

1 **STREAMLINED SALES TAX PROJECT**

2 **AMENDMENTS**

3 2003 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Lyle W. Hillyard**

6 **This act modifies the Municipal Energy Sales and Use Tax Act and the Sales and Use Tax**
7 **Act. The act provides and amends definitions. This act authorizes the State Tax**
8 **Commission to enter into an agreement with one or more states relating to sales and use**
9 **taxes. The act provides the purposes of the agreement, prescribes the scope of the**
10 **agreement, and grants the State Tax Commission authority to make certain rules in**
11 **furtherance of the agreement. The act provides that the agreement may require each**
12 **state that is a member of the agreement to abide by certain requirements and establishes**
13 **those requirements. The act modifies state and local sales and use tax rates for taxes**
14 **collected by certain sellers. The act provides and modifies effective dates for state and**
15 **local sales and use taxes. The act modifies requirements for enacting, repealing, or**
16 **changing the tax rate of a local sales and use tax. The act repeals obsolete language. The**
17 **act provides that revenues in the Remote Sales Restricted Account shall be deposited into**
18 **the General Fund on a certain date. The act provides, modifies, and repeals sales and use**
19 **tax exemptions. The act provides income tax credits for certain hand tools used in a**
20 **farming operation. The act modifies requirements to report certain sales and use tax**
21 **information to the State Tax Commission. The act modifies requirements pertaining to**
22 **exemption certificates. The act amends provisions relating to the voluntary collection of**
23 **sales and use taxes by a seller. The act addresses for certain sellers registered under the**
24 **agreement the due dates for paying certain sales and use tax obligations and the**
25 **requirements for calculating certain sales and use tax obligations. The act permits a**
26 **seller or a seller's certified service provider to deduct or file a refund claim for bad debt**
27 **under certain circumstances. The act addresses the recovery of bad debt. The act**



28 **authorizes the commission to issue a direct payment permit to certain sellers and**
29 **provides procedures and requirements for the State Tax Commission to issue or revoke a**
30 **direct payment permit and for sellers to use direct payment permits. The act addresses**
31 **the sales and use tax treatment of certain goods or services that will be concurrently**
32 **available for use in more than one location. The act addresses the collection, remittance,**
33 **and payment of sales and use taxes on direct mail. The act modifies provisions relating to**
34 **filing sales and use tax returns and retaining a portion of sales and use taxes collected.**
35 **The act provides procedures and requirements for a seller to obtain a refund or credit for**
36 **taxes erroneously charged to a purchaser. The act requires the State Tax Commission to**
37 **grant a seller amnesty under certain circumstances and provides procedures and**
38 **requirements for granting amnesty. The act modifies the procedures and requirements**
39 **for determining the location of transactions for certain sales and use taxes imposed by a**
40 **county, city, or town. The act provides that a county, city, or town may impose a sales or**
41 **use tax on transactions located within the county, city, or town. The act limits a seller's**
42 **sales and use tax liability if the seller relies on a database created by the State Tax**
43 **Commission. The act addresses the collection and distribution of local sales and use**
44 **taxes. The act makes technical changes. The act takes effect on January 1, 2004.**

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

46 AMENDS:

47 **10-1-304**, as last amended by Chapter 138, Laws of Utah 2002

48 **10-1-307**, as last amended by Chapter 305, Laws of Utah 1997

49 **17A-2-1064**, as last amended by Chapter 253, Laws of Utah 2000

50 **59-1-403**, as last amended by Chapters 52 and 175, Laws of Utah 2002

51 **59-12-102**, as last amended by Chapters 77, 117, 192 and 320, Laws of Utah 2002

52 **59-12-103**, as last amended by Chapter 2, Laws of Utah 2002, Sixth Special Session

53 **59-12-103.1**, as enacted by Chapter 253, Laws of Utah 2000

54 **59-12-103.2**, as last amended by Chapter 104, Laws of Utah 2001

55 **59-12-104**, as last amended by Chapters 117, 138, 217 and 286, Laws of Utah 2002

56 **59-12-104.1**, as last amended by Chapter 291, Laws of Utah 1998

57 **59-12-104.2**, as enacted by Chapter 243, Laws of Utah 2001

58 **59-12-105**, as last amended by Chapter 262, Laws of Utah 2001

- 59 **59-12-106**, as last amended by Chapter 253, Laws of Utah 2000
60 **59-12-107**, as last amended by Chapter 104, Laws of Utah 2001
61 **59-12-108**, as last amended by Chapter 289, Laws of Utah 1998
62 **59-12-110**, as last amended by Chapter 253, Laws of Utah 2000
63 **59-12-113**, as renumbered and amended by Chapter 5, Laws of Utah 1987
64 **59-12-115**, as renumbered and amended by Chapter 5, Laws of Utah 1987
65 **59-12-117**, as last amended by Chapter 9, Laws of Utah 2001
66 **59-12-204**, as last amended by Chapters 2 and 253, Laws of Utah 2000
67 **59-12-205**, as last amended by Chapters 2, 253 and 318, Laws of Utah 2000
68 **59-12-208.1**, as enacted by Chapter 319, Laws of Utah 2000
69 **59-12-210**, as enacted by Chapter 259, Laws of Utah 1994
70 **59-12-301**, as last amended by Chapter 207, Laws of Utah 2002
71 **59-12-302**, as last amended by Chapter 305, Laws of Utah 1997
72 **59-12-354**, as last amended by Chapter 319, Laws of Utah 2000
73 **59-12-355**, as enacted by Chapter 319, Laws of Utah 2000
74 **59-12-401**, as last amended by Chapter 253, Laws of Utah 2000
75 **59-12-402**, as last amended by Chapters 253 and 319, Laws of Utah 2000
76 **59-12-403**, as enacted by Chapter 319, Laws of Utah 2000
77 **59-12-501**, as last amended by Chapter 253, Laws of Utah 2000
78 **59-12-502**, as last amended by Chapters 217 and 217, Laws of Utah 2001
79 **59-12-504**, as enacted by Chapter 319, Laws of Utah 2000
80 **59-12-603**, as last amended by Chapter 11, Laws of Utah 2001, First Special Session
81 **59-12-703**, as last amended by Chapter 192, Laws of Utah 2001
82 **59-12-802**, as last amended by Chapters 104 and 226, Laws of Utah 2001
83 **59-12-804**, as last amended by Chapter 104, Laws of Utah 2001
84 **59-12-806**, as enacted by Chapter 319, Laws of Utah 2000
85 **59-12-901**, as last amended by Chapter 162, Laws of Utah 2001
86 **59-12-902**, as last amended by Chapters 104 and 162, Laws of Utah 2001
87 **59-12-1001**, as last amended by Chapter 101, Laws of Utah 2002
88 **59-12-1102**, as last amended by Chapters 253 and 319, Laws of Utah 2000
89 **59-12-1302**, as last amended by Chapters 253 and 319, Laws of Utah 2000

90 **59-12-1402**, as enacted by Chapter 192, Laws of Utah 2001

91 ENACTS:

92 **59-12-102.1**, Utah Code Annotated 1953

93 **59-12-104.3**, Utah Code Annotated 1953

94 **59-12-107.1**, Utah Code Annotated 1953

95 **59-12-107.2**, Utah Code Annotated 1953

96 **59-12-107.3**, Utah Code Annotated 1953

97 **59-12-110.1**, Utah Code Annotated 1953

98 **59-12-122**, Utah Code Annotated 1953

99 **59-12-207.1**, Utah Code Annotated 1953

100 **59-12-207.2**, Utah Code Annotated 1953

101 **59-12-207.3**, Utah Code Annotated 1953

102 **59-12-207.4**, Utah Code Annotated 1953

103 **59-12-207.5**, Utah Code Annotated 1953

104 **59-12-356**, Utah Code Annotated 1953

105 **59-12-404**, Utah Code Annotated 1953

106 **59-12-505**, Utah Code Annotated 1953

107 **59-12-604**, Utah Code Annotated 1953

108 **59-12-706**, Utah Code Annotated 1953

109 **59-12-807**, Utah Code Annotated 1953

110 **59-12-1003**, Utah Code Annotated 1953

111 **59-12-1103**, Utah Code Annotated 1953

112 **59-12-1303**, Utah Code Annotated 1953

113 **59-12-1404**, Utah Code Annotated 1953

114 REPEALS:

115 **59-12-207**, as last amended by Chapters 157 and 320, Laws of Utah 2002

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

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

118 **10-1-304. Municipality may levy tax -- Rate -- Imposition or repeal of tax -- Tax**
119 **rate change -- Effective date -- Notice requirements -- Exemptions.**

120 (1) Except as provided in Subsection (4), a municipality may levy a municipal energy

121 sales and use tax on the sale or use of taxable energy within the municipality:

122 (a) by ordinance as provided in Section 10-1-305; and

123 (b) of up to 6% of the delivered value of the taxable energy.

124 (2) A municipal energy sales and use tax imposed under this part may be in addition to
125 any local option sales and use tax imposed by the municipality as provided in Title 59, Chapter
126 12, Part 2, Local Sales and Use Tax Act.

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

128 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
129 4, Annexation.

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

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

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

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

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

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

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

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

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

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

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

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

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

151 (A) that the annexation described in Subsection (3)(c)(i) will result in a change in the

152 rate of a tax under this part for the annexing area;

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

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

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

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

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

161 (b) for an amount of electricity that is:

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

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

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

167 **10-1-307. Collection of taxes by commission -- Distribution of revenues -- Charge**
168 **for services -- Collection of taxes by municipality.**

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

173 (2) (a) Except as provided in Subsections 10-1-203(3)(d), 10-1-305(5), and
174 10-1-310(2), the commission shall pay a municipality:

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

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

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

181 (ii) minus the administration fee charged in accordance with Subsection (2)(c).

182 (b) In accordance with Subsection (2)(a), the commission shall transfer to the

183 municipality monthly by electronic transfer the revenues generated by the municipal energy
184 sales and use tax levied by the municipality and collected by the commission.

185 (c) (i) The commission shall charge a municipality imposing a municipal energy sales
186 and use tax a fee for administering the tax at the percentage provided in Section 59-12-206,
187 except that the commission may not charge a fee for taxes collected by a municipality under
188 Subsection (3).

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

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

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

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

195 (a) the municipality is the energy supplier; or

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

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

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

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

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

207 **17A-2-1064. Airport to University of Utah Light Rail Restricted Account --**
208 **Creation -- Use of revenues.**

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

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

213 (a) generated by a city or town that will have constructed within its boundaries the

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

216 (b) equal to the revenues generated by a 1/64% tax rate on the taxable transactions
217 under Subsection 59-12-103(1).

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

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

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

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

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

225 (A) for the Airport to University of Utah Light Rail project described in the
226 Transportation Equity Act for the 21st Century, Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II),
227 112 Stat. 107; and

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

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

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

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

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

236 **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

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

240 (i) a tax commissioner;

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

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

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

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

247 (i) in accordance with judicial order;

248 (ii) on behalf of the commission in any action or proceeding under:

249 (A) this title; or

250 (B) other law under which persons are required to file returns with the commission;

251 (iii) on behalf of the commission in any action or proceeding to which the commission
252 is a party; or

253 (iv) on behalf of any party to any action or proceeding under this title if the report or
254 facts shown by the return are directly involved in the action or proceeding.

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

258 (2) This section does not prohibit:

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

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

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

265 (i) who brings action to set aside or review a tax based on the report or return;

266 (ii) against whom an action or proceeding is contemplated or has been instituted under
267 this title; or

268 (iii) against whom the state has an unsatisfied money judgment.

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

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

273 (ii) the revenue service of any other state.

274 (b) Notwithstanding Subsection (1) and for all taxes except individual income tax and
275 corporate franchise tax, the commission may by rule, made in accordance with Title 63,

276 Chapter 46a, Utah Administrative Rulemaking Act, share information gathered from returns
277 and other written statements with the federal government, any other state, any of the political
278 subdivisions of another state, or any political subdivision of this state, except as limited by
279 Sections 59-12-209 and 59-12-210, if these political subdivisions or the federal government
280 grant substantially similar privileges to this state.

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

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

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

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

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

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

298 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
299 manufacturer and reported to the commission for the previous calendar year under Section
300 59-14-407; and

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

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

- 307 (h) Notwithstanding Subsection (1), the commission may:
- 308 (i) provide to the Division of Consumer Protection within the Department of
- 309 Commerce and the attorney general data:
- 310 (A) reported to the commission under Section 59-14-212; or
- 311 (B) related to a violation under Section 59-14-211; and
- 312 (ii) upon request provide to any person data reported to the commission under
- 313 Subsections 59-14-212(1)(a) through(c) and Subsection 59-14-212(1)(g).
- 314 (i) Notwithstanding Subsection (1), the commission shall, at the request of a committee
- 315 of the Legislature, Office of the Legislative Fiscal Analyst, or Governor's Office of Planning
- 316 and Budget, provide to the committee or office the total amount of revenues collected by the
- 317 commission under Chapter 24, Radioactive Waste Tax Act, for the time period specified by the
- 318 committee or office.
- 319 (j) Notwithstanding Subsection (1), the commission shall at the request of the
- 320 Legislature provide to the Legislature the total amount of sales or uses exempt under
- 321 Subsection 59-12-104[~~(52)~~] (51) reported to the commission in accordance with Section
- 322 59-12-105.
- 323 (k) Notwithstanding Subsection (1), the commission shall make the list required by
- 324 Subsection 59-14-408(3) available for public inspection.
- 325 (4) (a) Reports and returns shall be preserved for at least three years.
- 326 (b) After the three-year period provided in Subsection (4)(a) the commission may
- 327 destroy a report or return.
- 328 (5) (a) Any person who violates this section is guilty of a class A misdemeanor.
- 329 (b) If the person described in Subsection (5)(a) is an officer or employee of the state,
- 330 the person shall be dismissed from office and be disqualified from holding public office in this
- 331 state for a period of five years thereafter.
- 332 (6) This part does not apply to the property tax.
- 333 Section 5. Section **59-12-102** is amended to read:
- 334 **59-12-102. Definitions.**
- 335 As used in this chapter:
- 336 (1) (a) "Admission or user fees" includes season passes.
- 337 (b) "Admission or user fees" does not include annual membership dues to private

338 organizations.

339 (2) "Agreement" means the Streamlined Sales and Use Tax agreement described in
340 Section 59-12-102.1.

341 (3) "Agreement combined tax rate" means the sum of the tax rates listed under
342 Subsection (4).

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

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

345 (b) Section 59-12-204;

346 (c) Section 59-12-401;

347 (d) Section 59-12-402;

348 (e) Section 59-12-501;

349 (f) Section 59-12-502;

350 (g) Section 59-12-703;

351 (h) Section 59-12-802;

352 (i) Section 59-12-804;

353 (j) Section 59-12-1001;

354 (k) Section 59-12-1102;

355 (l) Section 59-12-1302; and

356 (m) Section 59-12-1402.

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

358 (a) is suitable for human consumption; and

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

360 ~~[(2)]~~ (6) "Area agency on aging" is as defined in Section 62A-3-101.

361 ~~[(3)]~~ (7) "Authorized carrier" means:

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

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

367 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
368 stock, the holder of a certificate issued by the United States Surface Transportation Board.

369 (8) "Certified automated system" means software certified by the commission in
370 accordance with Section 59-12-102.1 that:

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

373 (i) on a transaction; and

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

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

377 (c) maintains a record of the transaction.

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

379 (a) by the commission in accordance with Section 59-12-102.1; and

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

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

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

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

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

389 ~~[(4)]~~ (11) (a) For purposes of Subsection 59-12-104[~~(43)~~] (42), "coin-operated
390 amusement device" means:

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

392 (ii) that is not controlled through [~~vendor-assisted~~] seller-assisted, over-the-counter,
393 sales of tokens; and

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

396 (b) For purposes of Subsection 59-12-104[~~(43)~~] (42), "coin-operated amusement
397 device" does not mean a coin-operated amusement device possessing a coinage mechanism
398 that:

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

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

402 ~~[(5)]~~ (12) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or
403 other fuels that does not constitute industrial use under Subsection ~~[(13)]~~ (28) or residential use
404 under Subsection ~~[(23)]~~ (50).

405 ~~[(6)]~~ (13) (a) "Common carrier" means a person engaged in or transacting the business
406 of transporting passengers, freight, merchandise, or other property for hire within this state.

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

410 (ii) For purposes of Subsection ~~[(6)]~~ (13)(b)(i), in accordance with Title 63, Chapter
411 46a, Utah Administrative Rulemaking Act, the commission may make rules defining what
412 constitutes a person's place of employment.

413 ~~[(7)]~~ (14) "Component part" includes:

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

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

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

419 (d) feed, seeds, and seedlings.

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

421 (a) (i) in digital form; or

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

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

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

425 (a) a computer to perform a task; or

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

427 ~~[(8)]~~ (17) "Construction materials" means any tangible personal property that will be
428 converted into real property.

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

- 431 (19) (a) "Delivery charge" means a charge:
432 (i) by a seller of:
433 (A) tangible personal property; or
434 (B) services; and
435 (ii) for preparation and delivery of the tangible personal property or services described
436 in Subsection (19)(a)(i) to a location designated by the purchaser.
437 (b) "Delivery charge" includes a charge for the following:
438 (i) transportation;
439 (ii) shipping;
440 (iii) postage;
441 (iv) handling;
442 (v) crating; or
443 (vi) packing.
444 (20) (a) "Direct mail" means printed material delivered or distributed by United States
445 mail or other delivery service:
446 (i) to:
447 (A) a mass audience; or
448 (B) addressees on a mailing list provided by a purchaser of the mailing list; and
449 (ii) if the cost of the printed material is not billed directly to the recipients.
450 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
451 purchaser to a direct mail seller for inclusion in a package containing the printed material.
452 (c) "Direct mail" does not include multiple items of printed material delivered to a
453 single address.
454 (21) (a) "Drug" means a compound, substance, or preparation, or a component of a
455 compound, substance, or preparation that is:
456 (i) recognized in the:
457 (A) official United States Pharmacopoeia;
458 (B) official Homeopathic Pharmacopoeia of the United States;
459 (C) official National Formulary; or
460 (D) a supplement to a publication listed in Subsections (21)(a)(i)(A) through (C);
461 (ii) intended for use in the:

- 462 (A) diagnosis of disease;
463 (B) cure of disease;
464 (C) mitigation of disease;
465 (D) treatment of disease; or
466 (E) prevention of disease; or
467 (iii) intended to affect:
468 (A) the structure of the body; or
469 (B) any function of the body.
470 (b) "Drug" does not include:
471 (i) food and food ingredients;
472 (ii) a dietary supplement;
473 (iii) an alcoholic beverage; or
474 (iv) a prosthetic device.
475 (22) (a) Except as provided in Subsection (22)(c), "durable medical equipment" means
476 equipment that:
477 (i) can withstand repeated use;
478 (ii) is primarily and customarily used to serve a medical purpose;
479 (iii) generally is not useful to a person in the absence of illness or injury;
480 (iv) is not worn in or on the body; and
481 (v) is listed as eligible for payment under:
482 (A) Title XVIII of the federal Social Security Act; or
483 (B) the state plan for medical assistance under Title XIX of the federal Social Security
484 Act.
485 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
486 equipment described in Subsection (22)(a).
487 (c) Notwithstanding Subsection (22)(a), "durable medical equipment" does not include
488 mobility enhancing equipment.
489 (23) "Electronic" means:
490 (a) relating to technology; and
491 (b) having:
492 (i) electrical capabilities;

- 493 (ii) digital capabilities;
494 (iii) magnetic capabilities;
495 (iv) wireless capabilities;
496 (v) optical capabilities;
497 (vi) electromagnetic capabilities; or
498 (vii) capabilities similar to Subsections (23)(b)(i) through (vi).
499 (24) (a) "Food and food ingredients" means substances:
500 (i) regardless of whether the substances are in:
501 (A) liquid form;
502 (B) concentrated form;
503 (C) solid form;
504 (D) frozen form;
505 (E) dried form; or
506 (F) dehydrated form; and
507 (ii) that are:
508 (A) sold for:
509 (I) ingestion by humans; or
510 (II) chewing by humans; and
511 (B) consumed for the substance's:
512 (I) taste; or
513 (II) nutritional value.
514 (b) "Food and food ingredients" does not include:
515 (i) an alcoholic beverage;
516 (ii) tobacco; or
517 (iii) prepared food.
518 [~~(9)~~ (25) (a) "Fundraising sales" means sales:
519 (i) (A) made by a school; or
520 (B) made by a school student;
521 (ii) that are for the purpose of raising funds for the school to purchase equipment,
522 materials, or provide transportation; and
523 (iii) that are part of an officially sanctioned school activity.

524 (b) For purposes of Subsection [~~(9)~~] (25)(a)(iii), "officially sanctioned school activity"
525 means a school activity:

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

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

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

532 [~~(10)~~] (26) (a) "Hearing aid" means:

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

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

535 (II) correct impaired human hearing; and

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

537 (II) affixed behind the human ear;

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

539 (iii) a telephone amplifying device.

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

541 (i) except as provided in Subsection [~~(10)~~] (26)(a)(i)(B) or [~~(10)~~] (26)(a)(ii), an
542 instrument or device having an electronic component that is designed to be worn on the body;

543 (ii) except as provided in Subsection [~~(10)~~] (26)(a)(iii), an assistive listening device or
544 system designed to be used by one individual, including:

545 (A) a personal amplifying system;

546 (B) a personal FM system;

547 (C) a television listening system; or

548 (D) a device or system similar to a device or system described in Subsections [~~(10)~~]

549 (26)(b)(ii)(A) through (C); or

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

552 (A) a device or system installed in:

553 (I) an auditorium;

554 (II) a church;

555 (III) a conference room;

556 (IV) a synagogue; or

557 (V) a theater; or

558 (B) a device or system similar to a device or system described in Subsections ~~[(10)]~~

559 (26) (b)(iii)(A)(I) through (V).

560 ~~[(11)]~~ (27) (a) "Hearing aid accessory" means a hearing aid:

561 (i) component;

562 (ii) attachment; or

563 (iii) accessory.

564 (b) "Hearing aid accessory" includes:

565 (i) a hearing aid neck loop;

566 (ii) a hearing aid cord;

567 (iii) a hearing aid ear mold;

568 (iv) hearing aid tubing;

569 (v) a hearing aid ear hook; or

570 (vi) a hearing aid remote control.

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

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

573 (A) instrument or device described in Subsection ~~[(10)]~~ (27)(b)(i); or

574 (B) assistive listening device or system described in Subsection ~~[(10)]~~ (27)(b)(ii) or

575 (iii); or

576 (ii) a hearing aid battery.

577 ~~[(12) (a) Except as provided in Subsection (12)(c), "home medical equipment or~~

578 ~~supplies" means equipment or supplies that:]~~

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

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

581 ~~[(B) to mitigate an impairment resulting from illness or injury;]~~

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

583 ~~purpose; and]~~

584 ~~[(iii) are listed as eligible for payment under:]~~

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

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

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

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

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

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

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

595 ~~[(F) a doctor;]~~

596 ~~[(H) a nurse; or]~~

597 ~~[(H) another health care provider;]~~

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

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

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

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

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

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

604 ~~[(13)]~~ (28) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
605 or other fuels:

606 (a) in mining or extraction of minerals;

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

609 (i) commercial greenhouses;

610 (ii) irrigation pumps;

611 (iii) farm machinery;

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

614 (v) other farming activities;

615 (c) in manufacturing tangible personal property at an establishment described in SIC
616 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal

617 Executive Office of the President, Office of Management and Budget; or

618 (d) by a scrap recycler if:

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

622 (A) iron;

623 (B) steel;

624 (C) nonferrous metal;

625 (D) paper;

626 (E) glass;

627 (F) plastic;

628 (G) textile; or

629 (H) rubber; and

630 (ii) the new products under Subsection [~~(13)~~] (28)(d)(i) would otherwise be made with
631 nonrecycled materials.

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

634 (i) (A) a fixed term; or

635 (B) an indeterminate term; and

636 (ii) consideration.

637 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
638 amount of consideration may be increased or decreased by reference to the amount realized
639 upon sale or disposition of the property as defined in 26 U.S.C. Sec. 7701(h)(1).

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

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

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

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

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

647 (I) \$100; or

648 (II) 1% of the total required payments; or
649 (iii) providing tangible personal property along with an operator for a fixed period of
650 time or an indeterminate period of time if the operator is necessary for equipment to perform as
651 designed.

652 (d) For purposes of Subsection (29)(c)(iii), an operator is necessary for equipment to
653 perform as designed if the operator's duties exceed the:

654 (i) set-up of tangible personal property;

655 (ii) maintenance of tangible personal property; or

656 (iii) inspection of tangible personal property.

657 (30) "Local taxing jurisdiction" means a:

658 (a) county that is authorized to impose an agreement sales and use tax;

659 (b) city that is authorized to impose an agreement sales and use tax; or

660 (c) town that is authorized to impose an agreement sales and use tax.

661 [(14)] (31) "Manufactured home" means any manufactured home or mobile home as
662 defined in Title 58, Chapter 56, Utah Uniform Building Standards Act.

663 [(15)] (32) For purposes of Subsection 59-12-104(14), "manufacturing facility" means:

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

667 (b) a scrap recycler if:

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

671 (A) iron;

672 (B) steel;

673 (C) nonferrous metal;

674 (D) paper;

675 (E) glass;

676 (F) plastic;

677 (G) textile; or

678 (H) rubber; and

679 (ii) the new products under Subsection [(15)] (32)(b)(i) would otherwise be made with
680 nonrecycled materials.

681 [(16) (a) "Medicine" means:]

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

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

688 [(iii) any oxygen or stoma supplies prescribed by a physician or administered under the
689 direction of a physician or paramedic;]

690 [(b) "Medicine" does not include:]

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

692 [(ii) any alcoholic beverage;]

693 [(17)] (33) "Mobile telecommunications service" is as defined in the Mobile
694 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

695 (34) (a) Except as provided in Subsection (34)(c), "mobility enhancing equipment"
696 means equipment that:

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

699 (ii) is appropriate for use in a:

700 (A) home; or

701 (B) motor vehicle;

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

703 (iv) is listed as eligible for payment under:

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

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

707 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
708 the equipment described in Subsection (34)(a).

709 (c) Notwithstanding Subsection (34)(a), "mobility enhancing equipment" does not

710 include:

711 (i) a motor vehicle;

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

714 (iii) durable medical equipment; or

715 (iv) a prosthetic device.

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

718 (36) "Model 2 seller" means a seller that:

719 (a) except as provided in Subsection (36)(b), has selected a certified automated system
720 to perform the seller's sales tax functions for the agreement sales and use tax; and

721 (b) notwithstanding Subsection (36)(a), retains responsibility for remitting all of the
722 sales tax:

723 (i) collected by the seller; and

724 (ii) to the appropriate local taxing jurisdiction.

725 (37) (a) Subject to Subsection (37)(b), "model 3 seller" means a seller that has:

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

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

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

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

730 (B) due each local taxing jurisdiction; and

731 (iv) entered into a performance agreement with the commission.

732 (b) For purposes of Subsection (37)(a), "model 3 seller" includes an affiliated group of
733 sellers using the same proprietary system.

734 [(18)] (38) "Olympic merchandise" means tangible personal property bearing an
735 Olympic designation, emblem, insignia, mark, logo, service mark, symbol, terminology,
736 trademark, or other copyrighted or protected material, including:

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

738 (i) "Olympic";

739 (ii) "Olympiad"; or

740 (iii) "Citius Altius Fortius";

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

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

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

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

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

749 ~~[(19)]~~ (39) (a) "Other fuels" means products that burn independently to produce heat or
750 energy.

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

753 ~~[(20)]~~ (40) "Person" includes any individual, firm, partnership, joint venture,
754 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
755 city, municipality, district, or other local governmental entity of the state, or any group or
756 combination acting as a unit.

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

760 (41) (a) "Prepared food" means:

761 (i) food:

762 (A) sold in a heated state; or

763 (B) heated by a seller;

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

766 (iii) except as provided in Subsection (41)(c), food sold with an eating utensil provided
767 by the seller, including a:

768 (A) plate;

769 (B) knife;

770 (C) fork;

771 (D) spoon;

- 772 (E) glass;
773 (F) cup;
774 (G) napkin; or
775 (H) straw.
776 (b) For purposes of Subsection (41)(a), "prepared food" does not include:
777 (i) food that a seller only:
778 (A) cuts;
779 (B) repackages; or
780 (C) pasteurizes; or
781 (ii) (A) the following:
782 (I) raw egg;
783 (II) raw fish;
784 (III) raw meat;
785 (IV) raw poultry; or
786 (V) a food containing an item described in Subsections (41)(b)(ii)(A)(I) through (IV);
787 and
788 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of its
789 Food Code that the consumer cook the items described in Subsection (41)(b)(ii) to prevent food
790 borne illness.
791 (c) Notwithstanding Subsection (41)(a)(iii), an eating utensil provided by the seller
792 does not include the following used to transport the food:
793 (i) a container; or
794 (ii) packaging.
795 (42) "Prescription" means an order, formula, or recipe:
796 (a) issued:
797 (i) orally;
798 (ii) in writing;
799 (iii) electronically; or
800 (iv) by any other manner of transmission; and
801 (b) by a licensed practitioner authorized by the laws of a state.
802 (43) (a) "Prewritten computer software" means computer software that is not designed

803 and developed:

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

805 (ii) to the specifications of a specific purchaser.

806 (b) "Prewritten computer software" includes:

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

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

810 (B) to the specifications of a specific purchaser;

811 (ii) computer software designed and developed by the author or other creator of the
812 computer software to the specifications of a specific purchaser if the computer software is sold
813 to a person other than the purchaser; or

814 (iii) except as provided in Subsection (43)(c), prewritten computer software, or a
815 prewritten portion of prewritten computer software:

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

817 (B) if the modification or enhancement is designed and developed to the specifications
818 of a specific purchaser.

819 (c) Notwithstanding Subsection (43)(b)(iii), "prewritten computer software" does not
820 include a modification or enhancement described in Subsection (43)(b)(iii) if the charges for
821 the modification or enhancement are:

822 (i) reasonable; and

823 (ii) separately stated on the invoice or other statement of price provided to the
824 purchaser.

825 (44) (a) "Prosthetic device" means a device that:

826 (i) is worn on or in the body to:

827 (A) artificially replace a missing portion of the body;

828 (B) prevent or correct a physical deformity or physical malfunction; and

829 (C) support a weak or deformed portion of the body; and

830 (ii) is listed as eligible for payment under:

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

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

833 Act.

- 834 (b) "Prosthetic device" includes:
835 (i) parts used in the repairs or renovation of a prosthetic device; or
836 (ii) replacement parts for a prosthetic device.
837 (c) "Prosthetic device" does not include:
838 (i) corrective eyeglasses;
839 (ii) contact lenses;
840 (iii) hearing aids; or
841 (iv) dental prostheses.
842 (45) (a) "Protective equipment" means an item:
843 (i) for human wear; and
844 (ii) that is:
845 (A) designed as protection:
846 (I) to the wearer against injury or disease; or
847 (II) against damage or injury of other persons or property; and
848 (B) not suitable for general use.
849 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
850 commission shall make rules:
851 (i) listing the items that constitute "protective equipment"; and
852 (ii) that are consistent with the list of items that constitute "protective equipment"
853 under the agreement.
854 (46) (a) "Purchase price" and "sales price" mean the total amount of consideration:
855 (i) valued in money; and
856 (ii) for which tangible personal property or services are:
857 (A) sold;
858 (B) leased; or
859 (C) rented.
860 (b) "Purchase price" and "sales price" include:
861 (i) the seller's cost of the tangible personal property or services sold;
862 (ii) expenses of the seller, including:
863 (A) the cost of materials used;
864 (B) a labor cost;

- 865 (C) a service cost;
866 (D) interest;
867 (E) a loss;
868 (F) the cost of transportation to the seller; or
869 (G) a tax imposed on the seller;
870 (iii) a charge by the seller for any service necessary to complete the sale;
871 (iv) a delivery charge; or
872 (v) an installation charge.
873 (c) "Purchase price" and "sales price" do not include:
874 (i) a discount:
875 (A) in a form including:
876 (I) cash;
877 (II) term; or
878 (III) coupon;
879 (B) that is allowed by a seller;
880 (C) taken by a purchaser on a sale; and
881 (D) that is not reimbursed by a third party; or
882 (ii) the following if separately stated on an invoice, bill of sale, or similar document
883 provided to the purchaser:
884 (A) the amount of a trade-in;
885 (B) the following from credit extended on the sale of tangible personal property or
886 services:
887 (I) interest;
888 (II) financing; or
889 (III) carrying charges; or
890 (C) a tax or fee legally imposed directly on the consumer.
891 (47) "Purchaser" means a person to whom:
892 (a) a sale of tangible personal property is made; or
893 (b) a service is furnished.
894 [~~(22)~~] (48) "Regularly rented" means:
895 (a) rented to a guest for value three or more times during a calendar year; or

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

898 (49) "Rental" is as defined in Subsection (29)(a).

899 ~~[(23)]~~ (50) "Residential use" means the use in or around a home, apartment building,
900 sleeping quarters, and similar facilities or accommodations.

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

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

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

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

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

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

919 (a) resale;

920 (b) sublease; or

921 (c) subrent.

922 ~~[(25)]~~ (52) (a) "Retailer" means any person engaged in a regularly organized ~~[retail]~~
923 business in tangible personal property or any other taxable transaction under Subsection
924 59-12-103(1), and who is selling to the user or consumer and not for resale.

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

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

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

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

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

944 ~~[(26)] (53) (a) "Sale" means any transfer of title, exchange, or barter, conditional or~~
945 ~~otherwise, in any manner, of tangible personal property or any other taxable transaction under~~
946 ~~Subsection 59-12-103(1), for consideration. [It]~~

947 ~~(b) "Sale" includes:~~

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

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

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

952 ~~[(d)] (iv) any transaction if the possession of property is transferred but the seller~~
953 ~~retains the title as security for the payment of the price; and~~

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

957 ~~(54) "Sale at retail" is as defined in Subsection (51).~~

958 (55) "Sale-leaseback transaction" means a transaction by which title to taxable tangible
959 personal property is transferred:

960 (a) by a purchaser-lessee;

961 (b) to a lessor;

962 (c) for consideration; and

963 (d) if:

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

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

968 (A) for the property; and

969 (B) to the purchaser-lessee; and

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

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

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

974 (56) "Sales price" is as defined in Subsection (46).

975 ~~[(27)]~~ (57) (a) "Sales relating to schools" means the following sales by, amounts paid
976 to, or amounts charged by a school:

977 (i) sales that are directly related to the school's educational functions or activities

978 including:

979 (A) the sale of:

980 (I) textbooks;

981 (II) textbook fees;

982 (III) laboratory fees;

983 (IV) laboratory supplies; or

984 (V) safety equipment;

985 (B) the sale of ~~[clothing]~~ a uniform, protective equipment, or sports or recreational
986 equipment that:

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

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

991 (C) sales of ~~[food]~~ the following if the net or gross revenues generated by the ~~[food]~~
992 sales are deposited into a school district fund or school fund dedicated to school meals~~[-or]~~;

993 (I) food and food ingredients; or

994 (II) prepared food; or

995 (D) transportation charges for official school activities; or

996 (ii) amounts paid to or amounts charged by a school for admission to a school-related
997 event or school-related activity.

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

999 (i) bookstore sales of items that are not educational materials or supplies;

1000 (ii) except as provided in Subsection ~~[(27)]~~ (57)(a)(i)(B)~~[-clothing;-or]~~;

1001 (A) a uniform;

1002 (B) protective equipment; or

1003 (C) sports or recreational equipment; or

1004 (iii) amounts paid to or amounts charged by a school for admission to a school-related
1005 event or school-related activity if the amounts paid or charged are passed through to a person:

1006 (A) other than a:

1007 (I) school;

1008 (II) nonprofit organization authorized by a school board or a governing body of a
1009 private school to organize and direct a competitive secondary school activity; or

1010 (III) nonprofit association authorized by a school board or a governing body of a
1011 private school to organize and direct a competitive secondary school activity; and

1012 (B) that is required to collect sales and use taxes under this chapter.

