procedures to determine:

(A) if a certified service provider's system is functioning properly; or

(B) the extent to which a seller's transactions are being processed by a certified service provider;

(m) require that:

(i) a person that provides a certified automated system is:

(A) responsible for the proper functioning of that certified automated system; and

(B) liable to the state for underpayments of agreement sales and use tax attributable to errors in the functioning of the certified automated system; and

(ii) a seller that uses a certified automated system remains responsible for and is liable to the state for reporting, collecting, and remitting agreement sales and use tax; and

(n) require that a seller that has a proprietary system for determining the amount of agreement sales and use tax due on a transaction and has signed an agreement with the commission establishing a performance standard for that proprietary system is liable for the failure of the proprietary system to meet the performance standard.

(3) The agreement described in this section:

(a) is an accord among individual cooperating sovereigns in furtherance of the cooperating sovereigns' governmental functions; and

(b) provides a mechanism among the states that are members of the agreement to establish and maintain a cooperative, simplified system for the application and administration of sales and use tax under laws adopted by each state that is a member of the agreement.

(4) (a) The agreement described in this section may bind and inure only to the benefit of this state and other states that are members of the agreement.

(b) A person, other than a state that is a member of the agreement, is not an intended beneficiary of the agreement.

(c) Any benefit of the agreement to a person other than a state is established by the law of

this state and the laws of other states that are members of the agreement and not by the terms of the agreement.

(5) (a) Subject to Subsection (4), a person may not have a cause of action or defense:

(i) under the agreement; or

(ii) as a result of this state's approval of the agreement.

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

(i) by:

(A) a department;

(B) an agency;

(C) a commission;

(D) an entity of the state other than an entity described in Subsections (5)(b)(i)(A)

through (C); or

(E) a political subdivision of the state; and

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

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

Section 9. Section **59-12-103** is amended to read:

**59-12-103. Sales and use tax base -- Rates -- Effective dates -- 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:

(i) (A) to a common carrier; or

(B) whether the following are municipally or privately owned, to a:

(I) telephone service provider; or

- (II) telegraph corporation as defined in Section 54-2-1; and
- (ii) for:
  - (A) all transportation;
  - (B) telephone service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;
  - (C) 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
  - (D) 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 ~~[meats]~~ prepared food;
- (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, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(A) the tangible personal property; and

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

(ii) to install tangible personal property in connection with other tangible personal property, unless the tangible personal property being installed is exempt from sales and use tax under Section 59-12-104;

(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]~~ Subsection (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]~~

~~[(H) 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.]~~

(c) Subject to Subsections (2)(d) and (e), a tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

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

(ii) Subsection (2)(b)(i).

(d) (i) For a transaction described in Subsection (2)(d)(iii), a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(I) Subsection (2)(a)(i); or

(II) Subsection (2)(b)(i).

(ii) For a transaction described in Subsection (2)(d)(iii), a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of a tax rate decrease imposed under:

(I) Subsection (2)(a)(i); or

(II) Subsection (2)(b)(i).

(iii) Subsections (2)(d)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection (1)(b);

(B) Subsection (1)(c);

(C) Subsection (1)(d);

(D) Subsection (1)(e);

(E) Subsection (1)(f);

(F) Subsection (1)(g);

(G) Subsection (1)(h);

(H) Subsection (1)(i);

(I) Subsection (1)(j); or

(J) Subsection (1)(k).

(e) (i) If a tax due under Subsection (2)(a)(i) on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a change in a tax rate imposed under Subsection (2)(a)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate change under Subsection

(2)(a)(i).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) Except as provided in Subsections (4) through (7) and (9), the following state taxes shall be deposited into the General Fund:

- (i) the tax imposed by Subsection (2)(a)(i); or
- (ii) the tax imposed by Subsection (2)(b)(i); ~~and~~.
- ~~[(iii) the tax imposed by Subsection (2)(c)(i).]~~

(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:]~~

~~[(F) the population of the county, city, or town; divided by]~~

~~[(H) 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)] (4) (a) (i) Notwithstanding Subsection (3)(a) and except as provided in Subsection [(H)] (9), for fiscal year 2002-03 only, the lesser of the following amounts shall be transferred or deposited as provided in Subsections [(5)] (4)(a)(ii) through (vii):~~

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

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

(II) for fiscal year 2002-03; or

(B) \$18,743,000.

~~(ii) (A) For fiscal year 2002-03 only, \$2,300,000 of the amount described in Subsection [(5)] (4)(a)(i) shall be transferred as dedicated credits to the Department of Natural Resources to:~~

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

~~(II) 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.

(B) Money transferred to the Department of Natural Resources under Subsection [~~(5)~~] (4)(a)(ii)(A) 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.

(C) At the end of fiscal year 2002-03:

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

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

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

(iii) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection [~~(5)~~] (4)(a)(i) shall be deposited in the Agriculture Resource Development Fund created in Section 4-18-6.

(iv) (A) For fiscal year 2002-03 only, \$100,000 of the amount described in Subsection [~~(5)~~] (4)(a)(i) 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.

(B) At the end of fiscal year 2002-03:

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

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

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

(v) (A) For fiscal year 2002-03 only, 50% of the amount described in Subsection [~~(5)~~] (4)(a)(i) that remains after making the transfers and deposits required by Subsections [~~(5)~~] (4)(a)(ii) through (iv) 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.

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

(I) provide a portion of the local cost share, not to exceed in fiscal year 2002-03 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.

(vi) For fiscal year 2002-03 only, 25% of the amount described in Subsection [~~(5)~~] (4)(a)(i) that remains after making the transfers and deposits required by Subsections [~~(5)~~] (4)(a)(ii) through (iv) 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.

(vii) For fiscal year 2002-03 only, 25% of the amount described in Subsection [~~(5)~~] (4)(a)(i) that remains after making the transfers and deposits required by Subsections [~~(5)~~] (4)(a)(ii) through (iv) 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:

(A) 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;

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

(C) develop surface water sources.

(b) (i) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,

2003, the lesser of the following amounts shall be used as provided in Subsections [~~(5)~~] (4)(b)(ii) through (vii):

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

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

(II) for the fiscal year; or

(B) \$17,500,000.

(ii) (A) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection [~~(5)~~] (4)(b)(i) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

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

(II) 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.

(B) Money transferred to the Department of Natural Resources under Subsection [~~(5)~~] (4)(b)(ii)(A) 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.

(C) At the end of each fiscal year:

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

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

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

(iii) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection [~~(5)~~] (4)(b)(i) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-6.

(iv) (A) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection [~~(5)~~] (4)(b)(i) shall be transferred each year 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.

(B) At the end of each fiscal year:

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

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

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

(v) (A) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection [~~(5)~~] (4)(b)(i) 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.

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

(vi) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection ~~[(5)]~~ (4)(b)(i) 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.

(vii) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection ~~[(5)]~~ (4)(b)(i) 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:

(A) 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;

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

(C) develop surface water sources.

~~[(6)]~~ (5) (a) (i) Notwithstanding Subsection (3)(a), for fiscal year 2002-03 only, the lesser of the following amounts shall be transferred or deposited as provided in Subsections ~~[(6)]~~ (5)(a)(ii) through (iv):

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

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

(II) for the fiscal year; or

(B) \$18,743,000.

(ii) (A) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection ~~[(6)]~~ (5)(a)(i) shall be deposited in the Transportation Corridor Preservation Revolving Loan Fund created in Section 72-2-117.

(B) At least 50% of the money deposited in the Transportation Corridor Preservation Revolving Loan Fund under Subsection ~~[(6)]~~ (5)(a)(ii)(A) shall be used to fund loan applications made by the Department of Transportation at the request of local governments.

(iii) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection ~~[(6)]~~ (5)(a)(i) 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.

(iv) For fiscal year 2002-03 only, the amount described in Subsection ~~[(6)]~~ (5)(a)(i) that remains after making the transfers and deposits required by Subsections ~~[(6)]~~ (5)(a)(ii) and (iii)

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.

(b) (i) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be used as provided in Subsections [~~(6)~~] (5)(b)(ii) through (iv):

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

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

(II) for the fiscal year; or

(B) \$18,743,000.

(ii) (A) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection [~~(6)~~] (5)(b)(i) shall be deposited each year in the Transportation Corridor Preservation Revolving Loan Fund created in Section 72-2-117.

(B) At least 50% of the money deposited in the Transportation Corridor Preservation Revolving Loan Fund under Subsection [~~(6)~~] (5)(b)(ii)(A) shall be used to fund loan applications made by the Department of Transportation at the request of local governments.

(iii) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection [~~(6)~~] (5)(b)(i) shall be transferred each year as nonlapsing dedicated credits to the Department of Transportation for the State Park Access Highways Improvement Program created in Section 72-3-207.

(iv) For a fiscal year beginning on or after July 1, 2003, 94% of the amount described in Subsection [~~(6)~~] (5)(b)(i) 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)]~~ (6) 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 taxes listed under Subsection (3)(a) 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)]~~ (7) 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]~~ Section 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)]~~ (8) (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)~~] (8)(a).

~~[(11)]~~ (9) (a) For fiscal year 2002-03 only, the following amounts shall be subtracted from the total amount required to be deposited or transferred in accordance with Subsection [~~(5)~~] (4):

(i) \$25,000 shall be subtracted from the total amount required to be transferred to the Division of Water Rights in accordance with Subsection [~~(5)~~] (4)(a)(iv);

(ii) \$385,000 shall be subtracted from the total amount required to be deposited into the Agriculture Resource Development Fund in accordance with Subsection [~~(5)~~] (4)(a)(iii);

(iii) \$350,000 shall be subtracted from the total amount required to be transferred to the Department of Natural Resources in accordance with Subsection [~~(5)~~] (4)(a)(ii);

(iv) \$3,012,500 shall be subtracted from the total amount required to be deposited into the Drinking Water Loan Program Subaccount in accordance with Subsection [~~(5)~~] (4)(a)(vii);

(v) \$3,012,500 shall be subtracted from the total amount required to be deposited into the Utah Wastewater Loan Program Subaccount in accordance with Subsection [~~(5)~~] (4)(a)(vi); and

(vi) \$5,715,000 shall be subtracted from the total amount required to be deposited into the Water Resources Conservation and Development Fund in accordance with Subsection [~~(5)~~] (4)(a)(v).

(b) The amounts subtracted under Subsection [~~(11)~~] (9)(a) shall be deposited into the General Fund.

Section 10. Section **59-12-103.1** is amended to read:

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

**Utah Tax Review Commission study.**

(1) ~~[A vendor]~~ Except as provided in Sections 59-12-107.1 through 59-12-107.3, a seller shall remit to the commission a tax as provided in [Subsection 59-12-103(2)(c) and] Section 59-12-107 if:

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

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

(2) The commission shall:

(a) collect the tax described in Subsection (1) from the ~~[vendor]~~ seller:

(i) to the extent:

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

(B) permitted by Congress;

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

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

(i) regarding the actions taken by:

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

(B) Congress; and

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

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

(a) review the actions taken by:

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

(ii) Congress;

(b) direct the commission regarding the day on which the commission is required to

collect the tax described in Subsection (1); and

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

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

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

Section 11. Section **59-12-103.2** is amended to read:

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

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

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

(2) On or before December 1, 2004, the Division of Finance shall deposit any revenues in the Remote Sales Restricted Account into the General Fund.

Section 12. Section **59-12-104** is amended to read:

**59-12-104. Exemptions.**

The following sales and uses are exempt from the taxes imposed by this chapter:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its

institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of [~~food, beverage, and dairy products~~] an item described in Subsection (3)(b) from a vending [~~machines in which~~] machine if:

(i) the proceeds of each sale do not exceed \$1 [~~if~~]; and

(ii) the [~~vendor~~] seller or operator of the vending machine reports an amount equal to 150% of the cost of [~~items~~] the item described in Subsection (3)(a) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) sales of [~~food, beverage, dairy products, similar confections, and related services~~] the following to a commercial airline [~~carriers~~] carrier for in-flight consumption[?];

(a) food and food ingredients;

(b) prepared food; or

(c) services related to Subsection (4)(a) or (b);

(5) sales of parts and equipment for installation in aircraft operated by common carriers in interstate or foreign commerce;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) sales of cleaning or washing of tangible personal property by a coin-operated laundry or dry cleaning machine;

(8) (a) except as provided in Subsection (8)(b), sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(b) the exemption provided for in Subsection (8)(a) does not apply to the following sales,

uses, leases, or rentals relating to the Olympic Winter Games of 2002 made to or by an organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code:

- (i) retail sales of Olympic merchandise;
- (ii) except as provided in Subsection [~~(51)~~] (50), admissions or user fees described in Subsection 59-12-103(1)(f);
- (iii) sales of accommodations and services as provided in Subsection 59-12-103(1)(i), except for accommodations and services:
  - (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002;
  - (B) exclusively used by:
    - (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; or
    - (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; and
  - (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 does not receive reimbursement; or
- (iv) a lease or rental of a vehicle as defined in Section 41-1a-102, except for a lease or rental of a vehicle:
  - (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002;
  - (B) exclusively used by:
    - (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; or
    - (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; and
  - (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 does not receive reimbursement;

(9) sales of vehicles of a type required to be registered under the motor vehicle laws of this state which are made to bona fide nonresidents of this state and are not afterwards registered or used in this state except as necessary to transport them to the borders of this state;

~~[(10) sales of medicine;]~~

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) the purchaser presents a prescription for the item; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) sales or use of property, materials, or services used in the construction of or incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

(12) (a) sales of ~~[meats]~~ an item described in Subsection (12)(c) served by:

(i) the following if the ~~[meats are]~~ item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution;

(ii) an institution of higher education if:

(A) the ~~[meats are]~~ item described in Subsection (12)(c) is not available to the general public; or

(B) the ~~[meats are]~~ item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) ~~[inpatient meats]~~ sales of an item described in Subsection (12)(c) provided at:

- (i) a medical facility; or
- (ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

- (i) food and food ingredients;
- (ii) prepared food; or
- (iii) alcoholic beverages;

(13) isolated or occasional sales by persons not regularly engaged in business, except the sale of vehicles or vessels required to be titled or registered under the laws of this state in which case the tax is based upon:

(a) the bill of sale or other written evidence of value of the vehicle or vessel being sold;  
or

(b) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle or vessel being sold as determined by the commission;

(14) (a) the following purchases or leases by a manufacturer on or after July 1, 1995:

(i) machinery and equipment:

- (A) used in the manufacturing process;
- (B) having an economic life of three or more years; and
- (C) used:

- (I) to manufacture an item sold as tangible personal property; and
- (II) in new or expanding operations in a manufacturing facility in the state; and

(ii) subject to the provisions of Subsection (14)(b), normal operating replacements that:

- (A) have an economic life of three or more years;
- (B) are used in the manufacturing process in a manufacturing facility in the state;
- (C) are used to replace or adapt an existing machine to extend the normal estimated

useful life of the machine; and

(D) do not include repairs and maintenance;

(b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:

(i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in

Subsection (14)(a)(ii) is exempt;

(ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described in Subsection (14)(a)(ii) is exempt; and

(iii) beginning July 1, 1998, 100% of the sale or lease described in Subsection (14)(a)(ii) is exempt;

(c) for purposes of this Subsection (14), the commission shall by rule define the terms "new or expanding operations" and "establishment"; and

(d) on or before October 1, 1991, and every five years after October 1, 1991, the commission shall:

(i) review the exemptions described in Subsection (14)(a) and make recommendations to the Revenue and Taxation Interim Committee concerning whether the exemptions should be continued, modified, or repealed; and

(ii) include in its report:

(A) the cost of the exemptions;

(B) the purpose and effectiveness of the exemptions; and

(C) the benefits of the exemptions to the state;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in

Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title

to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) intrastate movements of:

(a) freight by common carriers; or

(b) passengers:

(i) by taxicabs as described in SIC Code 4121 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(ii) transported by an establishment described in SIC Code 4111 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget, if the transportation originates and terminates within a county of the first, second, or third class; or

(iii) transported by the following described in SIC Code 4789 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget:

(A) a horse-drawn cab; or

(B) a horse-drawn carriage[-:];

(17) sales of newspapers or newspaper subscriptions;

(18) (a) except as provided in Subsection (18)(b), tangible personal property~~[, other than money;]~~ traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

~~[(a)]~~ (i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

~~[(b)]~~ (ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined

by the commission; and

(b) notwithstanding Subsection (18)(a), Subsection (18)(a) does not apply to the following items of tangible personal property traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(19) sprays and insecticides used to control insects, diseases, and weeds for commercial production of fruits, vegetables, feeds, seeds, and animal products, but not those sprays and insecticides used in the processing of the products;

(20) (a) (i) sales of tangible personal property used or consumed primarily and directly in farming operations, including sales of irrigation equipment and supplies used for agricultural production purposes, whether or not they become part of real estate and whether or not installed by farmer, contractor, or subcontractor, but not sales of:

(A) machinery, equipment, materials, and supplies used in a manner that is incidental to farming, such as hand tools [~~with a unit purchase price not in excess of \$250,~~] and maintenance and janitorial equipment and supplies;

(B) tangible personal property used in any activities other than farming, such as office equipment and supplies, equipment and supplies used in sales or distribution of farm products, in research, or in transportation; or

(C) any vehicle required to be registered by the laws of this state, without regard to the use to which the vehicle is put; or

(ii) sales of parts used in the repairs or renovations of tangible personal property if the tangible personal property is exempt under Subsection (20)(a); or

(b) sales of hay;

(21) exclusive sale of locally grown seasonal crops, seedling plants, or garden, farm, or

other agricultural produce if sold by a producer during the harvest season;

(22) purchases [~~of food as defined in 7 U.S.C. Sec. 2012(g)~~] made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(23) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(24) property stored in the state for resale;

(25) property brought into the state by a nonresident for his or her own personal use or enjoyment while within the state, except property purchased for use in Utah by a nonresident living and working in Utah at the time of purchase;

(26) property purchased for resale in this state, in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(27) property upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(28) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(29) purchases [~~of supplemental foods as defined in 42 U.S.C. Sec. 1786(b)(14) under~~] made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(30) beginning on July 1, 1999, through June 30, 2004, sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(31) sales of boats of a type required to be registered under Title 73, Chapter 18, State Boating Act, boat trailers, and outboard motors which are made to bona fide nonresidents of this state and are not thereafter registered or used in this state except as necessary to transport them to the borders of this state;

~~[(32) sales of tangible personal property to persons within this state that is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state, except to the extent that the other state or political entity imposes a sales, use, gross receipts, or other similar transaction excise tax on it against which the other state or political entity allows a credit for taxes imposed by this chapter;]~~

~~[(33)]~~ (32) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah where a sales or use tax is not imposed, even if the title is passed in Utah;

~~[(34)]~~ (33) amounts paid for the purchase of telephone service for purposes of providing telephone service;

~~[(35)]~~ (34) fares charged to persons transported directly by a public transit district created under the authority of Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;

~~[(36)]~~ (35) sales or leases of vehicles to, or use of vehicles by an authorized carrier;

~~[(37)]~~ (36) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

~~[(38)]~~ (37) sales relating to schools and fundraising sales;

~~[(39)]~~ (38) sales or rentals of ~~[home]~~ durable medical equipment ~~[or supplies;]~~ if a person presents a prescription for the durable medical equipment;