1013 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1014 commission may make rules defining the term "passed through."

1015 ~~[(28)]~~ (58) For purposes of this section and Section 59-12-104, "school" means:

1016 (a) an elementary school or a secondary school that:

1017 (i) is a:

1018 (A) public school; or

1019 (B) private school; and

- 1020 (ii) provides instruction for one or more grades kindergarten through 12; or
- 1021 (b) a public school district.
- 1022 (59) "Seller" means a person that makes a sale, lease, or rental of:
- 1023 (a) tangible personal property; or
- 1024 (b) a service.
- 1025 [~~(29)~~] (60) (a) "Semiconductor fabricating or processing materials" means tangible
- 1026 personal property:
- 1027 (i) used primarily in the process of:
- 1028 (A) (I) manufacturing a semiconductor; or
- 1029 (II) fabricating a semiconductor; or
- 1030 (B) maintaining an environment suitable for a semiconductor; or
- 1031 (ii) consumed primarily in the process of:
- 1032 (A) (I) manufacturing a semiconductor; or
- 1033 (II) fabricating a semiconductor; or
- 1034 (B) maintaining an environment suitable for a semiconductor.
- 1035 (b) "Semiconductor fabricating or processing materials" includes:
- 1036 (i) parts used in the repairs or renovations of tangible personal property described in
- 1037 Subsection [~~(29)~~] (60)(a); or
- 1038 (ii) a chemical, catalyst, or other material used to:
- 1039 (A) produce or induce in a semiconductor a:
- 1040 (I) chemical change; or
- 1041 (II) physical change;
- 1042 (B) remove impurities from a semiconductor; or
- 1043 (C) improve the marketable condition of a semiconductor.
- 1044 [~~(30)~~] (61) "Senior citizen center" means a facility having the primary purpose of
- 1045 providing services to the aged as defined in Section 62A-3-101.
- 1046 (62) (a) "Sports or recreational equipment" means an item:
- 1047 (i) designed for human use; and
- 1048 (ii) that is:
- 1049 (A) worn in conjunction with:
- 1050 (I) an athletic activity; or

1051 (II) a recreational activity; and
1052 (B) not suitable for general use.
1053 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1054 commission shall make rules:
1055 (i) listing the items that constitute "sports or recreational equipment"; and
1056 (ii) that are consistent with the list of items that constitute "sports or recreational
1057 equipment" under the agreement.
1058 [~~31~~] (63) "State" means the state of Utah, its departments, and agencies.
1059 [~~32~~] (64) "Storage" means any keeping or retention of tangible personal property or
1060 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
1061 except sale in the regular course of business.
1062 [~~33~~] (65) (a) "Tangible personal property" means~~[-]~~ personal property that:
1063 (i) may be:
1064 (A) seen;
1065 (B) weighed;
1066 (C) measured;
1067 (D) felt; or
1068 (E) touched; or
1069 (ii) is in any manner perceptible to the senses.
1070 (b) "Tangible personal property" includes:
1071 (i) electricity;
1072 (ii) water;
1073 (iii) gas;
1074 (iv) steam; or
1075 (v) prewritten computer software.
1076 [~~(i) all goods, wares, merchandise, produce, and commodities;~~]
1077 [~~(ii) all tangible or corporeal things and substances which are dealt in or capable of~~
1078 ~~being possessed or exchanged;]~~
1079 [~~(iii) water in bottles, tanks, or other containers; and]~~
1080 [~~(iv) all other physically existing articles or things, including property severed from~~
1081 ~~real estate.]~~

- 1082 [~~(b) "Tangible personal property" does not include:~~
1083 [~~(i) real estate or any interest or improvements in real estate;~~
1084 [~~(ii) bank accounts, stocks, bonds, mortgages, notes, and other evidence of debt;~~
1085 [~~(iii) insurance certificates or policies;~~
1086 [~~(iv) personal or governmental licenses;~~
1087 [~~(v) water in pipes, conduits, ditches, or reservoirs;~~
1088 [~~(vi) currency and coinage constituting legal tender of the United States or of a foreign
1089 nation; and]~~
1090 [~~(vii) all gold, silver, or platinum ingots, bars, medallions, or decorative coins, not
1091 constituting legal tender of any nation, with a gold, silver, or platinum content of not less than
1092 80%.~~]
1093 [~~(34)~~ (66) (a) For purposes of Subsection [~~(35)~~] (67) and Section 59-12-103,
1094 "telephone service" means a two-way transmission:
1095 (i) by:
1096 (A) wire;
1097 (B) radio;
1098 (C) lightwave; or
1099 (D) other electromagnetic means; and
1100 (ii) of one or more of the following:
1101 (A) a sign;
1102 (B) a signal;
1103 (C) writing;
1104 (D) an image;
1105 (E) sound;
1106 (F) a message;
1107 (G) data; or
1108 (H) other information of any nature.
1109 (b) "Telephone service" includes:
1110 (i) cellular telephone service;
1111 (ii) private communications service; or
1112 (iii) automated digital telephone answering service.

1113 (c) "Telephone service" does not include a service or a transaction that a state or a
1114 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
1115 Tax Freedom Act, Pub. L. No. 105-277.

1116 ~~[(35)]~~ (67) (a) "Telephone service provider" means a person that:

1117 (i) owns, controls, operates, or manages a telephone service; and

1118 (ii) engages in an activity described in Subsection ~~[(35)]~~ (67)(a)(i) for the shared use
1119 with or resale to any person of the telephone service.

1120 (b) A person described in Subsection ~~[(35)]~~ (67)(a) is a telephone service provider
1121 whether or not the Public Service Commission of Utah regulates:

1122 (i) that person; or

1123 (ii) the telephone service that the person owns, controls, operates, or manages.

1124 (68) "Tobacco" means:

1125 (a) a cigarette;

1126 (b) a cigar;

1127 (c) chewing tobacco;

1128 (d) pipe tobacco; or

1129 (e) any other item that contains tobacco.

1130 ~~[(36)]~~ (69) (a) "Use" means the exercise of any right or power over tangible personal
1131 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that
1132 property, item, or service.

1133 (b) "Use" does not include the sale, display, demonstration, or trial of that property in
1134 the regular course of business and held for resale.

1135 ~~[(37)]~~ (70) "Vehicle" means any aircraft, as defined in Section 72-10-102; any vehicle,
1136 as defined in Section 41-1a-102; any off-highway vehicle, as defined in Section 41-22-2; and
1137 any vessel, as defined in Section 41-1a-102; that is required to be titled, registered, or both.

1138 "Vehicle," for purposes of Subsection 59-12-104~~[(36)]~~ (35) only, also includes any locomotive,
1139 freight car, railroad work equipment, or other railroad rolling stock.

1140 ~~[(38)]~~ (71) "Vehicle dealer" means a person engaged in the business of buying, selling,
1141 or exchanging vehicles as defined in Subsection ~~[(37)]~~ (70).

1142 ~~[(39)]~~ (a) "Vendor" means any person receiving any payment or consideration upon a
1143 sale of tangible personal property or any other taxable transaction under Subsection

1144 ~~59-12-103(1), or to whom the payment or consideration is payable.]~~

1145 ~~[(b) "Vendor" does not mean a printer's facility described in Subsection (25)(d).]~~

1146 Section 6. Section **59-12-102.1** is enacted to read:

1147 **59-12-102.1. Authority to enter into agreement.**

1148 (1) The commission may:

1149 (a) enter into the agreement described in Subsection (2) with one or more states to:

1150 (i) simplify and modernize agreement sales and use tax administration in order to
1151 substantially reduce the burden of sales and use tax compliance for all sellers and for all types
1152 of commerce;

1153 (ii) establish standards for certification of a:

1154 (A) certified service provider; and

1155 (B) certified automated system; and

1156 (iii) act jointly with other states that are members of the agreement to establish
1157 performance standards for multistate sellers; and

1158 (b) take other actions reasonably required to implement the provisions of the
1159 agreement:

1160 (i) if those actions are not in conflict with statute; and

1161 (ii) subject to Subsection (1)(b)(i), including:

1162 (A) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
1163 adopting administrative rules; and

1164 (B) in furtherance of the agreement, jointly procuring goods or services with other
1165 states that are members of the agreement.

1166 (2) The agreement the commission may enter into under Subsection (1), may require
1167 each state that is a member of the agreement to abide by the following requirements:

1168 (a) establish restrictions to achieve over time more uniform state sales and use tax rates
1169 by:

1170 (i) limiting the number of sales and use tax rates within the state;

1171 (ii) limiting the application of maximums on the amount of sales and use tax that is due
1172 on a transaction; and

1173 (iii) limiting the application of thresholds on the application of sales and use taxes;

1174 (b) establish uniform standards for the following:

- 1175 (i) the sourcing of transactions to taxing jurisdictions;
1176 (ii) the administration of exempt sales;
1177 (iii) the allowance a seller may take for bad debts; and
1178 (iv) agreement sales and use tax:
1179 (A) returns; and
1180 (B) remittances;
1181 (c) develop and adopt uniform definitions:
1182 (i) of sales and use tax terms; and
1183 (ii) that enable each state to preserve the state's ability to make policy choices
1184 consistent with the uniform definitions;
1185 (d) provide a central, electronic registration system that allows a seller to register to
1186 collect and remit agreement sales and use tax for all states that are members of the agreement;
1187 (e) require that the following may not be used as a factor in determining whether a
1188 seller has a sufficient presence in a state to be required to collect a sales or use tax:
1189 (i) registration with a central registration system; or
1190 (ii) the collection of sales or use taxes in the states that are members of the agreement;
1191 (f) reduce the burdens of collecting and remitting local sales and use taxes by:
1192 (i) restricting variances between transactions that are subject to state sales and use tax
1193 and transactions that are subject to state and local sales and use tax;
1194 (ii) requiring states to administer any agreement sales and use tax imposed by a local
1195 taxing jurisdiction within the state so that a seller that collects or remits the agreement sales
1196 and use tax will not have to:
1197 (A) register with the local taxing jurisdictions;
1198 (B) file a return with the local taxing jurisdiction;
1199 (C) remit funds to the local taxing jurisdiction; or
1200 (D) be subject to an independent audit by a local taxing jurisdiction;
1201 (iii) restricting the frequency of changes in sales and use tax rates for an agreement
1202 sales and use tax imposed by a local taxing jurisdiction;
1203 (iv) establishing effective dates for the application of a local taxing jurisdiction
1204 boundary change to an agreement sales and use tax imposed by the local taxing jurisdiction;
1205 and

- 1206 (v) providing notice of a change in:
- 1207 (A) a sales and use tax rate for an agreement sales and use tax imposed by a local
- 1208 taxing jurisdiction; and
- 1209 (B) a boundary of a local taxing jurisdiction;
- 1210 (g) provide a monetary allowance to a seller or certified service provider;
- 1211 (h) (i) certify compliance with the terms of the agreement prior to entering into the
- 1212 agreement; and
- 1213 (ii) maintain compliance with all of the provisions of the agreement:
- 1214 (A) during the time period that the state is a member of the agreement; and
- 1215 (B) under the laws of the state entering into the agreement;
- 1216 (i) adopt a uniform policy for certified service providers that:
- 1217 (i) protects the privacy of consumers; and
- 1218 (ii) maintains the confidentiality of tax information;
- 1219 (j) appoint the following advisory councils:
- 1220 (i) a council consisting of private sector representatives to consult with in the
- 1221 administration of the agreement; and
- 1222 (ii) a council consisting of state government representatives to consult with in the
- 1223 administration of the agreement;
- 1224 (k) (i) require that a certified service provider is the agent of a seller with whom the
- 1225 certified service provider has contracted for the collection and remittance of agreement sales
- 1226 and use tax; and
- 1227 (ii) except as provided in this Subsection (2)(k), require that the certified service
- 1228 provider that is the seller's agent is liable for agreement sales and use tax due:
- 1229 (A) to each state that is a member of the agreement; and
- 1230 (B) on all agreement sales and use tax transactions that the certified service provider
- 1231 processes for the seller;
- 1232 (l) require that:
- 1233 (i) a seller that contracts with a certified service provider is not liable to the state for
- 1234 agreement sales and use tax due on a transaction processed by the certified service provider or
- 1235 subject to audit on a transaction processed by the certified service provider unless the seller:
- 1236 (A) misrepresented the type of items the seller sells; or

- 1237 (B) committed fraud;
- 1238 (ii) a seller is subject to audit for transactions not processed by the certified service
- 1239 provider;
- 1240 (iii) the states that are members of the agreement acting jointly may perform a system
- 1241 check of a seller or review a seller's procedures to determine:
- 1242 (A) if a certified service provider's system is functioning properly; or
- 1243 (B) the extent to which a seller's transactions are being processed by a certified service
- 1244 provider;
- 1245 (m) require that:
- 1246 (i) a person that provides a certified automated system is:
- 1247 (A) responsible for the proper functioning of that certified automated system; and
- 1248 (B) liable to the state for underpayments of agreement sales and use tax attributable to
- 1249 errors in the functioning of the certified automated system; and
- 1250 (ii) a seller that uses a certified automated system remains responsible for and is liable
- 1251 to the state for reporting, collecting, and remitting agreement sales and use tax; and
- 1252 (n) require that a seller that has a proprietary system for determining the amount of
- 1253 agreement sales and use tax due on a transaction and has signed an agreement with the
- 1254 commission establishing a performance standard for that proprietary system is liable for the
- 1255 failure of the proprietary system to meet the performance standard.
- 1256 (3) The agreement described in this section:
- 1257 (a) is an accord among individual cooperating sovereigns in furtherance of the
- 1258 cooperating sovereigns' governmental functions; and
- 1259 (b) provides a mechanism among the states that are members of the agreement to
- 1260 establish and maintain a cooperative, simplified system for the application and administration
- 1261 of sales and use tax under laws adopted by each state that is a member of the agreement.
- 1262 (4) (a) The agreement described in this section may bind and inure only to the benefit
- 1263 of this state and other states that are members of the agreement.
- 1264 (b) A person, other than a state that is a member of the agreement, is not an intended
- 1265 beneficiary of the agreement.
- 1266 (c) Any benefit of the agreement to a person other than a state is established by the law
- 1267 of this state and the laws of other states that are members of the agreement and not by the terms

- 1268 of the agreement.
- 1269 (5) (a) Subject to Subsection (4), a person may not have a cause of action or defense:
- 1270 (i) under the agreement; or
- 1271 (ii) as a result of this state's approval of the agreement.
- 1272 (b) A person may not challenge, in any action brought under any provision of law, an
- 1273 action or inaction:
- 1274 (i) by:
- 1275 (A) a department;
- 1276 (B) an agency;
- 1277 (C) a commission;
- 1278 (D) an entity of the state other than an entity described in Subsections (5)(b)(i)(A)
- 1279 through (C); or
- 1280 (E) a political subdivision of the state; and
- 1281 (ii) on the ground that the action or inaction is inconsistent with the agreement.
- 1282 (c) A law of this state, or the application of a law of this state, may not be declared
- 1283 invalid as to any person or circumstance on the ground that the law or application is
- 1284 inconsistent with the agreement.
- 1285 Section 7. Section **59-12-103** is amended to read:
- 1286 **59-12-103. Sales and use tax base -- Rate -- Use of sales and use tax revenues.**
- 1287 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
- 1288 charged for the following transactions:
- 1289 (a) retail sales of tangible personal property made within the state;
- 1290 (b) amounts paid:
- 1291 (i) (A) to a common carrier; or
- 1292 (B) whether the following are municipally or privately owned, to a:
- 1293 (I) telephone service provider; or
- 1294 (II) telegraph corporation as defined in Section 54-2-1; and
- 1295 (ii) for:
- 1296 (A) all transportation;
- 1297 (B) telephone service, other than mobile telecommunications service, that originates
- 1298 and terminates within the boundaries of this state;

- 1299 (C) mobile telecommunications service that originates and terminates within the
1300 boundaries of one state only to the extent permitted by the Mobile Telecommunications
1301 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
- 1302 (D) telegraph service;
- 1303 (c) sales of the following for commercial use:
- 1304 (i) gas;
- 1305 (ii) electricity;
- 1306 (iii) heat;
- 1307 (iv) coal;
- 1308 (v) fuel oil; or
- 1309 (vi) other fuels;
- 1310 (d) sales of the following for residential use:
- 1311 (i) gas;
- 1312 (ii) electricity;
- 1313 (iii) heat;
- 1314 (iv) coal;
- 1315 (v) fuel oil; or
- 1316 (vi) other fuels;
- 1317 (e) sales of ~~[meats]~~ prepared food;
- 1318 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
1319 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
1320 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
1321 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
1322 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
1323 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
1324 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
1325 horseback rides, sports activities, or any other amusement, entertainment, recreation,
1326 exhibition, cultural, or athletic activity;
- 1327 (g) amounts paid or charged for services:
- 1328 (i) for repairs or renovations of tangible personal property, unless Section 59-12-104
1329 provides for an exemption from sales and use tax for:

- 1330 (A) the tangible personal property; and
- 1331 (B) parts used in the repairs or renovations of the tangible personal property described
- 1332 in Subsection (1)(g)(i)(A), whether or not any parts are actually used in the repairs or
- 1333 renovations of that tangible personal property; or
- 1334 (ii) to install tangible personal property in connection with other tangible personal
- 1335 property, unless the tangible personal property being installed is exempt from sales and use tax
- 1336 under Section 59-12-104;
- 1337 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 1338 cleaning or washing of tangible personal property;
- 1339 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 1340 accommodations and services that are regularly rented for less than 30 consecutive days;
- 1341 (j) amounts paid or charged for laundry or dry cleaning services;
- 1342 (k) amounts paid or charged for leases or rentals of tangible personal property if:
- 1343 (i) the tangible personal property's situs is in this state;
- 1344 (ii) the lessee took possession of the tangible personal property in this state; or
- 1345 (iii) within this state the tangible personal property is:
- 1346 (A) stored;
- 1347 (B) used; or
- 1348 (C) otherwise consumed;
- 1349 (l) amounts paid or charged for tangible personal property if within this state the
- 1350 tangible personal property is:
- 1351 (i) stored;
- 1352 (ii) used; or
- 1353 (iii) consumed; and
- 1354 (m) amounts paid or charged for prepaid telephone calling cards.
- 1355 (2) (a) Except as provided in [~~Subsections~~] Subsection (2)(b) [~~and (c)~~], beginning on
- 1356 July 1, 2001, a state tax and a local tax is imposed on a transaction described in Subsection (1)
- 1357 equal to the sum of:
- 1358 (i) a state tax imposed on the transaction at a rate of 4.75%; and
- 1359 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
- 1360 transaction under this chapter other than this part.

1361 (b) Notwithstanding Subsection (2)(a), beginning on July 1, 2001, a state tax and a
1362 local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

1363 (i) a state tax imposed on the transaction at a rate of 2%; and

1364 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1365 transaction under this chapter other than this part.

1366 [~~(c) Notwithstanding Subsections (2)(a) and (b), beginning on July 1, 2001, if a vendor
1367 collects a tax under Subsection 59-12-107(1)(b) on a transaction described in Subsection (1), a
1368 state tax and a local tax is imposed on the transaction equal to the sum of:]~~

1369 [~~(i) a state tax imposed on the transaction at a rate of:]~~

1370 [~~(A) 4.75% for a transaction other than a transaction described in Subsection (1)(d); or]~~

1371 [~~(B) 2% for a transaction described in Subsection (1)(d); and]~~

1372 [~~(ii) except as provided in Subsection (2)(d), a local tax imposed on the transaction at a
1373 rate equal to the sum of the following tax rates:]~~

1374 [~~(A) (I) the lowest tax rate imposed by a county, city, or town under Section 59-12-204,
1375 but only if all of the counties, cities, and towns in the state impose the tax under Section
1376 59-12-204; or]~~

1377 [~~(H) the lowest tax rate imposed by a county, city, or town under Section 59-12-205,
1378 but only if all of the counties, cities, and towns in the state impose the tax under Section
1379 59-12-205; and]~~

1380 [~~(B) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the
1381 state impose the tax under Section 59-12-1102.]~~

1382 [~~(d) Tax rates authorized under the following do not apply to Subsection (2)(c)(ii):]~~

1383 [~~(i) Subsection (2)(a)(i);]~~

1384 [~~(ii) Subsection (2)(b)(i);]~~

1385 [~~(iii) Subsection (2)(c)(i);]~~

1386 [~~(iv) Section 59-12-301;]~~

1387 [~~(v) Section 59-12-352;]~~

1388 [~~(vi) Section 59-12-353;]~~

1389 [~~(vii) Section 59-12-401;]~~

1390 [~~(viii) Section 59-12-402;]~~

1391 [~~(ix) Section 59-12-501;]~~

1392 [~~(x) Section 59-12-502;~~]

1393 [~~(xi) Section 59-12-603;~~]

1394 [~~(xii) Section 59-12-703;~~]

1395 [~~(xiii) Section 59-12-802;~~]

1396 [~~(xiv) Section 59-12-804;~~]

1397 [~~(xv) Section 59-12-1001;~~]

1398 [~~(xvi) Section 59-12-1201; or~~]

1399 [~~(xvii) Section 59-12-1302.~~]

1400 (c) Subject to Subsections (2)(d) and (e), a tax rate change for a tax rate imposed under
1401 the following shall take effect on the first day of a calendar quarter:

1402 (i) Subsection (2)(a)(i);

1403 (ii) Subsection (2)(b)(i); or

1404 (iii) Subsection (2)(c)(i).

1405 (d) (i) For a transaction described in Subsection (2)(d)(iii), a tax rate increase shall take
1406 effect on the first day of the first billing period:

1407 (A) that begins after the effective date of the tax rate increase; and

1408 (B) if the billing period for the transaction begins before the effective date of a tax rate
1409 increase imposed under:

1410 (I) Subsection (2)(a)(i);

1411 (II) Subsection (2)(b)(i); or

1412 (III) Subsection (2)(c)(i).

1413 (ii) For a transaction described in Subsection (2)(d)(iii), a tax rate decrease shall take
1414 effect on the first day of the last billing period:

1415 (A) that began before the effective date of the tax rate decrease; and

1416 (B) if the billing period for the transaction begins before the effective date of a tax rate
1417 decrease imposed under:

1418 (I) Subsection (2)(a)(i);

1419 (II) Subsection (2)(b)(i); or

1420 (III) Subsection (2)(c)(i).

1421 (iii) Subsections (2)(d)(i) and (ii) apply to transactions subject to a tax under:

1422 (A) Subsection 59-12-103(1)(b);

1423 (B) Subsection 59-12-103(1)(c);

1424 (C) Subsection 59-12-103(1)(d);

1425 (D) Subsection 59-12-103(1)(e);

1426 (E) Subsection 59-12-103(1)(f);

1427 (F) Subsection 59-12-103(1)(g);

1428 (G) Subsection 59-12-103(1)(h);

1429 (H) Subsection 59-12-103(1)(i);

1430 (I) Subsection 59-12-103(1)(j); or

1431 (J) Subsection 59-12-103(1)(k).

1432 (e) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of

1433 sales and use tax rates published in the catalogue, a change in a tax rate imposed under

1434 Subsection (2)(a)(i), (2)(b)(i), or (2)(c)(i) takes effect:

1435 (A) on the first day of a calendar quarter; and

1436 (B) beginning 60 days after the effective date of the tax rate change under:

1437 (I) Subsection (2)(a)(i);

1438 (II) Subsection (2)(b)(i); or

1439 (III) Subsection (2)(c)(i).

1440 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

1441 the commission may by rule define the term "catalogue sale."

1442 (3) (a) Except as provided in Subsections (4) through (9), the following state taxes

1443 shall be deposited into the General Fund:

1444 (i) the tax imposed by Subsection (2)(a)(i);

1445 (ii) the tax imposed by Subsection (2)(b)(i); and

1446 (iii) the tax imposed by Subsection (2)(c)(i).

1447 (b) The local taxes described in Subsections (2)(a)(ii) and (2)(b)(ii) shall be distributed

1448 to a county, city, or town as provided in this chapter.

1449 [~~(c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the~~

1450 ~~state shall receive the county's, city's, or town's proportionate share of the revenues generated~~

1451 ~~by the local tax described in Subsection (2)(c)(ii) as provided in Subsection (3)(c)(ii).]~~

1452 [~~(ii) The commission shall determine a county's, city's, or town's proportionate share of~~

1453 ~~the revenues under Subsection (3)(c)(i) by:]~~

1454 ~~[(A) calculating an amount equal to:]~~
1455 ~~[(F) the population of the county, city, or town; divided by]~~
1456 ~~[(H) the total population of the state; and]~~
1457 ~~[(B) multiplying the amount determined under Subsection (3)(c)(ii)(A) by the total~~
1458 ~~amount of revenues generated by the local tax under Subsection (2)(c)(ii) for all counties,~~
1459 ~~cities, and towns.]~~
1460 ~~[(iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for~~
1461 ~~purposes of this section shall be derived from the most recent official census or census estimate~~
1462 ~~of the United States Census Bureau.]~~
1463 ~~[(B) Notwithstanding Subsection (3)(c)(iii)(A), if a needed population estimate is not~~
1464 ~~available from the United States Census Bureau, population figures shall be derived from the~~
1465 ~~estimate from the Utah Population Estimates Committee created by executive order of the~~
1466 ~~governor.]~~
1467 ~~[(C) For purposes of this section, the population of a county may only include the~~
1468 ~~population of the unincorporated areas of the county.]~~
1469 ~~[(4) (a) Notwithstanding Subsection (3)(a), there shall be deposited in an Olympics~~
1470 ~~special revenue fund or funds as determined by the Division of Finance under Section 51-5-4,~~
1471 ~~for the use of the Utah Sports Authority created under Title 63A, Chapter 7, Utah Sports~~
1472 ~~Authority Act:]~~
1473 ~~[(i) from January 1, 1990, through December 31, 1999, the amount of sales and use tax~~
1474 ~~generated by a 1/64% tax rate on the taxable transactions under Subsection (1);]~~
1475 ~~[(ii) from January 1, 1990, through June 30, 1999, the amount of revenue generated by~~
1476 ~~a 1/64% tax rate under Section 59-12-204 or Section 59-12-205 on the taxable transactions~~
1477 ~~under Subsection (1); and]~~
1478 ~~[(iii) interest earned on the amounts under Subsections (4)(a)(i) and (ii).]~~
1479 ~~[(b) These funds shall be used:]~~
1480 ~~[(i) by the Utah Sports Authority as follows:]~~
1481 ~~[(A) to the extent funds are available, to transfer directly to a debt service fund or to~~
1482 ~~otherwise reimburse to the state any amount expended on debt service or any other cost of any~~
1483 ~~bonds issued by the state to construct any public sports facility as defined in Section~~
1484 ~~63A-7-103;]~~

1485 ~~[(B) to pay for the actual and necessary operating, administrative, legal, and other~~
1486 ~~expenses of the Utah Sports Authority, but not including protocol expenses for seeking and~~
1487 ~~obtaining the right to host the Winter Olympic Games;]~~
1488 ~~[(C) as otherwise appropriated by the Legislature; and]~~
1489 ~~[(D) unless the Legislature appropriates additional funds from the Olympics Special~~
1490 ~~Revenue Fund to the Utah Sports Authority, the Utah Sports Authority may not expend, loan,~~
1491 ~~or pledge in the aggregate more than:]~~
1492 ~~[(I) \$59,000,000 of sales and use tax deposited into the Olympics Special Revenue~~
1493 ~~Fund under Subsection (4)(a);]~~
1494 ~~[(H) the interest earned on the amount described in Subsection (4)(b)(i)(D)(I); and]~~
1495 ~~[(HH) the revenues deposited into the Olympics Special Revenue Fund that are not sales~~
1496 ~~and use taxes deposited under Subsection (4)(a) or interest on the sales and use taxes;]~~
1497 ~~[(ii) to pay salary, benefits, or administrative costs associated with the State Olympic~~
1498 ~~Officer under Subsection 63A-10-103(3), except that the salary, benefits, or administrative~~
1499 ~~costs may not be paid from the sales and use tax revenues generated by municipalities or~~
1500 ~~counties and deposited under Subsection (4)(a)(ii).]~~
1501 ~~[(e) A payment of salary, benefits, or administrative costs under Subsection~~
1502 ~~63A-10-103(3) is not considered an expenditure of the Utah Sports Authority.]~~
1503 ~~[(d) If the Legislature appropriates additional funds under Subsection (4)(b)(i)(D), the~~
1504 ~~authority may not expend, loan, pledge, or enter into any agreement to expend, loan, or pledge~~
1505 ~~the appropriated funds unless the authority:]~~
1506 ~~[(i) contracts in writing for the full reimbursement of the monies to the Olympics~~
1507 ~~Special Revenue Fund by a public sports entity or other person benefitting from the~~
1508 ~~expenditure; and]~~
1509 ~~[(ii) obtains a security interest that secures payment or performance of the obligation to~~
1510 ~~reimburse.]~~
1511 ~~[(e) A contract or agreement entered into in violation of Subsection (4)(d) is void.]~~
1512 ~~[(5)]~~ (4) (a) (i) Notwithstanding Subsection (3)(a) and except as provided in Subsection
1513 ~~[(H)]~~ (10), for fiscal year 2002-03 only, the lesser of the following amounts shall be
1514 transferred or deposited as provided in Subsections ~~[(5)]~~ (4)(a)(ii) through (vii):
1515 (A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

- 1516 (I) by a 1/16% tax rate on the transactions described in Subsection (1); and
1517 (II) for fiscal year 2002-03; or
1518 (B) \$18,743,000.
- 1519 (ii) (A) For fiscal year 2002-03 only, \$2,300,000 of the amount described in Subsection
1520 [~~(5)~~] (4)(a)(i) shall be transferred as dedicated credits to the Department of Natural Resources
1521 to:
- 1522 (I) implement the measures described in Subsections 63-34-14(4)(a) through (d) to
1523 protect sensitive plant and animal species; or
- 1524 (II) award grants, up to the amount authorized by the Legislature in an appropriations
1525 act, to political subdivisions of the state to implement the measures described in Subsections
1526 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.
- 1527 (B) Money transferred to the Department of Natural Resources under Subsection [~~(5)~~]
1528 (4)(a)(ii)(A) may not be used to assist the United States Fish and Wildlife Service or any other
1529 person to list or attempt to have listed a species as threatened or endangered under the
1530 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.
- 1531 (C) At the end of fiscal year 2002-03:
- 1532 (I) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1533 Conservation and Development Fund created in Section 73-10-24;
- 1534 (II) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1535 Program Subaccount created in Section 73-10c-5; and
- 1536 (III) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1537 Program Subaccount created in Section 73-10c-5.
- 1538 (iii) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection [~~(5)~~]
1539 (4)(a)(i) shall be deposited in the Agriculture Resource Development Fund created in Section
1540 4-18-6.
- 1541 (iv) (A) For fiscal year 2002-03 only, \$100,000 of the amount described in Subsection
1542 (5)(a)(i) shall be transferred as dedicated credits to the Division of Water Rights to cover the
1543 costs incurred in hiring legal and technical staff for the adjudication of water rights.
- 1544 (B) At the end of fiscal year 2002-03:
- 1545 (I) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1546 Conservation and Development Fund created in Section 73-10-24;

1547 (II) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1548 Program Subaccount created in Section 73-10c-5; and

1549 (III) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1550 Program Subaccount created in Section 73-10c-5.

1551 (v) (A) For fiscal year 2002-03 only, 50% of the amount described in Subsection [~~(5)~~]
1552 ~~(4)~~(a)(i) that remains after making the transfers and deposits required by Subsections [~~(5)~~]
1553 ~~(4)~~(a)(ii) through (iv) shall be deposited in the Water Resources Conservation and
1554 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

1555 (B) In addition to the uses allowed of the Water Resources Conservation and
1556 Development Fund under Section 73-10-24, the Water Resources Conservation and
1557 Development Fund may also be used to:

1558 (I) provide a portion of the local cost share, not to exceed in fiscal year 2002-03 50%
1559 of the funds made available to the Division of Water Resources under this section, of potential
1560 project features of the Central Utah Project;

1561 (II) conduct hydrologic and geotechnical investigations by the Department of Natural
1562 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
1563 quantifying surface and ground water resources and describing the hydrologic systems of an
1564 area in sufficient detail so as to enable local and state resource managers to plan for and
1565 accommodate growth in water use without jeopardizing the resource;

1566 (III) fund state required dam safety improvements; and

1567 (IV) protect the state's interest in interstate water compact allocations, including the
1568 hiring of technical and legal staff.

1569 (vi) For fiscal year 2002-03 only, 25% of the amount described in Subsection [~~(5)~~]
1570 ~~(4)~~(a)(i) that remains after making the transfers and deposits required by Subsections [~~(5)~~]
1571 ~~(4)~~(a)(ii) through (iv) shall be deposited in the Utah Wastewater Loan Program Subaccount
1572 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1573 (vii) For fiscal year 2002-03 only, 25% of the amount described in Subsection [~~(5)~~]
1574 ~~(4)~~(a)(i) that remains after making the transfers and deposits required by Subsections [~~(5)~~]
1575 ~~(4)~~(a)(ii) through (iv) shall be deposited in the Drinking Water Loan Program Subaccount
1576 created in Section 73-10c-5 for use by the Division of Drinking Water to:

1577 (A) provide for the installation and repair of collection, treatment, storage, and

1578 distribution facilities for any public water system, as defined in Section 19-4-102;

1579 (B) develop underground sources of water, including springs and wells; and

1580 (C) develop surface water sources.

1581 (b) (i) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,

1582 2003, the lesser of the following amounts shall be used as provided in Subsections [~~(5)~~

1583 (4)(b)(ii) through (vii):

1584 (A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1585 (I) by a 1/16% tax rate on the transactions described in Subsection (1); and

1586 (II) for the fiscal year; or

1587 (B) \$17,500,000.

1588 (ii) (A) For a fiscal year beginning on or after July 1, 2003, 14% of the amount

1589 described in Subsection [~~(5)~~ (4)(b)(i) shall be transferred each year as dedicated credits to the

1590 Department of Natural Resources to:

1591 (I) implement the measures described in Subsections 63-34-14(4)(a) through (d) to

1592 protect sensitive plant and animal species; or

1593 (II) award grants, up to the amount authorized by the Legislature in an appropriations

1594 act, to political subdivisions of the state to implement the measures described in Subsections

1595 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

1596 (B) Money transferred to the Department of Natural Resources under Subsection [~~(5)~~

1597 (4)(b)(ii)(A) may not be used to assist the United States Fish and Wildlife Service or any other

1598 person to list or attempt to have listed a species as threatened or endangered under the

1599 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

1600 (C) At the end of each fiscal year:

1601 (I) 50% of any unexpended dedicated credits shall lapse to the Water Resources

1602 Conservation and Development Fund created in Section 73-10-24;

1603 (II) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

1604 Program Subaccount created in Section 73-10c-5; and

1605 (III) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

1606 Program Subaccount created in Section 73-10c-5.

1607 (iii) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in

1608 Subsection [~~(5)~~ (4)(b)(i) shall be deposited each year in the Agriculture Resource

1609 Development Fund created in Section 4-18-6.

1610 (iv) (A) For a fiscal year beginning on or after July 1, 2003, 1% of the amount
1611 described in Subsection [~~(5)~~] (4)(b)(i) shall be transferred each year as dedicated credits to the
1612 Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the
1613 adjudication of water rights.