~~[(40)]~~ (39) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection ~~[(40)]~~ (39)(a) that are not separately metered and accounted for in utility billings;

~~[(41)]~~ (40) sales to a ski resort of:

(a) snowmaking equipment;

- (b) ski slope grooming equipment;
- (c) passenger ropeways as defined in Section 72-11-102; or
- (d) parts used in the repairs or renovations of equipment or passenger ropeways

described in Subsections [~~(41)~~] (40)(a) through (c);

[~~(42)~~] (41) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

[~~(43)~~] (42) sales or rentals of the right to use or operate for amusement, entertainment, or recreation a coin-operated amusement device as defined in Section 59-12-102;

[~~(44)~~] (43) sales of cleaning or washing of tangible personal property by a coin-operated car wash machine;

[~~(45)~~] (44) sales by the state or a political subdivision of the state, except state institutions of higher education as defined in Section 53B-3-102, of:

- (a) photocopies; or
- (b) other copies of records held or maintained by the state or a political subdivision of the state;

[~~(46)~~] (45) (a) amounts paid:

(i) to a person providing intrastate transportation to an employer's employee to or from the employee's primary place of employment;

(ii) by an:

- (A) employee; or
- (B) employer; and

(iii) pursuant to a written contract between:

- (A) the employer; and
- (B) (I) the employee; or
- (II) a person providing transportation to the employer's employee; and

(b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may for purposes of Subsection [~~(46)~~] (45)(a) make rules defining what constitutes an employee's primary place of employment;

~~[(47)]~~ (46) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

~~[(48)]~~ (47) sales of telephone service charged to a prepaid telephone calling card;

~~[(49)]~~ (48) (a) sales of:

(i) hearing aids;

(ii) hearing aid accessories; or

(iii) except as provided in Subsection ~~[(49)]~~ (48)(b), parts used in the repairs or renovations of hearing aids or hearing aid accessories; and

(b) for purposes of this Subsection ~~[(49)]~~ (48), notwithstanding Subsection ~~[(49)]~~ (48)(a)(iii), "parts" does not include batteries;

~~[(50)]~~ (49) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

~~[(51)]~~ (50) (a) beginning on July 1, 2000, through June 30, 2002, amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f) relating to the Olympic Winter Games of 2002 if the amounts paid or charged are established by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 in accordance with requirements of the International Olympic Committee; and

(b) the State Olympic Officer and the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 shall make at least two reports during the 2000 interim:

(i) to the:

(A) Olympic Coordination Committee; and

(B) Revenue and Taxation Interim Committee; and

(ii) regarding the status of:

(A) agreements relating to the funding of public safety services for the Olympic Winter Games of 2002;

(B) agreements relating to the funding of services, other than public safety services, for the Olympic Winter Games of 2002;

(C) other agreements relating to the Olympic Winter Games of 2002 as requested by the Olympic Coordination Committee or the Revenue and Taxation Interim Committee;

(D) other issues as requested by the Olympic Coordination Committee or the Revenue and Taxation Interim Committee; or

(E) a combination of Subsections [~~(51)~~] (50)(b)(ii)(A) through (D);

[~~(52)~~] (51) (a) beginning on July 1, 2001, through June 30, 2004, and subject to Subsection [~~(52)~~] (51)(b), a sale or lease of semiconductor fabricating or processing materials regardless of whether the semiconductor fabricating or processing materials:

(i) actually come into contact with a semiconductor; or

(ii) ultimately become incorporated into real property;

(b) (i) beginning on July 1, 2001, through June 30, 2002, 10% of the sale or lease described in Subsection [~~(52)~~] (51)(a) is exempt;

(ii) beginning on July 1, 2002, through June 30, 2003, 50% of the sale or lease described in Subsection [~~(52)~~] (51)(a) is exempt; and

(iii) beginning on July 1, 2003, through June 30, 2004, the entire amount of the sale or lease described in Subsection [~~(52)~~] (51)(a) is exempt; and

(c) each year on or before the November interim meeting, the Revenue and Taxation Interim Committee shall:

(i) review the exemption described in this Subsection [~~(52)~~] (51) and make recommendations concerning whether the exemption should be continued, modified, or repealed; and

(ii) include in the review under this Subsection [~~(52)~~] (51)(c):

(A) the cost of the exemption;

(B) the purpose and effectiveness of the exemption; and

(C) the benefits of the exemption to the state;

[~~(53)~~] (52) an amount paid by or charged to a purchaser for accommodations and

services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

~~[(54)]~~ (53) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate; ~~[or]~~

~~[(55)]~~ (54) sales or uses of electricity, if the sales or uses are:

(a) made under a tariff adopted by the Public Service Commission of Utah only for purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy source, as designated in the tariff by the Public Service Commission of Utah; and

(b) for an amount of electricity that is:

(i) unrelated to the amount of electricity used by the person purchasing the electricity under the tariff described in Subsection ~~[(55)]~~ (54)(a); and

(ii) equivalent to the number of kilowatthours specified in the tariff described in Subsection ~~[(55)]~~ (54)(a) that may be purchased under the tariff described in Subsection ~~[(55)]~~ (54)(a)[-];

(55) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(56) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(57) sales of currency or coinage that constitute legal tender of the United States or of a foreign nation;

(58) (a) sales of an item described in Subsection (58)(b) if the item:

(i) does not constitute legal tender of any nation; and

(ii) has a gold, silver, or platinum content of 80% or more; and

(b) Subsection (58)(a) applies to a gold, silver, or platinum:

- (i) ingot;
- (ii) bar;
- (iii) medallion; or
- (iv) decorative coin;
- (59) amounts paid on a sale-leaseback transaction; and
- (60) sales of a prosthetic device:
  - (a) for use on or in a human;
  - (b) for which a prescription is issued; and
  - (c) to a person that presents a prescription for the prosthetic device.

Section 13. Section **59-12-104.1** is amended to read:

**59-12-104.1. Exemptions for religious or charitable institutions.**

(1) Except as provided in Section 59-12-104, sales made by religious or charitable institutions or organizations are exempt from the sales and use tax imposed by this chapter if the sale is made in the conduct of the institution's or organization's regular religious or charitable functions or activities.

(2) (a) Except as provided in Section 59-12-104, sales made to a religious or charitable institution or organization are exempt from the sales and use tax imposed by this chapter if the sale is made in the conduct of the institution's or organization's regular religious or charitable functions and activities.

(b) In order to facilitate the efficient administration of the exemption granted by this section, the exemption shall be administered as follows:

(i) [~~The~~] the exemption shall be at point of sale if the sale is in the amount of at least \$1,000[-];

(ii) [~~If~~] except as provided in Subsection (2)(b)(iii), if the sale is less than \$1,000, the exemption shall be in the form of a refund of sales or use taxes paid at the point of sale[-]; and

(iii) [~~Notwithstanding~~] notwithstanding Subsection (2)(b)(ii), the exemption under this [~~subsection~~] section shall be at point of sale if the sale is:

(A) made pursuant to a contract between the [~~vendor~~] seller and the charitable or

religious institution or organization; or

(B) made by a public utility, as defined in Section 54-2-1, to a religious or charitable institution or organization.

(3) (a) Religious or charitable institutions or organizations entitled to a refund under Subsection (2)(b)(ii) may apply to the commission for the refund of sales or use taxes paid.

(b) The commission shall designate the following by commission rule adopted in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

- (i) procedures for applying for a sales and use tax refund;
- (ii) standards for determining and verifying the amount of purchase at the point of sale;
- (iii) procedures for submitting a request for refund on a monthly basis anytime the taxpayer has accumulated \$100 or more in sales tax payments; and
- (iv) procedures for submitting a request for refund on a quarterly basis for any cumulative amount of sales tax payments.

Section 14. Section **59-12-104.2** is amended to read:

**59-12-104.2. Exemption for accommodations and services taxed by the Navajo Nation.**

- (1) As used in this section "tribal taxing area" means the geographical area that:
  - (a) is subject to the taxing authority of the Navajo Nation; and
  - (b) consists of:
    - (i) notwithstanding the issuance of a patent, all land:
      - (A) within the limits of an Indian reservation under the jurisdiction of the federal government; and
      - (B) including any rights-of-way running through the reservation; and
    - (ii) all Indian allotments the Indian titles to which have not been extinguished, including any rights-of-way running through an Indian allotment.
- (2) (a) Beginning July 1, 2001, amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) are exempt from the tax imposed by Subsection 59-12-103(2)(a)(i) to the extent permitted under Subsection (2)(b) if:

(i) the accommodations and services described in Subsection 59-12-103(1)(i) are provided within:

- (A) the state; and
- (B) a tribal taxing area;

(ii) the Navajo Nation imposes and collects a tax on the amounts paid by or charged to the purchaser for the accommodations and services described in Subsection 59-12-103(1)(i);

(iii) the Navajo Nation imposes the tax described in Subsection (2)(a)(ii) without regard to whether or not the purchaser that pays or is charged for the accommodations and services is an enrolled member of the Navajo Nation; and

(iv) the requirements of Subsection (4) are met.

(b) If but for Subsection (2)(a) the amounts paid by or charged to a purchaser for accommodations and services described in Subsection (2)(a) are subject to a tax imposed by Subsection 59-12-103(2)(a)(i):

(i) the ~~vendor~~ seller shall collect and pay to the state the difference described in Subsection (3) if that difference is greater than \$0; and

(ii) a person may not require the state to provide a refund, a credit, or similar tax relief if the difference described in Subsection (3) is equal to or less than \$0.

(3) The difference described in Subsection (2)(b) is equal to the difference between:

(a) the amount of tax imposed by Subsection 59-12-103(2)(a)(i) on the amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i); less

(b) the tax imposed and collected by the Navajo Nation on the amounts paid by or charged to a purchaser for the accommodations and services described in Subsection 59-12-103(1)(i).

(4) (a) If, on or after July 1, 2001, the Navajo Nation changes the tax rate of a tax imposed on amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i), any change in the amount of the exemption under Subsection (2) as a result of the change in the tax rate is not effective until the first day of the

calendar quarter after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (4)(b) from the Navajo Nation.

(b) The notice described in Subsection (4)(a) shall state:

(i) that the Navajo Nation has changed or will change the tax rate of a tax imposed on amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i);

(ii) the effective date of the rate change on the tax described in Subsection (4)(b)(i); and

(iii) the new rate of the tax described in Subsection (4)(b)(i).

(5) Beginning with the 2006 interim, the Revenue and Taxation Interim Committee:

(a) shall review the exemption provided for in this section one or more times every five years;

(b) shall determine on or before the November interim meeting of the year in which the Revenue and Taxation Interim Committee reviews the exemption provided for in this section whether the exemption should be:

(i) continued;

(ii) modified; or

(iii) repealed; and

(c) may review any other issue related to the exemption provided for in this section as determined by the Revenue and Taxation Interim Committee.

Section 15. Section **59-12-105** is amended to read:

**59-12-105. Certain exempt sales to be reported -- Penalties.**

(1) (a) An owner[~~,-vendor,~~] or purchaser shall report to the commission the amount of sales or uses exempt under Subsection 59-12-104(14), [~~(20);~~] (39), (40), [~~(41);~~] or [~~(52)~~] (51).

(b) The report required by Subsection (1)(a) shall be filed:

(i) with the commission; and

(ii) on a form prescribed by the commission.

(c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules providing:

(i) the information required to be included in the report described in Subsection (1)(a);  
and

(ii) one or more due dates for filing the report described in Subsection (1)(a).

(2) Except as provided in Subsections (3) and (4), if the owner~~[-, vendor,]~~ or purchaser fails to report the full amount of the exemptions granted under Subsection 59-12-104(14), ~~[(20); (39), (40), [(41);] or [(52)]~~ (51) on the ~~[owner's, vendor's, or purchaser's original filed return]~~ report required by Subsection (1)(a), the commission shall impose a penalty equal to the lesser of:

(a) 10% of the sales and use tax that would have been imposed if the exemption had not applied; or

(b) \$1,000.

(3) Notwithstanding Subsection (2), the commission may not impose a penalty under Subsection (2) if the owner~~[-, vendor,]~~ or purchaser files an amended ~~[return]~~ report:

(a) containing the amount of the exemption [prior to]; and

(b) before the owner~~[-, vendor,]~~ or purchaser [receiving] receives a notice of audit from the commission.

(4) (a) Notwithstanding Subsection (2), the commission may waive, reduce, or compromise a penalty imposed under this section if the commission finds there are reasonable grounds for the waiver, reduction, or compromise.

(b) If the commission waives, reduces, or compromises a penalty under Subsection (4)(a), the commission shall make a record of the grounds for waiving, reducing, or compromising the penalty.

Section 16. Section **59-12-106** is amended to read:

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

(1) (a) It is unlawful for any person required ~~[by this chapter]~~ to collect ~~[sales or use tax,]~~ a tax under this chapter to engage in business within the state without first having obtained a license to do so. ~~[This]~~

(b) The license described in Subsection (1)(a):

(i) shall be granted and issued by the commission~~[-The license];~~

(ii) is not assignable ~~[and];~~

(iii) is valid only for the person in whose name ~~[it] the license~~ is issued;

(iv) is valid until ~~[that];~~

(A) the person described in Subsection (1)(b)(iii):

(I) ceases to do business; or

(II) changes ~~[his] that person's~~ business address~~[-];~~ or ~~[until]~~

(B) the license is revoked by the commission~~[-Such license];~~ and

(v) shall be granted by the commission only upon an application ~~[stating] that:~~

(A) states the name and address of the applicant; and

(B) provides other information the commission may require.

(c) At the time ~~[of] a person makes an~~ application under Subsection (1)(b)(v), the commission shall notify the applicant of the responsibilities and liability of a business owner successor under Section 59-12-112.

(d) If business is transacted at two or more separate places by one person, a separate license for each place of business ~~[shall be]~~ is required.

(e) (i) The commission shall, on a reasonable notice and after a hearing, revoke the license of any person violating any provisions of this chapter ~~[and no]~~.

(ii) A license may not be issued to ~~[such] a person described in Subsection (1)(e)(i) until~~ the ~~[taxpayer] person~~ has complied with the requirements of this chapter.

(f) Any person required ~~[by this chapter] to collect~~ ~~[sales or use tax] a tax under this chapter~~ within this state without having secured a license to do so~~[-];~~ is guilty of a criminal violation as provided in Section 59-1-401. ~~[No]~~

(g) A license:

(i) is not required for any person engaged exclusively in the business of selling commodities ~~[which] that~~ are exempt from taxation under this chapter~~[-A license];~~ and

(ii) shall be issued to the ~~[applicant] person~~ by the commission without a license fee.

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

(i) bearing the name and address of the purchaser [~~to the effect~~]; and

(ii) providing that the property, item, or service was exempted under Section 59-12-104.

~~[The exemption certificates]~~

(b) An exemption certificate described in Subsection (2)(a):

(i) shall contain information as prescribed by the commission[~~;~~]; and

(ii) if a paper exemption certificate is used, shall be signed by the purchaser.

(c) Except as provided in Subsection (2)(d), a seller that has taken an exemption certificate from a purchaser in accordance with this Subsection (2) with respect to a transaction is not liable to collect a tax under this chapter:

(i) on that transaction; and

(ii) if the commission or a court of competent jurisdiction subsequently determines that the purchaser improperly claimed the exemption.

(d) Notwithstanding Subsection (2)(c), Subsection (2)(c) does not apply to a seller that:

(i) fraudulently fails to collect a tax under this chapter; or

(ii) solicits a purchaser to participate in improperly claiming an exemption from a tax under this chapter.

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

Section 17. Section **59-12-107** is amended to read:

**59-12-107. Collection, remittance, and payment of tax by sellers or other persons --**

**Voluntary collection may not be used as a factor in determining whether a seller is required to pay certain taxes, fees, or charges -- Returns -- Direct payment by purchaser of vehicle -- Other liability for collection -- Credits -- Treatment of bad debt -- Deposit and sale of security -- Penalties.**

(1) (a) [~~Each vendor~~] Except as provided in Sections 59-12-107.1 through 59-12-107.3, each seller shall pay or collect and remit the sales and use taxes imposed by this chapter if within this state the [~~vendor~~] seller:

- (i) has or utilizes:
  - (A) an office;
  - (B) a distribution house;
  - (C) a sales house;
  - (D) a warehouse;
  - (E) a service enterprise; or
  - (F) a place of business similar to Subsections (1)(a)(i)(A) through (E);
- (ii) maintains a stock of goods;
- (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the

state, unless the [~~vendor's~~] seller's only activity in the state is:

- (A) advertising; or
- (B) solicitation by:
  - (I) direct mail;
  - (II) electronic mail;
  - (III) the Internet;
  - (IV) telephone; or
  - (V) a means similar to Subsections (1)(a)(iii)(A) or (B);
- (iv) regularly engages in the delivery of property in the state other than by:
  - (A) common carrier; or
  - (B) United States mail; or
- (v) regularly engages in an activity directly related to the leasing or servicing of property

located within the state.

(b) If a ~~[vendor]~~ seller does not meet one or more of the criteria provided for in Subsection (1)(a), the ~~[vendor]~~ seller:

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

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

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

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

(c) The voluntary collection and remittance of a tax under this chapter may not be used as a factor in determining whether a seller is required by Subsection (1)(a) to:

(i) pay a tax, fee, or charge under:

(A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(B) Section 19-6-716;

(C) Section 19-6-805;

(D) Section 69-2-5.5; or

(E) this title; or

(ii) collect and remit a tax, fee, or charge under:

(A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(B) Section 19-6-716;

(C) Section 19-6-805;

(D) Section 69-2-5.5; or

(E) this title.

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

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

- (ii) the person:
  - (A) stores the tangible personal property in the state;
  - (B) uses the tangible personal property in the state; or
  - (C) consumes the tangible personal property in the state.

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

(2) (a) ~~[Each vendor]~~ Except as provided in Sections 59-12-107.1 through 59-12-107.3, a seller shall collect ~~[the sales or use tax]~~ a tax under this chapter from ~~[the]~~ a purchaser.

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

(c) (i) Each ~~[vendor]~~ seller shall:

- (A) give the purchaser a receipt for the use tax collected; or
- (B) bill the use tax as a separate item and declare the name of this state and the ~~[vendor's]~~ seller's use tax license number on the invoice for the sale.

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

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

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

(f) If any ~~[vendor]~~ seller, during any reporting period, collects as a tax an amount in

excess of the lawful state and local percentage of total taxable sales allowed under this [~~part and Part 2, Local Sales and Use Tax Act~~] chapter, the [~~vendor~~] seller shall remit to the commission the full amount of the tax imposed under this [~~part and Part 2, Local Sales and Use Tax Act~~] chapter, plus any excess.

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

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

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

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

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

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

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

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

(g) The commission may require returns and payment of the tax to be made for other than quarterly periods if [~~it~~] the commission considers it necessary in order to ensure the payment

of the tax imposed by this chapter.

(h) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules requiring a seller to file an information return:

(i) for information required by this chapter that is not included in any sales and use tax return developed in accordance with the agreement; and

(ii) not more frequently than every six months.

(4) (a) (i) Notwithstanding Subsection (3) and except as provided in Subsection (4)(a)(ii), a tax collected in accordance with Subsection (1)(b) by a seller described in Subsection (4)(d) shall be due and payable:

(A) to the commission;

(B) annually; and

(C) on or before the last day of the month immediately following the last day of each calendar year.