1614 (B) At the end of each fiscal year:

1615 (I) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1616 Conservation and Development Fund created in Section 73-10-24;

1617 (II) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1618 Program Subaccount created in Section 73-10c-5; and

1619 (III) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1620 Program Subaccount created in Section 73-10c-5.

1621 (v) (A) For a fiscal year beginning on or after July 1, 2003, 41% of the amount
1622 described in Subsection [~~(5)~~] (4)(b)(i) shall be deposited in the Water Resources Conservation
1623 and Development Fund created in Section 73-10-24 for use by the Division of Water
1624 Resources.

1625 (B) In addition to the uses allowed of the Water Resources Conservation and
1626 Development Fund under Section 73-10-24, the Water Resources Conservation and
1627 Development Fund may also be used to:

1628 (I) provide a portion of the local cost share, not to exceed in any fiscal year 50% of the
1629 funds made available to the Division of Water Resources under this section, of potential project
1630 features of the Central Utah Project;

1631 (II) conduct hydrologic and geotechnical investigations by the Department of Natural
1632 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
1633 quantifying surface and ground water resources and describing the hydrologic systems of an
1634 area in sufficient detail so as to enable local and state resource managers to plan for and
1635 accommodate growth in water use without jeopardizing the resource;

1636 (III) fund state required dam safety improvements; and

1637 (IV) protect the state's interest in interstate water compact allocations, including the
1638 hiring of technical and legal staff.

1639 (vi) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described

1640 in Subsection [~~(5)~~] (4)(b)(i) shall be deposited in the Utah Wastewater Loan Program
1641 Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater
1642 projects.

1643 (vii) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount
1644 described in Subsection [~~(5)~~] (4)(b)(i) shall be deposited in the Drinking Water Loan Program
1645 Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

1646 (A) provide for the installation and repair of collection, treatment, storage, and
1647 distribution facilities for any public water system, as defined in Section 19-4-102;

1648 (B) develop underground sources of water, including springs and wells; and

1649 (C) develop surface water sources.

1650 [~~(6)~~] (5) (a) (i) Notwithstanding Subsection (3)(a), for fiscal year 2002-03 only, the
1651 lesser of the following amounts shall be transferred or deposited as provided in Subsections
1652 [~~(6)~~] (5)(a)(ii) through (iv):

1653 (A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1654 (I) by a 1/16% tax rate on the transactions described in Subsection (1); and

1655 (II) for the fiscal year; or

1656 (B) \$18,743,000.

1657 (ii) (A) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection
1658 [~~(6)~~] (5)(a)(i) shall be deposited in the Transportation Corridor Preservation Revolving Loan
1659 Fund created in Section 72-2-117.

1660 (B) At least 50% of the money deposited in the Transportation Corridor Preservation
1661 Revolving Loan Fund under Subsection [~~(6)~~] (5)(a)(ii)(A) shall be used to fund loan
1662 applications made by the Department of Transportation at the request of local governments.

1663 (iii) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection [~~(6)~~]
1664 (5)(a)(i) shall be transferred as nonlapsing dedicated credits to the Department of
1665 Transportation for the State Park Access Highways Improvement Program created in Section
1666 72-3-207.

1667 (iv) For fiscal year 2002-03 only, the amount described in Subsection [~~(6)~~] (5)(a)(i) that
1668 remains after making the transfers and deposits required by Subsections [~~(6)~~] (5)(a)(ii) and (iii)
1669 shall be deposited in the class B and class C roads account to be expended as provided in Title
1670 72, Chapter 2, Transportation Finances Act, for the use of class B and C roads.

1671 (b) (i) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1672 2003, the lesser of the following amounts shall be used as provided in Subsections [(6)]

1673 (5)(b)(ii) through (iv):

1674 (A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1675 (I) by a 1/16% tax rate on the transactions described in Subsection (1); and

1676 (II) for the fiscal year; or

1677 (B) \$18,743,000.

1678 (ii) (A) For a fiscal year beginning on or after July 1, 2003, 3% of the amount
1679 described in Subsection [(6)] (5)(b)(i) shall be deposited each year in the Transportation
1680 Corridor Preservation Revolving Loan Fund created in Section 72-2-117.

1681 (B) At least 50% of the money deposited in the Transportation Corridor Preservation
1682 Revolving Loan Fund under Subsection [(6)] (5)(b)(ii)(A) shall be used to fund loan
1683 applications made by the Department of Transportation at the request of local governments.

1684 (iii) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
1685 Subsection [(6)] (5)(b)(i) shall be transferred each year as nonlapsing dedicated credits to the
1686 Department of Transportation for the State Park Access Highways Improvement Program
1687 created in Section 72-3-207.

1688 (iv) For a fiscal year beginning on or after July 1, 2003, 94% of the amount described
1689 in Subsection [(6)] (5)(b)(i) shall be deposited in the class B and class C roads account to be
1690 expended as provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class
1691 B and C roads.

1692 [(7)] (6) (a) Notwithstanding Subsection (3)(a), beginning on January 1, 2000, the
1693 Division of Finance shall deposit into the Centennial Highway Fund created in Section
1694 72-2-118 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
1695 by a 1/64% tax rate on the taxable transactions under Subsection (1).

1696 (b) Except for sales and use taxes deposited under Subsection [(8)] (7), beginning on
1697 July 1, 1999, the revenues generated by the 1/64% tax rate[:(i)] retained under Subsection
1698 59-12-204(7)(a) shall be retained by the counties, cities, or towns as provided in Section
1699 59-12-204[;and].

1700 [(ii) retained under Subsection 59-12-205(4)(a) shall be distributed to each county, city,
1701 and town as provided in Section 59-12-205.]

1702 ~~[(8)]~~ (7) Notwithstanding Subsection (3)(a), beginning on July 1, 1999, the
1703 commission shall deposit into the Airport to University of Utah Light Rail Restricted Account
1704 created in Section 17A-2-1064 the portion of the sales and use tax under ~~[Sections]~~ Section
1705 59-12-204 ~~[and 59-12-205]~~ that is:

1706 (a) generated by a city or town that will have constructed within its boundaries the
1707 Airport to University of Utah Light Rail described in the Transportation Equity Act for the 21st
1708 Century, Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

1709 (b) equal to the revenues generated by a 1/64% tax rate on the taxable items and
1710 services under Subsection (1).

1711 ~~[(9)]~~ (8) (a) Notwithstanding Subsection (3)(a), ~~[for fiscal years beginning on or after~~
1712 ~~fiscal year 2002-03, the commission shall on or before September 30 of each year]~~ beginning
1713 on July 1, 2002 through December 31, 2003, the commission shall deposit the difference
1714 described in Subsection ~~[(9)]~~ (8)(b) into the Remote Sales Restricted Account created in
1715 Section 59-12-103.2 if that difference is greater than \$0.

1716 (b) The difference described in Subsection ~~[(9)]~~ (8)(a) is equal to the difference
1717 between:

1718 (i) the total amount of revenues under Subsection (2)(c)(i) the commission received
1719 from ~~[vendors]~~ sellors collecting a tax under Subsection 59-12-107(1)(b) for the fiscal year
1720 immediately preceding the September 30 described in Subsection ~~[(9)]~~ (8)(a); and

1721 (ii) the total amount of revenues under Subsection (2)(c)(i) the commission estimates
1722 that the commission received from ~~[vendors]~~ sellors described in Subsection 59-12-107(1)(b)
1723 for fiscal year 2000-01.

1724 ~~[(10)]~~ (9) (a) For purposes of amounts paid or charged as admission or user fees
1725 relating to the Olympic Winter Games of 2002, the amounts are considered to be paid or
1726 charged on the day on which the Salt Lake Organizing Committee for the Olympic Winter
1727 Games of 2002 or a person designated by the Salt Lake Organizing Committee for the Olympic
1728 Winter Games of 2002 sends a purchaser confirmation of the purchase of an admission or user
1729 fee described in Subsection (1)(f).

1730 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1731 commission shall make rules defining what constitutes sending a purchaser confirmation under
1732 Subsection ~~[(10)]~~ (9)(a).

1733 [~~(H)~~] (10) (a) For fiscal year 2002-03 only, the following amounts shall be subtracted
1734 from the total amount required to be deposited or transferred in accordance with Subsection
1735 [~~(5)~~] (4):

1736 (i) \$25,000 shall be subtracted from the total amount required to be transferred to the
1737 Division of Water Rights in accordance with Subsection [~~(5)~~] (4)(a)(iv);

1738 (ii) \$385,000 shall be subtracted from the total amount required to be deposited into the
1739 Agriculture Resource Development Fund in accordance with Subsection [~~(5)~~] (4)(a)(iii);

1740 (iii) \$350,000 shall be subtracted from the total amount required to be transferred to the
1741 Department of Natural Resources in accordance with Subsection [~~(5)~~] (4)(a)(ii);

1742 (iv) \$3,012,500 shall be subtracted from the total amount required to be deposited into
1743 the Drinking Water Loan Program Subaccount in accordance with Subsection [~~(5)~~] (4)(a)(vii);

1744 (v) \$3,012,500 shall be subtracted from the total amount required to be deposited into
1745 the Utah Wastewater Loan Program Subaccount in accordance with Subsection [~~(5)~~] (4)(a)(vi);
1746 and

1747 (vi) \$5,715,000 shall be subtracted from the total amount required to be deposited into
1748 the Water Resources Conservation and Development Fund in accordance with Subsection [~~(5)~~]
1749 (4)(a)(v).

1750 (b) The amounts subtracted under Subsection [~~(H)~~] (10)(a) shall be deposited into the
1751 General Fund.

1752 Section 8. Section **59-12-103.1** is amended to read:

1753 **59-12-103.1. Action by Supreme Court of the United States authorizing or action**
1754 **by Congress permitting a state to require certain sellers to collect a sales or use tax --**
1755 **Collection of tax by commission -- Commission report to Utah Tax Review Commission --**
1756 **Utah Tax Review Commission study.**

1757 (1) A [~~vendor~~] seller shall remit to the commission a tax as provided in Subsection
1758 59-12-103(2)(c) and Section 59-12-107 if:

1759 (a) the Supreme Court of the United States issues a decision authorizing a state to
1760 require a [~~vendor~~] seller that does not meet one or more of the criteria described in Subsection
1761 59-12-107(1)(a) to collect a sales or use tax; or

1762 (b) Congress permits the state to require a [~~vendor~~] seller that does not meet one or
1763 more of the criteria described in Subsection 59-12-107(1)(a) to collect a sales or use tax.

- 1764 (2) The commission shall:
- 1765 (a) collect the tax described in Subsection (1) from the [~~vendor~~] seller:
- 1766 (i) to the extent:
- 1767 (A) authorized by the Supreme Court of the United States; or
- 1768 (B) permitted by Congress;
- 1769 (ii) beginning on the first day of a calendar quarter as prescribed by the Utah Tax
- 1770 Review Commission; and
- 1771 (b) make a report to the Utah Tax Review Commission:
- 1772 (i) regarding the actions taken by:
- 1773 (A) the Supreme Court of the United States; or
- 1774 (B) Congress; and
- 1775 (ii) at the Utah Tax Review Commission meeting immediately following the day on
- 1776 which the Supreme Court of the United States' or Congress' actions become effective.
- 1777 (3) The Utah Tax Review Commission shall after hearing the commission's report
- 1778 under Subsection (2)(b):
- 1779 (a) review the actions taken by:
- 1780 (i) the Supreme Court of the United States; or
- 1781 (ii) Congress;
- 1782 (b) direct the commission regarding the day on which the commission is required to
- 1783 collect the tax described in Subsection (1); and
- 1784 (c) make recommendations to the Revenue and Taxation Interim Committee:
- 1785 (i) regarding whether as a result of the Supreme Court of the United States' or
- 1786 Congress' actions any provisions of this chapter should be amended or repealed; and
- 1787 (ii) within a one-year period after the day on which the commission makes a report
- 1788 under Subsection (2)(b).
- 1789 Section 9. Section **59-12-103.2** is amended to read:
- 1790 **59-12-103.2. Remote Sales Restricted Account -- Creation.**
- 1791 (1) There is created within the General Fund a restricted account known as the
- 1792 "Remote Sales Restricted Account."
- 1793 [~~(2) The account shall be funded from the portion of the sales and use tax deposited by~~
- 1794 ~~the commission as provided in Subsection 59-12-103(9).]~~

1795 (2) On or before July 1, 2004, the Division of Finance shall deposit any revenues in the
1796 Remote Sales Restricted Account into the General Fund.

1797 Section 10. Section **59-12-104** is amended to read:

1798 **59-12-104. Exemptions.**

1799 The following sales and uses are exempt from the taxes imposed by this chapter:

1800 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
1801 under Chapter 13, Motor and Special Fuel Tax Act;

1802 (2) sales to the state, its institutions, and its political subdivisions; however, this
1803 exemption does not apply to sales of:

1804 (a) construction materials except:

1805 (i) construction materials purchased by or on behalf of institutions of the public
1806 education system as defined in Utah Constitution Article X, Section 2, provided the
1807 construction materials are clearly identified and segregated and installed or converted to real
1808 property which is owned by institutions of the public education system; and

1809 (ii) construction materials purchased by the state, its institutions, or its political
1810 subdivisions which are installed or converted to real property by employees of the state, its
1811 institutions, or its political subdivisions; or

1812 (b) tangible personal property in connection with the construction, operation,
1813 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
1814 providing additional project capacity, as defined in Section 11-13-103;

1815 (3) (a) sales of food~~[, beverage, and dairy products]~~ described in Subsection (3)(b)
1816 from a vending ~~[machines in which]~~ machine if:

1817 (i) the proceeds of each sale do not exceed \$1 ~~[if]; and~~

1818 (ii) the ~~[vendor]~~ seller or operator of the vending machine reports an amount equal to
1819 150% of the cost of ~~[items]~~ the food as goods consumed;

1820 (b) Subsection (3)(a) applies to:

1821 (i) food and food ingredients; or

1822 (ii) prepared food;

1823 (4) sales of ~~[food, beverage, dairy products, similar confections, and related services]~~
1824 the following to a commercial airline ~~[carriers]~~ carrier for in-flight consumption~~[;]:~~

1825 (a) food and food ingredients;

- 1826 (b) prepared food; or
1827 (c) services related to Subsection (4)(a) or (b);
1828 (5) sales of parts and equipment for installation in aircraft operated by common carriers
1829 in interstate or foreign commerce;
1830 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
1831 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
1832 exhibitor, distributor, or commercial television or radio broadcaster;
1833 (7) sales of cleaning or washing of tangible personal property by a coin-operated
1834 laundry or dry cleaning machine;
1835 (8) (a) except as provided in Subsection (8)(b), sales made to or by religious or
1836 charitable institutions in the conduct of their regular religious or charitable functions and
1837 activities, if the requirements of Section 59-12-104.1 are fulfilled;
1838 (b) the exemption provided for in Subsection (8)(a) does not apply to the following
1839 sales, uses, leases, or rentals relating to the Olympic Winter Games of 2002 made to or by an
1840 organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue
1841 Code:
1842 (i) retail sales of Olympic merchandise;
1843 (ii) except as provided in Subsection (51), admissions or user fees described in
1844 Subsection 59-12-103(1)(f);
1845 (iii) sales of accommodations and services as provided in Subsection 59-12-103(1)(i),
1846 except for accommodations and services:
1847 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter
1848 Games of 2002;
1849 (B) exclusively used by:
1850 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
1851 Olympic Winter Games of 2002; or
1852 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic
1853 Winter Games of 2002; and
1854 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of
1855 2002 does not receive reimbursement; or
1856 (iv) a lease or rental of a vehicle as defined in Section 41-1a-102, except for a lease or

1857 rental of a vehicle:

1858 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter
1859 Games of 2002;

1860 (B) exclusively used by:

1861 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
1862 Olympic Winter Games of 2002; or

1863 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic
1864 Winter Games of 2002; and

1865 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of
1866 2002 does not receive reimbursement;

1867 (9) sales of vehicles of a type required to be registered under the motor vehicle laws of
1868 this state which are made to bona fide nonresidents of this state and are not afterwards
1869 registered or used in this state except as necessary to transport them to the borders of this state;

1870 [~~(10) sales of medicine;~~]

1871 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

1872 (i) the item is intended for human use; and

1873 (ii) the purchaser presents a prescription for the item;

1874 (b) (i) Subsection (10)(a) applies to:

1875 (A) a drug;

1876 (B) a syringe; or

1877 (C) a stoma supply; and

1878 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1879 commission may by rule define the terms:

1880 (A) "syringe"; or

1881 (B) "stoma supply";

1882 (11) sales or use of property, materials, or services used in the construction of or
1883 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

1884 (12) (a) sales of [~~meats~~] an item described in Subsection (12)(c) served by:

1885 (i) the following if the [~~meats are~~] item described in Subsection (12)(c) is not available
1886 to the general public:

1887 (A) a church; or

- 1888 (B) a charitable institution;
- 1889 (ii) an institution of higher education if:
- 1890 (A) the ~~[meals are]~~ item described in Subsection (12)(c) is not available to the general
- 1891 public; or
- 1892 (B) the ~~[meals are]~~ item described in Subsection (12)(c) is prepaid as part of a student
- 1893 meal plan offered by the institution of higher education; or
- 1894 (b) ~~[inpatient meals]~~ an item described in Subsection (12)(c) is provided at:
- 1895 (i) a medical facility; or
- 1896 (ii) a nursing facility; and
- 1897 (c) Subsections (12)(a) and (b) apply to:
- 1898 (i) food and food ingredients; or
- 1899 (ii) prepared food;
- 1900 (13) isolated or occasional sales by persons not regularly engaged in business, except
- 1901 the sale of vehicles or vessels required to be titled or registered under the laws of this state in
- 1902 which case the tax is based upon:
- 1903 (a) the bill of sale or other written evidence of value of the vehicle or vessel being sold;
- 1904 or
- 1905 (b) in the absence of a bill of sale or other written evidence of value, the then existing
- 1906 fair market value of the vehicle or vessel being sold as determined by the commission;
- 1907 (14) (a) the following purchases or leases by a manufacturer on or after July 1, 1995:
- 1908 (i) machinery and equipment:
- 1909 (A) used in the manufacturing process;
- 1910 (B) having an economic life of three or more years; and
- 1911 (C) used:
- 1912 (I) to manufacture an item sold as tangible personal property; and
- 1913 (II) in new or expanding operations in a manufacturing facility in the state; and
- 1914 (ii) subject to the provisions of Subsection (14)(b), normal operating replacements that:
- 1915 (A) have an economic life of three or more years;
- 1916 (B) are used in the manufacturing process in a manufacturing facility in the state;
- 1917 (C) are used to replace or adapt an existing machine to extend the normal estimated
- 1918 useful life of the machine; and

- 1919 (D) do not include repairs and maintenance;
- 1920 (b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:
- 1921 (i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in
- 1922 Subsection (14)(a)(ii) is exempt;
- 1923 (ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described in
- 1924 Subsection (14)(a)(ii) is exempt; and
- 1925 (iii) beginning July 1, 1998, 100% of the sale or lease described in Subsection
- 1926 (14)(a)(ii) is exempt;
- 1927 (c) for purposes of this Subsection (14), the commission shall by rule define the terms
- 1928 "new or expanding operations" and "establishment"; and
- 1929 (d) on or before October 1, 1991, and every five years after October 1, 1991, the
- 1930 commission shall:
- 1931 (i) review the exemptions described in Subsection (14)(a) and make recommendations
- 1932 to the Revenue and Taxation Interim Committee concerning whether the exemptions should be
- 1933 continued, modified, or repealed; and
- 1934 (ii) include in its report:
- 1935 (A) the cost of the exemptions;
- 1936 (B) the purpose and effectiveness of the exemptions; and
- 1937 (C) the benefits of the exemptions to the state;
- 1938 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
- 1939 (i) tooling;
- 1940 (ii) special tooling;
- 1941 (iii) support equipment;
- 1942 (iv) special test equipment; or
- 1943 (v) parts used in the repairs or renovations of tooling or equipment described in
- 1944 Subsections (15)(a)(i) through (iv); and
- 1945 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
- 1946 (i) the tooling, equipment, or parts are used or consumed exclusively in the
- 1947 performance of any aerospace or electronics industry contract with the United States
- 1948 government or any subcontract under that contract; and
- 1949 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),

1950 title to the tooling, equipment, or parts is vested in the United States government as evidenced
1951 by:

1952 (A) a government identification tag placed on the tooling, equipment, or parts; or

1953 (B) listing on a government-approved property record if placing a government

1954 identification tag on the tooling, equipment, or parts is impractical;

1955 (16) intrastate movements of:

1956 (a) freight by common carriers; or

1957 (b) passengers:

1958 (i) by taxicabs as described in SIC Code 4121 of the 1987 Standard Industrial

1959 Classification Manual of the federal Executive Office of the President, Office of Management
1960 and Budget;

1961 (ii) transported by an establishment described in SIC Code 4111 of the 1987 Standard

1962 Industrial Classification Manual of the federal Executive Office of the President, Office of

1963 Management and Budget, if the transportation originates and terminates within a county of the

1964 first, second, or third class; or

1965 (iii) transported by the following described in SIC Code 4789 of the 1987 Standard

1966 Industrial Classification Manual of the federal Executive Office of the President, Office of

1967 Management and Budget:

1968 (A) a horse-drawn cab; or

1969 (B) a horse-drawn carriage.

1970 (17) sales of newspapers or newspaper subscriptions;

1971 (18) (a) except as provided in Subsection (18)(b), tangible personal property~~[-other~~

1972 ~~than money,~~] traded in as full or part payment of the purchase price, except that for purposes of

1973 calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to

1974 other vehicles only, and the tax is based upon:

1975 [~~(a)~~] (i) the bill of sale or other written evidence of value of the vehicle being sold and

1976 the vehicle being traded in; or

1977 [~~(b)~~] (ii) in the absence of a bill of sale or other written evidence of value, the then

1978 existing fair market value of the vehicle being sold and the vehicle being traded in, as

1979 determined by the commission; and

1980 (b) notwithstanding Subsection (18)(a), the provisions of Subsection (18)(a) do not

1981 apply to the following items of tangible personal property traded in as full or part payment of
1982 the purchase price:

1983 (i) money;

1984 (ii) electricity;

1985 (iii) water;

1986 (iv) gas; or

1987 (v) steam;

1988 (19) sprays and insecticides used to control insects, diseases, and weeds for
1989 commercial production of fruits, vegetables, feeds, seeds, and animal products, but not those
1990 sprays and insecticides used in the processing of the products;

1991 (20) (a) (i) sales of tangible personal property used or consumed primarily and directly
1992 in farming operations, including sales of irrigation equipment and supplies used for agricultural
1993 production purposes, whether or not they become part of real estate and whether or not
1994 installed by farmer, contractor, or subcontractor, but not sales of:

1995 (A) machinery, equipment, materials, and supplies used in a manner that is incidental
1996 to farming, such as [~~hand tools with a unit purchase price not in excess of \$250, and~~]
1997 maintenance and janitorial equipment and supplies;

1998 (B) tangible personal property used in any activities other than farming, such as office
1999 equipment and supplies, equipment and supplies used in sales or distribution of farm products,
2000 in research, or in transportation; or

2001 (C) any vehicle required to be registered by the laws of this state, without regard to the
2002 use to which the vehicle is put; [~~or~~]

2003 (ii) subject to Section 59-12-104.3, sales of hand tools used or consumed primarily and
2004 directly in farming operations; or

2005 [~~(ii)~~] (iii) sales of parts used in the repairs or renovations of tangible personal property
2006 if the tangible personal property is exempt under Subsection (20)(a); or

2007 (b) sales of hay;

2008 (21) exclusive sale of locally grown seasonal crops, seedling plants, or garden, farm, or
2009 other agricultural produce if sold by a producer during the harvest season;

2010 (22) purchases [~~of food as defined in 7 U.S.C. Sec. 2012(g)~~] made using food stamps
2011 issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

2012 (23) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
2013 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
2014 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
2015 manufacturer, processor, wholesaler, or retailer;

2016 (24) property stored in the state for resale;

2017 (25) property brought into the state by a nonresident for his or her own personal use or
2018 enjoyment while within the state, except property purchased for use in Utah by a nonresident
2019 living and working in Utah at the time of purchase;

2020 (26) property purchased for resale in this state, in the regular course of business, either
2021 in its original form or as an ingredient or component part of a manufactured or compounded
2022 product;

2023 (27) property upon which a sales or use tax was paid to some other state, or one of its
2024 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
2025 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
2026 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
2027 Act;

2028 (28) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
2029 person for use in compounding a service taxable under the subsections;

2030 (29) purchases [~~of supplemental foods as defined in 42 U.S.C. Sec. 1786(b)(14) under~~]
2031 made in accordance with the special supplemental nutrition program for women, infants, and
2032 children established in 42 U.S.C. Sec. 1786;

2033 (30) beginning on July 1, 1999, through June 30, 2004, sales or leases of rolls, rollers,
2034 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
2035 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
2036 Manual of the federal Executive Office of the President, Office of Management and Budget;

2037 (31) sales of boats of a type required to be registered under Title 73, Chapter 18, State
2038 Boating Act, boat trailers, and outboard motors which are made to bona fide nonresidents of
2039 this state and are not thereafter registered or used in this state except as necessary to transport
2040 them to the borders of this state;

2041 [~~(32) sales of tangible personal property to persons within this state that is~~
2042 ~~subsequently shipped outside the state and incorporated pursuant to contract into and becomes~~

2043 a part of real property located outside of this state, except to the extent that the other state or
2044 political entity imposes a sales, use, gross receipts, or other similar transaction excise tax on it
2045 against which the other state or political entity allows a credit for taxes imposed by this
2046 chapter;]

2047 [~~(33)~~] (32) sales of aircraft manufactured in Utah if sold for delivery and use outside
2048 Utah where a sales or use tax is not imposed, even if the title is passed in Utah;

2049 [~~(34)~~] (33) amounts paid for the purchase of telephone service for purposes of
2050 providing telephone service;

2051 [~~(35)~~] (34) fares charged to persons transported directly by a public transit district
2052 created under the authority of Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;

2053 [~~(36)~~] (35) sales or leases of vehicles to, or use of vehicles by an authorized carrier;

2054 [~~(37)~~] (36) (a) 45% of the sales price of any new manufactured home; and

2055 (b) 100% of the sales price of any used manufactured home;

2056 [~~(38)~~] (37) sales relating to schools and fundraising sales;

2057 [~~(39)~~] (38) sales or rentals of ~~[home]~~ durable medical equipment ~~[or supplies;]~~ if a
2058 person presents a prescription for the durable medical equipment;

2059 [~~(40)~~] (39) (a) sales to a ski resort of electricity to operate a passenger ropeway as
2060 defined in Section 72-11-102; and

2061 (b) the commission shall by rule determine the method for calculating sales exempt
2062 under Subsection [~~(40)~~] (39)(a) that are not separately metered and accounted for in utility
2063 billings;

2064 [~~(41)~~] (40) sales to a ski resort of:

2065 (a) snowmaking equipment;

2066 (b) ski slope grooming equipment;

2067 (c) passenger ropeways as defined in Section 72-11-102; or

2068 (d) parts used in the repairs or renovations of equipment or passenger ropeways
2069 described in Subsections [~~(41)~~] (40)(a) through (c);

2070 [~~(42)~~] (41) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for
2071 industrial use;

2072 [~~(43)~~] (42) sales or rentals of the right to use or operate for amusement, entertainment,
2073 or recreation a coin-operated amusement device as defined in Section 59-12-102;

2074 [~~(44)~~] (43) sales of cleaning or washing of tangible personal property by a
2075 coin-operated car wash machine;

2076 [~~(45)~~] (44) sales by the state or a political subdivision of the state, except state
2077 institutions of higher education as defined in Section 53B-3-102, of:

2078 (a) photocopies; or

2079 (b) other copies of records held or maintained by the state or a political subdivision of
2080 the state;

2081 [~~(46)~~] (45) (a) amounts paid:

2082 (i) to a person providing intrastate transportation to an employer's employee to or from
2083 the employee's primary place of employment;

2084 (ii) by an:

2085 (A) employee; or

2086 (B) employer; and

2087 (iii) pursuant to a written contract between:

2088 (A) the employer; and

2089 (B) (I) the employee; or

2090 (II) a person providing transportation to the employer's employee; and

2091 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2092 commission may for purposes of Subsection [~~(46)~~] (45)(a) make rules defining what constitutes
2093 an employee's primary place of employment;

2094 [~~(47)~~] (46) amounts paid for admission to an athletic event at an institution of higher
2095 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
2096 20 U.S.C. Sec. 1681 et seq.;

2097 [~~(48)~~] (47) sales of telephone service charged to a prepaid telephone calling card;

2098 [~~(49)~~] (48) (a) sales of:

2099 (i) hearing aids;

2100 (ii) hearing aid accessories; or

2101 (iii) except as provided in Subsection [~~(49)~~] (48)(b), parts used in the repairs or
2102 renovations of hearing aids or hearing aid accessories; and

2103 (b) for purposes of this Subsection [~~(49)~~] (48), notwithstanding Subsection [~~(49)~~]
2104 (48)(a)(iii), "parts" does not include batteries;

2105 [~~(50)~~] (49) (a) sales made to or by:

2106 (i) an area agency on aging; or

2107 (ii) a senior citizen center owned by a county, city, or town; or

2108 (b) sales made by a senior citizen center that contracts with an area agency on aging;

2109 [~~(51)~~] (50) (a) beginning on July 1, 2000, through June 30, 2002, amounts paid or

2110 charged as admission or user fees described in Subsection 59-12-103(1)(f) relating to the

2111 Olympic Winter Games of 2002 if the amounts paid or charged are established by the Salt Lake

2112 Organizing Committee for the Olympic Winter Games of 2002 in accordance with

2113 requirements of the International Olympic Committee; and

2114 (b) the State Olympic Officer and the Salt Lake Organizing Committee for the Olympic

2115 Winter Games of 2002 shall make at least two reports during the 2000 interim:

2116 (i) to the:

2117 (A) Olympic Coordination Committee; and

2118 (B) Revenue and Taxation Interim Committee; and

2119 (ii) regarding the status of:

2120 (A) agreements relating to the funding of public safety services for the Olympic Winter

2121 Games of 2002;

2122 (B) agreements relating to the funding of services, other than public safety services, for

2123 the Olympic Winter Games of 2002;

2124 (C) other agreements relating to the Olympic Winter Games of 2002 as requested by

2125 the Olympic Coordination Committee or the Revenue and Taxation Interim Committee;

2126 (D) other issues as requested by the Olympic Coordination Committee or the Revenue

2127 and Taxation Interim Committee; or

2128 (E) a combination of Subsections [~~(51)~~] (50)(b)(ii)(A) through (D);

2129 [~~(52)~~] (51) (a) beginning on July 1, 2001, through June 30, 2004, and subject to

2130 Subsection [~~(52)~~] (51)(b), a sale or lease of semiconductor fabricating or processing materials

2131 regardless of whether the semiconductor fabricating or processing materials:

2132 (i) actually come into contact with a semiconductor; or

2133 (ii) ultimately become incorporated into real property;

2134 (b) (i) beginning on July 1, 2001, through June 30, 2002, 10% of the sale or lease

2135 described in Subsection [~~(52)~~] (51)(a) is exempt;

2136 (ii) beginning on July 1, 2002, through June 30, 2003, 50% of the sale or lease
2137 described in Subsection [~~(52)~~] (51)(a) is exempt; and

2138 (iii) beginning on July 1, 2003, through June 30, 2004, the entire amount of the sale or
2139 lease described in Subsection [~~(52)~~] (51)(a) is exempt; and

2140 (c) each year on or before the November interim meeting, the Revenue and Taxation
2141 Interim Committee shall:

2142 (i) review the exemption described in this Subsection [~~(52)~~] (51) and make
2143 recommendations concerning whether the exemption should be continued, modified, or
2144 repealed; and

2145 (ii) include in the review under this Subsection [~~(52)~~] (51)(c):

2146 (A) the cost of the exemption;

2147 (B) the purpose and effectiveness of the exemption; and

2148 (C) the benefits of the exemption to the state;

2149 [~~(53)~~] (52) an amount paid by or charged to a purchaser for accommodations and
2150 services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under
2151 Section 59-12-104.2;

2152 [~~(54)~~] (53) beginning on September 1, 2001, the lease or use of a vehicle issued a
2153 temporary sports event registration certificate in accordance with Section 41-3-306 for the
2154 event period specified on the temporary sports event registration certificate; or

2155 [~~(55)~~] (54) sales or uses of electricity, if the sales or uses are:

2156 (a) made under a tariff adopted by the Public Service Commission of Utah only for
2157 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
2158 source, as designated in the tariff by the Public Service Commission of Utah; and

2159 (b) for an amount of electricity that is:

2160 (i) unrelated to the amount of electricity used by the person purchasing the electricity
2161 under the tariff described in Subsection [~~(55)~~] (54)(a); ~~and~~

2162 (ii) equivalent to the number of kilowatthours specified in the tariff described in
2163 Subsection [~~(55)~~] (54)(a) that may be purchased under the tariff described in Subsection [~~(55)~~]
2164 (54)(a)[-];

2165 (55) sales or rentals of mobility enhancing equipment if a person presents a
2166 prescription for the mobility enhancing equipment;

- 2167 (56) sales of water in:
2168 (a) a pipe;
2169 (b) a conduit;
2170 (c) a ditch; or
2171 (d) a reservoir;
2172 (57) sales of currency or coinage that constitute legal tender of the United States or of a
2173 foreign nation;
2174 (58) (a) sales of an item described in Subsection (58)(b) if the item:
2175 (i) does not constitute legal tender of any nation; and
2176 (ii) has a gold, silver, or platinum content of 80% or more; and
2177 (b) Subsection (58)(a) applies to a gold, silver, or platinum:
2178 (i) ingot;
2179 (ii) bar;
2180 (iii) medallion; or
2181 (iv) decorative coin;
2182 (59) amounts paid on a sale-leaseback transaction; or
2183 (60) sales of prosthetic devices:
2184 (a) for use on or in a human; and
2185 (b) for which a prescription is issued.
2186 Section 11. Section **59-12-104.1** is amended to read:
2187 **59-12-104.1. Exemptions for religious or charitable institutions.**
2188 (1) Except as provided in Section 59-12-104, sales made by religious or charitable
2189 institutions or organizations are exempt from the sales and use tax imposed by this chapter if
2190 the sale is made in the conduct of the institution's or organization's regular religious or
2191 charitable functions or activities.
2192 (2) (a) Except as provided in Section 59-12-104, sales made to a religious or charitable
2193 institution or organization are exempt from the sales and use tax imposed by this chapter if the
2194 sale is made in the conduct of the institution's or organization's regular religious or charitable
2195 functions and activities.
2196 (b) In order to facilitate the efficient administration of the exemption granted by this
2197 section, the exemption shall be administered as follows:

2198 (i) The exemption shall be at point of sale if the sale is in the amount of at least \$1,000.

2199 (ii) If the sale is less than \$1,000, the exemption shall be in the form of a refund of
2200 sales or use taxes paid at the point of sale.

2201 (iii) Notwithstanding Subsection (2)(b)(ii), the exemption under this subsection shall
2202 be at point of sale if the sale is:

2203 (A) made pursuant to a contract between the [~~vendor~~] seller and the charitable or
2204 religious institution or organization; or

2205 (B) made by a public utility, as defined in Section 54-2-1, to a religious or charitable
2206 institution or organization.

2207 (3) (a) Religious or charitable institutions or organizations entitled to a refund under
2208 Subsection (2)(b)(ii) may apply to the commission for the refund of sales or use taxes paid.