(ii) Notwithstanding Subsection (4)(a)(i), the commission may require that a tax collected in accordance with Subsection (1)(b) by a seller described in Subsection (4)(d) be due and payable:

(A) to the commission; and

(B) on the last day of the month immediately following any month in which the seller has accumulated a total of at least \$1,000 in agreement sales and use tax.

(b) (i) A tax remitted to the commission under Subsection (4)(a) shall be accompanied by a return that:

(A) contains information prescribed by the commission; and

(B) is in a form prescribed by the commission.

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules prescribing:

(A) the information required to be contained in a return described in Subsection (4)(b)(i);  
and

(B) the form of the return described in Subsection (4)(b)(i).

(c) The tax collected in accordance with this Subsection (4) calculated in the return described in Subsection (4)(b) shall be calculated on the basis of the total amount of taxable transactions described in Subsection 59-12-103(1) conducted by a seller described in Subsection (4)(d), including:

(i) a cash transaction; and

(ii) a charge transaction.

(d) This Subsection (4) applies to a seller that is:

(i) registered under the agreement;

(ii) does not meet one or more of the criteria provided for in Subsection (1)(a) to be required to collect a tax under this chapter; and

(iii) not a:

(A) model 1 seller;

(B) model 2 seller; or

(C) model 3 seller.

~~[(4) Or]~~ (5) (a) Notwithstanding Subsection (3), on each vehicle sale made by other than a regular licensed vehicle dealer, the purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to titling or registration under the laws of this state.

(b) The commission shall collect the tax described in Subsection (5)(a) when the vehicle is titled or registered.

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

(a) the retailer represents that the personal property is purchased by the retailer for resale;  
and

(b) the personal property [thereafter] is not subsequently resold. [Instead, the retailer is solely liable for the tax.]

~~[(6)]~~ (7) If any sale of property or service subject to the tax is made to a person prepaying

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

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

(8) (a) For purposes of this Subsection (8):

(i) Except as provided in Subsection (8)(a)(ii), "bad debt" is as defined in Section 166, Internal Revenue Code.

(ii) Notwithstanding Subsection (8)(a)(i), "bad debt" does not include:

(A) an amount included in the purchase price of tangible personal property or a service that is:

(I) not a transaction described in Subsection 59-12-103(1); or

(II) exempt under Section 59-12-104;

(B) a financing charge;

(C) interest;

(D) a tax imposed under this chapter on the purchase price of tangible personal property or a service;

(E) an uncollectible amount on tangible personal property that:

(I) is subject to a tax under this chapter; and

(II) remains in the possession of a seller until the full purchase price is paid;

(F) an expense incurred in attempting to collect any debt; or

(G) an amount that a seller does not collect on repossessed property.

(b) A seller may deduct bad debt from the total amount from which a tax under this chapter is calculated on a return.

(c) A seller may file a refund claim with the commission if:

(i) the amount of bad debt for the time period described in Subsection (8)(e) exceeds the amount of the seller's sales that are subject to a tax under this chapter for that same time period; and

(ii) as provided in Section 59-12-110.

(d) A bad debt deduction under this section may not include interest.

(e) A bad debt may be deducted under this Subsection (8) on a return for the time period during which the bad debt:

(i) is written off as uncollectible in the seller's books and records; and

(ii) would be eligible for a bad debt deduction:

(A) for federal income tax purposes; and

(B) if the seller were required to file a federal income tax return.

(f) If a seller recovers any portion of bad debt for which the seller makes a deduction or claims a refund under this Subsection (8), the seller shall report and remit a tax under this chapter:

(i) on the portion of the bad debt the seller recovers; and

(ii) on a return filed for the time period for which the portion of the bad debt is recovered.

(g) For purposes of reporting a recovery of a portion of bad debt under Subsection (8)(f), a seller shall apply amounts received on the bad debt in the following order:

(A) in a proportional amount:

(I) to the purchase price of the tangible personal property or service; and

(II) to the tax due under this chapter on the tangible personal property or service; and

(B) to:

(I) interest charges;

(II) service charges; and

(III) other charges.

(h) A seller's certified service provider may make a deduction or claim a refund for bad debt on behalf of the seller:

(i) in accordance with this Subsection (8); and

(ii) if the certified service provider credits or refunds the full amount of the bad debt deduction or refund to the seller.

(i) A bad debt may be allocated among the states that are members of the agreement if a seller's books and records support that allocation.

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

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

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

(ii) Notice under Subsection ~~[(8)]~~ (9)(c)(i) sent to the last-known address as it appears in the records of the commission is sufficient for the purposes of this requirement.

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

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

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

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

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

Section 18. Section **59-12-107.1** is enacted to read:

**59-12-107.1. Direct payment permit.**

(1) The commission may issue a direct payment permit to a seller that:

(a) obtains a license under Section 59-12-106;

(b) is required to remit taxes under this chapter by electronic funds transfer in accordance with Section 59-12-108;

(c) has a record of timely payment of taxes under this chapter as determined by the commission; and

(d) demonstrates to the commission that the seller has the ability to determine the appropriate location of a transaction:

(i) under:

(A) Section 59-12-205;

(B) Section 59-12-207.1; and

(C) Section 59-12-207.3; and

(ii) for each transaction for which the seller makes a purchase using the direct payment permit.

(2) A direct payment permit may not be used in connection with the following transactions:

(a) a purchase of the following purchased in the same transaction:

(i) prepared food; and

(ii) food and food ingredients;

(b) amounts paid or charged for accommodations and services described in Subsection 59-12-103(1)(i);

(c) amounts paid or charged for admission or user fees under Subsection 59-12-103(1)(f);

(d) a purchase of:

- (i) a motor vehicle;
- (ii) an aircraft;
- (iii) a watercraft;
- (iv) a modular home;
- (v) a manufactured home; or
- (vi) a mobile home;
- (e) amounts paid under Subsection 59-12-103(1)(b); or
- (f) sales under Subsection 59-12-103(1)(c).
- (3) The holder of a direct payment permit shall:
  - (a) present evidence of the direct payment permit to a seller at the time the holder of the direct payment permit makes a purchase using the direct payment permit;
  - (b) determine the appropriate location of a transaction under:
    - (i) (A) Section 59-12-205;
    - (B) Section 59-12-207.1; or
    - (C) Section 59-12-207.3; and
    - (ii) for each transaction for which the holder of the direct payment permit makes a purchase using the direct payment permit;
  - (c) notwithstanding Section 59-12-107 and subject to Subsection 59-12-107.2(4), determine the amount of any agreement sales and use tax due on each transaction for which the holder of the direct payment permit uses the direct payment permit;
  - (d) report and remit to the commission the agreement sales and use tax described in Subsection (3)(c) at the same time and in the same manner as the holder of the direct payment permit reports and remits a tax under this chapter; and
  - (e) maintain records:
    - (i) that indicate the appropriate location of a transaction:
      - (A) under:
        - (I) Section 59-12-205;
        - (II) Section 59-12-207.1; or

(III) Section 59-12-207.3; and

(B) for each transaction for which a purchase is made using the direct payment permit;  
and

(ii) necessary to determine the amount described in Subsection (3)(c) for each transaction for which the holder of the direct payment permit uses the direct payment permit.

(4) A seller that is presented evidence of a direct payment permit at the time of a transaction:

(a) notwithstanding Section 59-12-107, may not collect agreement sales and use tax on the transaction;

(b) shall, for a period of three years from the date the seller files a return with the commission reporting the transaction, retain records to verify that the transaction was made using a direct payment permit; and

(c) notwithstanding Section 59-12-107, is not liable for agreement sales and use tax on the transaction.

(5) The holder of a direct payment permit may calculate the amount the holder of the direct payment permit may retain under Section 59-12-108 on the amount described in Subsection (3)(c):

(a) for each transaction for which the holder of the direct payment permit uses the direct payment permit; and

(b) that the holder of the direct payment permit remits to the commission under this section.

(6) The commission may revoke a direct payment permit issued under this section at any time if the holder of the direct payment permit fails to comply with any provision of this chapter.

(7) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules to administer this section.

Section 19. Section **59-12-107.2** is enacted to read:

**59-12-107.2. Services, computer software, or digital goods concurrently available for use in more than one location.**

(1) (a) Notwithstanding Section 59-12-107 and except as provided in Subsection (4), if a purchaser of a good or service described in Subsection (1)(b) that is not the holder of a direct payment permit under Section 59-12-107.1 knows at the time of purchase that the good or service described in Subsection (1)(b) will be concurrently available for use in more than one location, the purchaser shall:

(i) provide to the seller at the time of purchase a form:

(A) prescribed by the commission; and

(B) indicating that the good or service described in Subsection (1)(b) will be concurrently available for use in more than one location;

(ii) apportion the purchase price of the good or service described in Subsection (1)(b) among the locations determined in accordance with Section 59-12-205 and Subsection 59-12-207.1(9);

(iii) determine the agreement sales and use tax for each location determined in accordance with Section 59-12-205 and Subsection 59-12-207.1(9) by calculating the product of:

(A) the tax rate for the location determined in accordance with Section 59-12-205 and Subsection 59-12-207.1(9); and

(B) the amount of the purchase price apportioned to that location under Subsection (1)(a)(ii); and

(iv) remit to the commission the agreement sales and use tax calculated under Subsection (1)(a)(iii) for each location determined in accordance with Section 59-12-205 and Subsection 59-12-207.1(9).

(b) Subsection (1)(a) applies to:

(i) a service;

(ii) prewritten computer software delivered electronically; or

(iii) a digital good.

(2) The method a purchaser may use to make the apportionment required by Subsection (1) shall be:

(a) reasonable;

(b) uniform;

(c) consistent; and

(d) supported by the purchaser's business records as those business records exist at the time of the transaction.

(3) Upon receipt of the form described in Subsection (1)(a)(i):

(a) a seller:

(i) is not liable to collect or remit agreement sales and use tax for that transaction; and

(ii) shall keep a record of the form described in Subsection (1)(a)(i) for three years from the date the seller files a return with the commission reporting that transaction; and

(b) the form shall remain in effect:

(i) for all future transactions between the seller described in Subsection (3)(a) and the purchaser; and

(ii) until the form is revoked in writing by the purchaser.

(4) (a) Notwithstanding Subsection (1), a purchaser of a good or service described in Subsection (1)(b) is not required to provide to a seller the form described in Subsection (1)(a)(i) if the purchaser:

(i) knows at the time of purchase that the good or service described in Subsection (1)(b) will be concurrently available for use in more than one location; and

(ii) is the holder of a direct payment permit under Section 59-12-107.1.

(b) A purchaser described in Subsection (4)(a) is subject to Subsection (2) in determining the apportionment of agreement sales and use tax due on the good or service described in Subsection (1)(b).

Section 20. Section **59-12-107.3** is enacted to read:

**59-12-107.3. Collection, remittance, and payment of taxes on direct mail.**

(1) Notwithstanding Section 59-12-107 and except as provided in Subsection (6), a purchaser of direct mail that is not a holder of a direct payment permit under Section 59-12-107.1 shall provide to a seller at the time of the transaction:

(a) a form:

- (i) prescribed by the commission; and
  - (ii) indicating that the transaction is a direct mail transaction; or
  - (b) information that indicates the locations of the recipients to which the direct mail is delivered.
- (2) Upon receipt of a form described in Subsection (1)(a) a seller:
  - (a) is not liable to collect or remit agreement sales and use tax for that transaction; and
  - (b) shall keep a record of the form described in Subsection (1)(a) for three years from the date the seller files a return with the commission reporting that transaction.
- (3) The purchaser described in Subsection (1) shall in the same manner as a holder of a direct payment permit under Section 59-12-107.1:
  - (a) determine the amount of any agreement sales and use tax due on the transaction; and
  - (b) report and remit to the commission the agreement sales and use tax due on the transaction.
- (4) The form described in Subsection (1)(a) shall remain in effect:
  - (a) for all future transactions between the seller described in Subsection (2)(a) and the purchaser; and
  - (b) until the form is revoked in writing by the purchaser.
- (5) (a) Upon receipt of information described in Subsection (1)(b) from a purchaser that indicates the locations of the recipients to which direct mail is delivered, a seller shall collect and remit agreement sales and use tax according to the information provided by the purchaser.
  - (b) If a seller collects and remits to the commission agreement sales and use tax on a transaction in accordance with information provided by a purchaser under Subsection (5)(a), unless the seller acts in bad faith, the seller is not liable for any further obligation to collect or remit to the commission agreement sales and use tax on the transaction.
- (6) Notwithstanding Subsection (1), if a purchaser of direct mail provides a seller with a direct payment permit under Section 59-12-107.1, the purchaser may not be required to provide to the seller:
  - (a) the form required by Subsection (1)(a); or

(b) the information required by Subsection (1)(b).

(7) A seller shall collect and remit agreement sales and use tax as required by Section 59-12-107 if a purchaser of direct mail does not provide the seller with:

(a) a direct payment permit under Section 59-12-107.1; or

(b) the:

(i) form required by Subsection (1)(a); or

(ii) information required by Subsection (1)(b).

Section 21. Section **59-12-108** is amended to read:

**59-12-108. Monthly payment -- Penalty -- Amount of tax a seller may retain.**

(1) ~~[Any person whose]~~ (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this [part, Part 2, The Local Sales and Use Tax Act, Part 5, Public Transit Tax, Part 10, Highways Tax, Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act, Subsection 59-12-603(1)(a)(i), and Subsection 59-12-603(1)(a)(ii), was] chapter of \$50,000 or more for the previous calendar year shall[, on or before the last day of the month next succeeding each calendar month,];

(i) file a return with the commission [a return];

(A) monthly on or before the last day of the month immediately following the month for which the seller collects a tax under this chapter; and

(B) for the [preceding monthly period. The vendor shall] month for which the seller collects a tax under this chapter; and

(ii) except as provided in Subsection (1)(c), remit with the return required by Subsection (1)(a)(i) the amount [of the state and local tax required under this part, Part 2, The Local Sales and Use Tax Act, Part 5, Public Transit Tax, Part 10, Highways Tax, Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act, Subsection 59-12-603(1)(a)(i), and Subsection 59-12-603(1)(a)(ii), to be collected or paid for the period covered by the return. The] the person is required to remit to the commission for each tax, fee, or charge described in Subsection (1)(b):

(A) if that seller's tax liability under this chapter for the previous calendar year is less than \$96,000, by any method permitted by the commission; or

(B) if that seller's tax liability under this chapter for the previous calendar year is \$96,000 or more, by electronic funds transfer.

(b) Subsections (1)(a)(i) and (ii) apply to the following taxes, fees, or charges:

(i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(ii) a fee under Section 19-6-716;

(iii) a fee under Section 19-6-805;

(iv) a charge under Section 69-2-5.5; or

(v) a tax under this chapter.

(c) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules providing for a method for making same-day payments other than by electronic funds transfer if making payments by electronic funds transfer fails.

(d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall establish by rule [the] procedures and [guidelines in] requirements for determining the [tax liability] amount a seller is required to remit to the commission under this [section] Subsection (1).

~~[(2) Any person whose tax liability under this part, Part 2, The Local Sales and Use Tax Act, Part 5, Public Transit Tax, Part 10, Highways Tax, Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act, Subsection 59-12-603(1)(a)(i), and Subsection 59-12-603(1)(a)(ii), was \$96,000 or more for the previous year shall remit the monthly amount of state and local tax payment due under this section to the tax commission by electronic funds transfer.]~~

~~[(3)] (2) (a) Except as provided in Subsection [(3)] (2)(b), a [vendor who is required to remit taxes monthly under this section] seller subject to Subsection (1) or a seller described in Subsection (3) may retain each month an amount not to exceed:~~

~~(i) 1.5% of [the total monthly sales tax collected under Part 1 of this chapter, and] any amounts the seller is required to remit to the commission:~~

(A) for the month for which the seller is filing a return in accordance with Subsection

(1); and

(B) under this part; and

(ii) 1% of [the total monthly sales tax collected under Part 2, The Local Sales and Use Tax Act, Part 5, Public Transit Tax, Part 10, Highways Tax, Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act, Subsection 59-12-603(1)(a)(i), and Subsection 59-12-603(1)(a)(ii), for the cost to it of collecting and remitting sales and use taxes to the commission on a monthly basis.] any amounts the seller is required to remit to the commission:

(A) for the month for which the seller is filing a return in accordance with Subsection

(1); and

(B) under:

(I) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(II) Part 2, Local Sales and Use Tax Act;

(III) Part 5, Public Transit Tax;

(IV) Part 10, Highways or Public Transit System Tax;

(V) Subsection 59-12-603(1)(a)(i); or

(VI) Subsection 59-12-603(1)(a)(ii).

(b) [~~A~~] Notwithstanding Subsection (2)(a), a state government entity that is required to remit taxes monthly [under this chapter] in accordance with Subsection (1) may not retain [any portion of the taxes it collects to cover the costs of collecting and remitting sales and use taxes to the commission] any amount under Subsection (2)(a).

(3) A seller that has a tax liability under this chapter for the previous calendar year of less than \$50,000 may:

(a) voluntarily meet the requirements of Subsection (1); and

(b) if the seller voluntarily meets the requirements of Subsection (1), retain the amounts allowed by Subsection (2)(a).

(4) Penalties for late payment shall be as provided in Section 59-1-401.

Section 22. Section **59-12-110** is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

(A) authorizing the extension; and

(B) providing for the length of the extension.

(d) Notwithstanding Subsection (2)(b), a seller that files a claim for a refund under Subsection 59-12-107(8)(c) for bad debt shall file the claim with the commission within three years from the date on which the seller could first claim the refund for the bad debt.

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

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

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

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

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

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

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

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

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

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

(i) negligence;

(ii) intentional disregard of law or rule; or

(iii) fraud with intent to evade the tax.

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

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

deficiency, penalty, or interest if the commission determines:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 23. Section **59-12-110.1** is enacted to read:

**59-12-110.1. Refund or credit for taxes overpaid by a purchaser.**

(1) Subject to the other provisions of this section, a purchaser may request from a seller a refund or credit of any amount that:

(a) the purchaser overpaid in taxes under this chapter; and

(b) was collected by the seller.

(2) (a) Except as provided in Subsection (2)(b), the procedure described in Subsection (1) is in addition to the process for a taxpayer to file a claim for a refund or credit with the commission under Section 59-12-110.

(b) Notwithstanding Subsection (2)(a):

(i) the commission is not required to make a refund or credit of an amount for which as of the date the refund or credit is to be given the purchaser has requested or received a refund or credit from the seller; and

(ii) a seller is not required to refund or credit an amount for which as of the date the refund is to be given the purchaser has requested or received a refund or credit from the commission.

(3) A purchaser may not bring a cause of action against a seller for a refund or credit described in Subsection (1):

(a) unless the purchaser provided the seller written notice that:

(i) the purchaser requests the refund or credit described in Subsection (1); and

(ii) contains the information necessary for the seller to determine the validity of the

request; and

(b) sooner than 60 days after the day on which the seller receives the written notice described in Subsection (3)(a).

Section 24. Section **59-12-113** is amended to read:

**59-12-113. Collection of tax by warrant.**

(1) (a) A tax due and unpaid under this chapter:

(i) constitutes a debt due the state from the [~~vendor~~] seller; and

(ii) may be collected, together with interest, penalty, and costs, by appropriate judicial proceeding. [~~This~~]

(b) The remedy described in Subsection (1)(a) shall be in addition to all other existing remedies.

(2) (a) If the tax imposed by this chapter or any portion of [~~it~~] the tax is not paid when due and if the [~~vendor~~] seller liable for the payment of the amount has not regularly followed the procedure outlined in Section 59-12-114, the commission may issue a warrant in duplicate, under [~~its~~] the commission's official seal, directed to the sheriff of any county of the state commanding [~~him~~] the sheriff to levy upon and sell the real and personal property of a delinquent taxpayer found within [~~his~~] that county for the payment of the tax due, with the added penalties, interest, and costs. [~~Such~~]

(b) The warrant described in Subsection (2)(a) and the money collected under [~~it~~] the warrant shall be returned to the commission by a time to be specified in the warrant, not more than 60 days from the date of the warrant.

(c) (i) Immediately upon receipt of the warrant in duplicate, the sheriff shall file the duplicate with the clerk of the district court in [~~his~~] the county described in Subsection (2)(a).

(ii) The clerk shall [~~then~~] enter in the judgment docket, in the column for judgment debtors, the name of the delinquent taxpayer mentioned in the warrant described in Subsection (2)(a) and, in appropriate columns, the amount of tax, penalties, interest, and costs for which the warrant is issued and the date when [~~such~~] the duplicate is filed under Subsection (2)(c)(i).

(iii) The amount of [~~such~~] the docketed warrant under Subsection (2)(c)(ii) shall:

(A) have the force and effect of an execution against all personal property of the delinquent taxpayer; and ~~shall~~

(B) become a lien upon the real property of the delinquent taxpayer in the same manner as a judgment ~~duty~~;

(I) rendered by any district court; and

(II) docketed in the office of the clerk ~~thereof~~ of that district court.

(d) The sheriff shall then proceed upon the same in all respects, with like effect, and in the same manner as is prescribed by law in respect to executions issued against property upon judgments of a court of record and shall be entitled to the same fees for ~~his~~ the sheriff's services in executing the warrant, to be collected in the same manner.

Section 25. Section **59-12-115** is amended to read:

**59-12-115. Delinquent payment -- Sufficiency of notice -- Limitation.**

(1) If any person is delinquent in the payment of the amount of tax required to be paid by ~~him~~ that person, the commission may give notice of the amount of ~~such~~ the delinquency:

(a) by registered mail; and

(b) to all persons having in their possession, or under their control, any credits or other personal property belonging to such person, or owing any debts to such person at the time of the receipt by them of such notice.

(2) Any person ~~so~~ notified under Subsection (1) may not transfer ~~nor~~ or make any other disposition of such credits, other personal property, or debts until:

(a) the commission has consented to a transfer or disposition~~[-]~~; or ~~until~~

(b) 20 days have elapsed after the receipt of such notice.

(3) All persons ~~so~~ notified under Subsection (1) shall, within five days after receipt of ~~such~~ the notice, advise the commission of any and all ~~such~~ credits, other personal property, or debts in their possession, under their control, or owing by them, as the case may be.

~~(2)~~ (4) Any notice required to be mailed to ~~the vendor~~ a seller under this chapter, if mailed to ~~him~~ the seller at ~~his~~ the seller's last-known address as shown on the records of the commission, is sufficient for the purposes of this chapter.

~~[(3)]~~ (5)(a) At any time within three years after any person is delinquent in the payment of any amount required to be paid, the commission may collect the amount by appropriate judicial proceedings. ~~[This]~~

(b) The remedy described in Subsection (5)(a) shall be in addition to all other existing remedies.

~~[(4)]~~ (6)(a) Each remedy of the state shall be cumulative for the collection of an amount due ~~[it]~~ to the state under this chapter. ~~[No]~~

(b) An action taken by the commission may not be construed to be an election on the part of the state or any ~~[of its officers]~~ officer of the state to pursue any remedy under this section to the exclusion of any other remedy under this chapter.

Section 26. Section **59-12-117** is amended to read:

**59-12-117. Refusal to make or falsifying returns -- Penalties -- Criminal violations.**

(1) It is unlawful for any ~~[vendor]~~ seller to refuse to:

(a) make any return required to be made ~~[in]~~ under this chapter ~~[or to]~~;

(b) make any false or fraudulent return or false statement on any return ~~[or to]~~;

(c) evade the payment of ~~[the]~~ a tax, or any part ~~[thereof]~~ of a tax imposed by this chapter; or ~~[for any person to]~~

(d) aid or abet another in any attempt to evade the payment of the tax or any part imposed by this chapter.

(2) Any person violating any of the provisions of this chapter, except as provided in Section 59-12-107, ~~[shall be]~~ is guilty of a criminal violation as provided in Section 59-1-401.

(3) In addition to the ~~[foregoing]~~ penalties described in Subsection (2), any person who knowingly swears to or verifies any false or fraudulent return, or any return containing any false or fraudulent statement is guilty of the offense of perjury and on conviction ~~[thereof]~~ of perjury shall be punished in the manner provided by law.

(4) Any company making a false return or a return containing a false statement ~~[as aforesaid]~~ is guilty of a criminal violation as provided in Section 59-1-401.

~~[(2)]~~ (5) Any person failing or refusing to furnish any return required to be made, failing

or refusing to furnish a supplemental return or other data required by the commission, or rendering a false or fraudulent return ~~[shall be]~~ is guilty of a criminal violation as provided in Section 59-1-401 for each ~~[such]~~ offense.

~~[(3)]~~ (6) Any person required to make, render, sign, or verify any report under this chapter, who makes any false or fraudulent return with intent to defeat or evade the assessment or determination of amount due required by law to be made ~~[shall be]~~ is guilty of a criminal violation as provided in Section 59-1-401 for each ~~[such]~~ offense.

~~[(4)]~~ (7) Any violation of the provisions of this chapter, except as otherwise provided, shall be a criminal violation as provided in Section 59-1-401.

Section 27. Section **59-12-121** is enacted to read:

**59-12-121. Amnesty.**

(1) As used in this section, "amnesty" means that a seller is not required to pay the following amounts that the seller would otherwise be required to pay:

(a) a tax, fee, or charge under:

(i) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(ii) Section 19-6-714;

(iii) Section 19-6-805;

(iv) Section 69-2-5.5; or

(v) this chapter;

(b) a penalty on a tax, fee, or charge described in Subsection (1)(a); or

(c) interest on a tax, fee, or charge described in Subsection (1)(a).

(2) The commission shall grant a seller amnesty under this section if:

(a) the seller was not licensed under Section 59-12-106 at any time during the 12-month period prior to July 1, 2004;

(b) the seller obtains a license under Section 59-12-106 within a 12-month period beginning on July 1, 2004; and

(c) the seller is registered under the agreement.

(3) A seller may not receive amnesty under this section for a tax, fee, or charge:

(a) collected by the seller;  
(b) remitted to the commission by the seller;  
(c) that the seller is required to remit to the commission on the seller's purchases; or  
(d) arising from a transaction that occurred within a time period that is under audit by the commission if:

(i) the seller has received notice of the commencement of an audit prior to obtaining a license under Section 59-12-106; and

(ii) (A) the audit described in Subsection (3)(d)(i) has not been completed; or  
(B) the seller has not exhausted all administrative and judicial remedies in connection with the audit described in Subsection (3)(d)(i).

(4) (a) Except as provided in Subsection (4)(b), amnesty granted to a seller by the commission under this section:

(i) applies to the time period during which a seller was not licensed under Section 59-12-106; and

(ii) remains in effect if, for a period of three years, the seller:

(A) remains registered under the agreement;  
(B) collects a tax, fee, or charge on a transaction subject to a tax, fee, or charge described in Subsection (1)(a); and

(C) remits to the commission all taxes, fees, or charges described in Subsection (4)(a)(ii).

(b) Notwithstanding Subsection (4)(a), a seller may not be granted amnesty under this section if with respect to a tax, fee, or charge for which the seller would otherwise be granted amnesty under this section, the seller commits:

(i) fraud; or

(ii) an intentional misrepresentation of a material fact.

(5) (a) If a seller does not meet the requirements of Subsection (4)(a)(ii), the commission shall require the seller to pay the amounts described in Subsection (1) that the seller would have otherwise been required to pay.

(b) Notwithstanding Section 59-12-110, and for purposes of requiring a seller to pay an

amount described in Subsection (5)(a), the time period for the commission to make an assessment under Section 59-12-110 shall be extended for an additional three years.

Section 28. Section **59-12-204** is amended to read:

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

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

(2) (a) Except as provided in Subsections (2)(b) [~~and (c), (6)(b) and (c),~~] and [~~59-12-205(2), such~~] 59-12-207.1(7)(c), the tax ordinance under Subsection (1) shall include a provision imposing a tax upon every transaction listed in Subsection 59-12-103(1) made within a county, including areas contained within the cities and towns [thereof] located in the county:

(i) at the rate of [3/4% or any fractional part of such 3/4%] 1% of the purchase price paid or charged[-]; and

(ii) if the transaction is consummated within the county in accordance with Section 59-12-205.

(b) [(†)] Notwithstanding Subsection (2)(a), a tax ordinance under this Subsection (2) shall include a provision prohibiting a county, city, or town from imposing a tax under this section on[~~-(A)~~] the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104[~~-, and~~].

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(7) (a) Notwithstanding any other provision of this section, from January 1, 1990;~~

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

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

~~[(e)] (7) (a)~~ Notwithstanding any other provision of this section, beginning on July 1, 1999, the commission shall:

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

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

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

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

~~[(d)] (b)~~ Notwithstanding any other provision of this section, beginning July 1, 2000, the commission shall:

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

(A) by each county and by each city and town within that county whose legislative body consents by resolution to the commission's retaining and depositing sales and use tax revenues as provided in this Subsection (7)~~[(d)] (b)~~; and

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

(ii) deposit the revenues described in Subsection (7)~~[(d)] (b)~~(i) into a special fund of the county, or a city, town, or other political subdivision of the state located within that county, that has issued bonds to finance sports or recreational facilities or that is leasing sports or recreational facilities, in order to repay those bonds or to pay the lease payments; and

(iii) continue to deposit those revenues into the special fund only as long as the bonds or leases are outstanding.

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

Section 29. Section **59-12-205** is amended to read:

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

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

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

~~[(b) Except as provided in Subsections 59-12-204(2)(b) and (c) and (6)(b) and (c), after such notice is given, beginning on January 1, 1990 a county, city, or town may increase the tax authorized by this part to a total of 1% of the purchase price paid or charged.]~~

~~[(c)]~~ (2) (a) Except as provided in ~~[Subsections (2)(d);~~ Subsection (3)~~[-and (4)]:~~

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

(ii) notwithstanding Sections 59-12-207.1 through 59-12-207.4, 50% of each dollar collected from the sales and use tax authorized by this part shall be paid to each county, city, and town ~~[providing notice under this section, based upon the point of sale or use of]~~ on the basis of the location where the transaction is consummated under Subsection (2)(b).

(b) For purposes of Subsection (2)(a), the location where a transaction is consummated is determined as follows:

(i) except as provided in Subsections (2)(b)(ii) through (iv), the location where a transaction is consummated is the place of business of the seller;

(ii) notwithstanding Subsection (2)(b)(i), if tangible personal property is shipped from outside the state, the location where the transaction is consummated is the same as the location of the transaction determined under:

(A) Section 59-12-207.1;

(B) Section 59-12-207.2;

(C) Section 59-12-207.3; or

(D) Section 59-12-207.4;

(iii) notwithstanding Subsection (2)(b)(i) and subject to Subsection (2)(c), if the transaction is made from a location in the state other than a fixed place of business in the state, the location where the transaction is consummated is the same as the location of the transaction determined under:

(A) Section 59-12-207.1;

(B) Section 59-12-207.2;

(C) Section 59-12-207.3; or

(D) Section 59-12-207.4; or

(iv) if the transaction involves the sale of a telephone service, the location where the transaction is consummated is the same as the location of the transaction determined under Section 59-12-207.4.

(c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a fixed place of business in the state.

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

(3) (a) Notwithstanding ~~[any provision of]~~ Subsection (2), a county, city, or town ~~[that has given notice under this section]~~ may not receive a tax revenue distribution less than ~~[3/4 of 1%]~~ .75% of the taxable sales within ~~[its]~~ the boundaries of the county, city, or town.

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

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

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

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

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

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

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

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

~~[(d) Notwithstanding any other provision of this section, beginning July 1, 2000, the commission shall:]~~

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

~~[(A) by each county and by each city and town within that county whose legislative body consents by resolution to the commission's retaining and depositing sales and use tax revenues as provided in this Subsection (4)(d); and]~~

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

~~[(ii) deposit the revenues described in Subsection (4)(d)(i) into a special fund of the county, or a city, town, or other political subdivision of the state located within that county, that has issued bonds to finance sports or recreational facilities or that is leasing sports or recreational facilities, in order to repay those bonds or to pay the lease payments; and]~~

~~[(iii) continue to deposit those revenues into the special fund only as long as the bonds or leases are outstanding.]~~

~~[(5)] (4) (a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Census Bureau.~~

~~(b) 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.~~

~~[(6)] (5) The population of a county for purposes of this section shall be determined solely from the unincorporated area of the county.~~

Section 30. Section **59-12-207.1** is enacted to read:

**59-12-207.1. Definitions -- Location of certain transactions -- Reports to commission -- Direct payment provision for a seller making certain purchases -- Exceptions.**

(1) As used in this section:

(a) (i) "Receive" and "receipt" mean:

(A) taking possession of tangible personal property;

(B) making first use of services; or

(C) for a digital good, the earlier of:

(I) taking possession of tangible personal property; or

(II) making first use of services.

(ii) "Receive" and "receipt" do not include possession by a shipping company on behalf of a purchaser.

(b) "Transportation equipment" means:

(i) a locomotive or railcar that is utilized for the carriage of persons or property in interstate commerce;

(ii) a truck or truck-tractor with a gross vehicle weight rating of 10,001 pounds or more that is:

(A) registered under Section 41-1a-301; and

(B) operated under the authority of a carrier authorized and certificated:

(I) by the United States Department of Transportation or another federal authority; and

(II) to engage in the carriage of persons or property in interstate commerce;

(iii) a trailer, semitrailer, or passenger bus that is:

(A) registered under Section 41-1a-301; and

(B) operated under the authority of a carrier authorized and certificated:

(I) by the United States Department of Transportation or another federal authority; and

(II) to engage in the carriage of persons or property in interstate commerce;

(iv) an aircraft that is operated by an air carrier authorized and certificated:

(A) by the United States Department of Transportation or another federal or foreign authority; and

(B) to engage in the carriage of persons or property in interstate commerce; or

(v) a container designed for use on, or a component part attached or secured on an item listed in Subsections (1)(b)(i) through (iv).

(2) Except as provided in Subsection (11), if tangible personal property or a service that is subject to taxation under this chapter is received by a purchaser at a business location of a seller, the location of the transaction is the business location of the seller.

(3) Except as provided in Subsections (7), (8), and (11), if tangible personal property or a service that is subject to taxation under this chapter is not received by a purchaser at a business location of a seller, the location of the transaction is the location where the purchaser takes

receipt of the tangible personal property or services.

(4) Except as provided in Subsections (7), (8), and (11), if Subsection (2) or (3) does not apply, the location of the transaction is the location indicated by an address for or other information on the purchaser if:

(a) the address or other information is available from the seller's business records; and

(b) use of the address or other information from the seller's records does not constitute bad faith.

(5) (a) Except as provided in Subsections (7), (8), and (11), if Subsection (2), (3), or (4) does not apply, the location of the transaction is the location indicated by an address for the purchaser if:

(i) the address was obtained during the consummation of the transaction; and

(ii) use of the address described in Subsection (5)(a)(i) does not constitute bad faith.

(b) An address used under Subsection (5)(a) may include the address of a purchaser's payment instrument if no other address is available.

(6) Except as provided in Subsections (7) and (11), if Subsection (2), (3), (4), or (5) does not apply or if a seller does not have sufficient information to apply Subsection (2), (3), (4), or (5), the location of the transaction is the location indicated by the address from which:

(a) except as provided in Subsection (6)(b), for tangible personal property that is subject to taxation under this chapter, the tangible personal property was shipped;

(b) notwithstanding Subsection (6)(a), for computer software delivered electronically or a digital good that is subject to taxation under this chapter, the computer software delivered electronically or digital good was first available for transmission by the seller; or

(c) for a service that is subject to taxation under this chapter, the service was provided.

(7) (a) For purposes of this Subsection (7), "shared zip code" means a nine-digit zip code assigned by the United States Postal Service that is located within two or more local taxing jurisdictions.

(b) Notwithstanding Subsections (3) through (6), if the location of a transaction determined under Subsections (3) through (6) is in a shared zip code, the location of the

transaction is:

(i) if there is only one local taxing jurisdiction that imposes the lowest agreement combined tax rate for the shared zip code, the local taxing jurisdiction that imposes the lowest agreement combined tax rate; or

(ii) if two or more local taxing jurisdictions impose the lowest agreement combined tax rate for the shared zip code, the local taxing jurisdiction that:

(A) imposes the lowest agreement combined tax rate for the shared zip code; and

(B) has located within the local taxing jurisdiction the largest number of street addresses within the shared zip code.

(c) A seller shall collect a tax imposed under this chapter at the lowest agreement combined tax rate imposed within the local taxing jurisdiction in which the transaction is located under Subsection (7)(b) notwithstanding the following:

(i) Section 59-12-204;

(ii) Section 59-12-401;

(iii) Section 59-12-402;

(iv) Section 59-12-501;

(v) Section 59-12-502;

(vi) Section 59-12-703;

(vii) Section 59-12-802;

(viii) Section 59-12-804;

(ix) Section 59-12-1001;

(x) Section 59-12-1102;

(xi) Section 59-12-1302; and

(xii) Section 59-12-1402.

(8) Notwithstanding Subsections (3) through (5), the location of a purchase of direct mail is the location described in Subsection (6), if the purchaser of the direct mail:

(a) has not been issued a direct payment permit under Section 59-12-107.1; and

(b) does not provide the seller the form or information described in Subsection

59-12-107.3(1).

(9) If a purchaser knows at the time that the purchaser purchases a service, prewritten computer software delivered electronically, or a digital good that the service, prewritten computer software delivered electronically, or digital good will be concurrently available for use in more than one location, the purchaser shall:

(a) determine the location of the transaction under this section for each location in which the service, prewritten computer software delivered electronically, or digital good will be concurrently available for use; and

(b) apportion the purchase price of the service, prewritten computer software delivered electronically, or digital good:

(i) among each location determined under Subsection (9)(a); and

(ii) in accordance with Section 59-12-107.2.

(10) (a) A tax collected under this chapter shall be reported to the commission on a form that identifies the location of each transaction that occurred during the return filing period.

(b) The form described in Subsection (10)(a) shall be filed with the commission as required under this chapter.

(11) This section does not apply to:

(a) amounts charged by a seller for:

(i) telephone service; or

(ii) the retail sale or transfer of:

(A) a motor vehicle other than a motor vehicle that is transportation equipment;

(B) an aircraft other than an aircraft that is transportation equipment;

(C) a watercraft;

(D) a modular home;

(E) a manufactured home; or

(F) a mobile home; or

(iii) except as provided in Section 59-12-207.3, the lease or rental of tangible personal property other than tangible personal property that is transportation equipment; or

(b) a tax paid under this chapter:

(i) by a seller; and

(ii) for the seller's purchases.