2209 (b) The commission shall designate the following by commission rule adopted in
2210 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

2211 (i) procedures for applying for a sales and use tax refund;

2212 (ii) standards for determining and verifying the amount of purchase at the point of sale;

2213 (iii) procedures for submitting a request for refund on a monthly basis anytime the
2214 taxpayer has accumulated \$100 or more in sales tax payments; and

2215 (iv) procedures for submitting a request for refund on a quarterly basis for any
2216 cumulative amount of sales tax payments.

2217 Section 12. Section **59-12-104.2** is amended to read:

2218 **59-12-104.2. Exemption for accommodations and services taxed by the Navajo**
2219 **Nation.**

2220 (1) As used in this section "tribal taxing area" means the geographical area that:

2221 (a) is subject to the taxing authority of the Navajo Nation; and

2222 (b) consists of:

2223 (i) notwithstanding the issuance of a patent, all land:

2224 (A) within the limits of an Indian reservation under the jurisdiction of the federal
2225 government; and

2226 (B) including any rights-of-way running through the reservation; and

2227 (ii) all Indian allotments the Indian titles to which have not been extinguished,

2228 including any rights-of-way running through an Indian allotment.

2229 (2) (a) Beginning July 1, 2001, amounts paid by or charged to a purchaser for
2230 accommodations and services described in Subsection 59-12-103(1)(i) are exempt from the tax
2231 imposed by Subsection 59-12-103(2)(a)(i) to the extent permitted under Subsection (2)(b) if:

2232 (i) the accommodations and services described in Subsection 59-12-103(1)(i) are
2233 provided within:

2234 (A) the state; and

2235 (B) a tribal taxing area;

2236 (ii) the Navajo Nation imposes and collects a tax on the amounts paid by or charged to
2237 the purchaser for the accommodations and services described in Subsection 59-12-103(1)(i);

2238 (iii) the Navajo Nation imposes the tax described in Subsection (2)(a)(ii) without
2239 regard to whether or not the purchaser that pays or is charged for the accommodations and
2240 services is an enrolled member of the Navajo Nation; and

2241 (iv) the requirements of Subsection (4) are met.

2242 (b) If but for Subsection (2)(a) the amounts paid by or charged to a purchaser for
2243 accommodations and services described in Subsection (2)(a) are subject to a tax imposed by
2244 Subsection 59-12-103(2)(a)(i):

2245 (i) the ~~vendor~~ seller shall collect and pay to the state the difference described in
2246 Subsection (3) if that difference is greater than \$0; and

2247 (ii) a person may not require the state to provide a refund, a credit, or similar tax relief
2248 if the difference described in Subsection (3) is equal to or less than \$0.

2249 (3) The difference described in Subsection (2)(b) is equal to the difference between:

2250 (a) the amount of tax imposed by Subsection 59-12-103(2)(a)(i) on the amounts paid
2251 by or charged to a purchaser for accommodations and services described in Subsection
2252 59-12-103(1)(i); less

2253 (b) the tax imposed and collected by the Navajo Nation on the amounts paid by or
2254 charged to a purchaser for the accommodations and services described in Subsection
2255 59-12-103(1)(i).

2256 (4) (a) If, on or after July 1, 2001, the Navajo Nation changes the tax rate of a tax
2257 imposed on amounts paid by or charged to a purchaser for accommodations and services
2258 described in Subsection 59-12-103(1)(i), any change in the amount of the exemption under
2259 Subsection (2) as a result of the change in the tax rate is not effective until the first day of the

2260 calender quarter after a 90-day period beginning on the date the commission receives notice
2261 meeting the requirements of Subsection (4)(b) from the Navajo Nation.

2262 (b) The notice described in Subsection (4)(a) shall state:

2263 (i) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
2264 amounts paid by or charged to a purchaser for accommodations and services described in
2265 Subsection 59-12-103(1)(i);

2266 (ii) the effective date of the rate change on the tax described in Subsection (4)(b)(i);
2267 and

2268 (iii) the new rate of the tax described in Subsection (4)(b)(i).

2269 (5) Beginning with the 2006 interim, the Revenue and Taxation Interim Committee:

2270 (a) shall review the exemption provided for in this section one or more times every five
2271 years;

2272 (b) shall determine on or before the November interim meeting of the year in which the
2273 Revenue and Taxation Interim Committee reviews the exemption provided for in this section
2274 whether the exemption should be:

2275 (i) continued;

2276 (ii) modified; or

2277 (iii) repealed; and

2278 (c) may review any other issue related to the exemption provided for in this section as
2279 determined by the Revenue and Taxation Interim Committee.

2280 Section 13. Section **59-12-104.3** is enacted to read:

2281 **59-12-104.3. Exemption for a hand tool used in a farming operation.**

2282 (1) The sale of a hand tool used or consumed primarily and directly in a farming
2283 operation is exempt from a tax imposed by this chapter:

2284 (a) if the unit purchase price of the hand tool exceeds \$250; and

2285 (b) as provided in this section.

2286 (2) (a) sales and use tax shall be due on the purchase of the qualifying hand tool at the
2287 time of purchase; and

2288 (b) the exemption for a qualifying hand tool shall be in the form of a refund of sales
2289 and use tax paid at the time of purchase.

2290 (3) A person who has purchased a qualifying hand tool shall claim the refund provided

2291 under Subsection (2):

2292 (a) if the person is subject to Chapter 10, Individual Income Tax Act, as a refundable
2293 credit on the state income tax return; or

2294 (b) if the person is subject to Chapter 7, Corporate Franchise and Income Taxes, as a
2295 refundable credit on the corporate franchise tax return.

2296 (4) A person who files a refund claim under Subsection (3) shall retain the original
2297 invoice to support the claim.

2298 (5) Pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2299 commission may promulgate rules to implement this section.

2300 (6) The Legislature shall make appropriations from the General Fund to replace the
2301 Uniform School Fund revenues expended to provide for the credit under this section.

2302 Section 14. Section **59-12-105** is amended to read:

2303 **59-12-105. Certain exempt sales to be reported -- Penalties.**

2304 (1) (a) An owner, [~~vendor~~] seller, or purchaser shall report to the commission the
2305 amount of sales or uses exempt under Subsection 59-12-104(14), (20), (39), (40), [~~(41)~~] or
2306 [~~(52)~~] (51).

2307 (b) The report required by Subsection (1)(a) shall be filed:

2308 (i) with the commission; and

2309 (ii) on a form prescribed by the commission.

2310 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2311 commission shall make rules providing:

2312 (i) the information required to be included on the report described in Subsection (1)(a);
2313 and

2314 (ii) one or more due dates for filing the report described in Subsection (1)(a).

2315 (2) Except as provided in Subsections (3) and (4), if the owner, [~~vendor~~] seller, or
2316 purchaser fails to report the full amount of the exemptions granted under Subsection
2317 59-12-104(14), (20), (39), (40), [~~(41)~~] or [~~(52)~~] (51) on the [~~owner's, vendor's, or purchaser's~~
2318 ~~original filed return~~] report required by Subsection (1)(a), the commission shall impose a
2319 penalty equal to the lesser of:

2320 (a) 10% of the sales and use tax that would have been imposed if the exemption had not
2321 applied; or

2322 (b) \$1,000.

2323 (3) Notwithstanding Subsection (2), the commission may not impose a penalty under
2324 Subsection (2) if the owner, [~~vendor~~] seller, or purchaser files an amended [~~return~~] report:

2325 (a) containing the amount of the exemption [~~prior to~~]; and

2326 (b) before the owner, [~~vendor~~] seller, or purchaser [~~receiving~~] receives a notice of audit
2327 from the commission.

2328 (4) (a) Notwithstanding Subsection (2), the commission may waive, reduce, or
2329 compromise a penalty imposed under this section if the commission finds there are reasonable
2330 grounds for the waiver, reduction, or compromise.

2331 (b) If the commission waives, reduces, or compromises a penalty under Subsection
2332 (4)(a), the commission shall make a record of the grounds for waiving, reducing, or
2333 compromising the penalty.

2334 Section 15. Section **59-12-106** is amended to read:

2335 **59-12-106. Sales and use tax license -- No fee -- Presumption of taxability --**

2336 **Exemption certificates -- Exemption certificate license number to accompany contract**
2337 **bids.**

2338 (1) (a) It is unlawful for any person required [~~by this chapter~~] to collect [~~sales or use~~
2339 ~~tax;~~] a tax under this chapter to engage in business within the state without first having
2340 obtained a license to do so. [~~This~~]

2341 (b) The license described in Subsection (1)(a):

2342 (i) shall be granted and issued by the commission[~~;~~ ~~The license~~];

2343 (ii) is not assignable [~~and~~];

2344 (iii) is valid only for the person in whose name it is issued until;

2345 (A) that person;

2346 (I) ceases to do business; or

2347 (II) changes [~~his~~] that person's business address[~~;~~]; or [~~until~~]

2348 (B) the license is revoked by the commission[~~;~~ ~~Such license~~];

2349 (iv) shall be granted by the commission only upon an application [~~stating~~] that:

2350 (A) states the name and address of the applicant; and

2351 (B) provides other information the commission may require.

2352 (c) At the time [~~of~~] a person makes an application under Subsection (1)(b)(iv), the

2353 commission shall notify the applicant of the responsibilities and liability of a business owner
2354 successor under Section 59-12-112.

2355 (d) If business is transacted at two or more separate places by one person, a separate
2356 license for each place of business shall be required.

2357 (e) (i) The commission shall, on a reasonable notice and after a hearing, revoke the
2358 license of any person violating any provisions of this chapter [~~and no~~].

2359 (ii) A license may not be issued to [~~such~~] a person described in Subsection (1)(e)(i)
2360 until the [~~taxpayer~~] person has complied with the requirements of this chapter.

2361 (f) Any person required [~~by this chapter~~] to collect [~~sales or use tax~~] a tax under this
2362 chapter within this state without having secured a license to do so[;] is guilty of a criminal
2363 violation as provided in Section 59-1-401. [~~No~~]

2364 (g) A license:

2365 (i) is not required for any person engaged exclusively in the business of selling
2366 commodities [~~which~~] that are exempt from taxation under this chapter[~~— A license~~]; and

2367 (ii) shall be issued to the [~~applicant~~] person by the commission without a license fee.

2368 (2) (a) For the purpose of the proper administration of this chapter and to prevent
2369 evasion of the tax and the duty to collect the tax, it shall be presumed that tangible personal
2370 property or any other taxable transaction under Subsection 59-12-103(1)[;] sold by any person
2371 for delivery in this state is sold for storage, use, or other consumption in this state unless the
2372 person selling [~~such~~] the property, item, or service has taken from the purchaser an exemption
2373 certificate [~~signed by and~~]:

2374 (i) bearing the name and address of the purchaser [~~to the effect~~]; and

2375 (ii) providing that the property, item, or service was exempted under Section
2376 59-12-104. [~~The exemption certificates~~]

2377 (b) An exemption certificate described in Subsection (1)(a):

2378 (i) shall contain information as prescribed by the commission[;]; and

2379 (ii) if a paper exemption certificate is used, the paper exemption certificate shall be
2380 signed by the purchaser.

2381 (c) Except as provided in Subsection (2)(d), a seller that has taken an exemption
2382 certificate from a purchaser as required by Subsection (2)(a) shall be relieved from any tax
2383 liability under this chapter:

- 2384 (i) on the transaction; and
 2385 (ii) if it is subsequently determined by the commission or a court of competent
 2386 jurisdiction that the purchaser improperly claimed the exemption.
 2387 (d) Notwithstanding Subsection (2)(c), the relief from tax liability under Subsection
 2388 (2)(c) does not apply to a seller that:
 2389 (i) fraudulently fails to collect a tax under this chapter; or
 2390 (ii) solicits a purchaser to participate in improperly claiming an exemption from a tax
 2391 under this chapter.
 2392 (3) ~~[All persons]~~ A person filing a contract ~~[bids]~~ bid with the state or ~~[any of its]~~ a
 2393 political ~~[subdivisions]~~ subdivision of the state for the sale of tangible personal property or any
 2394 other taxable transaction under Subsection 59-12-103(1)[~~;~~] shall include with the bid the ~~[sales~~
 2395 ~~tax license]~~ number of the license issued to ~~[them]~~ that person under Subsection (1).
 2396 Section 16. Section **59-12-107** is amended to read:
 2397 **59-12-107. Collection, remittance, and payment of tax by sellers or other persons**
 2398 **-- Returns -- Direct payment by purchaser of vehicle -- Other liability for collection --**
 2399 **Credits -- Treatment of bad debt -- Deposit and sale of security -- Penalties.**
 2400 (1) (a) Each ~~[vendor]~~ seller shall pay or collect and remit the sales and use taxes
 2401 imposed by this chapter if within this state the ~~[vendor]~~ seller:
 2402 (i) has or utilizes:
 2403 (A) an office;
 2404 (B) a distribution house;
 2405 (C) a sales house;
 2406 (D) a warehouse;
 2407 (E) a service enterprise; or
 2408 (F) a place of business similar to Subsections (1)(a)(i)(A) through (E);
 2409 (ii) maintains a stock of goods;
 2410 (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the
 2411 state, unless the ~~[vendor's]~~ seller's only activity in the state is:
 2412 (A) advertising; or
 2413 (B) solicitation by:
 2414 (I) direct mail;

- 2415 (II) electronic mail;
- 2416 (III) the Internet;
- 2417 (IV) telephone; or
- 2418 (V) a means similar to Subsections (1)(a)(iii)(A) or (B);
- 2419 (iv) regularly engages in the delivery of property in the state other than by:
- 2420 (A) common carrier; or
- 2421 (B) United States mail; or
- 2422 (v) regularly engages in an activity directly related to the leasing or servicing of
- 2423 property located within the state.
- 2424 (b) If a [~~vendor~~] seller does not meet one or more of the criteria provided for in
- 2425 Subsection (1)(a), the [~~vendor~~] seller:
- 2426 (i) except as provided in Subsection (1)(b)(ii), may voluntarily:
- 2427 (A) collect a tax as provided in Subsection 59-12-103(2)(c) on a transaction described
- 2428 in Subsection 59-12-103(1); and
- 2429 (B) remit the tax to the commission as provided in this part; or
- 2430 (ii) notwithstanding Subsection (1)(b)(i), shall collect a tax as provided in Subsection
- 2431 59-12-103(2)(c) on a transaction described in Subsection 59-12-103(1) if Section 59-12-103.1
- 2432 requires the [~~vendor~~] seller to collect the tax.
- 2433 (c) The voluntary collection and remittance of a tax under this chapter may not be used
- 2434 as a factor in determining whether a seller is required by Subsection (1)(a) to:
- 2435 (i) pay a tax:
- 2436 (A) under this chapter; or
- 2437 (B) any other tax or fee provided by law; or
- 2438 (ii) collect and remit:
- 2439 (A) a tax under this chapter; or
- 2440 (B) any other tax or fee provided for by law.
- 2441 [~~(c)~~] (d) A person shall pay a use tax imposed by this chapter on a transaction
- 2442 described in Subsection 59-12-103(1) if:
- 2443 (i) the [~~vendor~~] seller did not collect a use tax imposed by this chapter on the
- 2444 transaction; and
- 2445 (ii) the person:

2446 (A) stores the tangible personal property in the state;

2447 (B) uses the tangible personal property in the state; or

2448 (C) consumes the tangible personal property in the state.

2449 ~~[(d)]~~ (e) Notwithstanding the provisions of Subsection (1)(a), the ownership of

2450 property that is located at the premises of a printer's facility with which the retailer has

2451 contracted for printing and that consists of the final printed product, property that becomes a

2452 part of the final printed product, or copy from which the printed product is produced, shall not

2453 result in the retailer being considered to have or maintain an office, distribution house, sales

2454 house, warehouse, service enterprise, or other place of business, or to maintain a stock of

2455 goods, within this state.

2456 (2) (a) ~~[Each vendor]~~ Except as provided in Sections 59-12-107.1, 59-12-107.2, and

2457 59-12-107.3, a seller shall collect ~~[the sales or use tax]~~ a tax under this chapter from ~~[the]~~ a

2458 purchaser.

2459 (b) A ~~[vendor]~~ seller may not collect as tax an amount, without regard to fractional

2460 parts of one cent, in excess of the tax computed at the rates prescribed by this chapter.

2461 (c) (i) Each ~~[vendor]~~ seller shall:

2462 (A) give the purchaser a receipt for the use tax collected; or

2463 (B) bill the use tax as a separate item and declare the name of this state and the

2464 ~~[vendor's]~~ seller's use tax license number on the invoice for the sale.

2465 (ii) The receipt or invoice is prima facie evidence that the ~~[vendor]~~ seller has collected

2466 the use tax and relieves the purchaser of the liability for reporting the use tax to the

2467 commission as a consumer.

2468 (d) A ~~[vendor]~~ seller is not required to maintain a separate account for the tax

2469 collected, but is considered to be a person charged with receipt, safekeeping, and transfer of

2470 public moneys.

2471 (e) Taxes collected by a ~~[vendor]~~ seller pursuant to this chapter shall be held in trust

2472 for the benefit of the state and for payment to the commission in the manner and at the time

2473 provided for in this chapter.

2474 (f) If any ~~[vendor]~~ seller, during any reporting period, collects as a tax an amount in

2475 excess of the lawful state and local percentage of total taxable sales allowed under this ~~[part~~

2476 ~~and Part 2, Local Sales and Use Tax Act]~~ chapter, the ~~[vendor]~~ seller shall remit to the

2477 commission the full amount of the tax imposed under this [~~part and Part 2, Local Sales and Use~~
2478 ~~Tax Act~~] chapter, plus any excess.

2479 (g) If the accounting methods regularly employed by the [~~vendor~~] seller in the
2480 transaction of the [~~vendor's~~] seller's business are such that reports of sales made during a
2481 calendar month or quarterly period will impose unnecessary hardships, the commission may
2482 accept reports at intervals that will, in its opinion, better suit the convenience of the taxpayer or
2483 [~~vendor~~] seller and will not jeopardize collection of the tax.

2484 (3) (a) Except as provided in Subsection (4) and in Section 59-12-108, the sales or use
2485 tax imposed by this chapter is due and payable to the commission quarterly on or before the
2486 last day of the month next succeeding each calendar quarterly period.

2487 (b) (i) Each [~~vendor~~] seller shall, on or before the last day of the month next
2488 succeeding each calendar quarterly period, file with the commission a return for the preceding
2489 quarterly period.

2490 (ii) The [~~vendor~~] seller shall remit with the return under Subsection (3)(b)(i) the
2491 amount of the tax required under this chapter to be collected or paid for the period covered by
2492 the return.

2493 (c) Each return shall contain information and be in a form the commission prescribes
2494 by rule.

2495 (d) The sales tax as computed in the return shall be based upon the total nonexempt
2496 sales made during the period, including both cash and charge sales.

2497 (e) The use tax as computed in the return shall be based upon the total amount of sales
2498 [~~or~~] and purchases for storage, use, or other consumption in this state made during the period,
2499 including both by cash and by charge.

2500 (f) The commission may by rule extend the time for making returns and paying the
2501 taxes. No extension may be for more than 90 days.

2502 (g) The commission may require returns and payment of the tax to be made for other
2503 than quarterly periods if it considers it necessary in order to ensure the payment of the tax
2504 imposed by this chapter.

2505 (h) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2506 commission may make rules requiring a seller to file an information return:

2507 (i) for information required by this chapter that is not included in any sales and use tax

2508 return developed in accordance with the agreement; and
2509 (ii) not more frequently than every six months.
2510 (4) (a) (i) Except as provided in Subsection (4)(a)(ii), a tax collected in accordance
2511 with Subsection (1)(b) by a seller described in Subsection (4)(d) shall be due and payable:
2512 (A) to the commission;
2513 (B) annually; and
2514 (C) on or before the last day of the month immediately following the last day of each
2515 calendar year.
2516 (ii) Notwithstanding Subsection (4)(a)(i), the commission may require that a tax
2517 collected in accordance with Subsection (1)(b) by a seller described in Subsection (4)(d) be due
2518 and payable:
2519 (A) to the commission; and
2520 (B) on the last day of the month immediately following any month in which the seller
2521 has collected a total of at least \$1,000 in agreement sales and use tax.
2522 (b) (i) A tax remitted to the commission under Subsection (4)(a) shall be accompanied
2523 by a return that:
2524 (A) contains information prescribed by the commission; and
2525 (B) is in a form prescribed by the commission.
2526 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
2527 the commission shall make rules prescribing:
2528 (A) the information required to be contained in a return described in Subsection
2529 (4)(b)(i); and
2530 (B) the form of the return described in Subsection (4)(b)(i).
2531 (c) The tax collected in accordance with this Subsection (4) calculated in the return
2532 described in Subsection (4)(b) shall be calculated on the basis of the total amount of taxable
2533 transactions described in Subsection 59-12-103(1) conducted by a seller described in
2534 Subsection (4)(d), including:
2535 (i) a cash transaction; and
2536 (ii) a charge transaction.
2537 (d) This Subsection (4) applies to a seller that is:
2538 (i) registered under the agreement;

2539 (ii) does not meet one or more of the criteria provided for in Subsection (1)(a) to be
2540 required to collect a tax under this chapter; and

2541 (iii) not a:

2542 (A) model 1 seller;

2543 (B) model 2 seller; or

2544 (C) model 3 seller.

2545 ~~[(4)]~~ (5) On each vehicle sale made by other than a regular licensed vehicle dealer, the
2546 purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to
2547 titling or registration under the laws of this state. The commission shall collect the tax when
2548 the vehicle is titled or registered.

2549 ~~[(5)]~~ (6) If any sale of tangible personal property or any other taxable transaction under
2550 Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not
2551 responsible for the collection or payment of the tax imposed on the sale if the retailer
2552 represents that the personal property is purchased by the retailer for resale and the personal
2553 property thereafter is not resold. Instead, the retailer is solely liable for the tax.

2554 ~~[(6)]~~ (7) If any sale of property or service subject to the tax is made to a person
2555 prepaying sales or use tax in accordance with Title 63, Chapter 51, Resource Development, or
2556 to a contractor or subcontractor of that person, the person to whom such payment or
2557 consideration is payable is not responsible for the collection or payment of the sales or use tax
2558 if the person prepaying the sales or use tax represents that the amount prepaid as sales or use
2559 tax has not been fully credited against sales or use tax due and payable under the rules
2560 promulgated by the commission. Instead, the person prepaying the sales or use tax is solely
2561 liable for the tax.

2562 ~~[(7) Credit is allowed for prepaid taxes and for taxes paid on that portion of an account~~
2563 ~~determined to be worthless and actually charged off for income tax purposes or on the portion~~
2564 ~~of the purchase price remaining unpaid at the time of a repossession made under the terms of a~~
2565 ~~conditional sales contract.]~~

2566 (8) (a) For purposes of this Subsection (8):

2567 (i) Except as provided in Subsection (8)(a)(ii), "bad debt" is as defined in Section 166,
2568 Internal Revenue Code.

2569 (ii) Notwithstanding Subsection (8)(a)(i), "bad debt" does not include:

- 2570 (A) an amount included in the purchase price of tangible personal property a service
2571 that:
- 2572 (I) is not a transaction described in Subsection 59-12-103(1); or
2573 (II) exempt under Section 59-12-104;
- 2574 (B) a financing charge;
2575 (C) interest;
2576 (D) a sales or use tax imposed on the purchase price of tangible personal property or a
2577 service;
- 2578 (E) an uncollectible amount on taxable tangible personal property that remains in the
2579 possession of a seller until the full purchase price is paid;
- 2580 (F) an expense incurred in attempting to collect any debt; or
2581 (G) an amount that a seller does not collect on repossessed property.
- 2582 (b) A seller may deduct bad debt from the total amount from which a tax under this
2583 chapter is calculated on a return.
- 2584 (c) A seller may file a refund claim with the commission if:
- 2585 (i) the amount of bad debt for the time period described in Subsection (8)(e) exceeds
2586 the amount of the seller's sales that are subject to a tax under this chapter for that same time
2587 period; and
- 2588 (ii) as provided in Section 59-12-110.
- 2589 (d) A bad debt deduction under this section may not include interest.
- 2590 (e) A bad debt may be deducted under this Subsection (8) on a return for the time
2591 period during which the bad debt:
- 2592 (i) is written off as uncollectible in the seller's books and records; and
2593 (ii) would be eligible for a bad debt deduction:
- 2594 (A) for federal income tax purposes; and
2595 (B) if the seller were required to file a federal income tax return.
- 2596 (f) If a seller recovers:
- 2597 (i) any portion of bad debt for which the seller makes a deduction or claims a refund
2598 under this Subsection (8), the seller shall report and remit a tax under this chapter:
- 2599 (A) on the portion of the bad debt the seller recovers; and
2600 (B) on a return filed for the time period for which the portion of the bad debt is

- 2601 recovered; and
- 2602 (ii) for purposes of reporting a recovery of a portion of bad debt, apply amounts
- 2603 received on the bad debt in the following order:
- 2604 (A) in a proportional amount:
- 2605 (I) to the purchase price of the tangible personal property or services; and
- 2606 (II) to the tax due under this chapter on the tangible personal property or services; and
- 2607 (B) to:
- 2608 (I) interest;
- 2609 (II) service charges; and
- 2610 (III) other charges.
- 2611 (g) A seller's certified service provider may make a deduction or claim a refund for bad
- 2612 debt on behalf of the seller:
- 2613 (i) in accordance with this Subsection (8); and
- 2614 (ii) if the certified service provider credits or refunds the full amount of the bad debt
- 2615 deduction or refund to the seller.
- 2616 (h) A bad debt may be allocated among the states that are members of the agreement if
- 2617 a seller's books and records support that allocation.
- 2618 ~~[(8)]~~ (9) (a) The commission may require any person subject to the tax imposed under
- 2619 this chapter to deposit with it security as the commission determines, if the commission
- 2620 considers it necessary to ensure compliance with this chapter.
- 2621 (b) The commission may sell the security at public sale if it becomes necessary to do so
- 2622 in order to recover any tax, interest, or penalty due.
- 2623 (c) (i) The commission shall serve notice of the sale upon the person who deposited the
- 2624 securities.
- 2625 (ii) Notice under Subsection ~~[(8)]~~ (9)(c)(i) sent to the last-known address as it appears
- 2626 in the records of the commission is sufficient for the purposes of this requirement.
- 2627 (d) The commission shall return to the person who deposited the security any amount
- 2628 of the sale proceeds that exceed the amounts due under this chapter.
- 2629 ~~[(9)]~~ (10) (a) A ~~[vendor]~~ seller may not, with intent to evade any tax, fail to timely remit
- 2630 the full amount of tax required by this chapter.
- 2631 (b) A violation of this section is punishable as provided in Section 59-1-401.

2632 (c) Each person who fails to pay any tax to the state or any amount of tax required to be
2633 paid to the state, except amounts determined to be due by the commission under Sections
2634 59-12-110 and 59-12-111, within the time required by this chapter, or who fails to file any
2635 return as required by this chapter, shall pay, in addition to the tax, penalties and interest as
2636 provided in Section 59-12-110.

2637 (d) For purposes of prosecution under this section, each quarterly tax period in which a
2638 [~~vendor~~] seller, with intent to evade any tax, collects a tax and fails to timely remit the full
2639 amount of the tax required to be remitted, constitutes a separate offense.

2640 Section 17. Section **59-12-107.1** is enacted to read:

2641 **59-12-107.1. Direct payment permit.**

2642 (1) The commission may issue a direct payment permit to a seller that:

2643 (a) obtains a license under Section 59-12-106;

2644 (b) is required to remit taxes under this chapter by electronic funds transfer in
2645 accordance with Section 59-12-108;

2646 (c) has a record of timely payment of taxes under this chapter as determined by the
2647 commission; and

2648 (d) demonstrates to the commission that the seller has the ability to determine the
2649 appropriate location of a transaction:

2650 (i) under:

2651 (A) Section 59-12-205;

2652 (B) Section 59-12-207.1; and

2653 (C) Section 59-12-207.3; and

2654 (ii) for each transaction for which the seller makes a purchase using the direct payment
2655 permit.

2656 (2) A direct payment permit may not be used in connection with the following
2657 transactions:

2658 (a) a purchase of:

2659 (i) prepared food; and

2660 (ii) food and food ingredients purchased in the same transaction as prepared food;

2661 (b) amounts paid or charged for accommodations and services described in Subsection

2662 (1)(i);

2663 (c) amounts paid or charged for admission or user fees under Subsection
2664 59-12-103(1)(f);
2665 (d) a purchase of:
2666 (i) a motor vehicle;
2667 (ii) aircraft;
2668 (iii) watercraft;
2669 (iv) a modular home;
2670 (v) a manufactured home; or
2671 (vi) a mobile home;
2672 (e) amounts paid under Subsection 59-12-103(1)(b); or
2673 (f) sales under Subsection 59-12-103(1)(c).
2674 (3) The holder of a direct payment permit shall:
2675 (a) present evidence of the direct payment permit to a seller at the time the direct
2676 payment permit holder makes a purchase using the direct payment permit;
2677 (b) determine the appropriate location of a transaction under:
2678 (i) (A) Section 59-12-207.1; or
2679 (B) Section 59-12-207.3; and
2680 (ii) for each transaction for which the holder of the direct payment permit makes a
2681 purchase using the direct payment permit;
2682 (c) notwithstanding Section 59-12-107 and subject to Subsection 59-12-107.2(5),
2683 determine the amount of any agreement sales and use tax due on each transaction for which the
2684 holder of the direct payment permit uses the direct payment permit;
2685 (d) report and remit to the commission the agreement sales and use tax described in
2686 Subsection (3)(c) in accordance with Section 59-12-108; and
2687 (e) maintain records:
2688 (i) that indicate the appropriate location of a transaction under:
2689 (A) (I) Section 59-12-207.1; or
2690 (II) Section 59-12-207.3; and
2691 (B) for each transaction for which a purchase is made using the direct payment permit;
2692 and
2693 (ii) necessary to determine the amount described in Subsection (3)(c) for each

2694 transaction for which the holder of the direct payment permit uses the direct payment permit.

2695 (4) A seller that is presented evidence of a direct payment permit at the time of a
2696 transaction:

2697 (a) notwithstanding Section 59-12-107, may not collect agreement sales and use tax on
2698 the transaction;

2699 (b) shall, for a period of three years from the date of the transaction, retain records to
2700 verify that the transaction was made with a direct payment permit; and

2701 (c) notwithstanding Section 59-12-107, is not liable for agreement sales and use tax on
2702 the transaction described in Subsection (4)(b).

2703 (5) The holder of a direct payment permit may calculate the amount the seller may
2704 retain under Section 59-12-108 on the amount described in Subsection (3)(a):

2705 (a) for each transaction for which the holder of the direct payment permit uses the
2706 direct payment permit; and

2707 (b) that the holder of the direct payment permit remits to the commission under this
2708 section.

2709 (6) The commission may revoke a direct payment permit issued under this section at
2710 any time if the holder of the direct payment permit fails to comply with:

2711 (a) the requirements of Subsection (3); or

2712 (b) the provisions of this chapter.

2713 (7) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2714 commission may promulgate rules to administer this section.

2715 Section 18. Section **59-12-107.2** is enacted to read:

2716 **59-12-107.2. Services, computer software, or digital goods concurrently available**
2717 **for use in more than one location.**

2718 (1) (a) Notwithstanding Section 59-12-107, if a purchaser of a good or service
2719 described in Subsection (1)(b) that is not the holder of a direct payment permit under Section
2720 59-12-107.1 knows at the time of purchase that the good or service described in Subsection
2721 (1)(b) will be concurrently available for use in more than one location, the purchaser shall:

2722 (i) provide to the seller at the time of purchase a form:

2723 (A) prescribed by the commission; and

2724 (B) indicating that the good or service described in Subsection (1) will be concurrently

2725 available for use in more than one location;

2726 (ii) apportion the purchase price of the good or service described in Subsection (1)(b)

2727 among the locations determined in accordance with Subsection 59-12-207.1(10);

2728 (iii) determine the agreement sales and use tax for each location determined in

2729 accordance with Subsection 59-12-207.1(10) by calculating the product of:

2730 (A) the tax rate for the location determined in accordance with Subsection

2731 59-12-207.1(10); and

2732 (B) the amount of the purchase price apportioned to that location under Subsection

2733 (1)(a)(ii); and

2734 (iv) remit to the commission the agreement sales and use tax calculated under

2735 Subsection (1)(a)(iii) for each location determined in accordance with Subsection

2736 59-12-207.1(10).

2737 (b) Subsection (1)(a) applies to:

2738 (i) a service;

2739 (ii) prewritten computer software delivered electronically; or

2740 (iii) a digital good.

2741 (2) The method a purchaser may use to make the apportionment required by Subsection

2742 (1) shall be:

2743 (a) reasonable;

2744 (b) uniform;

2745 (c) consistent; and

2746 (d) supported by the purchaser's business records as those business records exist at the

2747 time of the transaction.

2748 (3) Upon receipt of the form described in Subsection (1)(a)(i):

2749 (a) seller:

2750 (i) is not liable to collect or remit agreement sales and use tax for that transaction; and

2751 (ii) shall keep a record of the form described in Subsection (1)(a)(i) for three years; and

2752 (b) the form shall remain in effect:

2753 (i) for all future transactions between the seller described in Subsection (3)(a) and the

2754 purchaser; and

2755 (ii) until the form is revoked in writing by the purchaser.

2756 (4) (a) A purchaser of a good or service described in Subsection (1)(b) is not required
2757 to provide to a seller the form described in Subsection (3)(a) if the purchaser:

2758 (i) knows at the time of purchase that the good or service described in Subsection
2759 (1)(b) will be concurrently available for use in more than one location; and

2760 (ii) is the holder of a direct payment permit under Section 59-12-107.1.

2761 (b) A purchaser described in Subsection (5)(a) is subject to Subsection (2) in
2762 determining the apportionment of agreement sales and use tax due on the good or service
2763 described in Subsection (5)(a).

2764 Section 19. Section **59-12-107.3** is enacted to read:

2765 **59-12-107.3. Collection, remittance, and payment of taxes on direct mail.**

2766 (1) Notwithstanding Section 59-12-107 and except as provided in Subsection (7), a
2767 purchaser of direct mail that is not a holder of a direct payment permit under Section
2768 59-12-107.1 may provide to a seller at the time of the transaction a form:

2769 (a) (i) prescribed by the commission; and

2770 (ii) indicating that the transaction is a direct mail transaction; or

2771 (b) information that indicates the locations of the recipients to which the direct mail is
2772 delivered.

2773 (2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2774 commission shall by rule define the term "direct mail."

2775 (3) Upon receipt of a form described in Subsection (1)(a) a seller:

2776 (a) is not liable to collect or remit agreement sales and use tax for that transaction; and

2777 (b) shall keep a record of the form described in Subsection (1)(a) for three years.

2778 (4) The purchaser described in Subsection (1)(a) shall as if the purchaser were the
2779 holder of a direct pay permit under Section 59-12-107.1:

2780 (a) determine the amount of any agreement sales and use tax due on the transaction;
2781 and

2782 (b) report and remit to the commission the agreement sales and use tax due on the
2783 transaction.

2784 (5) The form described in Subsection (1)(a) shall remain in effect:

2785 (a) for all future transactions between the seller described in Subsection (3)(a) and the
2786 purchaser; and

2787 (b) until the form is revoked in writing by the purchaser.

2788 (6) (a) Upon receipt of information from a purchaser that indicates the locations of the
2789 recipients to which direct mail is delivered, a seller shall collect and remit agreement sales and
2790 use tax according to the information provided by the purchaser.

2791 (b) If a seller collects and remits to the commission agreement sales and use tax on a
2792 transaction in accordance with information provided by a purchaser under Subsection (6)(a),
2793 unless the seller acts in bad faith, the seller is not liable for any further obligation to collect or
2794 remit to the commission agreement sales and use tax on the transaction.