Section 31. Section **59-12-207.2** is enacted to read:

**59-12-207.2. Location of transaction involving a sale of a motor vehicle, aircraft, watercraft, modular home, manufactured home, or mobile home.**

(1) (a) Except as provided in Subsection (1)(b) or (4), the location of a sale of the following tangible personal property shall be determined as provided in this section:

(i) a motor vehicle;

(ii) an aircraft;

(iii) a watercraft;

(iv) a modular home;

(v) a manufactured home; or

(vi) a mobile home.

(b) Notwithstanding Subsection (1)(a), the location of the sale of tangible personal property described in Subsection (1)(a) shall be determined in accordance with Sections 59-12-205 and 59-12-207.1 if the tangible personal property described in Subsection (1)(a) is transportation equipment as defined in Section 59-12-207.1.

(2) If an item of tangible personal property described in Subsection (1)(a) is sold by a dealer of that tangible personal property, the location of the sale of that tangible personal property is the business location of the dealer.

(3) If an item of tangible personal property described in Subsection (1)(a) is sold by a person other than a dealer of that tangible personal property, the location of the sale of that tangible personal property is:

(a) if the tangible personal property is required to be registered with the state before the tangible personal property is used on a public highway, on a public waterway, on public land, or in the air, the location of the street address at which the tangible personal property is registered;  
or

(b) if the tangible personal property is not required to be registered as provided in Subsection (3)(a), the location of the street address where the purchaser of the tangible personal property resides.

(4) Notwithstanding Subsection (1), this section does not apply to the lease or rental of tangible personal property described in Subsection (1)(a).

Section 32. Section **59-12-207.3** is enacted to read:

**59-12-207.3. Location of transaction involving lease or rental of certain tangible personal property.**

(1) (a) For purposes of this section, "primary property location" means an address for tangible personal property:

(i) provided by a lessee to a lessor; and

(ii) that is available to the lessor from the lessor's records maintained in the ordinary course of business.

(b) "Primary property location" does not include an address described in Subsection (1)(a) if use of that address constitutes bad faith.

(2) (a) Except as provided in Subsection (2)(b), if a lease or rental of tangible personal property subject to taxation under this part requires recurring periodic payments:

(i) notwithstanding Section 59-12-207.1, the location of the transaction for any down payment and for the first recurring periodic payment is as provided in Sections 59-12-205 and 59-12-207.1; and

(ii) the location of the transaction for the second recurring periodic payment and subsequent recurring periodic payments is the primary property location for each time period covered by the recurring periodic payment.

(b) Notwithstanding Subsection (2)(a), if a transaction subject to taxation under this chapter involving a lease or rental of a motor vehicle, trailer, semitrailer, or aircraft that is not transportation equipment under Section 59-12-207.1 requires recurring periodic payments, the location of the transaction for any down payment and for each recurring periodic payment shall be the primary property location for each time period covered by the recurring periodic payment.

(3) Notwithstanding Section 59-12-207.1, if a transaction involving a lease or rental of the following does not require recurring periodic payments, the location of the transaction shall be as provided in Sections 59-12-205 and 59-12-207.1 for each lease payment for:

(a) tangible personal property subject to taxation under this chapter; or

(b) a motor vehicle, trailer, semitrailer, or aircraft that is:

(i) not transportation equipment under Section 59-12-207.1; and

(ii) subject to taxation under this chapter.

(4) This section does not affect the imposition or computation of a tax under this chapter on:

(a) a lease or rental of tangible personal property subject to a tax under this chapter on:

(i) the basis of a lump sum; or

(ii) an accelerated basis; or

(b) an acquisition of tangible personal property:

(i) subject to taxation under this chapter; and

(ii) for lease.

Section 33. Section **59-12-207.4** is enacted to read:

**59-12-207.4. Location of transaction involving telephone service or other communication service.**

(1) As used in this section:

(a) "Air-to-ground radiotelephone service" means a radio service:

(i) as defined in 47 C.F.R. Sec. 22.99; and

(ii) for which a common carrier is authorized to offer and provide radio telecommunications service:

(A) for hire; and

(B) to a subscriber in an aircraft.

(b) "Call-by-call basis" means a method of charging for telephone service that is measured by individual calls.

(c) "Communications channel" means a physical or virtual path of communications over

which a signal is transmitted between or among customer channel termination points.

(d) (i) Subject to Subsection (1)(d)(ii), "customer" means:

(A) a person that is obligated under a contract with a telephone service provider to pay for telephone service received under the contract; or

(B) if the end user is not the person described in Subsection (1)(d)(i)(A), the end user of telephone service.

(ii) "Customer" does not include a reseller:

(A) of telephone service; or

(B) for mobile telecommunications service, of a serving carrier under an agreement to serve a customer outside the home service provider's licensed service area.

(e) "Customer channel termination point" means the location where a customer:

(i) inputs communications; or

(ii) receives communications.

(f) "End user" means:

(i) an individual who uses a telephone service; or

(ii) for telephone service provided to a person who is not an individual, an individual who uses a telephone service on behalf of the person who is provided the telephone service.

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

(h) "Place of primary use":

(i) for telephone service other than mobile telecommunications service, means the street address representative of where a customer's use of the telephone service primarily occurs, which shall be:

(A) the residential street address of the customer; or

(B) the primary business street address of the customer; or

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

(i) (i) "Postpaid calling service" means a telephone service obtained by making a

payment on a call-by-call basis:

(A) through the use of a:

(I) credit card;

(II) bank card;

(III) travel card; or

(IV) debit card; or

(B) by a charge made to a telephone number that is not associated with the origination or termination of the telephone service.

(ii) "Postpaid calling service" includes a telephone service that would be a prepaid calling service if the service were exclusively a telephone service.

(j) "Prepaid calling service" means a telephone service:

(i) that allows a purchaser access to exclusively telephone service;

(ii) that:

(A) must be paid for in advance; and

(B) enables the origination of calls using an:

(I) access number; or

(II) authorization code;

(iii) dialed:

(A) manually; or

(B) electronically; and

(iv) sold in predetermined units or dollars that decline:

(A) by a known amount; and

(B) with use.

(k) (i) (A) Subject to Subsection (1)(k)(i)(B), "private communication service" means a telephone service that entitles a customer to exclusive or priority use of a communications channel or group of communications channels between or among termination points.

(B) The determination of whether a telephone service is a private communication service may not be based on the manner in which the communications channels or group of

communications channels are connected.

(ii) "Private communication service" includes the following services provided in connection with the use of a communications channel or group of communications channels:

- (A) switching capacity;
- (B) an extension line; or
- (C) a station.

(1) Notwithstanding where a call is billed or paid, "service address" means:

(i) if the location of where a call is billed or paid is known, the location of the telecommunications equipment:

- (A) to which a customer's call is charged; and
- (B) from which the call:
  - (I) originates; or
  - (II) terminates;

(ii) if the location of where a call is billed or paid is not known but the location of the origination point of the signal of the telephone service is known, the location of the origination point of the signal of the telephone service first identified by:

- (A) the telecommunications system of the telephone service provider; or
- (B) if the system used to transport the signal of the telephone service is not a system of the telephone service provider, information received by the telephone service provider from the telephone service provider's telephone service provider; or

(iii) if the following are not known, the location of a customer's place of primary use:

- (A) the location of where a call is billed or paid; and
- (B) the location of the origination point of the signal of the telephone service.

(2) Except as provided in Subsection (4) and subject to Subsection 59-12-207.1(7), the location of a sale of a telephone service sold on a call-by-call basis is:

- (a) the location at which the call originates and terminates; or
- (b) the location at which:
  - (i) the call:

(A) originates; or

(B) terminates; and

(ii) the service address is located.

(3) Except as provided in Subsection (4), and subject to Subsection 59-12-207.1(7), the location of a sale of a telephone service sold on a basis other than a call-by-call basis is the customer's place of primary use.

(4) Notwithstanding Subsection (2) or (3), and subject to Subsection 59-12-207.1(7):

(a) the location of a sale of a mobile telecommunications service, other than an air-to-ground radiotelephone service or a prepaid calling service, is the location required by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.;

(b) the location of a sale of a postpaid calling service is the origination point of the telecommunications signal as first identified by:

(i) the seller's telecommunications system; or

(ii) if the system used to transport the telecommunications signal is not that of the seller, information received by the seller from the seller's telephone service provider; and

(c) (i) except as provided in Subsection (4)(c)(ii), the location of a sale of a prepaid calling service is the location determined under Section 59-12-207.1; and

(ii) notwithstanding Subsection (4)(c)(i), for purposes of Subsection 59-12-207.1(5), the location of a sale of a prepaid calling service that is a mobile telecommunications service shall include the location of the mobile telephone number.

(5) Subject to Subsection 59-12-207.1(7), the location of a sale of a private communication service is:

(a) if all of the customer channel termination points are located entirely within one local taxing jurisdiction, the location of the sale is the local taxing jurisdiction in which all of the customer channel termination points are located;

(b) if a charge for a service related to a customer channel termination point is separately stated, the location of the sale is the location in which the customer channel termination point is located;

(c) if a charge for service for a segment of a channel between two customer channel termination points located in different local taxing jurisdictions is separately stated, the location of the sale is each local taxing jurisdiction:

(i) in which the customer channel termination points are located; and

(ii) in equal proportions; and

(d) if a charge for service for a segment of a channel located in more than one taxing jurisdiction is not separately stated, the location of the sale is:

(i) each local taxing jurisdiction in which a segment of the channel is located; and

(ii) in proportion to the percentage of customer channel termination points in each local taxing jurisdiction compared to the total customer channel termination points in all local taxing jurisdictions.

Section 34. Section **59-12-207.5** is enacted to read:

**59-12-207.5. Seller or certified service provider reliance on commission database.**

A seller or certified service provider that collects a tax imposed by a county, city, or town under this part is not liable for failing to collect and remit a tax at a tax rate imposed under this part if the tax rate at which the seller or certified service provider collected the tax was derived from a database created by the commission containing:

(1) tax rates; or

(2) local taxing jurisdiction boundaries.

Section 35. Section **59-12-208.1** is amended to read:

**59-12-208.1. Enactment or repeal of tax -- Effective date -- Notice requirements.**

(1) For purposes of this section:

(a) "Annexation" means an annexation to:

(i) a county under Title 17, Chapter 2, Annexation to County; or

(ii) a city or town under Title 10, Chapter 2, Part 4, Annexation.

(b) "Annexing area" means an area that is annexed into a county, city, or town.

(2) (a) [~~H~~] Except as provided in Subsection (2)(c) or (d), if, on or after [May 1, 2000] July 1, 2004, a county, city, or town enacts or repeals a tax [or changes the rate of a tax] under

this part, the enactment[;] or repeal[; ~~or change~~] shall take effect:

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

(ii) after a [~~75-day~~] 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the county, city, or town.

(b) The notice described in Subsection (2)(a)(ii) shall state:

(i) that the county, city, or town will enact or repeal a tax [~~or change the rate of a tax~~]

under this part;

(ii) the statutory authority for the tax described in Subsection (2)(b)(i);

(iii) the effective date of the tax described in Subsection (2)(b)(i); and

(iv) if the county, city, or town enacts the tax [~~or changes the rate of the tax~~] described in Subsection (2)(b)(i), the [~~new~~] rate of the tax.

(c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection (2)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the imposition of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under Section 59-12-204.

(ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection (2)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under Section 59-12-204.

(iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(b);

(B) Subsection 59-12-103(1)(c);

(C) Subsection 59-12-103(1)(d);

(D) Subsection 59-12-103(1)(e);

(E) Subsection 59-12-103(1)(f);

(F) Subsection 59-12-103(1)(g);

(G) Subsection 59-12-103(1)(h);

(H) Subsection 59-12-103(1)(i);

(I) Subsection 59-12-103(1)(j); or

(J) Subsection 59-12-103(1)(k).

(d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (2)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (2)(a).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) [H] Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs on or after [May 1, 2000] July 1, 2004, the annexation will result in [a change in the rate] the enactment or repeal of a tax under this part for an annexing area, the [change] enactment or repeal shall take effect:

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

(ii) after a [75-day] 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the county, city, or town that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in [a change in the rate] an enactment or repeal of a tax under this part for the annexing area;

(ii) the statutory authority for the tax described in Subsection (3)(b)(i);

(iii) the effective date of the tax described in Subsection (3)(b)(i); and

(iv) the [new] rate of the tax described in Subsection (3)(b)(i).

(c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection (3)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax; and

(B) if the billing period for the transaction begins before the effective date of the imposition of the tax under Section 59-12-204.

(ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection (3)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under Section 59-12-204.

(iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(b);

(B) Subsection 59-12-103(1)(c);

(C) Subsection 59-12-103(1)(d);

(D) Subsection 59-12-103(1)(e);

(E) Subsection 59-12-103(1)(f);

(F) Subsection 59-12-103(1)(g);

(G) Subsection 59-12-103(1)(h);

(H) Subsection 59-12-103(1)(i);

(I) Subsection 59-12-103(1)(j); or

(J) Subsection 59-12-103(1)(k).

(d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (3)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (3)(a).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 36. Section **59-12-210** is amended to read:

**59-12-210. Commission to provide data to counties.**

(1) (a) The commission shall provide to each county the sales and use tax collection data necessary to verify that the local sales and use tax revenues collected by the commission are distributed to each county, city, and town in accordance with Sections 59-12-205 [~~and~~], 59-12-206, and 59-12-207.1 through 59-12-207.4.

(b) The data described in Subsection (1)(a) shall include the commission's reports of [~~vendor~~] seller sales, sales and use tax distribution reports, and a breakdown of local revenues.

(2) (a) In addition to the access to information provided in Subsection (1) and Section 59-12-109, the commission shall provide a county, city, or town with copies of returns and other information required by [~~Title 59, Chapter 12,~~] this chapter relating to [~~the state or local option sales and use tax~~] a tax under this chapter. [~~This~~]

(b) The information described in Subsection (2)(a) is available only in official matters and must be requested in writing by the chief executive officer or [~~his~~] the chief executive officer's designee.

(c) The request described in Subsection (2)(b) shall specifically indicate the information being sought and how the information will be used.

(d) Information received pursuant to the request described in Subsection (2)(b) shall be:

- (i) classified as private or protected under Section 63-2-302 or 63-2-304; and [~~shall be~~]
- (ii) subject to the confidentiality provisions of Section 59-1-403.

Section 37. Section **59-12-301** is amended to read:

**59-12-301. Transient room tax -- Rate -- Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements.**

(1) (a) Any county legislative body may impose a transient room tax not to exceed 3% of the rent for every occupancy of a suite or room:

(i) on the following entities doing business as motor courts, motels, hotels, inns, or providing similar public accommodations:

- (A) a person;
- (B) a company;

(C) a corporation; or

(D) a person, group, or organization similar to Subsections (1)(a)(i)(A) through (C); and

(ii) if the suite or room is regularly rented for less than 30 consecutive days.

(b) The revenues raised from the tax imposed under Subsection (1)(a) shall be used for the purposes listed in Section 17-31-2.

(c) The tax imposed under Subsection (1)(a) shall be in addition to the tourism, recreation, cultural, and convention tax imposed under Part 6, Tourism, Recreation, Cultural, and Convention Facilities Tax.

(d) A county legislative body imposing a tax under this part shall impose the tax on the rents described in Subsection (1)(a) relating to the Olympic Winter Games of 2002 made to or by an organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code, except for rents described in Subsection (1)(a):

(i) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002;

(ii) exclusively used by:

(A) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; or

(B) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; and

(iii) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 does not receive reimbursement.

(2) Subject to Subsection (3), a county legislative body:

(a) may increase or decrease the transient room tax; and

(b) shall regulate the transient room tax by ordinance.

(3) (a) For purposes of this Subsection (3):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Annexation to County.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) [~~Hf~~] Except as provided in Subsection (3)(c), if, on or after [May 1, 2000] July 1, 2004, a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a [~~75-day~~] 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b)(ii) from the county.

(ii) The notice described in Subsection (3)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (3)(b)(ii)(A), the [~~new~~] rate of the tax.

(c) (i) Notwithstanding Subsection (3)(b)(i), for a transaction described in Subsection (3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase;  
and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under this section.

(ii) Notwithstanding Subsection (3)(b)(i), for a transaction described in Subsection (3)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under this section.

(iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).

~~(c)~~ (d) (i) ~~(f)~~ Except as provided in Subsection (3)(e), if, for an annexation that occurs on or after ~~May 1, 2000~~ July 1, 2004, the annexation will result in the enactment, repeal, or a change in the rate of a tax under this part for an annexing area, the ~~enactment, repeal, or change~~ shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a ~~75-day~~ 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)~~(c)~~ (d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (3)~~(c)~~ (d)(i)(B) shall state:

(A) that the annexation described in Subsection (3)~~(c)~~ (d)(i) will result in ~~a~~ an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (3)~~(c)~~ (d)(ii)(A);

(C) the effective date of the tax described in Subsection (3)~~(c)~~ (d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (3)(d)(ii)(A), the ~~new~~ rate of the tax ~~[described in Subsection (3)(c)(ii)(A)]~~.

(e) (i) Notwithstanding Subsection (3)(d)(i), for a transaction described in Subsection (3)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase;  
and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under this section.

(ii) Notwithstanding Subsection (3)(d)(i), for a transaction described in Subsection (3)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
and

(B) if the billing period for the transaction begins before the effective date of the repeal

of the tax or the tax rate decrease imposed under this section.

(iii) Subsections (3)(e)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).

Section 38. Section **59-12-302** is amended to read:

**59-12-302. Collection of tax -- Administrative fee -- Penalties -- Commission to interpret, audit, and adjudicate transient room tax.**

(1) (a) ~~[The]~~ Except as provided in Subsection (1)(b) or (c), the transient room tax shall be levied at the same time and collected in the same manner as provided in Part 2[; except that notwithstanding], Local Sales and Use Tax Act.

(b) (i) Notwithstanding Section 59-12-206, each county may collect the tax imposed by ~~[it] the county~~ and need not transmit ~~[it] the tax~~ to the commission or contract with the commission to collect ~~[it] the tax~~.

(ii) The amount of of tax collected shall be reported to the commission as provided in ~~[Section 59-12-207]~~ Subsection 59-12-207.1(10).

(c) Notwithstanding Subsection (1)(a), a tax under this part is not subject to Subsections 59-12-205(2) through (5).

(d) (i) If the commission collects a tax under this part, the commission:

(A) except as provided in Subsection (1)(d)(i)(B), shall distribute the revenues generated by the tax to the county within which the revenues were generated; and

(B) notwithstanding Subsection (1)(d)(i)(A), may retain an amount of tax collected under this part of not to exceed the lesser of:

(I) 1.5%; or

(II) an amount equal to the cost to the commission of administering this part.

(ii) Any amount the commission retains under Subsection (1)(d)(i)(B) shall be:

(A) placed in the Sales and Use Tax Administrative Fees Account; and

(B) used as provided in Subsection 59-12-206(2).

(2) (a) The tax ordinance adopted by a county pursuant to Section 59-12-301 may include provisions for the imposition of penalties and interest if a person or entity required to pay

transient room taxes under this section fails to timely remit the transient room taxes to the collecting agent.