2795 (7) Notwithstanding Subsection (1), if a purchaser of direct mail provides a seller with
2796 a direct pay permit under Section 59-12-107, the purchaser may not be required to provide to
2797 the seller:

2798 (a) the form required by Subsection (1)(a); or

2799 (b) information required by Subsection (1)(b).

2800 (8) A seller shall collect and remit agreement sales and use tax as required by Section
2801 59-12-107, if a purchaser of direct mail does not provide the seller with:

2802 (a) a direct pay permit under Section 59-12-107.1; or

2803 (b) the:

2804 (i) form required by Subsection (1)(a); or

2805 (ii) information required by Subsection (1)(b).

2806 Section 20. Section **59-12-108** is amended to read:

2807 **59-12-108. Monthly payment -- Penalty.**

2808 (1) ~~[Any person whose]~~ (a) Notwithstanding Section 59-12-107, a seller that has a tax
2809 liability under this [part, Part 2, The Local Sales and Use Tax Act, Part 5, Public Transit Tax,
2810 Part 10, Highways Tax, Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act,
2811 Subsection 59-12-603(1)(a)(i), and Subsection 59-12-603(1)(a)(ii), was] chapter of \$50,000 or
2812 more for the calendar previous year shall~~[, on or before the last day of the month next~~
2813 ~~succeeding each calendar month,];~~

2814 (i) file a return with the commission [a return];

2815 (A) monthly on or before the last day of the month immediately following the current
2816 month; and

2817 (B) for the preceding [monthly period. The vendor shall] month; and

2818 (ii) except as provided in Subsection (1)(c), remit with the return required by
2819 Subsection (1)(a)(i) the amount [of the state and local tax required under this part, Part 2, The
2820 Local Sales and Use Tax Act, Part 5, Public Transit Tax, Part 10, Highways Tax, Title 10,
2821 Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act, Subsection 59-12-603(1)(a)(i),
2822 and Subsection 59-12-603(1)(a)(ii), to be collected or paid for the period covered by the return.
2823 The] the person is required to remit to the commission for each tax, fee, or charge described in
2824 Subsection (1)(b):

2825 (A) if that seller's tax liability under this chapter for the previous calendar year is less
2826 than \$96,000, by any method permitted by the commission; or

2827 (B) if that seller's tax liability under this chapter for the previous calendar year is
2828 \$96,000 or more, by electronic funds transfer.

2829 (b) Subsection (1)(a)(ii) applies to the following taxes, fees, or charges:

2830 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

2831 (ii) a fee under Section 19-6-716;

2832 (iii) a charge under Section 69-2-5.5; or

2833 (iv) a tax under this chapter.

2834 (c) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63, Chapter 46a,
2835 Utah Administrative Rulemaking Act, the commission may make rules providing for a method
2836 for making same-day payments other than by electronic funds transfer if making payments by
2837 electronic funds transfer fails.

2838 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2839 commission shall establish by rule [the] procedures and [guidelines in] requirements for
2840 determining the [tax liability] amount a seller is required to remit to the commission under [this
2841 section] Subsection (1).

2842 [(2) Any person whose tax liability under this part, Part 2, The Local Sales and Use
2843 Tax Act, Part 5, Public Transit Tax, Part 10, Highways Tax, Title 10, Chapter 1, Part 3,
2844 Municipal Energy Sales and Use Tax Act, Subsection 59-12-603(1)(a)(i), and Subsection
2845 59-12-603(1)(a)(ii), was \$96,000 or more for the previous year shall remit the monthly amount
2846 of state and local tax payment due under this section to the tax commission by electronic funds
2847 transfer.]

2848 [(3)] (2) (a) Except as provided in Subsection [(3)] (2)(b), a [vendor who is required to

2849 ~~remit taxes monthly under this section]~~ seller subject to Subsection (1) or a seller described in
2850 Subsection (3) may retain each month an amount not to exceed:

2851 (i) 1.5% of [the total monthly sales tax collected under Part 1 of this chapter, and] any
2852 amounts the seller is required to remit to the commission:

2853 (A) for the month for which the seller is filing a return in accordance with Subsection
2854 (1); and

2855 (B) under this part; and

2856 (ii) 1% of [the total monthly sales tax collected under Part 2, The Local Sales and Use
2857 Tax Act, Part 5, Public Transit Tax, Part 10, Highways Tax, Title 10, Chapter 1, Part 3,
2858 Municipal Energy Sales and Use Tax Act, Subsection 59-12-603(1)(a)(i), and Subsection
2859 59-12-603(1)(a)(ii), for the cost to it of collecting and remitting sales and use taxes to the
2860 commission on a monthly basis.] any amounts the seller is required to remit to the commission:

2861 (A) for the month for which the seller is filing a return in accordance with Subsection
2862 (1); and

2863 (B) under:

2864 (I) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax;

2865 (II) Part 2, Local Sales and Use Tax Act;

2866 (III) Part 5, Public Transit Tax;

2867 (IV) Part 10, Highways or Public Transit System Tax;

2868 (V) Subsection 59-12-603(1)(a)(i); or

2869 (VI) Subsection 59-12-603(1)(a)(ii).

2870 (b) ~~[A] Notwithstanding Subsection (2)(a),~~ a state government entity that is required to
2871 remit taxes monthly ~~[under this chapter]~~ in accordance with Subsection (1) may not retain ~~[any~~
2872 ~~portion of the taxes it collects to cover the costs of collecting and remitting sales and use taxes~~
2873 ~~to the commission]~~ any amount under Subsection (2)(a).

2874 (3) A seller that has a tax liability under this chapter for the previous calendar year of
2875 less than \$50,000 may:

2876 (a) voluntarily meet the requirements of Subsection (1); and

2877 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the
2878 amounts allowed by Subsection (2)(a).

2879 (4) Penalties for late payment shall be as provided in Section 59-1-401.

2880 Section 21. Section **59-12-110** is amended to read:

2881 **59-12-110. Overpayments, deficiencies, and refunds procedures.**

2882 (1) (a) As soon as practicable after a return is filed, the commission shall examine the
2883 return.

2884 (b) If the commission determines that the correct amount of tax to be remitted is
2885 greater or less than the amount shown to be due on the return, the commission shall recompute
2886 the tax.

2887 (c) If the amount paid exceeds the amount due, the excess, plus interest as provided in
2888 Section 59-1-402, shall be credited or refunded to the taxpayer as provided in Subsection (2).

2889 (d) The commission may not credit or refund to the taxpayer interest on an
2890 overpayment under Subsection (1)(c) if the commission determines that the overpayment was
2891 made for the purpose of investment.

2892 (2) (a) If a taxpayer pays a tax, penalty, or interest more than once or the commission
2893 erroneously receives, collects, or computes any tax, penalty, or interest, including an
2894 overpayment described in Subsection (1)(c), the commission shall:

2895 (i) credit the amount of tax, penalty, or interest paid by the taxpayer against any
2896 amounts of tax, penalties, or interest the taxpayer owes; and

2897 (ii) refund any balance to the taxpayer or the taxpayer's successors, administrators,
2898 executors, or assigns.

2899 (b) Except as provided in [~~Subsection~~] Subsections (2)(c) and (d), or Section 19-2-124,
2900 a taxpayer shall file a claim with the commission to obtain a refund or credit under this
2901 Subsection (2) within three years from the day on which the taxpayer overpaid the tax, penalty,
2902 or interest.

2903 (c) Notwithstanding Subsection (2)(b), beginning on July 1, 1998, the commission
2904 shall extend the period for a taxpayer to file a claim under Subsection (2)(b) if:

2905 (i) the three-year period under Subsection (2)(b) has not expired; and

2906 (ii) the commission and the taxpayer sign a written agreement:

2907 (A) authorizing the extension; and

2908 (B) providing for the length of the extension.

2909 (d) Notwithstanding Subsection (2)(b), a seller that files a claim for a refund under
2910 Subsection 59-12-107(8)(c) for bad debt shall file the claim with the commission within three

2911 years from the date on which the seller could first claim the bad debt.

2912 ~~[(d)]~~ (e) A taxpayer may file a claim to obtain a refund or credit under this Subsection
2913 (2) regardless of whether the taxpayer received or objected to a notice of deficiency or a notice
2914 of assessment as provided in Subsection 59-12-114(1).

2915 ~~[(e)]~~ (f) A taxpayer may obtain a refund under this Subsection (2) of a tax paid under
2916 this chapter on a transaction that is taxable under Section 59-12-103 if:

2917 (i) the sale or use was exempt from sales and use taxes under Section 59-12-104 on the
2918 date of purchase; and

2919 (ii) except as provided in Subsection (2)(c), the taxpayer files a claim for a refund with
2920 the commission as provided in Subsections (2)(b) through (d).

2921 ~~[(f)]~~ (g) If the commission denies a claim for a refund or credit under this Subsection
2922 (2), the taxpayer may request a redetermination of the denial by filing a petition or request for
2923 agency action with the commission as provided in Title 63, Chapter 46b, Administrative
2924 Procedures Act.

2925 (3) If the commission erroneously determines an amount to be due from a taxpayer, the
2926 commission shall authorize the amounts to be cancelled upon its records.

2927 (4) (a) Subject to the provisions of Subsection (4)(b), the commission may impose on a
2928 deficiency under this section:

2929 (i) a penalty as provided in Section 59-1-401; and

2930 (ii) interest as provided in Section 59-1-402.

2931 (b) The commission may impose a penalty and interest on the entire deficiency if any
2932 part of the deficiency is due to:

2933 (i) negligence;

2934 (ii) intentional disregard of law or rule; or

2935 (iii) fraud with intent to evade the tax.

2936 (5) (a) Except as provided in Subsection (5)(b), a taxpayer shall pay a tax deficiency,
2937 including penalties or interest under this section, within ten days after the commission provides
2938 the taxpayer notice and demand of the deficiency, penalty, or interest.

2939 (b) Notwithstanding Subsection (5)(a), a taxpayer may pay a tax deficiency, penalty, or
2940 interest within 30 days after the commission provides the taxpayer notice and demand of the
2941 deficiency, penalty, or interest if the commission determines:

- 2942 (i) that a greater amount was due than was shown on the return; and
2943 (ii) the tax is not in jeopardy.
- 2944 (6) (a) Except as provided in Subsections (6)(c) through (f), the commission shall
2945 assess the amount of taxes imposed by this chapter, and any penalties and interest, within three
2946 years after a taxpayer files a return.
- 2947 (b) Except as provided in Subsections (6)(c) through (f), if the commission does not
2948 make an assessment under Subsection (6)(a) within three years, the commission may not
2949 commence a proceeding for the collection of the taxes after the expiration of the three-year
2950 period.
- 2951 (c) Notwithstanding Subsections (6)(a) and (b), the commission may make an
2952 assessment or commence a proceeding to collect a tax at any time if a deficiency is due to:
- 2953 (i) fraud; or
2954 (ii) failure to file a return.
- 2955 (d) Notwithstanding Subsections (6)(a) and (b), beginning on July 1, 1998, the
2956 commission may extend the period to make an assessment or to commence a proceeding to
2957 collect the tax under this chapter if:
- 2958 (i) the three-year period under this Subsection (6) has not expired; and
2959 (ii) the commission and the taxpayer sign a written agreement:
- 2960 (A) authorizing the extension; and
2961 (B) providing for the length of the extension.
- 2962 (e) If the commission delays an audit at the request of a taxpayer, the commission may
2963 make an assessment as provided in Subsection (6)(f) if:
- 2964 (i) the taxpayer subsequently refuses to agree to an extension request by the
2965 commission; and
2966 (ii) the three-year period under this Subsection (6) expires before the commission
2967 completes the audit.
- 2968 (f) An assessment under Subsection (6)(e) shall be:
- 2969 (i) for the time period for which the commission could not make an assessment
2970 because of the expiration of the three-year period; and
2971 (ii) in an amount equal to the difference between:
2972 (A) the commission's estimate of the amount of taxes the taxpayer would have been

2973 assessed for the time period described in Subsection (6)(f)(i); and

2974 (B) the amount of taxes the taxpayer actually paid for the time period described in
2975 Subsection (6)(f)(i).

2976 Section 22. Section **59-12-110.1** is enacted to read:

2977 **59-12-110.1. Procedures for taxes erroneously charged a purchaser.**

2978 (1) Subject to the other provisions of this section, a purchaser may request from a seller
2979 a refund or credit of any amount that:

2980 (a) the purchaser overpaid in taxes under this chapter; and

2981 (b) were collected by the seller.

2982 (2) (a) Except as provided in Subsection (2)(b), the procedure described in Subsection
2983 (1) is in addition to the process for a taxpayer to file a claim for a refund or credit with the
2984 commission under Section 59-12-110.

2985 (b) Notwithstanding Subsection (2)(a):

2986 (i) the commission is not required to provide a refund or credit of an amount for which
2987 as of the date the refund or credit is to be given the purchaser has requested or received a
2988 refund or credit from the seller; and

2989 (ii) a seller is not required to refund or credit an amount for which as of the date the
2990 refund is to be given the purchaser has requested or received a refund or credit from the
2991 commission.

2992 (3) A purchaser may not bring a cause of action against a seller for a refund or credit
2993 described in Subsection (1):

2994 (a) unless the purchaser provided the seller written notice that:

2995 (i) the purchaser requests the refund or credit described in Subsection (1); and

2996 (ii) contains the information necessary for the seller to determine the validity of the
2997 request; and

2998 (b) sooner than 60 days after the day on which the seller receives the written notice
2999 described in Subsection (3)(a).

3000 Section 23. Section **59-12-113** is amended to read:

3001 **59-12-113. Collection of tax by warrant.**

3002 (1) (a) A tax due and unpaid under this chapter;

3003 (i) constitutes a debt due the state from the [~~vendor~~] seller; and

3004 (ii) may be collected, together with interest, penalty, and costs, by appropriate judicial
3005 proceeding. [~~This~~]

3006 (b) The remedy described in Subsection (1)(a) shall be in addition to all other existing
3007 remedies.

3008 (2) (a) If the tax imposed by this chapter or any portion of [~~it~~] the tax is not paid when
3009 due and if the [~~vendor~~] seller liable for the payment of the amount has not regularly followed
3010 the procedure outlined in Section 59-12-114, the commission may issue a warrant in duplicate,
3011 under [~~its~~] the commission's official seal, directed to the sheriff of any county of the state
3012 commanding [~~him~~] the sheriff to levy upon and sell the real and personal property of a
3013 delinquent taxpayer found within [~~his~~] that county for the payment of the tax due, with the
3014 added penalties, interest, and costs. [~~Such~~]

3015 (b) The warrant described in Subsection (2)(a) and the money collected under [~~it~~] the
3016 warrant shall be returned to the commission by a time to be specified in the warrant, not more
3017 than 60 days from the date of the warrant.

3018 (c) (i) Immediately upon receipt of the warrant in duplicate, the sheriff shall file the
3019 duplicate with the clerk of the district court in [~~his~~] the county described in Subsection (2)(a).

3020 (ii) The clerk shall [~~then~~] enter in the judgment docket, in the column for judgment
3021 debtors, the name of the delinquent taxpayer mentioned in the warrant described in Subsection
3022 (2)(a) and, in appropriate columns, the amount of tax, penalties, interest, and costs for which
3023 the warrant is issued and the date when [~~such~~] the duplicate is filed under Subsection (2)(c)(i).

3024 (iii) The amount of [~~such~~] the docketed warrant under Subsection (2)(c)(ii) shall:

3025 (A) have the force and effect of an execution against all personal property of the
3026 delinquent taxpayer; and [~~shall~~]

3027 (B) become a lien upon the real property of the delinquent taxpayer in the same manner
3028 as a judgment [~~duty~~];

3029 (I) rendered by any district court; and

3030 (II) docketed in the office of the clerk [~~thereof~~] of that district court.

3031 (d) The sheriff shall then proceed upon the same in all respects, with like effect, and in
3032 the same manner as is prescribed by law in respect to executions issued against property upon
3033 judgments of a court of record and shall be entitled to the same fees for [~~his~~] the sheriff's
3034 services in executing the warrant, to be collected in the same manner.

3035 Section 24. Section **59-12-115** is amended to read:

3036 **59-12-115. Delinquent payment -- Sufficiency of notice -- Limitation.**

3037 (1) If any person is delinquent in the payment of the amount of tax required to be paid
3038 by ~~[him]~~ that person, the commission may give notice of the amount of ~~[such]~~ the delinquency:

3039 (a) by registered mail; and

3040 (b) to all persons having in their possession, or under their control, any credits or other
3041 personal property belonging to such person, or owing any debts to such person at the time of
3042 the receipt by them of such notice.

3043 (2) Any person ~~[so]~~ notified under Subsection (1) may not transfer ~~[nor]~~ or make any
3044 other disposition of such credits, other personal property, or debts until:

3045 (a) the commission has consented to a transfer or disposition~~[-];~~ or ~~[until]~~

3046 (b) 20 days have elapsed after the receipt of such notice.

3047 (3) All persons ~~[so]~~ notified under Subsection (1) shall, within five days after receipt of
3048 ~~[such]~~ the notice, advise the commission of any and all ~~[such]~~ credits, other personal property,
3049 or debts in their possession, under their control, or owing by them, as the case may be.

3050 ~~[(2)]~~ (4) Any notice required to be mailed to ~~[the vendor]~~ a seller under this chapter, if
3051 mailed to ~~[him]~~ the seller at ~~[his]~~ the seller's last known address as shown on the records of the
3052 commission, is sufficient for the purposes of this chapter.

3053 ~~[(3)]~~ (5) (a) At any time within three years after any person is delinquent in the
3054 payment of any amount required to be paid, the commission may collect the amount by
3055 appropriate judicial proceedings. ~~[This]~~

3056 (b) The remedy described in Subsection (5)(a) shall be in addition to all other existing
3057 remedies.

3058 ~~[(4)]~~ (6) (a) Each remedy of the state shall be cumulative for the collection of an
3059 amount due ~~[it]~~ to the state under this chapter. ~~[No]~~

3060 (b) An action taken by the commission may not be construed to be an election on the
3061 part of the state or any ~~[of its officers]~~ officer of the state to pursue any remedy under this
3062 section to the exclusion of any other remedy under this chapter.

3063 Section 25. Section **59-12-117** is amended to read:

3064 **59-12-117. Refusal to make or falsifying returns -- Penalties -- Criminal**
3065 **violations.**

- 3066 (1) It is unlawful for any ~~[vendor]~~ seller to refuse to:
- 3067 (a) make any return required to be made ~~[in]~~ under this chapter ~~[or to]~~;
- 3068 (b) make any false or fraudulent return or false statement on any return ~~[or to]~~;
- 3069 (c) evade the payment of ~~[the]~~ a tax, or any part ~~[thereof]~~ of a tax imposed by this
- 3070 chapter; or ~~[for any person to]~~
- 3071 (d) aid or abet another in any attempt to evade the payment of the tax or any part
- 3072 imposed by this chapter.
- 3073 (2) Any person violating any of the provisions of this chapter, except as provided in
- 3074 Section 59-12-107, shall be guilty of a criminal violation as provided in Section 59-1-401.
- 3075 (3) In addition to the ~~[foregoing]~~ penalties described in Subsection (2), any person who
- 3076 knowingly swears to or verifies any false or fraudulent return, or any return containing any
- 3077 false or fraudulent statement is guilty of the offense of perjury and on conviction ~~[thereof]~~ of
- 3078 perjury shall be punished in the manner provided by law.
- 3079 (4) Any company making a false return or a return containing a false statement ~~[as~~
- 3080 ~~aforsaid]~~ is guilty of a criminal violation as provided in Section 59-1-401.
- 3081 ~~[(2)]~~ (5) Any person failing or refusing to furnish any return required to be made,
- 3082 failing or refusing to furnish a supplemental return or other data required by the commission, or
- 3083 rendering a false or fraudulent return ~~[shall be]~~ is guilty of a criminal violation as provided in
- 3084 Section 59-1-401 for each ~~[such]~~ offense.
- 3085 ~~[(3)]~~ (6) Any person required to make, render, sign, or verify any report under this
- 3086 chapter, who makes any false or fraudulent return with intent to defeat or evade the assessment
- 3087 or determination of amount due required by law to be made ~~[shall be]~~ is guilty of a criminal
- 3088 violation as provided in Section 59-1-401 for each ~~[such]~~ offense.
- 3089 ~~[(4)]~~ (7) Any violation of the provisions of this chapter, except as otherwise provided,
- 3090 shall be a criminal violation as provided in Section 59-1-401.
- 3091 Section 26. Section **59-12-122** is enacted to read:
- 3092 **59-12-122. Amnesty.**
- 3093 (1) As used in this section, "amnesty" means that a seller is not required to pay the
- 3094 following amounts that the seller would otherwise be required to pay:
- 3095 (a) a tax, fee, or charge under:
- 3096 (i) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax;

- 3097 (ii) Section 19-6-714;
3098 (iii) Section 19-6-805;
3099 (iv) Section 69-2-5.5; or
3100 (v) this chapter;
3101 (b) a penalty on a tax, fee, or charge described in Subsection (1)(a); or
3102 (c) interest on a tax, fee, or charge described in Subsection (1)(a).
3103 (2) The commission shall grant a seller amnesty under this section if:
3104 (a) the seller was not licensed under Section 59-12-106 at any time during the
3105 12-month period prior to January 1, 2004;
3106 (b) the seller obtains a license under Section 59-12-106 within a 12-month period
3107 beginning on January 1, 2004; and
3108 (c) the seller is registered under the agreement.
3109 (3) A seller may not receive amnesty under this section for a tax, fee, or charge:
3110 (a) collected by the seller;
3111 (b) remitted to the commission by the seller;
3112 (c) that the seller is required to remit to the commission on the seller's purchases; or
3113 (d) arising from a transaction that occurred within a time period that is under audit by
3114 the commission if:
3115 (i) the seller has received notice of the commencement of an audit prior to obtaining a
3116 license under Section 59-12-106;
3117 (ii) the audit described in Subsection (3)(d)(i) has not been completed; or
3118 (iii) the seller has not exhausted all administrative and judicial remedies in connection
3119 with the audit described in Subsection (3)(d)(i).
3120 (4) Amnesty granted to a seller by the commission under this section:
3121 (a) applies to the time period during which a seller was not licensed under Section
3122 59-12-106; and
3123 (b) remains in effect if, for a period of three years, the seller:
3124 (i) remains registered under the agreement;
3125 (ii) collects a tax, fee, or charge on a transaction subject to a tax, fee, or charge
3126 described in Subsection (1)(a);
3127 (iii) remits to the commission all taxes, fees, or charges described in Subsection

3128 (4)(b)(ii); and

3129 (iv) has not received the amnesty because of the seller's:

3130 (A) fraud; or

3131 (B) intentional misrepresentation of a material fact.

3132 (5) (a) If a seller does not meet the requirements of Subsection (4)(b), the commission
3133 shall require the seller to pay the amounts described in Subsection (1) that the seller would
3134 otherwise been required to pay.

3135 (b) Notwithstanding Section 59-12-110, and for purposes of requiring a seller to pay an
3136 amount described in Subsection (6)(a) the time period for the commission to make an
3137 assessment under Section 59-12-110 shall be extended for an additional three years.

3138 Section 27. Section **59-12-204** is amended to read:

3139 **59-12-204. Sales and use tax ordinance provisions -- Tax rate -- Distribution of**
3140 **tax revenues.**

3141 (1) The tax ordinance adopted pursuant to this part shall impose a tax upon those
3142 transactions listed in Subsection 59-12-103(1).

3143 (2) (a) Except as provided in Subsections (2)(b) [~~and (c)~~], (6)(b) [~~and (c)~~], and
3144 [~~59-12-205(2), such~~] 59-12-207.1(8)(c), the tax ordinance under Subsection (1) shall include a
3145 provision imposing a tax upon every transaction listed in Subsection 59-12-103(1) [~~made~~
3146 located within a county, including areas contained within the cities and towns [~~thereof~~] located
3147 in the county at the rate of [~~3/4% or any fractional part of such 3/4%~~] 1% of the purchase price
3148 paid or charged.

3149 (b) [~~(i)~~] Notwithstanding Subsection (2)(a), a tax ordinance under this Subsection (2)
3150 shall include a provision prohibiting a county, city, or town from imposing a tax under this
3151 section on [~~(A)~~] the sales and uses described in Section 59-12-104 to the extent the sales and
3152 uses are exempt from taxation under Section 59-12-104 [~~and~~].

3153 [~~(B) subject to Subsection (2)(b)(ii), any amounts paid or charged by a vendor that~~
3154 ~~collects a tax under Subsection 59-12-107(1)(b) unless all of the counties, cities, and towns in~~
3155 ~~the state impose the tax under this section.]~~

3156 [~~(ii) Notwithstanding Subsection (2)(a), if a county, city, or town imposes a tax under~~
3157 ~~Subsection (2)(b)(i)(B), the tax ordinance under this Subsection (2) shall include a provision~~
3158 ~~that the tax rate is equal to the lowest tax rate imposed by a county, city, or town under this~~

3159 section.]

3160 [~~(c) (i) Notwithstanding Section 59-12-205, a tax ordinance under this Subsection (2)~~
3161 ~~shall include a provision prohibiting a county, city, or town from imposing a tax under Section~~
3162 ~~59-12-205 on:~~]

3163 [~~(A) the sales and uses described in Section 59-12-104 to the extent the sales and uses~~
3164 ~~are exempt from taxation under Section 59-12-104; and]~~

3165 [~~(B) subject to Subsection (2)(c)(ii), any amounts paid or charged by a vendor that~~
3166 ~~collects a tax under Subsection 59-12-107(1)(b) unless all of the counties, cities, and towns in~~
3167 ~~the state impose the tax under Section 59-12-205.]~~

3168 [~~(ii) Notwithstanding Section 59-12-205, if a county, city, or town imposes a tax under~~
3169 ~~Subsection (2)(c)(i)(B), the tax ordinance under this Subsection (2) shall include a provision~~
3170 ~~that the tax rate is equal to the lowest tax rate imposed by a county, city, or town under Section~~
3171 ~~59-12-205.]~~

3172 (c) For purposes of this Subsection (2), the location of a transaction shall be
3173 determined in accordance with Sections 59-12-207.1 through 59-2-207.4.

3174 (3) Such tax ordinance shall include provisions substantially the same as those
3175 contained in Part 1, Tax Collection, insofar as they relate to sales or use tax, except that the
3176 name of the county as the taxing agency shall be substituted for that of the state where
3177 necessary for the purpose of this part and that an additional license is not required if one has
3178 been or is issued under Section 59-12-106.

3179 (4) Such tax ordinance shall include a provision that the county shall contract, prior to
3180 the effective date of the ordinance, with the commission to perform all functions incident to the
3181 administration or operation of the ordinance.

3182 (5) Such tax ordinance shall include a provision that the sale, storage, use, or other
3183 consumption of tangible personal property, the purchase price or the cost of which has been
3184 subject to sales or use tax under a sales and use tax ordinance enacted in accordance with this
3185 part by any county, city, or town in any other county in this state, shall be exempt from the tax
3186 due under this ordinance.

3187 (6) Such tax ordinance shall include a provision that any person subject to the
3188 provisions of a city or town sales and use tax shall be exempt from the county sales and use tax
3189 if the city or town sales and use tax is levied under an ordinance including provisions in

3190 substance as follows:

3191 (a) a provision imposing a tax upon every transaction listed in Section 59-12-103 made
3192 within the city or town at the rate imposed by the county in which it is situated pursuant to
3193 Subsection (2);

3194 [~~(b) (i) notwithstanding Subsection (2)(a), and subject to Subsection (6)(b)(ii), a~~
3195 ~~provision prohibiting the city or town from imposing a tax under this section on any amounts~~
3196 ~~paid or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b) unless all of~~
3197 ~~the counties, cities, and towns in the state impose a tax under this section; and]~~

3198 [~~(ii) notwithstanding Subsection (2)(a), if a city or town imposes a tax under~~
3199 ~~Subsection (6)(b)(i), a provision that the tax rate is equal to the lowest tax rate imposed by a~~
3200 ~~county, city, or town under this section;]~~

3201 [~~(c) (i) notwithstanding Section 59-12-205 and subject to Subsection (6)(c)(ii), a~~
3202 ~~provision prohibiting the city or town from imposing a tax under Section 59-12-205 on any~~
3203 ~~amounts paid or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b)~~
3204 ~~unless all of the counties, cities, and towns in the state impose a tax under Section 59-12-205;~~
3205 ~~and]~~

3206 [~~(ii) notwithstanding Section 59-12-205, if a city or town imposes a tax under~~
3207 ~~Subsection (6)(c)(i), a provision that the tax rate is equal to the lowest tax rate imposed by a~~
3208 ~~county, city, or town under Section 59-12-205;]~~

3209 [~~(d)~~] (b) provisions substantially the same as those contained in Part 1, Tax Collection,
3210 insofar as they relate to sales and use taxes, except that the name of the city or town as the
3211 taxing agency shall be substituted for that of the state where necessary for the purposes of this
3212 part;

3213 [~~(e)~~] (c) a provision that the city or town shall contract prior to the effective date of the
3214 city or town sales and use tax ordinance with the commission to perform all functions incident
3215 to the administration or operation of the sales and use tax ordinance of the city or town;

3216 [~~(f)~~] (d) a provision that the sale, storage, use, or other consumption of tangible
3217 personal property, the gross receipts from the sale of or the cost of which has been subject to
3218 sales or use tax under a sales and use tax ordinance enacted in accordance with this part by any
3219 county other than the county in which the city or town is located, or city or town in this state,
3220 shall be exempt from the tax; and

3221 ~~[(g)]~~ (e) a provision that the amount of any tax paid under Part 1, Tax Collection, shall
3222 not be included as a part of the purchase price paid or charged for a taxable item.

3223 ~~[(7)(a) Notwithstanding any other provision of this section, from January 1, 1990,~~
3224 ~~through June 30, 1999, the commission shall determine and retain the amount of revenue~~
3225 ~~generated by a 1/64% tax rate and deposit it in the Olympics Special Revenue Fund or funds~~
3226 ~~provided for in Subsection 59-12-103(4) for the purposes of the Utah Sports Authority~~
3227 ~~described in Title 63A, Chapter 7, Utah Sports Authority Act.]~~

3228 ~~[(b) Except for sales and use taxes deposited under Subsections (7)(c) and (d),~~
3229 ~~beginning on July 1, 1999, the amount of revenue generated by the 1/64% tax rate under~~
3230 ~~Subsection (7)(a) shall be retained by the county, city, or town levying a tax under this section.]~~

3231 ~~[(e)]~~ (7) (a) Notwithstanding any other provision of this section, beginning on July 1,
3232 1999, the commission shall:

3233 (i) determine and retain the portion of the sales and use tax imposed under this section:

3234 (A) by a city or town that will have constructed within its boundaries the Airport to
3235 University of Utah Light Rail described in the Transportation Equity Act for the 21st Century,
3236 Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

3237 (B) that is equal to the revenues generated by a 1/64% tax rate; and

3238 (ii) deposit the revenues described in Subsection (7)~~[(e)]~~ (a)(i) in the Airport to
3239 University of Utah Light Rail Restricted Account created in Section 17A-2-1064 for the
3240 purposes described in Section 17A-2-1064.

3241 ~~[(d)]~~ (b) Notwithstanding any other provision of this section, beginning July 1, 2000,
3242 the commission shall:

3243 (i) determine and retain the portion of sales and use tax imposed under this section:

3244 (A) by each county and by each city and town within that county whose legislative
3245 body consents by resolution to the commission's retaining and depositing sales and use tax
3246 revenues as provided in this Subsection (7)~~[(d)]~~ (b); and

3247 (B) that is equal to the revenues generated by a 1/64% tax rate;

3248 (ii) deposit the revenues described in Subsection (7)~~[(d)]~~ (b)(i) into a special fund of
3249 the county, or a city, town, or other political subdivision of the state located within that county,
3250 that has issued bonds to finance sports or recreational facilities or that is leasing sports or
3251 recreational facilities, in order to repay those bonds or to pay the lease payments; and

3252 (iii) continue to deposit those revenues into the special fund only as long as the bonds
3253 or leases are outstanding.

3254 ~~[(8) If a county, city, or town imposes a tax under this section on any amounts paid or~~
3255 ~~charged by a vendor that collects a tax under Subsection 59-12-107(1)(b), the revenues~~
3256 ~~generated by the tax shall be distributed as provided in Subsection 59-12-103(3)(c).]~~

3257 Section 28. Section **59-12-205** is amended to read:

3258 **59-12-205. Ordinances to conform with statutory amendments -- Distribution of**
3259 **tax revenues.**

3260 (1) Each county, city, and town, in order to maintain in effect sales and use tax
3261 ordinances adopted pursuant to Section 59-12-204, shall, within 30 days of any amendment of
3262 any applicable provisions of Part 1, Tax Collection, adopt amendments of their respective sales
3263 and use tax ordinances to conform with the amendments to Part 1, Tax Collection, insofar as
3264 they relate to sales and use taxes.

3265 ~~[(2) (a) Any county, city, or town may distribute its sales or use tax revenues by means~~
3266 ~~other than point of sale or use by notifying the commission in writing of such decision, no later~~
3267 ~~than 30 days before commencement of the next tax accrual period.]~~

3268 ~~[(b) Except as provided in Subsections 59-12-204(2)(b) and (c) and (6)(b) and (c), after~~
3269 ~~such notice is given, beginning on January 1, 1990 a county, city, or town may increase the tax~~
3270 ~~authorized by this part to a total of 1% of the purchase price paid or charged.]~~

3271 ~~[(c)]~~ (2) (a) Except as provided in Subsections (2)~~[(d)],~~ (c) and (3)~~[-and (4)]:~~

3272 (i) 50% of each dollar collected from the sales and use tax authorized by this part shall
3273 be paid to each county, city, and town ~~[providing notice under this section, based upon]~~ on the
3274 basis of the percentage that the population of the county, city, or town bears to the total
3275 population of all ~~[such entities providing notice under this section]~~ counties, cities, and towns
3276 in the state; and

3277 (ii) notwithstanding Section 59-12-207.1, 59-12-207.2, 59-12-207.3, or 59-12-207.4,
3278 50% of each dollar collected from the sales and use tax authorized by this part shall be paid to
3279 each county, city, and town ~~[providing notice under this section, based upon the point of sale or~~
3280 ~~use of]~~ on the basis of the location where the transaction is consummated.

3281 (b) For purposes of Subsection (2)(a), a transaction is consummated at:

3282 (i) except as provided in Subsections (2)(b)(ii) and (iii), the place of business of the

3283 seller;

3284 (ii) notwithstanding Subsection (2)(b)(i), if tangible personal property is shipped from
3285 outside the state, the location of the transaction as determined under:

3286 (A) Section 59-12-207.1;

3287 (B) Section 59-12-207.2;

3288 (C) Section 59-12-207.3; or

3289 (D) Section 59-12-207.4; or

3290 (iii) notwithstanding Subsection (2)(b)(i) and subject to Subsection (2)(c), if the
3291 transaction is made from a location in the state other than a fixed place of business in the state,
3292 the location of the transaction as determined under:

3293 (A) Section 59-12-207.1;

3294 (B) Section 59-12-207.2;

3295 (C) Section 59-12-207.3; or

3296 (D) Section 59-12-207.4.

3297 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
3298 commission may make rules defining what constitutes a fixed place of business in the state.

3299 ~~[(d) Notwithstanding Subsection (2)(c), if a county, city, or town imposes a tax under~~
3300 ~~this section on any amounts paid or charged by a vendor that collects a tax under Subsection~~
3301 ~~59-12-107(1)(b), the revenues generated by the tax shall be distributed as provided in~~
3302 ~~Subsection 59-12-103(3)(c).]~~

3303 (3) (a) Notwithstanding ~~[any provision of]~~ Subsection (2), a county, city, or town ~~[that~~
3304 ~~has given notice under this section]~~ may not receive a tax revenue distribution less than ~~[3/4 of~~
3305 ~~1%]~~ .75% of the taxable sales within ~~[its]~~ the boundaries of the county, city, or town.