(b) A county legislative body may not establish penalties and interest by ordinance that exceed the penalties and interest rates authorized for the commission in Sections 59-1-401 and 59-1-402.

(3) A county may adopt an ordinance imposing penalties and interest under Subsection (2) only if the county does not contract with the commission to collect the tax.

(4) If a county elects to collect the tax as provided in Subsection (1), the commission shall interpret, audit, and adjudicate the tax imposed under this part.

Section 39. Section **59-12-354** is amended to read:

**59-12-354. Collection of tax -- Administrative fee -- Penalties -- Commission to interpret, audit, and adjudicate transient room tax.**

(1) Except as provided in [~~Subsection~~] Subsections (2) and (3), a governing body of a municipality levying a transient room tax under this part shall levy the tax at the same time and collect the tax in the same manner as provided in Part 2, Local Sales and Use Tax Act.

(2) Notwithstanding Section 59-12-206, a municipality imposing a transient room tax under this part:

(a) may collect the tax and is not required to:

(i) transmit revenues generated by the tax to the commission; or

(ii) contract with the commission to collect the tax;

(b) shall report the revenues it collects to the commission as provided in [~~Section 59-12-207~~] Subsection 59-12-207.1(10); and

(c) subject to the limitations of Subsections [~~(3) and~~] (4) and (5), may adopt an ordinance imposing penalties and interest on a person who:

(i) is required to pay the tax under this part; and

(ii) does not remit the tax to the collecting agent in a timely manner.

(d) (i) If the commission collects a tax under this part, the commission:

(A) except as provided in Subsection (2)(d)(i)(B), shall distribute the revenues generated

by the tax to the municipality within which the revenues were generated; and

(B) notwithstanding Subsection (2)(d)(i)(A), may retain an amount of tax collected under this part of not to exceed the lesser of:

(I) 1.5%; or

(II) an amount equal to the cost to the commission of administering this part.

(ii) Any amount the commission retains under Subsection (2)(d)(i)(B) shall be:

(A) placed in the Sales and Use Tax Administrative Fees Account; and

(B) used as provided in Subsection 59-12-206(2).

(3) Notwithstanding Subsection (1)(a), the tax under this part is not subject to Subsections 59-12-205(2) through (5).

~~[(3)]~~ (4) A governing body of a municipality adopting an ordinance imposing penalties and interest under Subsection (2)(c) may impose penalties and interest in amounts that are less than or equal to the penalties and interest rates authorized for the commission under Sections 59-1-401 and 59-1-402.

~~[(4)]~~ (5) A municipality may adopt an ordinance imposing penalties and interest under Subsection (2)(c) only if the municipality does not contract with the commission to collect the tax.

~~[(5)]~~ (6) If a municipality elects to collect the tax as provided in Subsection (2), the commission shall interpret, audit, and adjudicate the tax imposed under this part.

Section 40. Section **59-12-355** is amended to read:

**59-12-355. Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements.**

(1) For purposes of this section:

(a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

(b) "Annexing area" means an area that is annexed into a city or town.

(2) (a) ~~[(H)]~~ Except as provided in Subsection (2)(c), if, on or after ~~May 1, 2000~~ July 1, 2004, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the

enactment, repeal, or change shall take effect:

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

(ii) after a ~~[75-day]~~ 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the city or town.

(b) The notice described in Subsection (2)(a)(ii) shall state:

(i) that the city or town will enact or repeal a tax or change the rate of a tax under this part;

(ii) the statutory authority for the tax described in Subsection (2)(b)(i);

(iii) the effective date of the tax described in Subsection (2)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (2)(b)(i), the ~~[new]~~ rate of the tax.

(c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection (2)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase;  
and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under:

(I) Section 59-12-352; or

(II) Section 59-12-353.

(ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection (2)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under:

(I) Section 59-12-352; or

(II) Section 59-12-353.

(iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).

(3) (a) [~~ff~~] Except as provided in Subsection (3)(c), if, for an annexation that occurs on or after [~~May 1, 2000~~] July 1, 2004, the annexation will result in [a] the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

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

(ii) after a [~~75-day~~] 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in [a] an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(ii) the statutory authority for the tax described in Subsection (3)(b)(i);

(iii) the effective date of the tax described in Subsection (3)(b)(i); and

(iv) if the county enacts the tax or changes the rate of the tax described in Subsection (3)(b)(i), the [new] rate of the tax [~~described in Subsection (3)(b)(i)~~.

(c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection (3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase;  
and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under:

(I) Section 59-12-352; or

(II) Section 59-12-353.

(ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection

(3)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under:

(I) Section 59-12-352; or

(II) Section 59-12-353.

(iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).

Section 41. Section **59-12-356** is enacted to read:

**59-12-356. Seller or certified service provider reliance on commission database.**

A seller or certified service provider that collects a tax imposed by a county or municipality under this part is not liable for failing to collect and remit a tax at a tax rate imposed under this part if the tax rate at which the seller or certified service provider collected the tax was derived from a database created by the commission containing:

(1) tax rates; or

(2) local taxing jurisdiction boundaries.

Section 42. Section **59-12-401** is amended to read:

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

(1) (a) Except as provided in [~~Subsection~~] Subsections (1)(b) and 59-12-207.1(7)(c), and in addition to other sales taxes, a city or town in which the transient room capacity is greater than or equal to 66% of the permanent census population may impose a sales tax of up to 1% on the transactions described in Subsection 59-12-103(1) located within the city or town.

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

~~[(i) wholesale sales;]~~

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

- (A) a motor vehicle;
- (B) an aircraft;
- (C) a watercraft;
- (D) a modular home;
- (E) a manufactured home; or
- (F) a mobile home; or

~~[(iii)]~~ (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104~~[-and].~~

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

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

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

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

Section 43. Section **59-12-402** is amended to read:

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

(1) (a) Except as provided in ~~[Subsection]~~ Subsections (1)(b) and 59-12-207.1(7)(c), and subject to the limitations of Subsections (2) through (6), the governing body of a municipality in which the transient room capacity is greater than or equal to 66% of the permanent census population may, in addition to the sales tax authorized under Section 59-12-401, impose an

additional resort communities sales tax in an amount that is less than or equal to 1/2% on the transactions described in Subsection 59-12-103(1) located within the municipality.

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

~~[(i) wholesale sales;]~~

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

~~(A) a motor vehicle;~~

~~(B) an aircraft;~~

~~(C) a watercraft;~~

~~(D) a modular home;~~

~~(E) a manufactured home; or~~

~~(F) a mobile home; or~~

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

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

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

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

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

(3) To impose an additional resort communities sales tax under this section, the governing body of the municipality shall:

(a) pass a resolution approving the tax; and  
(b) except as provided in Subsection (6), obtain voter approval for the tax as provided in Subsection (4).

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

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

- (i) a regular general election; or
- (ii) a municipal general election; and

(b) publish notice of the election:

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

(5) An ordinance approving an additional resort communities sales tax under this section shall provide an effective date for the tax as provided in Section 59-12-403.

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

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

Section 44. Section **59-12-403** is amended to read:

**59-12-403. Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements.**

(1) For purposes of this section:

(a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

(b) "Annexing area" means an area that is annexed into a city or town.

(2) (a) [~~H~~] Except as provided in Subsection (2)(c) or (d), if, on or after [May 1, 2000] July 1, 2004, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the

enactment, repeal, or change shall take effect:

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

(ii) after a ~~[75-day]~~ 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the city or town.

(b) The notice described in Subsection (2)(a)(ii) shall state:

(i) that the city or town will enact or repeal a tax or change the rate of a tax under this part;

(ii) the statutory authority for the tax described in Subsection (2)(b)(i);

(iii) the effective date of the tax described in Subsection (2)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (2)(b)(i), the ~~[new]~~ rate of the tax.

(c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection (2)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase;  
and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under:

(I) Section 59-12-401; or

(II) Section 59-12-402.

(ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection (2)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under:

(I) Section 59-12-401; or

(II) Section 59-12-402.

(iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(b);

(B) Subsection 59-12-103(1)(c);

(C) Subsection 59-12-103(1)(d);

(D) Subsection 59-12-103(1)(e);

(E) Subsection 59-12-103(1)(f);

(F) Subsection 59-12-103(1)(g);

(G) Subsection 59-12-103(1)(h);

(H) Subsection 59-12-103(1)(i);

(I) Subsection 59-12-103(1)(j); or

(J) Subsection 59-12-103(1)(k).

(d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (2)(a).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) [H] Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs on or after [May 1, 2000] July 1, 2004, the annexation will result in [a] the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

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

(ii) after a [75-day] 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in [a] an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(ii) the statutory authority for the tax described in Subsection (3)(b)(i);

(iii) the effective date of the tax described in Subsection (3)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (3)(b)(i), the [new] rate of the tax [described in Subsection (3)(b)(i)].

(c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection (3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase;  
and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under:

(I) Section 59-12-401; or

(II) Section 59-12-402.

(ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection (3)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under:

(I) Section 59-12-401; or

(II) Section 59-12-402.

(iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(b);

(B) Subsection 59-12-103(1)(c);

(C) Subsection 59-12-103(1)(d);

(D) Subsection 59-12-103(1)(e);

(E) Subsection 59-12-103(1)(f);

(F) Subsection 59-12-103(1)(g);

(G) Subsection 59-12-103(1)(h);

(H) Subsection 59-12-103(1)(i);

(I) Subsection 59-12-103(1)(j); or

(J) Subsection 59-12-103(1)(k).

(d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (3)(a).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 45. Section **59-12-404** is enacted to read:

**59-12-404. Seller or certified service provider reliance on commission database.**

A seller or certified service provider that collects a tax imposed by a city or town under this part is not liable for failing to collect and remit a tax at a tax rate imposed under this part if the tax rate at which the seller or certified service provider collected the tax was derived from a database created by the commission containing:

(1) tax rates; or

(2) local taxing jurisdiction boundaries.

Section 46. Section **59-12-501** is amended to read:

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

(1) (a) (i) Except as provided in [~~Subsection~~] Subsections (1)(a)(ii) and 59-12-207.1(7)(c), in addition to other sales and use taxes, any county, city, or town within a

transit district organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act, may impose a sales and use tax of 1/4 of 1% on the transactions described in Subsection 59-12-103(1) located within the county, city, or town, to fund a public transportation system.

(ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax under this section on ~~[(A)]~~ the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104~~[, and]~~.

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

(b) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

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

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

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

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

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

Section 47. Section **59-12-502** is amended to read:

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

(1) (a) (i) Except as provided in ~~[Subsection]~~ Subsections (1)(a)(ii) and 59-12-207.1(7)(c), and in addition to other sales and use taxes, including the public transit

district tax authorized by Section 59-12-501, a county, city, or town within a transit district organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act, may impose a sales and use tax of 1/4 of 1% on the transactions described in Subsection 59-12-103(1) located within the county, city, or town, to fund a fixed guideway and expanded public transportation system.

(ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax under this section on~~[-(A)]~~ the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104~~[-and]~~.

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

(b) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

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

(ii) Notice of the election under Subsection (1)(c)(i) shall be given by the county, city, or town governing body 15 days in advance in the manner prescribed by statute.

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

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

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

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

(5) Notwithstanding the designated use of revenues in Subsection (1), of the revenues

generated by the tax imposed under this section by any county of the first class:

(a) 75% shall be allocated to fund a fixed guideway and expanded public transportation system; and

(b) 25% shall be allocated to fund new construction, major renovations, and improvements to Interstate 15 and state highways within the county and to pay any debt service and bond issuance costs related to those projects.

(6) A county of the first class may, through an interlocal agreement, authorize the deposit or transfer of the portion of the revenues described in Subsection [59-12-502](5)(b) to the Public Transportation System Tax Highway Fund created in Section 72-2-121.

Section 48. Section **59-12-504** is amended to read:

**59-12-504. Enactment or repeal of tax -- Effective date -- Notice requirements.**

(1) For purposes of this section:

(a) "Annexation" means an annexation to:

(i) a county under Title 17, Chapter 2, Annexation to County; or

(ii) a city or town under Title 10, Chapter 2, Part 4, Annexation.

(b) "Annexing area" means an area that is annexed into a county, city, or town.

(2) (a) [~~It~~] Except as provided in Subsection (2)(c) or (d), if, on or after [May 1, 2000] July 1, 2004, a county, city, or town enacts or repeals a tax [~~or changes the rate of a tax~~] under this part, the enactment[;] or repeal[; ~~or change~~] shall take effect:

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

(ii) after a [~~75-day~~] 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the county, city, or town.

(b) The notice described in Subsection (2)(a)(ii) shall state:

(i) that the county, city, or town will enact or repeal a tax [~~or change the rate of a tax~~] under this part;

(ii) the statutory authority for the tax described in Subsection (2)(b)(i);

(iii) the effective date of the tax described in Subsection (2)(b)(i); and

(iv) if the county, city, or town enacts the tax [~~or changes the rate of the tax~~] described in

Subsection (2)(b)(i), the ~~new~~ rate of the tax.

(c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection (2)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the imposition of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under:

(I) Section 59-12-501; or

(II) Section 59-12-502.

(ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection (2)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under:

(I) Section 59-12-501; or

(II) Section 59-12-502.

(iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(b);

(B) Subsection 59-12-103(1)(c);

(C) Subsection 59-12-103(1)(d);

(D) Subsection 59-12-103(1)(e);

(E) Subsection 59-12-103(1)(f);

(F) Subsection 59-12-103(1)(g);

(G) Subsection 59-12-103(1)(h);

(H) Subsection 59-12-103(1)(i);

(I) Subsection 59-12-103(1)(j); or

(J) Subsection 59-12-103(1)(k).

(d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment

or repeal of a tax described in Subsection (2)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (2)(a).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) [~~H~~] Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs on or after [May 1, 2000] July 1, 2004, the annexation will result in [a change in the rate] the enactment or repeal of a tax under this part for an annexing area, the [change] enactment or repeal shall take effect:

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

(ii) after a [~~75-day~~] 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the county, city, or town that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in [~~a change in the rate~~] an enactment or repeal of a tax under this part for the annexing area;

(ii) the statutory authority for the tax described in Subsection (3)(b)(i);

(iii) the effective date of the tax described in Subsection (3)(b)(i); and

(iv) the [~~new~~] rate of the tax described in Subsection (3)(b)(i).

(c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection (3)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the imposition of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under:

(I) Section 59-12-501; or

(II) Section 59-12-502.

(ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection

(3)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under:

(I) Section 59-12-501; or

(II) Section 59-12-502.

(iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(b);

(B) Subsection 59-12-103(1)(c);

(C) Subsection 59-12-103(1)(d);

(D) Subsection 59-12-103(1)(e);

(E) Subsection 59-12-103(1)(f);

(F) Subsection 59-12-103(1)(g);

(G) Subsection 59-12-103(1)(h);

(H) Subsection 59-12-103(1)(i);

(I) Subsection 59-12-103(1)(j); or

(J) Subsection 59-12-103(1)(k).

(d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (3)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (3)(a).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 49. Section **59-12-505** is enacted to read:

**59-12-505. Seller or certified service provider reliance on commission database.**

A seller or certified service provider that collects a tax imposed by a county, city, or town

under this part is not liable for failing to collect and remit a tax at a rate imposed under this part if the tax rate at which the seller or certified service provider collected the tax was derived from a database created by the commission containing:

- (1) tax rates; or
- (2) local taxing jurisdiction boundaries.

Section 50. Section **59-12-603** is amended to read:

**59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Collection -- Adoption of ordinance required -- Administration -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.**

(1) In addition to any other taxes, a county legislative body may, as provided in this part, impose a tourism, recreation, cultural, and convention tax as follows:

(a) (i) a county legislative body of any county may impose a tax of not to exceed 3% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;

(ii) beginning on or after January 1, 1999, a county legislative body of any county imposing a tax under Subsection (1)(a)(i) may, in addition to imposing the tax under Subsection (1)(a)(i), impose a tax of not to exceed 4% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;

(b) a county legislative body of any county may impose a tax of not to exceed 1% of all sales of prepared foods and beverages that are sold by restaurants; and

(c) a county legislative body of any county may impose a tax of not to exceed 1/2% of the rent for every occupancy of a suite or room:

(i) on the following entities doing business as motor courts, motels, hotels, inns, or providing similar public accommodations:

- (A) a person;

- (B) a company;
- (C) a corporation; or
- (D) a person, group, or organization similar to Subsections (1)(c)(i)(A) through (C); and
- (ii) if the suite or room is regularly rented for less than 30 consecutive days.

(2) The revenue from the imposition of the taxes provided for in Subsections (1)(a) through (c) may be used for the purposes of financing tourism promotion, and the development, operation, and maintenance of tourist, recreation, cultural, and convention facilities as defined in Section 59-12-602.

(3) The tax imposed under Subsection (1)(c) shall be in addition to the transient room tax imposed under Part 3, Transient Room Tax, and may be imposed only by a county of the first class.

(4) (a) ~~[(A) (i) Except as provided in Subsection (4)(a)(ii), a tax imposed under this part shall be levied at the same time and collected in the same manner as provided in Part 2, Local Sales and Use Tax Act[, except that the collection and distribution of the tax revenue].~~

(ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to [the provisions of Subsection] Subsections 59-12-205(2) through (5).

(b) A tax imposed under this part may be pledged as security for bonds, notes, or other evidences of indebtedness incurred by a county under Title 11, Chapter 14, Utah Municipal Bond Act, to finance tourism, recreation, cultural, and convention facilities.

(5) (a) In order to impose the tax under Subsection (1), each county legislative body shall annually adopt an ordinance imposing the tax.

(b) (i) The ordinance under Subsection (5)(a) shall include provisions substantially the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on those items and sales described in Subsection (1).

(ii) A county legislative body imposing a tax under this part shall impose the tax as provided in this section on the leases, rentals, and sales described in Subsection (1) relating to the Olympic Winter Games of 2002 made to or by an organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code, except for leases, rentals, and sales

described in Subsection (1):

(A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002;

(B) exclusively used by:

(I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; or

(II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; and

(C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 does not receive reimbursement.

(c) The name of the county as the taxing agency shall be substituted for that of the state where necessary, and an additional license is not required if one has been or is issued under Section 59-12-106.

(6) In order to maintain in effect its tax ordinance adopted under this part, each county legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments to its tax ordinance to conform with the applicable amendments to Part 1, Tax Collection.

(7) The commission shall:

(a) administer, collect, and enforce the tax authorized under this part pursuant to:

(i) the same procedures used to administer, collect, and enforce the sales and use tax under Part 1, Tax Collection; and

(ii) Chapter 1, General Taxation Policies;

(b) (i) except as provided in Subsection (7)(c), for a tax under this part other than the tax under Subsection (1)(a)(ii), distribute the revenues to the county imposing the tax; and

(ii) except as provided in Subsection (7)(c), for a tax under Subsection (1)(a)(ii), distribute the revenues according to the distribution formula provided in Subsection (8); and

(c) deduct from the distributions under Subsection (7)(b) an administrative charge for collecting the tax as provided in Section 59-12-206.

(8) The commission shall distribute the revenues generated by the tax under Subsection (1)(a)(ii) to each county collecting a tax under Subsection (1)(a)(ii) according to the following formula:

(a) the commission shall distribute 70% of the revenues based on the percentages generated by dividing the revenues collected by each county under Subsection (1)(a)(ii) by the total revenues collected by all counties under Subsection (1)(a)(ii); and

(b) the commission shall distribute 30% of the revenues based on the percentages generated by dividing the population of each county collecting a tax under Subsection (1)(a)(ii) by the total population of all counties collecting a tax under Subsection (1)(a)(ii).

(9) (a) For purposes of this Subsection (9):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Annexation to County.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) [H] Except as provided in Subsection (9)(c), if, on or after [May 1, 2000] July 1, 2004, a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a ~~[75-day]~~ 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(b)(ii) from the county.

(ii) The notice described in Subsection (9)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(b)(ii)(A), the ~~[new]~~ rate of the tax.

(c) (i) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection (9)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase;  
and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1).

(ii) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection (9)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(iii) Subsections (9)(c)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(e);

(B) Subsection 59-12-103(1)(i); or

(C) Subsection 59-12-103(1)(k).

~~(c)~~ (d) (i) [Hf] Except as provided in Subsection (9)(e), if, for an annexation that occurs on or after [May 1, 2000] July 1, 2004, the annexation will result in [a] the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a [75-day] 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)[~~(c)~~] (d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (9)[~~(c)~~] (d)(i)(B) shall state:

(A) that the annexation described in Subsection (9)[~~(c)~~] (d)(i) will result in [a] an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (9)[~~(c)~~] (d)(ii)(A);

(C) the effective date of the tax described in Subsection (9)[~~(c)~~] (d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(d)(ii)(A), the [new] rate of the tax described in Subsection (9)(d)(ii)(A).

(e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection (9)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase;  
and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1).

(ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection (9)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(e);

(B) Subsection 59-12-103(1)(i); or

(C) Subsection 59-12-103(1)(k).

Section 51. Section **59-12-604** is enacted to read:

**59-12-604. Seller or certified service provider reliance on commission database.**

A seller or certified service provider that collects a tax imposed by a county under this part is not liable for failing to collect and remit a tax at a tax rate imposed under this part if the tax rate at which the seller or certified service provider collected the tax was derived from a database created by the commission containing:

(1) tax rates; or

(2) local taxing jurisdiction boundaries.

Section 52. Section **59-12-703** is amended to read:

**59-12-703. Opinion question election -- Imposition of tax -- Uses of tax monies -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

(1) (a) (i) Except as provided in [~~Subsection~~] Subsections (1)(a)(ii) and 59-12-207.1(7)(c), a county legislative body may submit an opinion question to the residents of that county, by majority vote of all members of the legislative body, so that each resident of the county has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the county, to fund recreational and zoological facilities and botanical, cultural, and zoological organizations in that county.

(ii) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a tax under this section on[~~:(A)~~] the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104[~~;~~ and].

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

(b) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

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

(2) If the county legislative body determines that a majority of the county's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax as prescribed in Subsection (1)(a), the county legislative body may impose the tax by a majority vote of all members of the legislative body on the transactions:

(a) described in Subsection (1); and

(b) within the county, including the cities and towns located in the county.

(3) The monies generated from any tax imposed under Subsection (2) shall be used for financing:

(a) recreational and zoological facilities within the county or a city or town located in the

county; and

(b) ongoing operating expenses of botanical, cultural, and zoological organizations within the county.

(4) ~~[Taxes imposed]~~ (a) A tax under this part shall be:

~~[(a)]~~ (i) except as provided in Subsection (4)(b), levied at the same time and collected in the same manner as provided in Part 2, Local Sales and Use Tax Act~~[-, except that the collection and distribution of the tax revenue is not subject to Subsection 59-12-205(2)]~~; and

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

(b) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to Subsections 59-12-205(2) through (5).

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Annexation to County.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) ~~[If]~~ Except as provided in Subsection (5)(c) or (d), if, on or after ~~[May 1, 2000]~~ July 1, 2004, a county enacts or repeals a tax ~~[or changes the rate of a tax]~~ under this part, the enactment~~[-]~~ or repeal~~[-, or change]~~ shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a ~~[75-day]~~ 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the county.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax ~~[or change the rate of a tax]~~ under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the county enacts the tax ~~[or changes the rate of the tax]~~ described in Subsection (5)(b)(ii)(A), the ~~[new]~~ rate of the tax.

(c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection

(5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the imposition of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under this section.

(ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under this section.

(iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(b);

(B) Subsection 59-12-103(1)(c);

(C) Subsection 59-12-103(1)(d);

(D) Subsection 59-12-103(1)(e);

(E) Subsection 59-12-103(1)(f);

(F) Subsection 59-12-103(1)(g);

(G) Subsection 59-12-103(1)(h);

(H) Subsection 59-12-103(1)(i);

(I) Subsection 59-12-103(1)(j); or

(J) Subsection 59-12-103(1)(k).

(d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

~~(e)~~ (e) (i) ~~[H]~~ Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after ~~May 1, 2000~~ July 1, 2004, the annexation will result in ~~a change in the rate] the enactment or repeal~~ of a tax under this part for an annexing area, the ~~change] enactment or repeal~~ shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a ~~[75-day]~~ 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)~~(e)~~(i)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (5)~~(e)~~(i)(B) shall state:

(A) that the annexation described in Subsection (5)~~(e)~~(i) will result in ~~a change in the rate] an enactment or repeal~~ of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)~~(e)~~(ii)(A);

(C) the effective date of the tax described in Subsection (5)~~(e)~~(ii)(A); and

(D) the ~~new]~~ rate of the tax described in Subsection (5)~~(e)~~(ii)(A).

(f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the imposition of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under this section.

(ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under this section.

(iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(b);

(B) Subsection 59-12-103(1)(c);

(C) Subsection 59-12-103(1)(d);

(D) Subsection 59-12-103(1)(e);

(E) Subsection 59-12-103(1)(f);

(F) Subsection 59-12-103(1)(g);

(G) Subsection 59-12-103(1)(h);

(H) Subsection 59-12-103(1)(i);

(I) Subsection 59-12-103(1)(j); or

(J) Subsection 59-12-103(1)(k).

(g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 53. Section **59-12-706** is enacted to read:

**59-12-706. Seller or certified service provider reliance on commission database.**

A seller or certified service provider that collects a tax imposed by a county under this part is not liable for failing to collect and remit a tax at a tax rate imposed under this part if the tax rate at which the seller or certified service provider collected the tax was derived from a database created by the commission containing:

(1) tax rates; or

(2) local taxing jurisdiction boundaries.

Section 54. Section **59-12-802** is amended to read:

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

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

(i) except as provided in [~~Subsection~~] Subsections (1)(b) and 59-12-207.1(7)(c), on the transactions described in Subsection 59-12-103(1) located within the county; and

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

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

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

~~[(ii) any amounts paid or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b); and]~~

~~[(iii)]~~ (ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in a city that imposes a tax under Section 59-12-804.

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

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

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

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

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

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

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

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

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

(4) ~~[Taxes imposed]~~ (a) A tax under this section shall be:

~~[(a)]~~ (i) except as provided in Subsection (4)(b), levied at the same time and collected in the same manner as provided in Part 2, Local Sales and Use Tax Act~~[-except that the collection and distribution of the tax revenue is not subject to Subsection 59-12-205(2)]~~; and

~~[(b)]~~ (ii) levied for a period of ten years and may be reauthorized at the end of the

ten-year period by the county legislative body as provided in Subsection (1).

(b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to Subsections 59-12-205(2) through (5).

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

Section 55. Section **59-12-804** is amended to read:

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

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

(i) except as provided in ~~[Subsection]~~ Subsections (1)(b) and 59-12-207.1(7)(c), on the transactions described in Subsection 59-12-103(1) located within the city; and

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

(b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax under this section on~~[(i)]~~ the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104~~[, and]~~.

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

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

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

(i) members of the city legislative body; and

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

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

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

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

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

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

(4) ~~[Taxes imposed]~~ (a) A tax under this section shall be:

~~[(a)]~~ (i) except as provided in Subsection (4)(b), levied at the same time and collected in the same manner as provided in Part 2, Local Sales and Use Tax Act~~[-, except that the collection and distribution of the tax revenue is not subject to Subsection 59-12-205]~~; and

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

(b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to Subsections 59-12-205(2) through (5).

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

Section 56. Section **59-12-806** is amended to read:

**59-12-806. Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements.**

(1) For purposes of this section:

(a) "Annexation" means an annexation to:

(i) a county under Title 17, Chapter 2, Annexation to County; or

(ii) a city ~~[or town]~~ under Title 10, Chapter 2, Part 4, Annexation.

(b) "Annexing area" means an area that is annexed into a county~~[-];~~ or city~~[-, or town]~~.

(2) (a) ~~[If]~~ Except as provided in Subsection (2)(c) or (d), if, on or after [May 1, 2000] July 1, 2004, a county~~[-];~~ or city~~[-, or town]~~ enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

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

(ii) after a ~~[75-day]~~ 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the county~~[-];~~ or city~~[-, or town]~~.

(b) The notice described in Subsection (2)(a)(ii) shall state:

(i) that the county~~[-];~~ or city~~[-, or town]~~ will enact or repeal a tax or change the rate of a tax under this part;

(ii) the statutory authority for the tax described in Subsection (2)(b)(i);  
(iii) the effective date of the tax described in Subsection (2)(b)(i); and  
(iv) if the county[;] or city[, ~~or town~~] enacts the tax or changes the rate of the tax described in Subsection (2)(b)(i), the [new] rate of the tax.

(c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection (2)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the imposition of the tax; and  
(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under:

- (I) Section 59-12-802; or
- (II) Section 59-12-804.

(ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection (2)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under:

- (I) Section 59-12-802; or
- (II) Section 59-12-804.

(iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:

- (A) Subsection 59-12-103(1)(b);
- (B) Subsection 59-12-103(1)(c);
- (C) Subsection 59-12-103(1)(d);
- (D) Subsection 59-12-103(1)(e);
- (E) Subsection 59-12-103(1)(f);
- (F) Subsection 59-12-103(1)(g);

(G) Subsection 59-12-103(1)(h);

(H) Subsection 59-12-103(1)(i);

(I) Subsection 59-12-103(1)(j); or

(J) Subsection 59-12-103(1)(k).

(d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (2)(a).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) [~~H~~] Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs on or after [May 1, 2000] July 1, 2004, the annexation will result in [a] the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

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

(ii) after a [~~75-day~~] 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the county[;] or city[; or town] that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in [a] an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(ii) the statutory authority for the tax described in Subsection (3)(b)(i);

(iii) the effective date of the tax described in Subsection (3)(b)(i); and

(iv) if the county or city enacts the tax or changes the rate of the tax described in Subsection (3)(b)(i), the [new] rate of the tax [described in Subsection (3)(b)(i)].

(c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection

(3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase;  
and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under:

(I) Section 59-12-802; or

(II) Section 59-12-804.

(ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection (3)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under:

(I) Section 59-12-802; or

(II) Section 59-12-804.

(iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(b);

(B) Subsection 59-12-103(1)(c);

(C) Subsection 59-12-103(1)(d);

(D) Subsection 59-12-103(1)(e);

(E) Subsection 59-12-103(1)(f);

(F) Subsection 59-12-103(1)(g);

(G) Subsection 59-12-103(1)(h);

(H) Subsection 59-12-103(1)(i);

(I) Subsection 59-12-103(1)(j); or

(J) Subsection 59-12-103(1)(k).

(d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of a tax under Subsection (3)(a).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 57. Section **59-12-807** is enacted to read:

**59-12-807. Seller or certified service provider reliance on commission database.**

A seller or certified service provider that collects a tax imposed by a county or city under this part is not liable for failing to collect and remit a tax at a tax rate imposed under this part if the tax rate at which the seller or certified service provider collected the tax was derived from a database created by the commission containing:

(1) tax rates; or

(2) local taxing jurisdiction boundaries.

Section 58. Section **59-12-901** is amended to read:

**59-12-901. Definitions.**

As used in this part:

(1) "Association of governments" means the following created under the authority of Title 11, Chapter 13, Interlocal Cooperation Act:

(a) an association of governments; or

(b) a regional council that acts as an association of governments.

(2) "Consumer price index" is as described in Section 1(f)(4), Internal Revenue Code, and defined in Section 1(f)(5), Internal Revenue Code.

(3) "Pounds of food donated" means the aggregate number of pounds of food and food ingredients donated to a qualified emergency food agency:

(a) on or after January 1, 1998; and

(b) for which sales or use tax was paid under Part 1, Tax Collection, by the person donating the food.

(4) "Qualified emergency food agency" means an organization that is:

(a) (i) exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; or

(ii) an association of governments;

(b) as part of its activities operates a program that has as the program's primary purpose to:

(i) warehouse and distribute food to other agencies and organizations providing food and food ingredients to low-income persons; or

(ii) provide food and food ingredients directly to low-income persons; and

(c) is certified to claim a refund by the State Community Services Office in accordance with Section 9-4-1404.

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

**59-12-902. Sales tax refund for qualified emergency food agencies -- Use of amounts received as refund -- Administration -- Rulemaking authority.**

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

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

(i) \$1.70; and

(ii) the sum of:

(A) 4.75%; and

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

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

(i) ~~[(A)]~~ the ~~[lowest]~~ tax rate ~~[imposed by a county, city, or town under]~~ authorized by 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]~~

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

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

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

(B) under Section 59-12-1001;

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

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

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

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

~~[(i) Subsection 59-12-103(2)(a)(i);]~~

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

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

~~[(iv) Section 59-12-301;]~~

~~[(v) Section 59-12-352;]~~

~~[(vi) Section 59-12-353;]~~

~~[(vii) Section 59-12-401;]~~

~~[(viii) Section 59-12-402;]~~

~~[(ix) Section 59-12-603;]~~

~~[(x) Section 59-12-802;]~~

~~[(xi) Section 59-12-804;]~~

~~[(xii) Section 59-12-1201; or]~~

~~[(xiii) Section 59-12-1302.]~~

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

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

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

(4) A qualified emergency food agency may use amounts received as a sales tax refund under this section only for a purpose related to:

- (a) warehousing and distributing food and food ingredients to other agencies and organizations providing food and food ingredients to low-income persons; or
- (b) providing food and food ingredients directly to low-income persons.

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

- (a) standards for determining and verifying the amount of the sales tax refund; and
- (b) procedures for a qualified emergency food agency to apply for a sales tax refund, including the frequency with which a qualified emergency food agency may apply for a sales tax refund.

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

Section 60. Section **59-12-1001** is amended to read:

**59-12-1001. Authority to impose tax for highways or to fund a system for public transit -- Ordinance requirements -- Voter approval requirements -- Election requirements -- Notice of election requirements -- Exceptions to voter approval requirements --**

**Enactment or repeal of tax -- Effective date -- Notice requirements.**

(1) (a) Except as provided in ~~[Subsection]~~ Subsections (1)(b) and 59-12-207.1(7)(c), a city or town in which the transactions described in Subsection 59-12-103(1) are not subject to a sales and use tax under Section 59-12-501 may as provided in this part impose a sales and use tax of 1/4% on the transactions described in Subsection 59-12-103(1) located within the city or town.

(b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this section on~~[-(i)]~~ the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104~~[-and]~~.

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

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

(2) (a) A city or town imposing a tax under this part may use the revenues generated by the tax:

(i) for the construction and maintenance of highways under the jurisdiction of the city or town imposing the tax;

(ii) subject to Subsection (2)(b), to fund a system for public transit; or

(iii) for a combination of the purposes described in Subsections (2)(a)(i) and (ii).

(b) (i) For purposes of Subsection (2)(a)(ii) and except as provided in Subsection (2)(b)(ii), "public transit" is as defined in Section 17A-2-1004.

(ii) Notwithstanding Subsection (2)(b)(i), "public transit" does not include a fixed guideway system.

(3) To impose a tax under this part, the governing body of the city or town shall:

(a) pass an ordinance approving the tax; and

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

(4) To obtain voter approval for a tax under Subsection (3)(b), a city or town shall:

(a) hold an election during:

- (i) a regular general election; or
- (ii) a municipal general election; and
- (b) publish notice of the election:
  - (i) 15 days or more before the day on which the election is held; and
  - (ii) in a newspaper of general circulation in the city or town.
- (5) An ordinance approving a tax under this part shall provide an effective date for the tax as provided in Subsection (6).
- (6) (a) For purposes of this Subsection (6):
  - (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.
  - (ii) "Annexing area" means an area that is annexed into a city or town.
  - (b) (i) [H] Except as provided in Subsection (6)(c) or (d), if, on or after [May 1, 2000] July 1, 2004, a city or town enacts or repeals a tax [or changes the rate of a tax] under this part, the enactment[;] or repeal[; or change] shall take effect:
    - (A) on the first day of a calendar quarter; and
    - (B) after a ~~[75-day]~~ 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(b)(ii) from the city or town.
  - (ii) The notice described in Subsection (6)(b)(i)(B) shall state:
    - (A) that the city or town will enact or repeal a tax ~~[or change the rate of a tax]~~ under this part;
    - (B) the statutory authority for the tax described in Subsection (6)(b)(i)(B);
    - (C) the effective date of the tax described in Subsection (6)(b)(i)(A); and
    - (D) if the city or town enacts the tax ~~[or changes the rate of the tax]~~ described in Subsection (6)(b)(i)(A), the ~~[new]~~ rate of the tax.
  - (c) (i) Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection (6)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
    - (A) that begins after the effective date of the imposition of the tax; and
    - (B) if the billing period for the transaction begins before the effective date of the

enactment of the tax under Subsection (1).

(ii) Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection (6)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under Subsection (1).

(iii) Subsections (6)(c)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(b);

(B) Subsection 59-12-103(1)(c);

(C) Subsection 59-12-103(1)(d);

(D) Subsection 59-12-103(1)(e);

(E) Subsection 59-12-103(1)(f);

(F) Subsection 59-12-103(1)(g);

(G) Subsection 59-12-103(1)(h);

(H) Subsection 59-12-103(1)(i);

(I) Subsection 59-12-103(1)(j); or

(J) Subsection 59-12-103(1)(k).

(d) (i) Notwithstanding Subsection (6)(b)(i), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(b)(i).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

~~[(e)]~~ (e) (i) ~~[H]~~ Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs on or after ~~[May 1, 2000]~~ July 1, 2004, the annexation will result in ~~[a change in the rate]~~ the enactment or repeal of a tax under this part for an annexing area, the ~~[change]~~ enactment or

repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a ~~[75-day]~~ 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)~~(c)~~ (e)(ii) from the city or town that annexes the annexing area.

(ii) The notice described in Subsection (6)~~(c)~~ (e)(i)(B) shall state:

(A) that the annexation described in Subsection (6)~~(c)~~ (e)(i) will result in ~~[a change in the rate]~~ an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (6)~~(c)~~ (e)(ii)(A);

(C) the effective date of the tax described in Subsection (6)~~(c)~~ (e)(ii)(A); and

(D) the ~~[new]~~ rate of the tax described in Subsection (6)~~(c)~~ (e)(ii)(A).

(f) (i) Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection (6)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the imposition of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under Subsection (1).

(ii) Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection (6)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under Subsection (1).