3306 (b) The commission shall proportionally reduce quarterly distributions to any county,
3307 city, or town~~[-which]~~ that, but for the reduction, would receive a distribution in excess of 1%
3308 ~~[beginning January 1, 1990;]~~ of the sales and use tax revenue collected within ~~[its]~~ the
3309 boundaries of the county, city, or town.

3310 ~~[(4)(a) Notwithstanding any other provision of this section, from January 1, 1990,~~
3311 ~~through June 30, 1999, the commission shall determine and retain the amount of revenue~~
3312 ~~generated by a 1/64% tax rate and deposit it in the Olympics Special Revenue Fund or funds~~
3313 ~~provided for in Subsection 59-12-103(4) for the purposes of the Utah Sports Authority~~

3314 described in Title 63A, Chapter 7, Utah Sports Authority Act.]

3315 ~~[(b) Except for sales and use taxes deposited under Subsections (4)(c) and (d),~~
3316 ~~beginning on July 1, 1999, the amount of revenue generated by the 1/64% tax rate under~~
3317 ~~Subsection (4)(a) shall be distributed to each county, city, and town as provided in this~~
3318 ~~section.]~~

3319 ~~[(c) Notwithstanding any other provision of this section, beginning on July 1, 1999, the~~
3320 ~~commission shall:]~~

3321 ~~[(i) determine and retain the portion of the sales and use tax imposed under this~~
3322 ~~section:]~~

3323 ~~[(A) by a city or town that will have constructed within its boundaries the Airport to~~
3324 ~~University of Utah Light Rail described in the Transportation Equity Act for the 21st Century,~~
3325 ~~Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and]~~

3326 ~~[(B) that is equal to the revenues generated by a 1/64% tax rate; and]~~

3327 ~~[(ii) deposit the revenues described in Subsection (4)(c)(i) in the Airport to University~~
3328 ~~of Utah Light Rail Restricted Account created in Section 17A-2-1064 for the purposes~~
3329 ~~described in Section 17A-2-1064.]~~

3330 ~~[(d) Notwithstanding any other provision of this section, beginning July 1, 2000, the~~
3331 ~~commission shall:]~~

3332 ~~[(i) determine and retain the portion of sales and use tax imposed under this section:]~~

3333 ~~[(A) by each county and by each city and town within that county whose legislative~~
3334 ~~body consents by resolution to the commission's retaining and depositing sales and use tax~~
3335 ~~revenues as provided in this Subsection (4)(d); and]~~

3336 ~~[(B) that is equal to the revenues generated by a 1/64% tax rate;]~~

3337 ~~[(ii) deposit the revenues described in Subsection (4)(d)(i) into a special fund of the~~
3338 ~~county, or a city, town, or other political subdivision of the state located within that county, that~~
3339 ~~has issued bonds to finance sports or recreational facilities or that is leasing sports or~~
3340 ~~recreational facilities, in order to repay those bonds or to pay the lease payments; and]~~

3341 ~~[(iii) continue to deposit those revenues into the special fund only as long as the bonds~~
3342 ~~or leases are outstanding.]~~

3343 ~~[(5)] (4) (a) Population figures for purposes of this section shall be based on the most~~
3344 ~~recent official census or census estimate of the United States Census Bureau.~~

3345 (b) If a needed population estimate is not available from the United States Census
3346 Bureau, population figures shall be derived from the estimate from the Utah Population
3347 Estimates Committee created by executive order of the governor.

3348 ~~[(6)]~~ (5) The population of a county for purposes of this section shall be determined
3349 solely from the unincorporated area of the county.

3350 Section 29. Section **59-12-207.1** is enacted to read:

3351 **59-12-207.1. Location of certain transactions -- Reports to commission -- Direct**
3352 **pay provision for a seller making certain purchases -- Exceptions.**

3353 (1) As used in of this section:

3354 (a) (i) "Receive" and "receipt" mean:

3355 (A) taking possession of tangible personal property;

3356 (B) making first use of services; or

3357 (C) for a digital good, the earlier of:

3358 (I) taking possession of tangible personal property; or

3359 (II) making first use of services.

3360 (ii) "Receive" and "receipt" do not include possession by a shipping company on behalf
3361 of a purchaser.

3362 (b) "Transportation equipment" means:

3363 (i) a locomotive or railcar that is utilized for the carriage of persons or property in
3364 interstate commerce;

3365 (ii) a truck or truck-tractor with a gross vehicle weight rating of 10,001 pounds or
3366 more, a trailer, semi-trailer, or passenger bus that is:

3367 (A) registered under Section 41-1a-301; and

3368 (B) operated under the authority of a carrier authorized and certificated:

3369 (I) by the United States Department of Transportation or another federal authority; and

3370 (II) to engage in the carriage of persons or property in interstate commerce;

3371 (iii) an aircraft that is operated by an air carrier authorized and certificated:

3372 (A) by the United States Department of Transportation or another federal or foreign
3373 authority; and

3374 (B) to engage in the carriage of persons or property in interstate commerce; or

3375 (iv) a container designed for use on, or a component part attached or secured on an

3376 item listed in Subsections (1)(b)(i) through (iii).

3377 (2) Except as provided in Subsection (11), if tangible personal property or a service
3378 that is subject to taxation under this chapter is received by a purchaser at a business location of
3379 a seller, the location of the transaction is the business location of the seller.

3380 (3) Except as provided in Subsections (7), (8), and (11), if tangible personal property or
3381 a service that is subject to taxation under this chapter is not received by a purchaser at a
3382 business location of a seller, the location of the transaction is the location where the purchaser
3383 takes receipt of the tangible personal property or services.

3384 (4) Except as provided in Subsections (7), (8), and (11), if Subsection (2) or (3) does
3385 not apply, the location of the transaction is the location indicated by an address or other
3386 information of the purchaser if:

3387 (a) the address or other information is available from the seller's business records; and

3388 (b) use of the address or other information from the seller's records does not constitute
3389 bad faith.

3390 (5) (a) Except as provided in Subsections (7), (8), and (11), if Subsection (2), (3), or (4)
3391 does not apply, the location of the transaction is the location indicated by an address for the
3392 purchaser if:

3393 (i) the address was obtained during the consummation of the transaction; and

3394 (ii) use of the address described in Subsection (5)(a)(i) does not constitute bad faith.

3395 (b) An address used under Subsection (5)(a) may include the address of a purchaser's
3396 payment instrument if no other address is available.

3397 (6) Except as provided in Subsections (7) and (11), if Subsection (2), (3), (4), or (5)
3398 does not apply of if a seller does not have sufficient information to apply Subsection (2), (3),
3399 (4), or (5), the location of the transaction is the location indicated by the address from which:

3400 (a) for tangible personal property subject to taxation under this chapter, the tangible
3401 personal property was shipped;

3402 (b) for computer software or a digital good delivered electronically that is subject to
3403 taxation under this chapter, the computer software or digital good delivered electronically was
3404 first available for transmission by the seller; or

3405 (c) the taxable service was provided.

3406 (7) (a) For purposes of this Subsection (7):

3407 (i) "agreement combined tax rate" means a tax rate equal to the sum of the tax rates a
3408 local taxing jurisdiction imposes for agreement sales and use taxes; and

3409 (ii) "shared zip code" means a nine-digit zip code assigned by the United States Postal
3410 Service that is located within two or more local taxing jurisdictions.

3411 (b) Notwithstanding Subsections (3) through (7), if the location of a transaction
3412 determined under Subsections (3) through (7) is in a shared zip code, the location of the
3413 transaction shall be:

3414 (i) if there is only one local taxing jurisdiction that imposes the lowest agreement
3415 combined tax rate for the shared zip code, the local taxing jurisdiction that imposes the lowest
3416 agreement combined tax rate; or

3417 (ii) if two or more local taxing jurisdictions impose the lowest agreement combined
3418 tax rate for the shared zip code, the local taxing jurisdiction that:

3419 (A) imposes the lowest agreement combined tax rate for the shared zip code; and

3420 (B) has located within the local taxing jurisdiction the largest number of street
3421 addresses within the shared zip code.

3422 (c) A seller shall collect a tax imposed under this chapter at the lowest agreement
3423 combined tax rate imposed within the local taxing jurisdiction in which the transaction is
3424 located under Subsection (8)(b) notwithstanding the following:

3425 (i) Section 59-12-204;

3426 (ii) Section 59-12-401;

3427 (iii) Section 59-12-402;

3428 (iv) Section 59-12-501;

3429 (v) Section 59-12-502;

3430 (vi) Section 59-12-703;

3431 (vii) Section 59-12-802;

3432 (viii) Section 59-12-804;

3433 (ix) Section 59-12-1001;

3434 (x) Section 59-12-1102;

3435 (xi) Section 59-12-1302; and

3436 (xii) Section 59-12-1402.

3437 (8) Notwithstanding Subsections (3) through (5), the location of a purchase of direct

- 3438 mail is the location described in Subsection (6), if the purchaser of the direct mail:
- 3439 (a) has not been issued a direct payment permit under Section 59-12-107.1; and
- 3440 (b) does not provide the seller the form or information described in Subsection
- 3441 59-12-107.3(1).
- 3442 (9) If a purchaser knows at the time that the purchaser purchases a service, prewritten
- 3443 computer software delivered electronically, or a digital good that the service, prewritten
- 3444 computer software delivered electronically, or digital good will be concurrently available for
- 3445 use in more than one location, the purchaser shall:
- 3446 (a) determine the location of the transaction under this section for each location in
- 3447 which the service, prewritten computer software delivered electronically, or digital good will
- 3448 be concurrently available for use; and
- 3449 (b) apportion the purchase price of the service, prewritten computer software delivered
- 3450 electronically, or digital good:
- 3451 (i) among each location determined under Subsection (10)(a); and
- 3452 (ii) in accordance with Section 59-12-107.2.
- 3453 (10) (a) A tax collected under this chapter shall be reported to the commission on a
- 3454 form that identifies the location of each transaction that occurred during the return filing
- 3455 period.
- 3456 (b) The form described in Subsection (10)(a) shall accompany any return required to be
- 3457 filed under this chapter.
- 3458 (11) This section does not apply to:
- 3459 (a) amounts charged by a seller for:
- 3460 (i) telephone service; or
- 3461 (ii) the retail sale or transfer of:
- 3462 (A) a motor vehicle other than a motor vehicle that is transportation equipment;
- 3463 (B) an aircraft other than an aircraft that is transportation equipment;
- 3464 (C) a watercraft;
- 3465 (D) a modular home;
- 3466 (E) a manufactured home; or
- 3467 (F) a mobile home; or
- 3468 (iii) except as provided in Section 59-12-207.3, the lease or rental of tangible personal

3469 property other than tangible personal property that is transportation equipment; and

3470 (b) a tax paid under this chapter:

3471 (i) by a seller; and

3472 (ii) for the seller's purchases.

3473 Section 30. Section **59-12-207.2** is enacted to read:

3474 **59-12-207.2. Location of transaction involving sale of a motor vehicle, aircraft,**
3475 **watercraft, modular home, manufactured home, or mobile home.**

3476 (1) (a) Except as provided in Subsection (1)(b), the location of a sale of the following
3477 tangible personal property shall be determined as provided in this section:

3478 (i) a motor vehicle;

3479 (ii) an aircraft;

3480 (iii) a watercraft;

3481 (iv) a modular home;

3482 (v) a manufactured home; or

3483 (vi) a mobile home.

3484 (b) Notwithstanding Subsection (1)(a), the location of the tangible personal property
3485 described in Subsection (1)(a) shall be determined in accordance with Section 59-12-207.1 if
3486 the tangible personal property described in Subsection (1)(a) is transportation equipment as
3487 defined in Section 59-12-107.1.

3488 (2) If an item of tangible personal property described in Subsection (1) is sold by a
3489 dealer of that tangible personal property, the location of the sale of that tangible personal
3490 property is the business location of the dealer.

3491 (3) If an item of tangible personal property described in Subsection (1) is sold by a
3492 person other than a dealer of that tangible personal property, the location of the sale of that
3493 tangible personal property is:

3494 (a) if the tangible personal property is required to be registered with the state before the
3495 tangible personal property is used on a public highway, on a public waterway, on public land,
3496 or in the air, the location of the street address at which the tangible personal property is
3497 registered; or

3498 (b) if the tangible personal property is not required to be registered under Subsection
3499 (3)(a), the location of the street address where the purchaser of the tangible personal property

3500 resides.

3501 (4) This section does not apply to the lease or rental of tangible personal property
3502 described in Subsection (1).

3503 Section 31. Section **59-12-207.3** is enacted to read:

3504 **59-12-207.3. Location of transaction involving lease or rental of tangible personal**
3505 **property requiring recurring periodic payments.**

3506 (1) (a) For purposes of this section, "primary property location" means an address for
3507 the tangible personal property:

3508 (i) provided by a lessee to a lessor; and

3509 (ii) that is available to the lessor from the lessor's records maintained in the ordinary
3510 course of business.

3511 (b) "Primary property location" does not include an address described in Subsection
3512 (1)(a) if use of that address constitutes bad faith.

3513 (2) (a) Except as provided in Subsection (2)(b), if a lease or rental of tangible personal
3514 property subject to taxation under this section requires recurring periodic payments:

3515 (i) the location of the transaction for any down payment and for the first recurring
3516 periodic payment is as provided in Section 59-12-207.1; and

3517 (ii) the location of the transaction for the second recurring periodic payment and
3518 subsequent periodic payments is the primary property location for each time period covered by
3519 the recurring periodic payment.

3520 (b) Notwithstanding Subsection (2)(a), if a transaction subject to taxation under this
3521 chapter involving a lease or rental of a motor vehicle, trailer, semi-trailer, or aircraft that is not
3522 transportation equipment under Section 59-12-207.1 requires recurring periodic payments, the
3523 location of the transaction for any down payment and for each periodic payment shall be the
3524 primary property location for each time period covered by the recurring periodic payment.

3525 (3) If a transaction involving a lease or rental of the following does not require
3526 recurring periodic payments, the location of the transaction shall be as provided in Section
3527 59-12-207.1 for each lease payment:

3528 (a) tangible personal property subject to taxation under this chapter; or

3529 (b) a motor vehicle, trailer, semi-trailer, or aircraft that is:

3530 (i) not transportation equipment under Section 59-12-207.1; and

- 3531 (ii) subject to taxation under this chapter.
- 3532 (4) This section does not affect the imposition or computation of a tax under this
- 3533 chapter on:
- 3534 (a) a lease or rental of tangible personal property subject to tax under this chapter on:
- 3535 (i) the basis of a lump sum; or
- 3536 (ii) an accelerated basis; or
- 3537 (b) an acquisition of tangible personal property:
- 3538 (i) subject to taxation under this chapter; and
- 3539 (ii) for lease.
- 3540 Section 32. Section **59-12-207.4** is enacted to read:
- 3541 **59-12-207.4. Location of transaction involving telephone service.**
- 3542 (1) As used in this section:
- 3543 (a) "Air-to-ground radiotelephone service" means a radio service:
- 3544 (i) as defined in 47 C.F.R. Sec. 22.99; and
- 3545 (ii) in which a common carrier is authorized to offer and provide radio
- 3546 telecommunications service:
- 3547 (A) for hire; and
- 3548 (B) to a subscriber in an aircraft.
- 3549 (b) "Call-by-call basis" means a method of charging for telecommunications service
- 3550 that is measured by individual calls.
- 3551 (c) "Communications channel" means a physical or virtual path of communications
- 3552 over which a signal is transmitted between or among customer channel termination points.
- 3553 (d) (i) Subject to Subsection (1)(d)(ii), "customer" means:
- 3554 (A) a person that is obligated under a contract with a telecommunications provider to
- 3555 pay for telecommunications service received under the contract; or
- 3556 (B) if the end user is not the person described in Subsection (1)(d)(i)(A), the end user
- 3557 of telecommunications service.
- 3558 (ii) "Customer" does not include a reseller:
- 3559 (A) of telecommunications service; or
- 3560 (B) for mobile telecommunications service, of a serving carrier under an agreement to
- 3561 serve a customer outside the home service provider's licensed service area.

- 3562 (e) "Customer channel termination point" means the location where a customer:
3563 (i) inputs communications; or
3564 (ii) receives communications.
3565 (f) "End user" means:
3566 (i) a person who uses a telecommunications service; or
3567 (ii) for telecommunications service provided to a person who is not an individual, an
3568 individual who uses a telecommunications service on behalf of the person who is provided the
3569 telecommunications service.
3570 (g) "Home service provider" is as defined in the Mobile Telecommunications Sourcing
3571 Act, 4 U.S.C. Sec. 124.
3572 (h) "Mobile telecommunications service" is as defined in the Mobile
3573 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
3574 (i) "Place of primary use":
3575 (i) for telecommunications service other than mobile telecommunications service,
3576 means the street address representative of where a customer's use of the telecommunications
3577 service primarily occurs, which must be:
3578 (A) the residential street address of the customer; or
3579 (B) the primary business street address of the customer; or
3580 (ii) for mobile telecommunications service, is as defined in the Mobile
3581 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
3582 (j) (i) "Post-paid calling service" means a telecommunications service obtained by
3583 making a payment on a call-by-call basis:
3584 (A) through the use of a:
3585 (I) credit card;
3586 (II) bank card;
3587 (III) travel card;
3588 (IV) debit card; or
3589 (B) by a charge made to a telephone number that is not associated with the origination
3590 or termination of the telecommunications service.
3591 (ii) "Post-paid calling service" includes a telecommunications service that would be a
3592 prepaid calling service if the service were exclusively a telecommunications service.

- 3593 (k) "Prepaid calling service" means a telecommunications service:
3594 (i) that allows a purchaser access to exclusively telecommunications service;
3595 (ii) that:
3596 (A) must be paid for in advance; and
3597 (B) enables the origination of calls using an:
3598 (I) access number; or
3599 (II) authorization code;
3600 (iii) dialed:
3601 (A) manually; or
3602 (B) electronically; and
3603 (iv) sold in predetermined units or dollars that decline:
3604 (A) by a known amount; and
3605 (B) with use.
3606 (l) (i) (A) Subject to Subsection (1)(l)(i)(B), "private communication service" means a
3607 telecommunications service that entitles a customer to exclusive or priority use of a
3608 communications channel or group of communications channels between or among termination
3609 points.
3610 (B) The determination of whether a telecommunications service is a private
3611 communication service may not be based on the manner in which the communications channels
3612 or group of communications channels are connected.
3613 (ii) "Private communication service" includes the following services provided in
3614 connection with the use of a communications channel or group of communications channels:
3615 (A) switching capacity;
3616 (B) an extension line; or
3617 (C) a station.
3618 (m) Notwithstanding where a call is billed or paid, "service address" means:
3619 (i) if the location of where a call is billed or paid is known, the location of the
3620 telecommunications equipment:
3621 (A) to which a customer's call is charged; and
3622 (B) from which the call:
3623 (I) originates; or

- 3624 (II) terminates;
- 3625 (ii) if the location of where a call is billed or paid is not known but the location of the
- 3626 origination point of the signal of the telecommunications service is known, the location of the
- 3627 origination point of the signal of the telecommunications service first identified by:
- 3628 (A) the telecommunications system of the telecommunications provider; or
- 3629 (B) if the system used to transport the signal of the telecommunications service is not a
- 3630 system of the telecommunications provider, information received by the telecommunications
- 3631 provider from the telecommunications provider's service provider; or
- 3632 (iii) if the following are not known, the location of a customer's place of primary use:
- 3633 (A) the location of where a call is billed or paid; and
- 3634 (B) the location of the origination point of the signal of the telecommunications
- 3635 service.
- 3636 (2) Except as provided in Subsection (4) and subject to Subsection 59-12-207.1(7), the
- 3637 location of a sale of a telephone service sold on a call-by-call basis is:
- 3638 (a) the location in which the call originates and terminates; or
- 3639 (b) the location in which:
- 3640 (i) the call:
- 3641 (A) originates; or
- 3642 (B) terminates; and
- 3643 (ii) the service address is located.
- 3644 (3) Except as provided in Subsection (4), and subject to Subsection 59-12-207.1(7), the
- 3645 location of a sale of a telephone service sold on a basis other than a call-by-call basis is the
- 3646 customer's place of primary use.
- 3647 (4) Notwithstanding Subsection (2) or (3), and subject to Subsection 59-12-207.1(7):
- 3648 (a) the location of a sale of a mobile telecommunications service, other than an
- 3649 air-to-ground radiotelephone service or a prepaid calling service, is the location required by the
- 3650 Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.;
- 3651 (b) the location of a sale of a post-paid calling service is the origination point of the
- 3652 telecommunications signal as first identified by:
- 3653 (i) the seller's telecommunications system; or
- 3654 (ii) if the system used to transport the telecommunications signal is not that of the

3655 seller, information received by the seller from the seller's service provider; and

3656 (c) (i) except as provided in Subsection (4)(c)(ii), the location of a sale of a prepaid
3657 calling service is the location determined under Section 59-12-207.1; and

3658 (ii) notwithstanding Subsection (4)(c)(i), for purposes of Subsection 59-12-207.1(5),
3659 the location of a sale of a prepaid calling service that is a mobile telecommunications service
3660 shall include the location of the mobile telephone number.

3661 (5) Subject to Subsection 59-12-207.1(7), the location of a sale of a private
3662 communication service is:

3663 (a) if all of the customer channel termination points are located entirely within one
3664 local taxing jurisdiction, the location of the sale is the local taxing jurisdiction in which all of
3665 the customer channel termination points are located;

3666 (b) if a charge for a service related to a customer channel termination point are
3667 separately stated, the location of the transaction is the location in which the customer channel
3668 termination point is located;

3669 (c) if a charge for service for a segment of a channel between two customer channel
3670 termination points located in different local taxing jurisdictions are separately stated, the
3671 location of the transaction is each local taxing jurisdiction:

3672 (i) in which the customer channel termination points are located; and

3673 (ii) in equal proportions; and

3674 (d) if a charge for service for a segment of a channel located in more than one taxing
3675 jurisdiction is not separately stated, the location of the sale is:

3676 (i) each local taxing jurisdiction in which a segment of the channel is located; and

3677 (ii) in proportion to the percentage of customer channel termination points in each local
3678 taxing jurisdiction compared to the total customer channel termination points in all local taxing
3679 jurisdictions.

3680 Section 33. Section **59-12-207.5** is enacted to read:

3681 **59-12-207.5. Seller reliance on commission database.**

3682 A seller that collects a tax imposed by a county, city, or town under this part is not
3683 liable to collect and remit a tax at a tax rate other than the tax rate imposed under this part if:

3684 (1) the tax rate at which the seller collected the tax was derived from a database created
3685 by the commission containing:

- 3686 (a) tax rates; or
3687 (b) local taxing jurisdiction boundaries; or
3688 (2) the seller is a model 1 seller.

3689 Section 34. Section **59-12-208.1** is amended to read:

3690 **59-12-208.1. Imposition or repeal of tax -- Tax rate change -- Effective date --**
3691 **Notice requirements.**

3692 (1) For purposes of this section:

3693 (a) "Annexation" means an annexation to:

3694 (i) a county under Title 17, Chapter 2, Annexation to County; or

3695 (ii) a city or town under Title 10, Chapter 2, Part 4, Annexation.

3696 (b) "Annexing area" means an area that is annexed into a county, city, or town.

3697 (2) (a) If, on or after [~~May 1, 2000~~] January 1, 2004, a county, city, or town enacts or
3698 repeals a tax [~~or changes the rate of a tax~~] under this part, the enactment[;] or repeal[; ~~or~~
3699 ~~change~~] shall take effect:

3700 (i) except as provided in Subsection (2)(c) or (d), on the first day of a calendar quarter;
3701 and

3702 (ii) after a [~~75-day~~] 90-day period beginning on the date the commission receives
3703 notice meeting the requirements of Subsection (2)(b) from the county, city, or town.

3704 (b) The notice described in Subsection (2)(a)(ii) shall state:

3705 (i) that the county, city, or town will enact or repeal a tax [~~or change the rate of a tax~~]
3706 under this part;

3707 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

3708 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

3709 (iv) if the county, city, or town enacts the tax [~~or changes the rate of the tax~~] described
3710 in Subsection (2)(b)(i), the [~~new~~] rate of the tax.

3711 (c) (i) Notwithstanding Subsection (2)(a)(i), for a transaction described in Subsection
3712 (2)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

3713 (A) that begins after the effective date of the imposition of the tax; and

3714 (B) if the billing period for the transaction begins before the effective date of the
3715 enactment of the tax under Section 59-12-204.

3716 (ii) For a transaction described in Subsection (2)(c)(iii), a tax rate repeal shall take

3717 effect on the first day of the last billing period:
3718 (A) that began before the effective date of the tax rate repeal; and
3719 (B) if the billing period for the transaction begins before the effective date of the tax
3720 rate repeal under Section 59-12-204.
3721 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:
3722 (A) Subsection 59-12-103(1)(b);
3723 (B) Subsection 59-12-103(1)(c);
3724 (C) Subsection 59-12-103(1)(d);
3725 (D) Subsection 59-12-103(1)(e);
3726 (E) Subsection 59-12-103(1)(f);
3727 (F) Subsection 59-12-103(1)(g);
3728 (G) Subsection 59-12-103(1)(h);
3729 (H) Subsection 59-12-103(1)(i);
3730 (I) Subsection 59-12-103(1)(j); or
3731 (J) Subsection 59-12-103(1)(k).
3732 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3733 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
3734 Subsection (2)(a) takes effect:
3735 (A) on the first day of a calendar quarter; and
3736 (B) beginning 60 days after the effective date of the enactment or repeal under
3737 Subsection (2)(a).
3738 (ii) In accordance with title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
3739 commission may by rule define the term "catalogue sale."
3740 (3) (a) If, for an annexation that occurs on or after [~~May 1, 2000~~] January 1, 2004, the
3741 annexation will result in [~~a change in the rate~~] the enactment or repeal of a tax under this part
3742 for an annexing area, the [~~change~~] enactment or repeal shall take effect:
3743 (i) except as provided in Subsection (3)(c) or (d), on the first day of a calendar quarter;
3744 and
3745 (ii) after a [~~75-day~~] 90-day period beginning on the date the commission receives
3746 notice meeting the requirements of Subsection (3)(b) from the county, city, or town that
3747 annexes the annexing area.

- 3748 (b) The notice described in Subsection (3)(a)(ii) shall state:
- 3749 (i) that the annexation described in Subsection (3)(a) will result in [~~a change in the~~
- 3750 ~~rate~~] an enactment or repeal of a tax under this part for the annexing area;
- 3751 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);
- 3752 (iii) the effective date of the tax described in Subsection (3)(b)(i); and
- 3753 (iv) the [~~new~~] rate of the tax described in Subsection (3)(b)(i).
- 3754 (c) (i) Notwithstanding Subsection (3)(a)(i), for a transaction described in Subsection
- 3755 (3)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 3756 (A) that begins after the effective date of the enactment of the tax; and
- 3757 (B) if the billing period for the transaction begins before the effective date of the
- 3758 imposition of the tax under Section 59-12-204.
- 3759 (ii) For a transaction described in Subsection (3)(c)(iii), a tax rate repeal shall take
- 3760 effect on the first day of the last billing period:
- 3761 (A) that began before the effective date of the tax rate repeal; and
- 3762 (B) if the billing period for the transaction begins before the effective date of a tax rate
- 3763 repeal imposed under Section 59-12-204.
- 3764 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:
- 3765 (A) Subsection 59-12-103(1)(b);
- 3766 (B) Subsection 59-12-103(1)(c);
- 3767 (C) Subsection 59-12-103(1)(d);
- 3768 (D) Subsection 59-12-103(1)(e);
- 3769 (E) Subsection 59-12-103(1)(f);
- 3770 (F) Subsection 59-12-103(1)(g);
- 3771 (G) Subsection 59-12-103(1)(h);
- 3772 (H) Subsection 59-12-103(1)(i);
- 3773 (I) Subsection 59-12-103(1)(j); or
- 3774 (J) Subsection 59-12-103(1)(k).
- 3775 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
- 3776 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
- 3777 Subsection (3)(a) takes effect:
- 3778 (A) on the first day of a calendar quarter; and

3779 (B) beginning 60 days after the effective date of the enactment or repeal under
3780 Subsection (3)(a).

3781 (ii) In accordance with title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
3782 commission may by rule define the term "catalogue sale."

3783 Section 35. Section **59-12-210** is amended to read:

3784 **59-12-210. Commission to provide data to counties.**

3785 (1) (a) The commission shall provide to each county the sales and use tax collection
3786 data necessary to verify that the local sales and use tax revenues collected by the commission
3787 are distributed to each county, city, and town in accordance with Sections 59-12-205 and
3788 59-12-206.

3789 (b) The data described in Subsection (1)(a) shall include the commission's reports of
3790 [~~vendor~~] seller sales, sales and use tax distribution reports, and a breakdown of local revenues.

3791 (2) (a) In addition to the access to information provided in Subsection (1) and Section
3792 59-12-109, the commission shall provide a county, city, or town with copies of returns and
3793 other information required by [~~Title 59, Chapter 12,~~] this chapter relating to [~~the state or local~~
3794 ~~option sales and use tax~~] a tax under this chapter. [~~This~~]

3795 (b) The information described in Subsection (2)(a) is available only in official matters
3796 and must be requested in writing by the chief executive officer or [~~his~~] the chief executive
3797 officers designee.

3798 (c) The request described in Subsection (2)(b) shall specifically indicate the
3799 information being sought and how the information will be used.

3800 (d) Information received pursuant to the request described in Subsection (2)(b) shall
3801 be:

3802 (i) classified as private or protected under Section 63-2-302 or 63-2-304; and [~~shall be~~]

3803 (ii) subject to the confidentiality provisions of Section 59-1-403.

3804 Section 36. Section **59-12-301** is amended to read:

3805 **59-12-301. Transient room tax -- Rate -- Imposition or repeal of tax -- Tax rate**
3806 **change -- Effective date -- Notice requirements.**

3807 (1) (a) Any county legislative body may impose a transient room tax not to exceed 3%
3808 of the rent for every occupancy of a suite or room:

3809 (i) on the following entities doing business as motor courts, motels, hotels, inns, or

3810 providing similar public accommodations:

3811 (A) a person;

3812 (B) a company;

3813 (C) a corporation; or

3814 (D) a person, group, or organization similar to Subsections (1)(a)(i)(A) through (C);

3815 and

3816 (ii) if the suite or room is regularly rented for less than 30 consecutive days.

3817 (b) The revenues raised from the tax imposed under Subsection (1)(a) shall be used for

3818 the purposes listed in Section 17-31-2.

3819 (c) The tax imposed under Subsection (1)(a) shall be in addition to the tourism,

3820 recreation, cultural, and convention tax imposed under Part 6, Tourism, Recreation, Cultural,

3821 and Convention Facilities Tax.

3822 (d) A county legislative body imposing a tax under this part shall impose the tax on the

3823 rents described in Subsection (1)(a) relating to the Olympic Winter Games of 2002 made to or

3824 by an organization exempt from federal income taxation under Section 501(c)(3), Internal

3825 Revenue Code, except for rents described in Subsection (1)(a):

3826 (i) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter
3827 Games of 2002;

3828 (ii) exclusively used by:

3829 (A) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the

3830 Olympic Winter Games of 2002; or

3831 (B) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic

3832 Winter Games of 2002; and

3833 (iii) for which the Salt Lake Organizing Committee for the Olympic Winter Games of

3834 2002 does not receive reimbursement.

3835 (2) Subject to Subsection (3), a county legislative body:

3836 (a) may increase or decrease the transient room tax; and

3837 (b) shall regulate the transient room tax by ordinance.

3838 (3) (a) For purposes of this Subsection (3):

3839 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,

3840 Annexation to County.

- 3841 (ii) "Annexing area" means an area that is annexed into a county.
- 3842 (b) (i) If, on or after ~~[May 1, 2000]~~ January 1, 2004, a county enacts or repeals a tax or
- 3843 changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:
- 3844 (A) except as provided in Subsection (3)(c), on the first day of a calendar quarter; and
- 3845 (B) after a ~~[75-day]~~ 90-day period beginning on the date the commission receives
- 3846 notice meeting the requirements of Subsection (3)(b)(ii) from the county.
- 3847 (ii) The notice described in Subsection (3)(b)(i)(B) shall state:
- 3848 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;
- 3849 (B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);
- 3850 (C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and
- 3851 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
- 3852 (3)(b)(ii)(A), the ~~[new]~~ rate of the tax.
- 3853 (c) (i) Notwithstanding Subsection (3)(b)(i)(A), for a transaction described in
- 3854 Subsection (3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first
- 3855 day of the first billing period:
- 3856 (A) that begins after the effective date of the enactment of the tax or the tax rate
- 3857 increase; and
- 3858 (B) if the billing period for the transaction begins before the effective date of the
- 3859 enactment of the tax or the tax rate increase imposed under Subsection (1).
- 3860 (ii) For a transaction described in Subsection (3)(c)(iii), the repeal of a tax or a tax rate
- 3861 decrease shall take effect on the first day of the last billing period:
- 3862 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
- 3863 and
- 3864 (B) if the billing period for the transaction begins before the effective date of the repeal
- 3865 of the tax the a tax rate decrease imposed under Subsection (1).
- 3866 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:
- 3867 (A) Subsection 59-12-103(1)(b);
- 3868 (B) Subsection 59-12-103(1)(c);
- 3869 (C) Subsection 59-12-103(1)(d);
- 3870 (D) Subsection 59-12-103(1)(e);
- 3871 (E) Subsection 59-12-103(1)(f);

3872 (F) Subsection 59-12-103(1)(g);

3873 (G) Subsection 59-12-103(1)(h);

3874 (H) Subsection 59-12-103(1)(i);

3875 (I) Subsection 59-12-103(1)(j); or

3876 (J) Subsection 59-12-103(1)(k).

3877 ~~(c)~~ (d) (i) If, for an annexation that occurs on or after ~~May 1, 2000~~ January 1, 2004,
3878 the annexation will result in the enactment, repeal, or a change in the rate of a tax under this
3879 part for an annexing area, the enactment, repeal, or change shall take effect:

3880 (A) except as provided in Subsection (3)(e), on the first day of a calendar quarter; and

3881 (B) after a ~~75-day~~ 90-day period beginning on the date the commission receives
3882 notice meeting the requirements of Subsection (3)~~(c)~~ (d)(ii) from the county that annexes the
3883 annexing area.

3884 (ii) The notice described in Subsection (3)~~(c)~~ (d)(i)(B) shall state:

3885 (A) that the annexation described in Subsection (3)~~(c)~~ (d)(i) will result in ~~a~~ an
3886 enactment, repeal, or change in the rate of a tax under this part for the annexing area;

3887 (B) the statutory authority for the tax described in Subsection (3)~~(c)~~ (d)(ii)(A);

3888 (C) the effective date of the tax described in Subsection (3)~~(c)~~ (d)(ii)(A); and

3889 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
3890 (3)(d)(ii)(A), the ~~new~~ rate of the tax ~~[described in Subsection (3)(c)(ii)(A)].~~

3891 (e) (i) Notwithstanding Subsection (3)(d)(i)(A), for a transaction described in
3892 Subsection (3)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first
3893 day of the first billing period:

3894 (A) that begins after the effective date of the enactment of the tax or the tax rate
3895 increase; and

3896 (B) if the billing period for the transaction begins before the effective date of the
3897 enactment of the tax or the tax rate increase imposed under Subsection (1).

3898 (ii) For a transaction described in Subsection (3)(e)(iii), the repeal of a tax or a tax rate
3899 decrease shall take effect on the first day of the last billing period:

3900 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
3901 and

3902 (B) if the billing period for the transaction begins before the effective date of the repeal

3903 of the tax or the tax rate decrease imposed under Subsection (1).

3904 (iii) Subsections (3)(e)(i) and (ii) apply to transactions subject to a tax under:

3905 (A) Subsection 59-12-103(1)(b);

3906 (B) Subsection 59-12-103(1)(c);

3907 (C) Subsection 59-12-103(1)(d);

3908 (D) Subsection 59-12-103(1)(e);

3909 (E) Subsection 59-12-103(1)(f);

3910 (F) Subsection 59-12-103(1)(g);

3911 (G) Subsection 59-12-103(1)(h);

3912 (H) Subsection 59-12-103(1)(i);

3913 (I) Subsection 59-12-103(1)(j); or

3914 (J) Subsection 59-12-103(1)(k).

3915 Section 37. Section **59-12-302** is amended to read:

3916 **59-12-302. Collection of tax -- Penalties -- Commission to interpret, audit, and**
3917 **adjudicate transient room tax.**

3918 (1) (a) ~~[The]~~ Except as provided in Subsection (1)(b), the transient room tax shall be
3919 levied at the same time and collected in the same manner as provided in Part 2~~[-except that~~
3920 ~~notwithstanding]~~.

3921 (b) (i) Notwithstanding Section 59-12-206, each county may collect the tax imposed by
3922 ~~[it]~~ the county and need not transmit ~~[it]~~ the tax to the commission or contract with the
3923 commission to collect ~~[it]~~ the tax.

3924 (ii) The amount of tax collected shall be reported to the commission as provided in
3925 Section ~~[59-12-207]~~ 59-12-207.1.

3926 (c) The collection and distribution of the tax imposed under this section is not subject
3927 to Section 59-12-205.

3928 (2) (a) The tax ordinance adopted by a county pursuant to Section 59-12-301 may
3929 include provisions for the imposition of penalties and interest if a person or entity required to
3930 pay transient room taxes under this section fails to timely remit the transient room taxes to the
3931 collecting agent.

3932 (b) A county legislative body may not establish penalties and interest by ordinance that
3933 exceed the penalties and interest rates authorized for the commission in Sections 59-1-401 and

3934 59-1-402.

3935 (3) A county may adopt an ordinance imposing penalties and interest under Subsection
3936 (2) only if the county does not contract with the commission to collect the tax.

3937 (4) If a county elects to collect the tax as provided in Subsection (1), the commission
3938 shall interpret, audit, and adjudicate the tax imposed under this part.

3939 Section 38. Section **59-12-354** is amended to read:

3940 **59-12-354. Collection of tax -- Penalties -- Commission to interpret, audit, and**
3941 **adjudicate transient room tax.**

3942 (1) Except as provided in [~~Subsection~~] Subsections (2) and (3), a governing body of a
3943 municipality levying a transient room tax under this part shall levy the tax at the same time and
3944 collect the tax in the same manner as provided in Part 2, Local Sales and Use Tax Act.

3945 (2) Notwithstanding Section 59-12-206, a municipality imposing a transient room tax
3946 under this part:

3947 (a) may collect the tax and is not required to:

3948 (i) transmit revenues generated by the tax to the commission; or

3949 (ii) contract with the commission to collect the tax;

3950 (b) shall report the revenues it collects to the commission as provided in Section
3951 59-12-207; and

3952 (c) subject to the limitations of Subsections [~~(3) and~~] (4) and (5), may adopt an
3953 ordinance imposing penalties and interest on a person who:

3954 (i) is required to pay the tax under this part; and

3955 (ii) does not remit the tax to the collecting agent in a timely manner.

3956 (3) The collection and distribution of the tax imposed under this section is not subject
3957 to Section 59-12-205.

3958 [~~(3)~~] (4) A governing body of a municipality adopting an ordinance imposing penalties
3959 and interest under Subsection (2)(c) may impose penalties and interest in amounts that are less
3960 than or equal to the penalties and interest rates authorized for the commission under Sections
3961 59-1-401 and 59-1-402.

3962 [~~(4)~~] (5) A municipality may adopt an ordinance imposing penalties and interest under
3963 Subsection (2)(c) only if the municipality does not contract with the commission to collect the
3964 tax.

3965 [~~(5)~~] (6) If a municipality elects to collect the tax as provided in Subsection (2), the
3966 commission shall interpret, audit, and adjudicate the tax imposed under this part.

3967 Section 39. Section **59-12-355** is amended to read:

3968 **59-12-355. Imposition or repeal of tax -- Tax rate change -- Effective date --**
3969 **Notice requirements.**

3970 (1) For purposes of this section:

3971 (a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
3972 4, Annexation.

3973 (b) "Annexing area" means an area that is annexed into a city or town.

3974 (2) (a) If, on or after [~~May 1, 2000~~] January 1, 2004, a city or town enacts or repeals a
3975 tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take
3976 effect:

3977 (i) except as provided in Subsection (2)(c), on the first day of a calendar quarter; and

3978 (ii) after a [~~75-day~~] 90-day period beginning on the date the commission receives
3979 notice meeting the requirements of Subsection (2)(b) from the city or town.

3980 (b) The notice described in Subsection (2)(a)(ii) shall state:

3981 (i) that the city or town will enact or repeal a tax or change the rate of a tax under this
3982 part;

3983 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

3984 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

3985 (iv) if the city or town enacts the tax or changes the rate of the tax described in
3986 Subsection (2)(b)(i), the [~~new~~] rate of the tax.

3987 (c) (i) Notwithstanding Subsection (2)(a)(i), for a transaction described in Subsection
3988 (2)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
3989 first billing period:

3990 (A) that begins after the effective date of the enactment of the tax or the tax rate
3991 increase; and

3992 (B) if the billing period for the transaction begins before the effective date of the
3993 enactment of the tax or the tax rate increase imposed under:

3994 (I) Section 59-12-352; or

3995 (II) Section 59-12-353.

3996 (ii) For a transaction described in Subsection (2)(c)(iii), the repeal of a tax or a tax rate
3997 decrease shall take effect on the first day of the last billing period:

3998 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
3999 and

4000 (B) if the billing period for the transaction begins before the effective date of the repeal
4001 of the tax or the tax rate decrease imposed under:

4002 (I) Section 59-12-352; or

4003 (II) Section 59-12-353.

4004 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:

4005 (A) Subsection 59-12-103(1)(b);

4006 (B) Subsection 59-12-103(1)(c);

4007 (C) Subsection 59-12-103(1)(d);

4008 (D) Subsection 59-12-103(1)(e);

4009 (E) Subsection 59-12-103(1)(f);

4010 (F) Subsection 59-12-103(1)(g);

4011 (G) Subsection 59-12-103(1)(h);

4012 (H) Subsection 59-12-103(1)(i);

4013 (I) Subsection 59-12-103(1)(j); or

4014 (J) Subsection 59-12-103(1)(k).

4015 (3) (a) If, for an annexation that occurs on or after [~~May 1, 2000~~] January 1, 2004, the
4016 annexation will result in [~~a~~] the enactment, repeal, or change in the rate of a tax under this part
4017 for an annexing area, the enactment, repeal, or change shall take effect:

4018 (i) except as provided in Subsection (3)(c), on the first day of a calendar quarter; and

4019 (ii) after a [~~75-day~~] 90-day period beginning on the date the commission receives
4020 notice meeting the requirements of Subsection (3)(b) from the city or town that annexes the
4021 annexing area.

4022 (b) The notice described in Subsection (3)(a)(ii) shall state:

4023 (i) that the annexation described in Subsection (3)(a) will result in [~~a~~] an enactment,
4024 repeal, or change in the rate of a tax under this part for the annexing area;

4025 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);

4026 (iii) the effective date of the tax described in Subsection (3)(b)(i); and

4027 (iv) if the county enacts the tax or changes the rate of the tax described in Subsection
4028 (3)(b)(i), the [new] rate of the tax [described in Subsection (3)(b)(i)].

4029 (c) (i) Notwithstanding Subsection (3)(a)(i), for a transaction described in Subsection
4030 (3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
4031 first billing period:

4032 (A) that begins after the effective date of the enactment of the tax or the tax rate
4033 increase; and

4034 (B) if the billing period for the transaction begins before the effective date of the
4035 enactment of the tax or the tax rate increase imposed under:

4036 (I) Section 59-12-352; or

4037 (II) Section 59-12-353.

4038 (ii) For a transaction described in Subsection (3)(c)(iii), the repeal of a tax or a tax rate
4039 decrease shall take effect on the first day of the last billing period:

4040 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
4041 and

4042 (B) if the billing period for the transaction begins before the effective date of the repeal
4043 of the tax or the tax rate decrease imposed under:

4044 (I) Section 59-12-352; or

4045 (II) Section 59-12-353.

4046 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:

4047 (A) Subsection 59-12-103(1)(b);

4048 (B) Subsection 59-12-103(1)(c);

4049 (C) Subsection 59-12-103(1)(d);

4050 (D) Subsection 59-12-103(1)(e);

4051 (E) Subsection 59-12-103(1)(f);

4052 (F) Subsection 59-12-103(1)(g);

4053 (G) Subsection 59-12-103(1)(h);

4054 (H) Subsection 59-12-103(1)(i);

4055 (I) Subsection 59-12-103(1)(j); or

4056 (J) Subsection 59-12-103(1)(k).

4057 Section 40. Section **59-12-356** is enacted to read:

4058 **59-12-356. Seller reliance on commission database.**

4059 A seller that collects a tax imposed by a county or municipality under this part is not
4060 liable to collect and remit a tax at a rate other than a rate imposed under this part if:

4061 (1) the tax rate at which the seller collected the tax was derived from a database created
4062 by the commission containing:

4063 (a) tax rates; or

4064 (b) local taxing jurisdiction boundaries; or

4065 (2) the seller is a model 1 seller.

4066 Section 41. Section **59-12-401** is amended to read:

4067 **59-12-401. Resort communities tax -- Base -- Rate -- Collection fees.**

4068 (1) (a) Except as provided in [~~Subsection~~] Subsections (1)(b) and 59-12-207.1(7)(c),
4069 and in addition to other sales taxes, a city or town in which the transient room capacity is
4070 greater than or equal to 66% of the permanent census population may impose a sales tax of up
4071 to 1% on the transactions described in Subsection 59-12-103(1) located within the city or town.

4072 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
4073 section on:

4074 [~~(i) wholesale sales;~~]

4075 [~~(ii) (i) the sale of [a single item for which consideration paid is \$2,500 or more;]:~~]

4076 (A) a motor vehicle;

4077 (B) an aircraft;

4078 (C) a watercraft;

4079 (D) a modular home;

4080 (E) a manufactured home; or

4081 (F) a mobile home; or

4082 [~~(iii) (ii) the sales and uses described in Section 59-12-104 to the extent the sales and~~
4083 uses are exempt from taxation under Section 59-12-104[; and].]

4084 [~~(iv) any amounts paid or charged by a vendor seller that collects a tax under~~
4085 Subsection 59-12-107(1)(b):]

4086 (c) For purposes of this Subsection (1), the location of a transaction shall be
4087 determined in accordance with Sections 59-12-207.1 through 59-2-207.4.

4088 (2) (a) An amount equal to the total of any costs incurred by the state in connection

4089 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
4090 the state from its collection fees received in connection with the implementation of Subsection
4091 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
4092 provided for in Subsection (1).

4093 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
4094 those cities and towns according to the amount of revenue the respective cities and towns
4095 generate in that year through imposition of that tax.

4096 Section 42. Section **59-12-402** is amended to read:

4097 **59-12-402. Additional resort communities sales tax -- Base -- Rate -- Collection**
4098 **fees -- Resolution and voter approval requirements -- Election requirements -- Notice**
4099 **requirements -- Ordinance requirements.**

4100 (1) (a) Except as provided in [~~Subsection~~] Subsections (1)(b) and 59-12-207.1(7)(c),
4101 and subject to the limitations of Subsections (2) through (6), the governing body of a
4102 municipality in which the transient room capacity is greater than or equal to 66% of the
4103 permanent census population may, in addition to the sales tax authorized under Section
4104 59-12-401, impose an additional resort communities sales tax in an amount that is less than or
4105 equal to 1/2% on the transactions described in Subsection 59-12-103(1) located within the
4106 municipality.

4107 (b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not
4108 impose a tax under this section on:

4109 [~~(i) wholesale sales;~~]

4110 [~~(ii) (i) the sale of [a single item for which consideration paid is \$2,500 or more;];~~]

4111 (A) a motor vehicle;

4112 (B) an aircraft;

4113 (C) a watercraft;

4114 (D) a modular home;

4115 (E) a manufactured home; or

4116 (F) a mobile home; or

4117 [~~(iii) (ii) the sales and uses described in Section 59-12-104 to the extent the sales and~~
4118 ~~uses are exempt from taxation under Section 59-12-104[; and].~~

4119 [~~(iv) any amounts paid or charged by a vendor that collects a tax under Subsection~~

4120 59-12-107(1)(b);]

4121 (c) For purposes of this Subsection (1), the location of a transaction shall be
4122 determined in accordance with Sections 59-12-207.1 through 59-2-207.4.

4123 (2) (a) An amount equal to the total of any costs incurred by the state in connection
4124 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
4125 the state from its collection fees received in connection with the implementation of Subsection
4126 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
4127 provided for in Subsection (1).

4128 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
4129 those cities and towns according to the amount of revenue the respective cities and towns
4130 generate in that year through imposition of that tax.

4131 (3) To impose an additional resort communities sales tax under this section, the
4132 governing body of the municipality shall:

4133 (a) pass a resolution approving the tax; and

4134 (b) except as provided in Subsection (6), obtain voter approval for the tax as provided
4135 in Subsection (4).

4136 (4) To obtain voter approval for an additional resort communities sales tax under
4137 Subsection (3)(b), a municipality shall:

4138 (a) hold the additional resort communities sales tax election during:

4139 (i) a regular general election; or

4140 (ii) a municipal general election; and

4141 (b) publish notice of the election:

4142 (i) 15 days or more before the day on which the election is held; and

4143 (ii) in a newspaper of general circulation in the municipality.

4144 (5) An ordinance approving an additional resort communities sales tax under this
4145 section shall provide an effective date for the tax as provided in Section 59-12-403.

4146 (6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the
4147 voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the
4148 municipality imposed a license fee or tax on businesses based on gross receipts pursuant to
4149 Section 10-1-203.

4150 (b) The exception from the voter approval requirements in Subsection (6)(a) does not

4151 apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only
4152 one class of businesses based on gross receipts pursuant to Section 10-1-203.

4153 Section 43. Section **59-12-403** is amended to read:

4154 **59-12-403. Imposition or repeal of tax -- Tax rate change -- Effective date --**
4155 **Notice requirements.**

4156 (1) For purposes of this section:

4157 (a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
4158 4, Annexation.

4159 (b) "Annexing area" means an area that is annexed into a city or town.

4160 (2) (a) If, on or after [~~May 1, 2000~~] January 1, 2004, a city or town enacts or repeals a
4161 tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take
4162 effect:

4163 (i) except as provided in Subsection (2)(c) or (d), on the first day of a calendar quarter;
4164 and

4165 (ii) after a [~~75-day~~] 90-day period beginning on the date the commission receives
4166 notice meeting the requirements of Subsection (2)(b) from the city or town.

4167 (b) The notice described in Subsection (2)(a)(ii) shall state:

4168 (i) that the city or town will enact or repeal a tax or change the rate of a tax under this
4169 part;

4170 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

4171 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

4172 (iv) if the city or town enacts the tax or changes the rate of the tax described in
4173 Subsection (2)(b)(i), the [~~new~~] rate of the tax.

4174 (c) (i) Notwithstanding Subsection (2)(a)(i), for a transaction described in Subsection
4175 (2)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
4176 first billing period:

4177 (A) that begins after the effective date of the enactment of the tax or the tax rate
4178 increase; and

4179 (B) if the billing period for the transaction begins before the effective date of the
4180 enactment of the tax or the tax rate increase imposed under:

4181 (I) Section 59-12-401; or

4182 (II) Section 59-12-402.
4183 (ii) For a transaction described in Subsection (2)(c)(iii), the repeal of a tax or a tax rate
4184 decrease shall take effect on the first day of the last billing period:
4185 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
4186 and
4187 (B) if the billing period for the transaction begins before the effective date of the repeal
4188 of the tax or the tax rate decrease imposed under:
4189 (I) Section 59-12-401; or
4190 (II) Section 59-12-402.
4191 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:
4192 (A) Subsection 59-12-103(1)(b);
4193 (B) Subsection 59-12-103(1)(c);
4194 (C) Subsection 59-12-103(1)(d);
4195 (D) Subsection 59-12-103(1)(e);
4196 (E) Subsection 59-12-103(1)(f);
4197 (F) Subsection 59-12-103(1)(g);
4198 (G) Subsection 59-12-103(1)(h);
4199 (H) Subsection 59-12-103(1)(i);
4200 (I) Subsection 59-12-103(1)(j); or
4201 (J) Subsection 59-12-103(1)(k).
4202 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
4203 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
4204 a tax described in Subsection (2)(a) takes effect:
4205 (A) on the first day of a calendar quarter; and
4206 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
4207 rate of the tax under Subsection (2)(a).
4208 (ii) In accordance with title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4209 commission may by rule define the term "catalogue sale."
4210 (3) (a) If, for an annexation that occurs on or after [~~May 1, 2000~~] January 1, 2004, the
4211 annexation will result in [~~a~~] the enactment, repeal, or change in the rate of a tax under this part
4212 for an annexing area, the enactment, repeal, or change shall take effect:

4213 (i) except as provided in Subsection (3)(c) or (d), on the first day of a calendar quarter;
4214 and

4215 (ii) after a [~~75-day~~] 90-day period beginning on the date the commission receives
4216 notice meeting the requirements of Subsection (3)(b) from the city or town that annexes the
4217 annexing area.

4218 (b) The notice described in Subsection (3)(a)(ii) shall state:

4219 (i) that the annexation described in Subsection (3)(a) will result in [~~a~~] an enactment,
4220 repeal, or change in the rate of a tax under this part for the annexing area;

4221 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);

4222 (iii) the effective date of the tax described in Subsection (3)(b)(i); and

4223 (iv) if the city or town enacts the tax or changes the rate of the tax described in
4224 Subsection (3)(b)(i), the [new] rate of the tax [~~described in Subsection (3)(b)(i)~~].

4225 (c) (i) Notwithstanding Subsection (3)(a)(i), for a transaction described in Subsection
4226 (3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
4227 first billing period:

4228 (A) that begins after the effective date of the enactment of the tax or the tax rate
4229 increase; and

4230 (B) if the billing period for the transaction begins before the effective date of the
4231 enactment of the tax or the tax rate increase imposed under:

4232 (I) Section 59-12-401; or

4233 (II) Section 59-12-402.

4234 (ii) For a transaction described in Subsection (3)(c)(iii), the repeal of a tax or a tax rate
4235 decrease shall take effect on the first day of the last billing period:

4236 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
4237 and

4238 (B) if the billing period for the transaction begins before the effective date of the repeal
4239 of the tax or the tax rate decrease imposed under:

4240 (I) Section 59-12-401; or

4241 (II) Section 59-12-402.

4242 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:

4243 (A) Subsection 59-12-103(1)(b);

4244 (B) Subsection 59-12-103(1)(c);

4245 (C) Subsection 59-12-103(1)(d);

4246 (D) Subsection 59-12-103(1)(e);

4247 (E) Subsection 59-12-103(1)(f);

4248 (F) Subsection 59-12-103(1)(g);

4249 (G) Subsection 59-12-103(1)(h);

4250 (H) Subsection 59-12-103(1)(i);

4251 (I) Subsection 59-12-103(1)(j); or

4252 (J) Subsection 59-12-103(1)(k).

4253 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
4254 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
4255 a tax described in Subsection (3)(a) takes effect:

4256 (A) on the first day of a calendar quarter; and

4257 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
4258 rate of the tax under Subsection (3)(a).

4259 (ii) In accordance with title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4260 commission may by rule define the term "catalogue sale."

4261 Section 44. Section **59-12-404** is enacted to read:

4262 **59-12-404. Seller reliance on commission database.**

4263 A seller that collects a tax imposed by a city or town under this part is not liable to
4264 collect and remit a tax at a rate other than a rate imposed under this part if:

4265 (1) the tax rate at which the seller collected the tax was derived from a database created
4266 by the commission containing:

4267 (a) tax rates; or

4268 (b) local taxing jurisdiction boundaries; or

4269 (2) the seller is a model 1 seller.

4270 Section 45. Section **59-12-501** is amended to read:

4271 **59-12-501. Public transit tax -- Base -- Rate -- Voter approval.**

4272 (1) (a) (i) Except as provided in [~~Subsection~~] Subsections (1)(a)(ii) and

4273 59-12-207.1(7)(c), in addition to other sales and use taxes, any county, city, or town within a

4274 transit district organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act,

4275 may impose a sales and use tax of 1/4 of 1% on the transactions described in Subsection
4276 59-12-103(1) located within the county, city, or town, to fund a public transportation system.

4277 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax
4278 under this section on~~[(A)]~~ the sales and uses described in Section 59-12-104 to the extent the
4279 sales and uses are exempt from taxation under Section 59-12-104~~[-and]~~.

4280 ~~[(B) any amounts paid or charged by a vendor that collects a tax under Subsection~~
4281 ~~59-12-107(1)(b):]~~

4282 (b) For purposes of this Subsection (1), the location of a transaction shall be
4283 determined in accordance with Sections 59-12-207.1 through 59-2-207.4.

4284 ~~[(b)]~~ (c) A county, city, or town may impose a tax under this section only if the
4285 governing body of the county, city, or town, by resolution, submits the proposal to all the
4286 qualified voters within the county, city, or town for approval at a general or special election
4287 conducted in the manner provided by statute.

4288 (2) (a) If only a portion of a county is included within a public transit district, the
4289 proposal may be submitted only to the qualified voters residing within the boundaries of the
4290 proposed or existing public transit district.

4291 (b) Notice of any such election shall be given by the county, city, or town governing
4292 body 15 days in advance in the manner prescribed by statute.

4293 (c) If a majority of the voters voting in such election approve the proposal, it shall
4294 become effective on the date provided by the county, city, or town governing body.

4295 (3) This section may not be construed to require an election in jurisdictions where
4296 voters have previously approved a public transit sales or use tax.

4297 Section 46. Section **59-12-502** is amended to read:

4298 **59-12-502. Additional public transit tax for expanded system and fixed guideway**
4299 **and interstate improvements -- Base -- Rate -- Voter approval.**

4300 (1) (a) (i) Except as provided in ~~[Subsection]~~ Subsections (1)(a)(ii) and
4301 59-12-207.1(7)(c), and in addition to other sales and use taxes, including the public transit
4302 district tax authorized by Section 59-12-501, a county, city, or town within a transit district
4303 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act, may impose a
4304 sales and use tax of 1/4 of 1% on the transactions described in Subsection 59-12-103(1) located
4305 within the county, city, or town, to fund a fixed guideway and expanded public transportation

4306 system.

4307 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax
4308 under this section on~~[(A)]~~ the sales and uses described in Section 59-12-104 to the extent the
4309 sales and uses are exempt from taxation under Section 59-12-104~~[, and]~~.

4310 ~~[(B) any amounts paid or charged by a vendor that collects a tax under Subsection~~
4311 ~~59-12-107(1)(b).]~~

4312 (b) For purposes of this Subsection (1), the location of a transaction shall be
4313 determined in accordance with Sections 59-12-207.1 through 59-2-207.4.

4314 ~~[(b)]~~ (c) (i) A county, city, or town may impose the tax under this section only if the
4315 governing body of the county, city, or town submits, by resolution, the proposal to all the
4316 qualified voters within the county, city, or town for approval at a general or special election
4317 conducted in the manner provided by statute. Notice of the election under Subsection (1)(c)(i)
4318 shall be given by the county, city, or town governing body 15 days in advance in the manner
4319 prescribed by statute.

4320 (2) If the majority of the voters voting in this election approve the proposal, it shall
4321 become effective on the date provided by the county, city, or town governing body.

4322 (3) (a) This section may not be construed to require an election in jurisdictions where
4323 voters have previously approved a public transit sales or use tax.

4324 (b) This section shall be construed to require an election to impose the sales and use
4325 tax authorized by this section, including jurisdictions where the voters have previously
4326 approved the sales and use tax authorized by Section 59-12-501, but this section may not be
4327 construed to affect the sales and use tax authorized by Section 59-12-501.

4328 (4) No public funds shall be spent to promote the required election.

4329 (5) Notwithstanding the designated use of revenues in Subsection (1), of the revenues
4330 generated by the tax imposed under this section by any county of the first class:

4331 (a) 75% shall be allocated to fund a fixed guideway and expanded public transportation
4332 system; and

4333 (b) 25% shall be allocated to fund new construction, major renovations, and
4334 improvements to Interstate 15 and state highways within the county and to pay any debt service
4335 and bond issuance costs related to those projects.

4336 (6) A county of the first class may, through an interlocal agreement, authorize the

4337 deposit or transfer of the portion of the revenues described in Subsection [59-12-502](5)(b) to
4338 the Public Transportation System Tax Highway Fund created in Section 72-2-121.

4339 Section 47. Section **59-12-504** is amended to read:

4340 **59-12-504. Imposition or repeal of tax -- Tax rate change -- Effective date --**

4341 **Notice requirements.**

4342 (1) For purposes of this section:

4343 (a) "Annexation" means an annexation to:

4344 (i) a county under Title 17, Chapter 2, Annexation to County; or

4345 (ii) a city or town under Title 10, Chapter 2, Part 4, Annexation.

4346 (b) "Annexing area" means an area that is annexed into a county, city, or town.

4347 (2) (a) If, on or after [~~May 1, 2000~~] January 1, 2004, a county, city, or town enacts or

4348 repeals a tax [~~or changes the rate of a tax~~] under this part, the enactment[;] or repeal[; ~~or~~

4349 ~~change~~] shall take effect:

4350 (i) except as provided in Subsection (2)(c) or (d), on the first day of a calendar quarter;

4351 and

4352 (ii) after a [~~75-day~~] 90-day period beginning on the date the commission receives

4353 notice meeting the requirements of Subsection (2)(b) from the county, city, or town.

4354 (b) The notice described in Subsection (2)(a)(ii) shall state:

4355 (i) that the county, city, or town will enact or repeal a tax [~~or change the rate of a tax~~]

4356 under this part;

4357 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

4358 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

4359 (iv) if the county, city, or town enacts the tax [~~or changes the rate of the tax~~] described

4360 in Subsection (2)(b)(i), the [~~new~~] rate of the tax.

4361 (c) (i) Notwithstanding Subsection (2)(a)(i), for a transaction described in Subsection

4362 (2)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

4363 (A) that begins after the effective date of the imposition of the tax; and

4364 (B) if the billing period for the transaction begins before the effective date of the

4365 enactment of the tax under:

4366 (I) Section 59-12-501; or

4367 (II) Section 59-12-502.

- 4368 (ii) For a transaction described in Subsection (2)(c)(iii), a tax rate repeal shall take
4369 effect on the first day of the last billing period:
- 4370 (A) that began before the effective date of the tax rate repeal; and
4371 (B) if the billing period for the transaction begins before the effective date of the tax
4372 rate repeal under:
- 4373 (I) Section 59-12-501; or
4374 (II) Section 59-12-502.
- 4375 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:
- 4376 (A) Subsection 59-12-103(1)(b);
4377 (B) Subsection 59-12-103(1)(c);
4378 (C) Subsection 59-12-103(1)(d);
4379 (D) Subsection 59-12-103(1)(e);
4380 (E) Subsection 59-12-103(1)(f);
4381 (F) Subsection 59-12-103(1)(g);
4382 (G) Subsection 59-12-103(1)(h);
4383 (H) Subsection 59-12-103(1)(i);
4384 (I) Subsection 59-12-103(1)(j); or
4385 (J) Subsection 59-12-103(1)(k).
- 4386 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
4387 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
4388 Subsection (2)(a) takes effect:
- 4389 (A) on the first day of a calendar quarter; and
4390 (B) beginning 60 days after the effective date of the enactment or repeal under
4391 Subsection (2)(a).
- 4392 (ii) In accordance with title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4393 commission may by rule define the term "catalogue sale."
- 4394 (3) (a) If, for an annexation that occurs on or after ~~[May 1, 2000]~~ January 1, 2004, the
4395 annexation will result in ~~[a change in the rate]~~ the enactment or repeal of a tax under this part
4396 for an annexing area, the ~~[change]~~ enactment or repeal shall take effect:
- 4397 (i) except as provided in Subsection (3)(c) or (d), on the first day of a calendar quarter;
4398 and

4399 (ii) after a [~~75-day~~] 90-day period beginning on the date the commission receives
4400 notice meeting the requirements of Subsection (3)(b) from the county, city, or town that
4401 annexes the annexing area.

4402 (b) The notice described in Subsection (3)(a)(ii) shall state:

4403 (i) that the annexation described in Subsection (3)(a) will result in [~~a change in the~~
4404 rate] an enactment or repeal of a tax under this part for the annexing area;

4405 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);

4406 (iii) the effective date of the tax described in Subsection (3)(b)(i); and

4407 (iv) the [~~new~~] rate of the tax described in Subsection (3)(b)(i).

4408 (c) (i) Notwithstanding Subsection (3)(a)(i), for a transaction described in Subsection
4409 (3)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

4410 (A) that begins after the effective date of the imposition of the tax; and

4411 (B) if the billing period for the transaction begins before the effective date of the
4412 enactment of the tax under:

4413 (I) Section 59-12-501; or

4414 (II) Section 59-12-502.

4415 (ii) For a transaction described in Subsection (3)(c)(iii), a tax rate repeal shall take
4416 effect on the first day of the last billing period:

4417 (A) that began before the effective date of the tax rate repeal; and

4418 (B) if the billing period for the transaction begins before the effective date of the tax
4419 rate repeal under:

4420 (I) Section 59-12-501; or

4421 (II) Section 59-12-502.

4422 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:

4423 (A) Subsection 59-12-103(1)(b);

4424 (B) Subsection 59-12-103(1)(c);

4425 (C) Subsection 59-12-103(1)(d);

4426 (D) Subsection 59-12-103(1)(e);

4427 (E) Subsection 59-12-103(1)(f);

4428 (F) Subsection 59-12-103(1)(g);

4429 (G) Subsection 59-12-103(1)(h);

- 4430 (H) Subsection 59-12-103(1)(i);
4431 (I) Subsection 59-12-103(1)(j); or
4432 (J) Subsection 59-12-103(1)(k).
4433 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
4434 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
4435 Subsection (3)(a) takes effect:
4436 (A) on the first day of a calendar quarter; and
4437 (B) beginning 60 days after the effective date of the enactment or repeal under
4438 Subsection (3)(a).
4439 (ii) In accordance with title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4440 commission may by rule define the term "catalogue sale."
4441 Section 48. Section **59-12-505** is enacted to read:
4442 **59-12-505. Seller reliance on commission database.**
4443 A seller that collects a tax imposed by a county, city, or town under this part is not
4444 liable to collect and remit a tax at a rate other than a rate imposed under this part if:
4445 (1) the tax rate at which the seller collected the tax was derived from a database created
4446 by the commission containing:
4447 (a) tax rates; or
4448 (b) local taxing jurisdiction boundaries; or
4449 (2) the seller is a model 1 seller.
4450 Section 49. Section **59-12-603** is amended to read:
4451 **59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Collection --**
4452 **Adoption of ordinance required -- Administration -- Distribution -- Enactment or repeal**
4453 **of tax or tax rate change -- Effective date -- Notice requirements.**
4454 (1) In addition to any other taxes, a county legislative body may, as provided in this
4455 part, impose a tourism, recreation, cultural, and convention tax as follows:
4456 (a) (i) a county legislative body of any county may impose a tax of not to exceed 3% on
4457 all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and
4458 rentals of motor vehicles made for the purpose of temporarily replacing a person's motor
4459 vehicle that is being repaired pursuant to a repair or an insurance agreement;
4460 (ii) beginning on or after January 1, 1999, a county legislative body of any county

4461 imposing a tax under Subsection (1)(a)(i) may, in addition to imposing the tax under
4462 Subsection (1)(a)(i), impose a tax of not to exceed 4% on all short-term leases and rentals of
4463 motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for
4464 the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to
4465 a repair or an insurance agreement;

4466 (b) a county legislative body of any county may impose a tax of not to exceed 1% of all
4467 sales of prepared foods and beverages that are sold by restaurants; and

4468 (c) a county legislative body of any county may impose a tax of not to exceed 1/2% of
4469 the rent for every occupancy of a suite or room:

4470 (i) on the following entities doing business as motor courts, motels, hotels, inns, or
4471 providing similar public accommodations:

4472 (A) a person;

4473 (B) a company;

4474 (C) a corporation; or

4475 (D) a person, group, or organization similar to Subsections (1)(c)(i)(A) through (C);

4476 and

4477 (ii) if the suite or room is regularly rented for less than 30 consecutive days.

4478 (2) The revenue from the imposition of the taxes provided for in Subsections (1)(a)
4479 through (c) may be used for the purposes of financing tourism promotion, and the
4480 development, operation, and maintenance of tourist, recreation, cultural, and convention
4481 facilities as defined in Section 59-12-602.

4482 (3) The tax imposed under Subsection (1)(c) shall be in addition to the transient room
4483 tax imposed under Part 3, Transient Room Tax, and may be imposed only by a county of the
4484 first class.

4485 (4) (a) A tax imposed under this part shall be levied at the same time and collected in
4486 the same manner as provided in Part 2, Local Sales and Use Tax Act, except that the collection
4487 and distribution of the tax revenue is not subject to ~~[the provisions of Subsection]~~ Section
4488 59-12-205~~(2)~~.

4489 (b) A tax imposed under this part may be pledged as security for bonds, notes, or other
4490 evidences of indebtedness incurred by a county under Title 11, Chapter 14, Utah Municipal
4491 Bond Act, to finance tourism, recreation, cultural, and convention facilities.

4492 (5) (a) In order to impose the tax under Subsection (1), each county legislative body
4493 shall annually adopt an ordinance imposing the tax.

4494 (b) (i) The ordinance under Subsection (5)(a) shall include provisions substantially the
4495 same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on
4496 those items and sales described in Subsection (1).

4497 (ii) A county legislative body imposing a tax under this part shall impose the tax as
4498 provided in this section on the leases, rentals, and sales described in Subsection (1) relating to
4499 the Olympic Winter Games of 2002 made to or by an organization exempt from federal income
4500 taxation under Section 501(c)(3), Internal Revenue Code, except for leases, rentals, and sales
4501 described in Subsection (1):

4502 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter
4503 Games of 2002;

4504 (B) exclusively used by:

4505 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
4506 Olympic Winter Games of 2002; or

4507 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic
4508 Winter Games of 2002; and

4509 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of
4510 2002 does not receive reimbursement.

4511 (c) The name of the county as the taxing agency shall be substituted for that of the state
4512 where necessary, and an additional license is not required if one has been or is issued under
4513 Section 59-12-106.

4514 (6) In order to maintain in effect its tax ordinance adopted under this part, each county
4515 legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1,
4516 Tax Collection, adopt amendments to its tax ordinance to conform with the applicable
4517 amendments to Part 1, Tax Collection.

4518 (7) The commission shall:

4519 (a) administer, collect, and enforce the tax authorized under this part pursuant to:

4520 (i) the same procedures used to administer, collect, and enforce the sales and use tax
4521 under Part 1, Tax Collection; and

4522 (ii) Chapter 1, General Taxation Policies;

4523 (b) (i) except as provided in Subsection (7)(c), for a tax under this part other than the
4524 tax under Subsection (1)(a)(ii), distribute the revenues to the county imposing the tax; and

4525 (ii) except as provided in Subsection (7)(c), for a tax under Subsection (1)(a)(ii),
4526 distribute the revenues according to the distribution formula provided in Subsection (8); and

4527 (c) deduct from the distributions under Subsection (7)(b) an administrative charge for
4528 collecting the tax as provided in Section 59-12-206.