(iii) Subsections (6)(f)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(b);

(B) Subsection 59-12-103(1)(c);

(C) Subsection 59-12-103(1)(d);

(D) Subsection 59-12-103(1)(e);

(E) Subsection 59-12-103(1)(f);

(F) Subsection 59-12-103(1)(g);

(G) Subsection 59-12-103(1)(h);

(H) Subsection 59-12-103(1)(i);

(I) Subsection 59-12-103(1)(j); or

(J) Subsection 59-12-103(1)(k).

(g) (i) Notwithstanding Subsection (6)(e)(i), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(e)(i).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(7) (a) Except as provided in Subsection (7)(b), a city or town is not subject to the voter approval requirements of Subsection (3)(b) if:

(i) on or before January 1, 1996, the city or town imposed a license fee or tax on businesses based on gross receipts pursuant to Section 10-1-203; or

(ii) the city or town:

(A) on or before June 30, 2002, obtained voter approval in accordance with Subsection (3)(b) to impose a tax under this part for a purpose described in Subsection (2)(a)(i); and

(B) on or after July 1, 2002, uses the revenues generated by a tax under this part for a purpose described in Subsection (2)(a).

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

Section 61. Section **59-12-1003** is enacted to read:

**59-12-1003. Seller or certified service provider reliance on commission database.**

A seller or certified service provider that collects a tax imposed by a city or town under

this part is not liable for failing to collect and remit a tax at a tax rate imposed under this part if the tax rate at which the seller or certified service provider collected the tax was derived from a database created by the commission containing:

- (1) tax rates; or
- (2) local taxing jurisdiction boundaries.

Section 62. Section **59-12-1102** is amended to read:

**59-12-1102. Base -- Rate -- Imposition of tax -- Distribution of revenue -- Administration -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

(1) (a) (i) Except as provided in [~~Subsection~~] Subsections (1)(a)(ii) and 59-12-207.1(7)(c), subject to the provisions of Subsections (2) through [~~(6)~~] (5), and in addition to any other tax authorized by this chapter, a county may impose by ordinance a county option sales and use tax of 1/4% upon the transactions described in Subsection 59-12-103(1).

(ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this section on [~~(A)~~] the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104 [~~; and~~].

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

(b) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

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

(i) upon [~~sales and uses made in~~] transactions that are located within the county, including [~~sales and uses made~~] transactions that are located within municipalities in the county; and

(ii) except as provided in Subsection (1)[~~(c)~~] (d) or (5), beginning on the first day of January:

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

(B) of the second calendar year after adoption of the ordinance imposing the tax if the

ordinance is adopted after May 25.

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

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

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

(2) (a) Before imposing a county option sales and use tax under Subsection (1), a county shall hold two public hearings on separate days in geographically diverse locations in the county.

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

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

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

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

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

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

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

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

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

(v) Whenever possible:

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

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

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

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

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

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

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

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

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

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

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

(i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall

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

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

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

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

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

(b) ~~[A county option sales and use tax imposed]~~ Notwithstanding Subsection (4)(a), a tax under this part is not subject to~~[(i) the distribution provisions of]~~ Subsections 59-12-205(2) ~~[and (3)]~~; and ~~[(ii) the earmarking provisions of Subsection 59-12-205(4)]~~ through (5).

(c) ~~[The]~~ Notwithstanding Subsection (4)(a), the fee charged by the commission under Section 59-12-206 shall be based on the distribution amounts resulting after all the applicable distribution calculations under Subsection (3) have been made.

~~[(6)]~~ (5) (a) For purposes of this Subsection ~~[(6)]~~ (5):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Annexation to County.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) ~~[If]~~ Except as provided in Subsection (5)(c) or (d), if, on or after ~~[May 1, 2000]~~ July 1, 2004, a county enacts or repeals a tax ~~[or changes the rate of a tax]~~ under this part~~[-]~~:

(A) (I) the enactment~~[-, repeal, or change]~~ shall take effect~~[- (A)]~~ as provided in

Subsection (1)(c); or

(II) the repeal shall take effect on the first day of a calendar quarter; and

(B) after a ~~[75-day]~~ 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection ~~[(6)]~~ (5)(b)(ii) from the county.

(ii) The notice described in Subsection ~~[(6)]~~ (5)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax ~~[or change the rate of a tax]~~ under this part;

(B) the statutory authority for the tax described in Subsection ~~[(6)]~~ (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection ~~[(6)]~~ (5)(b)(ii)(A); and

(D) if the county enacts the tax ~~[or changes the rate of the tax]~~ described in Subsection ~~[(6)]~~ (5)(b)(ii)(A), the ~~[new]~~ rate of the tax.

(c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the imposition of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under Subsection (1).

(ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under Subsection (1).

(iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(b);

(B) Subsection 59-12-103(1)(c);

(C) Subsection 59-12-103(1)(d);

(D) Subsection 59-12-103(1)(e);

(E) Subsection 59-12-103(1)(f);

(F) Subsection 59-12-103(1)(g);

(G) Subsection 59-12-103(1)(h);

(H) Subsection 59-12-103(1)(i);

(I) Subsection 59-12-103(1)(j); or

(J) Subsection 59-12-103(1)(k).

(d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

[~~(e)~~] (e) (i) [H] Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after [May 1, 2000] July 1, 2004, the annexation will result in [a change in the rate] the enactment or repeal of a tax under this part for an annexing area, the [change] enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a [~~75-day~~] 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection [~~(6)(e)~~] (5)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection [~~(6)(e)~~] (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection [~~(6)(e)~~] (5)(e)(i) will result in [a change in the rate] an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection [~~(6)(e)~~] (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection [~~(6)(e)~~] (5)(e)(ii)(A); and

(D) the [new] rate of the tax described in Subsection [~~(6)(e)~~] (5)(e)(ii)(A).

(f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the imposition of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under Subsection (1).

(ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under Subsection (1).

(iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(b);

(B) Subsection 59-12-103(1)(c);

(C) Subsection 59-12-103(1)(d);

(D) Subsection 59-12-103(1)(e);

(E) Subsection 59-12-103(1)(f);

(F) Subsection 59-12-103(1)(g);

(G) Subsection 59-12-103(1)(h);

(H) Subsection 59-12-103(1)(i);

(I) Subsection 59-12-103(1)(j); or

(J) Subsection 59-12-103(1)(k).

(g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 63. Section **59-12-1103** is enacted to read:

**59-12-1103. Seller or certified service provider reliance on commission database.**

A seller or certified service provider that collects a tax imposed by a county under this part is not liable for failing to collect and remit a tax at a tax rate imposed under this part if the tax rate at which the seller or certified service provider collected the tax was derived from a database created by the commission containing:

- (1) tax rates; or
- (2) local taxing jurisdiction boundaries.

Section 64. Section **59-12-1302** is amended to read:

**59-12-1302. Authority to impose -- Base -- Rate -- Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements.**

(1) [~~Beginning~~] Except as provided in Subsection 59-12-207.1(7)(c), beginning on or after January 1, 1998, the governing body of a town may impose a tax as provided in this part in an amount that does not exceed 1%.

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

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

(a) except as provided in Subsection (4), impose the tax on the transactions described in Subsection 59-12-103(1) located within the town; and

(b) provide an effective date for the tax as provided in Subsection (5).

(4) (a) Notwithstanding Subsection (3)(a), a town may not impose a tax under this section on~~[-(a)]~~ the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104~~[-and]~~.

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

(b) For purposes of this Subsection (4), the location of a transaction shall be determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a town.

(b) (i) [~~H~~] Except as provided in Subsection (5)(c) or (d), if, on or after [May 1, 2000] July 1, 2004, a town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a [~~75-day~~] 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the town.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the town will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the town enacts the tax or changes the rate of the tax described in Subsection (5)(b)(ii)(A), the [~~new~~] rate of the tax.

(c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection (5)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase;  
and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1).

(ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection (5)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

- (A) Subsection 59-12-103(1)(b);
- (B) Subsection 59-12-103(1)(c);
- (C) Subsection 59-12-103(1)(d);
- (D) Subsection 59-12-103(1)(e);
- (E) Subsection 59-12-103(1)(f);
- (F) Subsection 59-12-103(1)(g);
- (G) Subsection 59-12-103(1)(h);
- (H) Subsection 59-12-103(1)(i);
- (I) Subsection 59-12-103(1)(j); or
- (J) Subsection 59-12-103(1)(k).

(d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (5)(b)(i) takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (5)(b)(i).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

~~[(c)]~~ (e) (i) [H] Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after [May 1, 2000] July 1, 2004, the annexation will result in [a] the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

- (A) on the first day of a calendar quarter; and
- (B) after a [75-day] 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)[(c)] (e)(ii) from the town that annexes the annexing area.

(ii) The notice described in Subsection (5)[(c)] (e)(i)(B) shall state:

- (A) that the annexation described in Subsection (5)[(c)] (e)(i) will result in [a] an

enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)~~(c)~~ (e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)~~(c)~~ (e)(ii)(A); and

(D) if the town enacts the tax or changes the rate of the tax described in Subsection (5)(e)(ii)(A), the [new] rate of the tax [described in Subsection (5)(c)(ii)(A)].

(f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection (5)(f)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase;

and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1).

(ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection (5)(f)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease;

and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(b);

(B) Subsection 59-12-103(1)(c);

(C) Subsection 59-12-103(1)(d);

(D) Subsection 59-12-103(1)(e);

(E) Subsection 59-12-103(1)(f);

(F) Subsection 59-12-103(1)(g);

(G) Subsection 59-12-103(1)(h);

(H) Subsection 59-12-103(1)(i);

(I) Subsection 59-12-103(1)(j); or

(J) Subsection 59-12-103(1)(k).

(g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (5)(e)(i).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(6) The commission shall:

(a) except as provided in Subsection (6)(c), distribute the revenues generated by the tax under this section to the town imposing the tax;

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

(i) the same procedures used to administer, collect, and enforce the sales and use tax under Part 1, Tax Collection; and

(ii) Chapter 1, General Taxation Policies; and

(c) deduct from the distribution under Subsection (6)(a) an administrative charge for collecting the tax as provided in Section 59-12-206.

Section 65. Section **59-12-1303** is enacted to read:

**59-12-1303. Seller or certified service provider reliance on commission database.**

A seller or certified service provider that collects a tax imposed by a town under this part is not liable for failing to collect and remit a tax at a tax rate imposed under this part if the tax rate at which the seller or certified service provider collected the tax was derived from a database created by the commission containing:

(1) tax rates; or

(2) local taxing jurisdiction boundaries.

Section 66. Section **59-12-1402** is amended to read:

**59-12-1402. Opinion question election -- Imposition of tax -- Uses of tax monies -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

(1) (a) (i) Except as provided in ~~[Subsection]~~ Subsections (1)(a)(ii) and 59-12-207.1(7)(c), and subject to Subsection (6), beginning on January 1, 2003, a city or town legislative body subject to this part may submit an opinion question to the residents of that city or town, by majority vote of all members of the legislative body, so that each resident of the city or town has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the city or town, to fund recreational and zoological facilities and botanical, cultural, and zoological organizations in that city or town.

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

(A) if the county in which the city or town is located imposes a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

(B) on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104~~[-and]~~.

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

(b) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

~~[(b)]~~ (c) The election shall follow the procedures outlined in Title 11, Chapter 14, Utah Municipal Bond Act, except as provided in Subsection (6).

(2) If the city or town legislative body determines that a majority of the city's or town's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax as prescribed in Subsection (1)(a), the city or town legislative body may impose the tax by a majority vote of all members of the legislative body.

(3) The monies generated from any tax imposed under Subsection (2) shall be used for

financing:

- (a) recreational and zoological facilities within the city or town; and
- (b) ongoing operating expenses of botanical, cultural, and zoological organizations

within the city or town.

(4) ~~[Taxes imposed]~~ (a) A tax under this part shall be:

~~[(a)]~~ (i) except as provided in Subsection (4)(b), levied at the same time and collected in the same manner as provided in Part 2, Local Sales and Use Tax Act~~[-, except that the collection and distribution of the tax revenue is not subject to Subsection 59-12-205(2)]~~; and

~~[(b)-(i)]~~ (ii) (A) levied for a period of five years; and

~~[(ii)]~~ (B) may be reauthorized at the end of the five-year period in accordance with this section.

(b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to Subsections 59-12-205(2) through (5).

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a city or town.

(b) (i) ~~[H]~~ Except as provided in Subsection (5)(c) or (d), if, on or after [January 1, 2003] July 1, 2004, a city or town enacts or repeals a tax ~~[or changes the rate of a tax]~~ under this part, the enactment~~[-;]~~ or repeal~~[-, or change]~~ shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a ~~[75-day]~~ 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the city or town.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the city or town will enact or repeal a tax ~~[or change the rate of a tax]~~ under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the city or town enacts the tax [~~or changes the rate of the tax~~] described in Subsection (5)(b)(ii)(A), the [new] rate of the tax.

(c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the imposition of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under this section.

(ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under this section.

(iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(b);

(B) Subsection 59-12-103(1)(c);

(C) Subsection 59-12-103(1)(d);

(D) Subsection 59-12-103(1)(e);

(E) Subsection 59-12-103(1)(f);

(F) Subsection 59-12-103(1)(g);

(G) Subsection 59-12-103(1)(h);

(H) Subsection 59-12-103(1)(i);

(I) Subsection 59-12-103(1)(j); or

(J) Subsection 59-12-103(1)(k).

(d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under

Subsection (5)(b)(i).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

~~[(e)] (e) (i) [H]~~ Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after [January 1, 2003] July 1, 2004, the annexation will result in [a change in the rate] the enactment or repeal of a tax under this part for an annexing area, the [change] enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a ~~[75-day]~~ 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)~~[(e)] (e)~~(ii) from the city or town that annexes the annexing area.

(ii) The notice described in Subsection (5)~~[(e)] (e)~~(i)(B) shall state:

(A) that the annexation described in Subsection (5)~~[(e)] (e)~~(i) will result in ~~[a change in the rate of]~~ an enactment or repeal a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)~~[(e)] (e)~~(ii)(A);

(C) the effective date of the tax described in Subsection (5)~~[(e)] (e)~~(ii)(A); and

(D) the ~~[new]~~ rate of the tax described in Subsection (5)~~[(e)] (e)~~(ii)(A).

(f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the imposition of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under this section.

(ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under this section.

(iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

- (A) Subsection 59-12-103(1)(b);
- (B) Subsection 59-12-103(1)(c);
- (C) Subsection 59-12-103(1)(d);
- (D) Subsection 59-12-103(1)(e);
- (E) Subsection 59-12-103(1)(f);
- (F) Subsection 59-12-103(1)(g);
- (G) Subsection 59-12-103(1)(h);
- (H) Subsection 59-12-103(1)(i);
- (I) Subsection 59-12-103(1)(j); or
- (J) Subsection 59-12-103(1)(k).

(g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(6) (a) Before a city or town legislative body submits an opinion question to the residents of the city or town under Subsection (1)(a)(i), the city or town legislative body shall:

(i) submit to the county legislative body in which the city or town is located a written notice of the intent to submit the opinion question to the residents of the city or town; and

(ii) receive from the county legislative body:

(A) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

(B) a written statement that in accordance with Subsection (6)(b) the results of a county opinion question submitted to the residents of the county under Part 7, County Option Funding

for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city or town legislative body to submit the opinion question to the residents of the city or town in accordance with this part.

(b) (i) Within 60 days after the day the county legislative body receives from a city or town legislative body described in Subsection (6)(a) the notice of the intent to submit an opinion question to the residents of the city or town, the county legislative body shall provide the city or town legislative body:

(A) the written resolution described in Subsection (6)(a)(ii)(A); or

(B) written notice that the county legislative body will submit an opinion question to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under that part.

(ii) If the county legislative body provides the city or town legislative body the written notice that the county legislative body will submit an opinion question as provided in Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no later than, from the date the county legislative body sends the written notice, the later of:

(A) a 12-month period;

(B) the next regular primary election; or

(C) the next regular general election.

(iii) Within 30 days of the date of the canvass of the election at which the opinion question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the city or town legislative body described in Subsection (6)(a) written results of the opinion question submitted by the county legislative body under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

(A) (I) the city or town legislative body may not impose a tax under this part because a majority of the county's registered voters voted in favor of the county imposing the tax and the county legislative body by a majority vote approved the imposition of the tax; or

(II) for at least 12 months from the date the written results are submitted to the city or

town legislative body, the city or town legislative body may not submit to the county legislative body a written notice of the intent to submit an opinion question under this part because a majority of the county's registered voters voted against the county imposing the tax and the majority of the registered voters who are residents of the city or town described in Subsection (6)(a) voted against the imposition of the county tax; or

(B) the city or town legislative body may submit the opinion question to the residents of the city or town in accordance with this part because although a majority of the county's registered voters voted against the county imposing the tax, the majority of the registered voters who are residents of the city or town voted for the imposition of the county tax.

(c) Notwithstanding Subsection (6)(b), at any time a county legislative body may provide a city or town legislative body described in Subsection (6)(a) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, which permits the city or town legislative body to submit under Subsection (1)(a)(i) an opinion question to the city's or town's residents.

Section 67. Section **59-12-1404** is enacted to read:

**59-12-1404. Seller or certified service provider reliance on commission database.**

A seller or certified service provider that collects a tax imposed by a city or town under this part is not liable for failing to collect and remit a tax at a tax rate imposed under this part if the tax rate at which the seller or certified service provider collected the tax was derived from a database created by the commission containing:

(1) tax rates; or

(2) local taxing jurisdiction boundaries.

Section 68. **Repealer.**

This act repeals:

Section **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.**

Section 69. **Revenue and Taxation Interim Committee study.**

(1) During the 2003 interim the Revenue and Taxation Interim Committee:

(a) shall:

(i) as determined by the Revenue and Taxation Interim Committee, study issues relating to how this bill may impact:

(A) the state;

(B) the State Tax Commission;

(C) counties, cities, and towns within the state;

(D) business entities; and

(E) any other entity as determined by the Revenue and Taxation Interim Committee;

(ii) determine whether legislation should be drafted to subject any other taxes, fees, or charges to any of the provisions of this bill;

(iii) determine whether legislation should be drafted to resolve conflicts between this bill and 2003 General Session S.B. 23, State and Local Taxes, Fees, and Charges Related to Telecommunications; and

(iv) (A) study any actions taken after the passage of this bill by the:

(I) Streamlined Sales Tax Implementing States;

(II) governing board of the Streamlined Sales and Use Tax Agreement; or

(III) member states of the Streamlined Sales and Use Tax Agreement acting jointly; and

(B) determine whether as a result of those actions legislation should be drafted to bring the state into substantial compliance with the Streamlined Sales and Use Tax Agreement; and

(b) may study any other issues relating to the Streamlined Sales and Use Tax Agreement as determined by the Revenue and Taxation Interim Committee.

(2) (a) The Revenue and Taxation Interim Committee shall complete the study required by this section on or before the October 2003 interim meeting.

(b) If the Revenue and Taxation Interim Committee determines that legislation should be drafted in accordance with Subsection (1), the Revenue and Taxation Interim Committee shall consider that legislation on or before the November 2003 interim meeting.

Section 70. **Effective date.**

(1) Except as provided in Subsection (2), this act takes effect on July 1, 2004.

(2) Notwithstanding Subsection (1), Sections 59-7-614.1 and 59-10-134.1 take effect for taxable years beginning on or after January 1, 2004.