4529 (8) The commission shall distribute the revenues generated by the tax under Subsection
4530 (1)(a)(ii) to each county collecting a tax under Subsection (1)(a)(ii) according to the following
4531 formula:

4532 (a) the commission shall distribute 70% of the revenues based on the percentages
4533 generated by dividing the revenues collected by each county under Subsection (1)(a)(ii) by the
4534 total revenues collected by all counties under Subsection (1)(a)(ii); and

4535 (b) the commission shall distribute 30% of the revenues based on the percentages
4536 generated by dividing the population of each county collecting a tax under Subsection (1)(a)(ii)
4537 by the total population of all counties collecting a tax under Subsection (1)(a)(ii).

4538 (9) (a) For purposes of this Subsection (9):

4539 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
4540 Annexation to County.

4541 (ii) "Annexing area" means an area that is annexed into a county.

4542 (b) (i) If, on or after ~~[May 1, 2000]~~ January 1, 2004, a county enacts or repeals a tax or
4543 changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

4544 (A) except as provided in Subsection (9)(c), on the first day of a calendar quarter; and

4545 (B) after a ~~[75-day]~~ 90-day period beginning on the date the commission receives
4546 notice meeting the requirements of Subsection (9)(b)(ii) from the county.

4547 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:

4548 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

4549 (B) the statutory authority for the tax described in Subsection (9)(b)(i)(A);

4550 (C) the effective date of the tax described in Subsection (9)(b)(i)(A); and

4551 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
4552 (9)(b)(i)(A), the ~~[new]~~ rate of the tax.

4553 (c) (i) Notwithstanding Subsection (9)(b)(i)(A), for a transaction described in

4554 Subsection (9)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first
4555 day of the first billing period:

4556 (A) that begins after the effective date of the enactment of the tax or the tax rate
4557 increase; and

4558 (B) if the billing period for the transaction begins before the effective date of the
4559 enactment of the tax or the tax rate increase imposed under Subsection (1).

4560 (ii) For a transaction described in Subsection (9)(c)(iii), the repeal of a tax or a tax rate
4561 decrease shall take effect on the first day of the last billing period:

4562 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
4563 and

4564 (B) if the billing period for the transaction begins before the effective date of the repeal
4565 of the tax or the tax rate decrease imposed under Subsection (1).

4566 (iii) Subsections (9)(c)(i) and (ii) apply to transactions subject to a tax under:

4567 (A) Subsection 59-12-103(1)(b);

4568 (B) Subsection 59-12-103(1)(c);

4569 (C) Subsection 59-12-103(1)(d);

4570 (D) Subsection 59-12-103(1)(e);

4571 (E) Subsection 59-12-103(1)(f);

4572 (F) Subsection 59-12-103(1)(g);

4573 (G) Subsection 59-12-103(1)(h);

4574 (H) Subsection 59-12-103(1)(i);

4575 (I) Subsection 59-12-103(1)(j); or

4576 (J) Subsection 59-12-103(1)(k).

4577 ~~(c)~~ (d) (i) If, for an annexation that occurs on or after ~~May 1, 2000~~ January 1, 2004,
4578 the annexation will result in ~~a~~ the enactment, repeal, or change in the rate of a tax under this
4579 part for an annexing area, ~~the enactment, repeal, or change~~ shall take effect:

4580 (A) ~~except as provided in Subsection (9)(e)~~, on the first day of a calendar quarter; and

4581 (B) after a ~~75-day~~ 90-day period beginning on the date the commission receives
4582 notice meeting the requirements of Subsection (9)~~(c)~~ (d)(ii) from the county that annexes the
4583 annexing area.

4584 (ii) The notice described in Subsection (9)~~(c)~~ (d)(i)(B) shall state:

4585 (A) that the annexation described in Subsection (9)[~~(c)~~] (d)(i) will result in [a] an
4586 enactment, repeal, or change in the rate of a tax under this part for the annexing area;

4587 (B) the statutory authority for the tax described in Subsection (9)[~~(c)~~] (d)(ii)(A);

4588 (C) the effective date of the tax described in Subsection (9)[~~(c)~~] (d)(ii)(A); and

4589 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
4590 (9)(d)(ii)(A), the [new] rate of the tax described in Subsection (9)(c)(ii)(A).

4591 (e) (i) Notwithstanding Subsection (9)(d)(i)(A), for a transaction described in
4592 Subsection (9)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first
4593 day of the first billing period:

4594 (A) that begins after the effective date of the enactment of the tax or the tax rate
4595 increase; and

4596 (B) if the billing period for the transaction begins before the effective date of the
4597 enactment of the tax or the tax rate increase imposed under Subsection (1).

4598 (ii) For a transaction described in Subsection (9)(e)(iii), the repeal of a tax or a tax rate
4599 decrease shall take effect on the first day of the last billing period:

4600 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
4601 and

4602 (B) if the billing period for the transaction begins before the effective date of the repeal
4603 of the tax or the tax rate decrease imposed under Subsection (1).

4604 (iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:

4605 (A) Subsection 59-12-103(1)(b);

4606 (B) Subsection 59-12-103(1)(c);

4607 (C) Subsection 59-12-103(1)(d);

4608 (D) Subsection 59-12-103(1)(e);

4609 (E) Subsection 59-12-103(1)(f);

4610 (F) Subsection 59-12-103(1)(g);

4611 (G) Subsection 59-12-103(1)(h);

4612 (H) Subsection 59-12-103(1)(i);

4613 (I) Subsection 59-12-103(1)(j); or

4614 (J) Subsection 59-12-103(1)(k).

4615 Section 50. Section **59-12-604** is enacted to read:

4616 **59-12-604. Seller reliance on commission database.**

4617 A seller that collects a tax imposed by a county under this part is not liable to collect
4618 and remit a tax at a rate other than a rate imposed under this part if:

4619 (1) the tax rate at which the seller collected the tax was derived from a database created
4620 by the commission containing:

4621 (a) tax rates; or

4622 (b) local taxing jurisdiction boundaries; or

4623 (2) the seller is a model 1 seller.

4624 Section 51. Section **59-12-703** is amended to read:

4625 **59-12-703. Opinion question election -- Imposition of tax -- Uses of tax monies.**

4626 (1) (a) (i) Except as provided in ~~[Subsection]~~ Subsections (1)(a)(ii) and
4627 59-12-207.1(7)(c), a county legislative body may submit an opinion question to the residents of
4628 that county, by majority vote of all members of the legislative body, so that each resident of the
4629 county has an opportunity to express the resident's opinion on the imposition of a local sales
4630 and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the
4631 county, to fund recreational and zoological facilities and botanical, cultural, and zoological
4632 organizations in that county.

4633 (ii) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
4634 tax under this section on~~[-(A)]~~ the sales and uses described in Section 59-12-104 to the extent
4635 the sales and uses are exempt from taxation under Section 59-12-104~~[-and]~~.

4636 ~~[(B) any amounts paid or charged by a vendor that collects a tax under Subsection~~
4637 ~~59-12-107(1)(b):]~~

4638 (b) For purposes of this Subsection (1), the location of a transaction shall be
4639 determined in accordance with Sections 59-12-207.1 through 59-2-207.4.

4640 ~~[(b)]~~ (c) The election shall follow the procedures outlined in Title 11, Chapter 14, Utah
4641 Municipal Bond Act.

4642 (2) If the county legislative body determines that a majority of the county's registered
4643 voters voting on the imposition of the tax have voted in favor of the imposition of the tax as
4644 prescribed in Subsection (1)(a), the county legislative body may impose the tax by a majority
4645 vote of all members of the legislative body on the transactions:

4646 (a) described in Subsection (1); and

- 4647 (b) within the county, including the cities and towns located in the county.
- 4648 (3) The monies generated from any tax imposed under Subsection (2) shall be used for
4649 financing:
- 4650 (a) recreational and zoological facilities within the county or a city or town located in
4651 the county; and
- 4652 (b) ongoing operating expenses of botanical, cultural, and zoological organizations
4653 within the county.
- 4654 (4) Taxes imposed under this part shall be:
- 4655 (a) levied at the same time and collected in the same manner as provided in Part 2,
4656 Local Sales and Use Tax Act, except that the collection and distribution of the tax revenue is
4657 not subject to [~~Subsection~~] Section 59-12-205[~~(2)~~]; and
- 4658 (b) levied for a period of ten years and may be reauthorized at the end of the ten-year
4659 period in accordance with this section.
- 4660 (5) (a) For purposes of this Subsection (5):
- 4661 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
4662 Annexation to County.
- 4663 (ii) "Annexing area" means an area that is annexed into a county.
- 4664 (b) (i) If, on or after [~~May 1, 2000~~] January 1, 2004, a county enacts or repeals a tax [~~or~~
4665 ~~changes the rate of a tax~~] under this part, the enactment[;] or repeal[~~, or change~~] shall take
4666 effect:
- 4667 (A) except as provided in Subsection (5)(c) or (d), on the first day of a calendar
4668 quarter; and
- 4669 (B) after a [~~75-day~~] 90-day period beginning on the date the commission receives
4670 notice meeting the requirements of Subsection (5)(b)(ii) from the county.
- 4671 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:
- 4672 (A) that the county will enact or repeal a tax [~~or change the rate of a tax~~] under this
4673 part;
- 4674 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
- 4675 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
- 4676 (D) if the county enacts the tax [~~or changes the rate of the tax~~] described in Subsection
4677 (5)(b)(ii)(A), the [~~new~~] rate of the tax.

4678 (c) (i) Notwithstanding Subsection (5)(b)(i)(A), for a transaction described in
4679 Subsection (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing
4680 period:

4681 (A) that begins after the effective date of the imposition of the tax; and

4682 (B) if the billing period for the transaction begins before the effective date of the
4683 enactment of the tax under Subsection (1).

4684 (ii) For a transaction described in Subsection (5)(c)(iii), a tax rate repeal shall take
4685 effect on the first day of the last billing period:

4686 (A) that began before the effective date of the tax rate repeal; and

4687 (B) if the billing period for the transaction begins before the effective date of the tax
4688 rate repeal under Subsection (1).

4689 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

4690 (A) Subsection 59-12-103(1)(b);

4691 (B) Subsection 59-12-103(1)(c);

4692 (C) Subsection 59-12-103(1)(d);

4693 (D) Subsection 59-12-103(1)(e);

4694 (E) Subsection 59-12-103(1)(f);

4695 (F) Subsection 59-12-103(1)(g);

4696 (G) Subsection 59-12-103(1)(h);

4697 (H) Subsection 59-12-103(1)(i);

4698 (I) Subsection 59-12-103(1)(j); or

4699 (J) Subsection 59-12-103(1)(k).

4700 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
4701 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
4702 Subsection (5)(b)(i) takes effect:

4703 (A) on the first day of a calendar quarter; and

4704 (B) beginning 60 days after the effective date of the enactment or repeal under
4705 Subsection (5)(b)(i).

4706 (ii) In accordance with title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4707 commission may by rule define the term "catalogue sale."

4708 ~~[(e)]~~ (e) (i) If, for an annexation that occurs on or after [May 1, 2000] January 1, 2004,

4709 the annexation will result in [~~a change in the rate~~] the enactment or repeal of a tax under this
4710 part for an annexing area, the [~~change~~] enactment or repeal shall take effect:

4711 (A) except as provided in Subsection (5)(f) or (g), on the first day of a calendar quarter;
4712 and

4713 (B) after a [~~75-day~~] 90-day period beginning on the date the commission receives
4714 notice meeting the requirements of Subsection (5)(c)(ii) from the county that annexes the
4715 annexing area.

4716 (ii) The notice described in Subsection (5)(c)(i)(B) shall state:

4717 (A) that the annexation described in Subsection (5)(c)(i) will result in [~~a change in the~~
4718 ~~rate~~] an enactment or repeal of a tax under this part for the annexing area;

4719 (B) the statutory authority for the tax described in Subsection (5)(c)(ii)(A);

4720 (C) the effective date of the tax described in Subsection (5)(c)(ii)(A); and

4721 (D) the [~~new~~] rate of the tax described in Subsection (5)(c)(ii)(A).

4722 (f) (i) Notwithstanding Subsection (5)(e)(i)(A), for a transaction described in
4723 Subsection (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing
4724 period:

4725 (A) that begins after the effective date of the imposition of the tax; and

4726 (B) if the billing period for the transaction begins before the effective date of the
4727 enactment of the tax under Subsection (1).

4728 (ii) For a transaction described in Subsection (5)(f)(iii), a tax rate repeal shall take
4729 effect on the first day of the last billing period:

4730 (A) that began before the effective date of the tax rate repeal; and

4731 (B) if the billing period for the transaction begins before the effective date of the tax
4732 rate repeal under Subsection (1).

4733 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

4734 (A) Subsection 59-12-103(1)(b);

4735 (B) Subsection 59-12-103(1)(c);

4736 (C) Subsection 59-12-103(1)(d);

4737 (D) Subsection 59-12-103(1)(e);

4738 (E) Subsection 59-12-103(1)(f);

4739 (F) Subsection 59-12-103(1)(g);

4740 (G) Subsection 59-12-103(1)(h);

4741 (H) Subsection 59-12-103(1)(i);

4742 (I) Subsection 59-12-103(1)(j); or

4743 (J) Subsection 59-12-103(1)(k).

4744 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
4745 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
4746 Subsection (5)(e)(i)(A) takes effect:

4747 (A) on the first day of a calendar quarter; and

4748 (B) beginning 60 days after the effective date of the enactment or repeal under
4749 Subsection (5)(e)(i)(A).

4750 (ii) In accordance with title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4751 commission may by rule define the term "catalogue sale."

4752 Section 52. Section **59-12-706** is enacted to read:

4753 **59-12-706. Seller reliance on commission database.**

4754 A seller that collects a tax imposed by a county under this part is not liable to collect
4755 and remit a tax at a rate other than a rate imposed under this part if:

4756 (1) the tax rate at which the seller collected the tax was derived from a database created
4757 by the commission containing:

4758 (a) tax rates; or

4759 (b) local taxing jurisdiction boundaries; or

4760 (2) the seller is a model 1 seller.

4761 Section 53. Section **59-12-802** is amended to read:

4762 **59-12-802. Imposition of rural county health care facilities tax -- Base -- Rate.**

4763 (1) (a) A county legislative body may impose a sales and use tax of up to 1%:

4764 (i) except as provided in [~~Subsection~~] Subsections (1)(b) and 59-12-207.1(7)(c), on the
4765 transactions described in Subsection 59-12-103(1) located within the county; and

4766 (ii) to fund rural county health care facilities in that county.

4767 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
4768 tax under this section on:

4769 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
4770 are exempt from taxation under Section 59-12-104; or

4771 ~~[(ii) any amounts paid or charged by a vendor that collects a tax under Subsection~~
4772 ~~59-12-107(1)(b); and]~~

4773 ~~[(iii)]~~ (ii) a transaction to the extent a rural city hospital tax is imposed on that
4774 transaction in a city that imposes a tax under Section 59-12-804.

4775 (c) For purposes of this Subsection (1), the location of a transaction shall be
4776 determined in accordance with Sections 59-12-207.1 through 59-2-207.4.

4777 (2) (a) Before imposing a tax under Subsection (1)(a), a county legislative body shall
4778 obtain approval to impose the tax from a majority of the:

4779 (i) members of the county's legislative body; and

4780 (ii) county's registered voters voting on the imposition of the tax.

4781 (b) The county legislative body shall conduct the election according to the procedures
4782 and requirements of Title 11, Chapter 14, Utah Municipal Bond Act.

4783 (3) The monies generated by a tax imposed under Subsection (1) may only be used for
4784 the financing of:

4785 (a) ongoing operating expenses of a rural county health care facility;

4786 (b) the acquisition of land for a rural county health care facility; or

4787 (c) the design, construction, equipping, or furnishing of a rural county health care
4788 facility.

4789 (4) Taxes imposed under this section shall be:

4790 (a) levied at the same time and collected in the same manner as provided in Part 2,
4791 Local Sales and Use Tax Act, except that the collection and distribution of the tax revenue is
4792 not subject to ~~[Subsection]~~ Section 59-12-205~~[(2)]~~; and

4793 (b) levied for a period of ten years and may be reauthorized at the end of the ten-year
4794 period by the county legislative body as provided in Subsection (1).

4795 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected
4796 under this section for the cost of administering this tax.

4797 Section 54. Section **59-12-804** is amended to read:

4798 **59-12-804. Imposition of rural city hospital tax -- Base -- Rate.**

4799 (1) (a) A city legislative body may impose a sales and use tax of up to 1%:

4800 (i) except as provided in ~~[Subsection]~~ Subsections (1)(b) and 59-12-207.1(7)(c), on the
4801 transactions described in Subsection 59-12-103(1) located within the county; and

4802 (ii) to fund rural city hospitals in that city.

4803 (b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax
4804 under this section on~~[(i)]~~ the sales and uses described in Section 59-12-104 to the extent the
4805 sales and uses are exempt from taxation under Section 59-12-104~~[, and]~~.

4806 ~~[(ii) any amounts paid or charged by a vendor that collects a tax under Subsection~~
4807 ~~59-12-107(1)(b):]~~

4808 (c) For purposes of this Subsection (1), the location of a transaction shall be
4809 determined in accordance with Sections 59-12-207.1 through 59-2-207.4.

4810 (2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall
4811 obtain approval to impose the tax from a majority of the:

4812 (i) members of the city legislative body; and

4813 (ii) city's registered voters voting on the imposition of the tax.

4814 (b) The city legislative body shall conduct the election according to the procedures and
4815 requirements of Title 11, Chapter 14, Utah Municipal Bond Act.

4816 (3) The monies generated by a tax imposed under Subsection (1) may only be used for
4817 the financing of:

4818 (a) ongoing operating expenses of a rural city hospital;

4819 (b) the acquisition of land for a rural city hospital; or

4820 (c) the design, construction, equipping, or furnishing of a rural city hospital.

4821 (4) Taxes imposed under this section shall be:

4822 (a) levied at the same time and collected in the same manner as provided in Part 2,

4823 Local Sales and Use Tax Act, except that the collection and distribution of the tax revenue is
4824 not subject to ~~[Subsection]~~ Section 59-12-205; and

4825 (b) levied for a period of ten years and may be reauthorized at the end of the ten-year
4826 period by the city legislative body as provided in Subsection (1).

4827 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected
4828 under this section for the cost of administering the tax.

4829 Section 55. Section **59-12-806** is amended to read:

4830 **59-12-806. Imposition or repeal of tax -- Tax rate change -- Effective date --**

4831 **Notice requirements.**

4832 (1) For purposes of this section:

- 4833 (a) "Annexation" means an annexation to:
- 4834 (i) a county under Title 17, Chapter 2, Annexation to County; or
- 4835 (ii) a city or town under Title 10, Chapter 2, Part 4, Annexation.
- 4836 (b) "Annexing area" means an area that is annexed into a county, city, or town.
- 4837 (2) (a) If, on or after [~~May 1, 2000~~] January 1, 2004, a county, city, or town enacts or
- 4838 repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall
- 4839 take effect:
- 4840 (i) except as provided in Subsection (2)(c) or (d), on the first day of a calendar quarter;
- 4841 and
- 4842 (ii) after a [~~75-day~~] 90-day period beginning on the date the commission receives
- 4843 notice meeting the requirements of Subsection (2)(b) from the county, city, or town.
- 4844 (b) The notice described in Subsection (2)(a)(ii) shall state:
- 4845 (i) that the county, city, or town will enact or repeal a tax or change the rate of a tax
- 4846 under this part;
- 4847 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);
- 4848 (iii) the effective date of the tax described in Subsection (2)(b)(i); and
- 4849 (iv) if the county, city, or town enacts the tax or changes the rate of the tax described in
- 4850 Subsection (2)(b)(i), the [~~new~~] rate of the tax.
- 4851 (c) (i) Notwithstanding Subsection (2)(a)(i), for a transaction described in Subsection
- 4852 (2)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 4853 (A) that begins after the effective date of the imposition of the tax; and
- 4854 (B) if the billing period for the transaction begins before the effective date of the
- 4855 enactment of the tax under:
- 4856 (I) Section 59-12-802; or
- 4857 (II) Section 59-12-804.
- 4858 (ii) For a transaction described in Subsection (2)(c)(iii), a tax rate repeal shall take
- 4859 effect on the first day of the last billing period:
- 4860 (A) that began before the effective date of the tax rate repeal; and
- 4861 (B) if the billing period for the transaction begins before the effective date of the tax
- 4862 rate repeal under:
- 4863 (I) Section 59-12-802; or

4864 (II) Section 59-12-804.
4865 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:
4866 (A) Subsection 59-12-103(1)(b);
4867 (B) Subsection 59-12-103(1)(c);
4868 (C) Subsection 59-12-103(1)(d);
4869 (D) Subsection 59-12-103(1)(e);
4870 (E) Subsection 59-12-103(1)(f);
4871 (F) Subsection 59-12-103(1)(g);
4872 (G) Subsection 59-12-103(1)(h);
4873 (H) Subsection 59-12-103(1)(i);
4874 (I) Subsection 59-12-103(1)(j); or
4875 (J) Subsection 59-12-103(1)(k).
4876 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
4877 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
4878 Subsection (2)(a) takes effect:
4879 (A) on the first day of a calendar quarter; and
4880 (B) beginning 60 days after the effective date of the enactment or repeal under
4881 Subsection (2)(a).
4882 (ii) In accordance with title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4883 commission may by rule define the term "catalogue sale."
4884 (3) (a) If, for an annexation that occurs on or after [~~May 1, 2000~~] January 1, 2004, the
4885 annexation will result in [~~a~~] the enactment, repeal, or change in the rate of a tax under this part
4886 for an annexing area, the enactment, repeal, or change shall take effect:
4887 (i) except as provided in Subsection (3)(c) or (d), on the first day of a calendar quarter;
4888 and
4889 (ii) after a [~~75-day~~] 90-day period beginning on the date the commission receives
4890 notice meeting the requirements of Subsection (3)(b) from the county, city, or town that
4891 annexes the annexing area.
4892 (b) The notice described in Subsection (3)(a)(ii) shall state:
4893 (i) that the annexation described in Subsection (3)(a) will result in [~~a~~] an enactment,
4894 repeal, or change in the rate of a tax under this part for the annexing area;

- 4895 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);
- 4896 (iii) the effective date of the tax described in Subsection (3)(b)(i); and
- 4897 (iv) if the county, city, or town enacts the tax or changes the rate of the tax described in
- 4898 Subsection (3)(b)(i), the [new] rate of the tax [described in Subsection (3)(b)(i)].
- 4899 (c) (i) Notwithstanding Subsection (3)(a)(i), for a transaction described in Subsection
- 4900 (3)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 4901 (A) that begins after the effective date of the imposition of the tax; and
- 4902 (B) if the billing period for the transaction begins before the effective date of the
- 4903 enactment of the tax under:
- 4904 (I) Section 59-12-802; or
- 4905 (II) Section 59-12-804.
- 4906 (ii) For a transaction described in Subsection (3)(c)(iii), a tax rate repeal shall take
- 4907 effect on the first day of the last billing period:
- 4908 (A) that began before the effective date of the tax rate repeal; and
- 4909 (B) if the billing period for the transaction begins before the effective date of the tax
- 4910 rate repeal under:
- 4911 (I) Section 59-12-802; or
- 4912 (II) Section 59-12-804.
- 4913 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:
- 4914 (A) Subsection 59-12-103(1)(b);
- 4915 (B) Subsection 59-12-103(1)(c);
- 4916 (C) Subsection 59-12-103(1)(d);
- 4917 (D) Subsection 59-12-103(1)(e);
- 4918 (E) Subsection 59-12-103(1)(f);
- 4919 (F) Subsection 59-12-103(1)(g);
- 4920 (G) Subsection 59-12-103(1)(h);
- 4921 (H) Subsection 59-12-103(1)(i);
- 4922 (I) Subsection 59-12-103(1)(j); or
- 4923 (J) Subsection 59-12-103(1)(k).
- 4924 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
- 4925 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in

4926 Subsection (3)(a) takes effect:

4927 (A) on the first day of a calendar quarter; and

4928 (B) beginning 60 days after the effective date of the enactment or repeal under

4929 Subsection (3)(a).

4930 (ii) In accordance with title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4931 commission may by rule define the term "catalogue sale."

4932 Section 56. Section **59-12-807** is enacted to read:

4933 **59-12-807. Seller reliance on commission database.**

4934 A seller that collects a tax imposed by a county or city under this part is not liable to
4935 collect and remit a tax at a rate other than a rate imposed under this part if:

4936 (1) the tax rate at which the seller collected the tax was derived from a database created
4937 by the commission containing:

4938 (a) tax rates; or

4939 (b) local taxing jurisdiction boundaries; or

4940 (2) the seller is a model 1 seller.

4941 Section 57. Section **59-12-901** is amended to read:

4942 **59-12-901. Definitions.**

4943 As used in this part:

4944 (1) "Association of governments" means the following created under the authority of
4945 Title 11, Chapter 13, Interlocal Cooperation Act:

4946 (a) an association of governments; or

4947 (b) a regional council that acts as an association of governments.

4948 (2) "Consumer price index" is as described in Section 1(f)(4), Internal Revenue Code,
4949 and defined in Section 1(f)(5), Internal Revenue Code.

4950 (3) "Pounds of food donated" means the aggregate number of pounds of food and food
4951 ingredients donated to a qualified emergency food agency:

4952 (a) on or after January 1, 1998; and

4953 (b) for which sales or use tax was paid under Part 1, Tax Collection, by the person
4954 donating the food.

4955 (4) "Qualified emergency food agency" means an organization that is:

4956 (a) (i) exempt from federal income taxation under Section 501(c)(3), Internal Revenue

4957 Code; or

4958 (ii) an association of governments;

4959 (b) as part of its activities operates a program that has as the program's primary purpose
4960 to:

4961 (i) warehouse and distribute food to other agencies and organizations providing food
4962 and food ingredients to low-income persons; or

4963 (ii) provide food and food ingredients directly to low-income persons; and

4964 (c) is certified to claim a refund by the State Community Services Office in accordance
4965 with Section 9-4-1404.

4966 Section 58. Section **59-12-902** is amended to read:

4967 **59-12-902. Sales tax refund for qualified emergency food agencies -- Use of**
4968 **amounts received as refund -- Administration -- Rulemaking authority.**

4969 (1) Beginning on January 1, 1998, a qualified emergency food agency may claim a
4970 sales tax refund as provided in this section on the pounds of food and food ingredients donated
4971 to the qualified emergency food agency.

4972 (2) (a) Subject to the adjustments provided for in Subsection (2)(b), a qualified
4973 emergency food agency may claim a refund in an amount equal to the pounds of food and food
4974 ingredients donated to the qualified emergency food agency multiplied by:

4975 (i) \$1.70; and

4976 (ii) the sum of:

4977 (A) 4.75%; and

4978 (B) [~~except as provided in Subsection (2)(c);~~] the sum of the tax rates provided for in
4979 Subsection (2)(b).

4980 (b) Tax rates authorized under the following apply to Subsection (2)(a)(ii)(B):

4981 (i) [~~(A)~~] the lowest tax rate imposed by a county, city, or town under Section
4982 59-12-204, but only if all of the counties, cities, and towns in the state impose the tax under
4983 Section 59-12-204; [~~or~~]

4984 [~~(B) the lowest tax rate imposed by a county, city, or town under Section 59-12-205,~~
4985 ~~but only if all of the counties, cities, and towns in the state impose the tax under Section~~
4986 ~~59-12-205;~~]

4987 (ii) the tax rate authorized by Section 59-12-501 or Section 59-12-1001, but only if all

4988 of the counties, cities, and towns in the state impose the tax:

4989 (A) under Section 59-12-501; or

4990 (B) under Section 59-12-1001;

4991 (iii) the tax rate authorized by Section 59-12-502, but only if all of the counties, cities,

4992 and towns in the state impose the tax under Section 59-12-502;

4993 (iv) the tax rate authorized by Section 59-12-703, but only if all of the counties in the

4994 state impose the tax under Section 59-12-703; and

4995 (v) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the

4996 state impose the tax under Section 59-12-1102.

4997 [~~(c) Tax rates authorized under the following do not apply to Subsection (2)(a)(ii)(B):~~]

4998 [~~(i) Subsection 59-12-103(2)(a)(i);~~]

4999 [~~(ii) Subsection 59-12-103(2)(b)(i);~~]

5000 [~~(iii) Subsection 59-12-103(2)(c)(i);~~]

5001 [~~(iv) Section 59-12-301;~~]

5002 [~~(v) Section 59-12-352;~~]

5003 [~~(vi) Section 59-12-353;~~]

5004 [~~(vii) Section 59-12-401;~~]

5005 [~~(viii) Section 59-12-402;~~]

5006 [~~(ix) Section 59-12-603;~~]

5007 [~~(x) Section 59-12-802;~~]

5008 [~~(xi) Section 59-12-804;~~]

5009 [~~(xii) Section 59-12-1201; or~~]

5010 [~~(xiii) Section 59-12-1302.~~]

5011 [~~(d)~~] (c) Beginning on January 1, 1999, the commission shall annually adjust on or

5012 before the second Monday of February the \$1.70 provided in Subsection (2)(a)(i) by a

5013 percentage equal to the percentage difference between the food at home category of the

5014 Consumer Price Index for:

5015 (i) the preceding calendar year; and

5016 (ii) calendar year 1997.

5017 (3) To claim a sales tax refund under this section, a qualified emergency food agency

5018 shall file an application with the commission.

5019 (4) A qualified emergency food agency may use amounts received as a sales tax refund
5020 under this section only for a purpose related to:

5021 (a) warehousing and distributing food and food ingredients to other agencies and
5022 organizations providing food and food ingredients to low-income persons; or

5023 (b) providing food and food ingredients directly to low-income persons.

5024 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
5025 commission may make rules providing procedures for implementing the sales tax refund under
5026 this section, including:

5027 (a) standards for determining and verifying the amount of the sales tax refund; and

5028 (b) procedures for a qualified emergency food agency to apply for a sales tax refund,
5029 including the frequency with which a qualified emergency food agency may apply for a sales
5030 tax refund.

5031 (6) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
5032 Division of Community Development may establish rules providing for the certification of
5033 emergency food agencies to claim a refund under this part.

5034 Section 59. Section **59-12-1001** is amended to read:

5035 **59-12-1001. Authority to impose tax for highways or to fund a system for public**
5036 **transit -- Ordinance requirements -- Voter approval requirements -- Election**
5037 **requirements -- Notice of election requirements -- Exceptions to voter approval**
5038 **requirements.**

5039 (1) (a) Except as provided in [~~Subsection~~] Subsections (1)(b) and 59-12-207.1(7)(c), a
5040 city or town in which the transactions described in Subsection 59-12-103(1) are not subject to a
5041 sales and use tax under Section 59-12-501 may as provided in this part impose a sales and use
5042 tax of 1/4% on the transactions described in Subsection 59-12-103(1) located within the city or
5043 town.

5044 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
5045 section on[~~-(i)~~] the sales and uses described in Section 59-12-104 to the extent the sales and
5046 uses are exempt from taxation under Section 59-12-104[~~-, and~~].

5047 [~~(ii) any amounts paid or charged by a vendor that collects a tax under Subsection~~
5048 ~~59-12-107(1)(b);]~~

5049 (c) For purposes of this Subsection (1), the location of a transaction shall be

5050 determined in accordance with Sections 59-12-207.1 through 59-2-207.4.

5051 (2) (a) A city or town imposing a tax under this part may use the revenues generated by
5052 the tax:

5053 (i) for the construction and maintenance of highways under the jurisdiction of the city
5054 or town imposing the tax;

5055 (ii) subject to Subsection (2)(b), to fund a system for public transit; or

5056 (iii) for a combination of the purposes described in Subsections (2)(a)(i) and (ii).

5057 (b) (i) For purposes of Subsection (2)(a)(ii) and except as provided in Subsection

5058 (2)(b)(ii), "public transit" is as defined in Section 17A-2-1004.

5059 (ii) Notwithstanding Subsection (2)(b)(i), "public transit" does not include a fixed
5060 guideway system.

5061 (3) To impose a tax under this part, the governing body of the city or town shall:

5062 (a) pass an ordinance approving the tax; and

5063 (b) except as provided in Subsection (7), obtain voter approval for the tax as provided
5064 in Subsection (4).

5065 (4) To obtain voter approval for a tax under Subsection (3)(b), a city or town shall:

5066 (a) hold an election during:

5067 (i) a regular general election; or

5068 (ii) a municipal general election; and

5069 (b) publish notice of the election:

5070 (i) 15 days or more before the day on which the election is held; and

5071 (ii) in a newspaper of general circulation in the city or town.

5072 (5) An ordinance approving a tax under this part shall provide an effective date for the
5073 tax as provided in Subsection (6).

5074 (6) (a) For purposes of this Subsection (6):

5075 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
5076 4, Annexation.

5077 (ii) "Annexing area" means an area that is annexed into a city or town.

5078 (b) (i) If, on or after [~~May 1, 2000~~] January 1, 2004, a city or town enacts or repeals a
5079 tax [~~or changes the rate of a tax~~] under this part, the enactment[;] or repeal[; ~~or change~~] shall
5080 take effect:

- 5081 (A) except as provided in Subsection (6)(c) or (d), on the first day of a calendar
5082 quarter; and
- 5083 (B) after a [~~75-day~~] 90-day period beginning on the date the commission receives
5084 notice meeting the requirements of Subsection (6)(b)(ii) from the city or town.
- 5085 (ii) The notice described in Subsection (6)(b)(i)(B) shall state:
- 5086 (A) that the city or town will enact or repeal a tax [~~or change the rate of a tax~~] under
5087 this part;
- 5088 (B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);
- 5089 (C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and
- 5090 (D) if the city or town enacts the tax [~~or changes the rate of the tax~~] described in
5091 Subsection (6)(b)(ii)(A), the [~~new~~] rate of the tax.
- 5092 (c) (i) Notwithstanding Subsection (6)(b)(i)(A), for a transaction described in
5093 Subsection (6)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing
5094 period:
- 5095 (A) that begins after the effective date of the imposition of the tax; and
- 5096 (B) if the billing period for the transaction begins before the effective date of the
5097 enactment of the tax under Subsection (1).
- 5098 (ii) For a transaction described in Subsection (6)(c)(iii), a tax rate repeal shall take
5099 effect on the first day of the last billing period:
- 5100 (A) that began before the effective date of the tax rate repeal; and
- 5101 (B) if the billing period for the transaction begins before the effective date of the tax
5102 rate repeal under Subsection (1).
- 5103 (iii) Subsections (6)(c)(i) and (ii) apply to transactions subject to a tax under:
- 5104 (A) Subsection 59-12-103(1)(b);
- 5105 (B) Subsection 59-12-103(1)(c);
- 5106 (C) Subsection 59-12-103(1)(d);
- 5107 (D) Subsection 59-12-103(1)(e);
- 5108 (E) Subsection 59-12-103(1)(f);
- 5109 (F) Subsection 59-12-103(1)(g);
- 5110 (G) Subsection 59-12-103(1)(h);
- 5111 (H) Subsection 59-12-103(1)(i);

5112 (I) Subsection 59-12-103(1)(j); or
5113 (J) Subsection 59-12-103(1)(k).
5114 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
5115 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
5116 Subsection (6)(b)(i) takes effect:
5117 (A) on the first day of a calendar quarter; and
5118 (B) beginning 60 days after the effective date of the enactment or repeal under
5119 Subsection (6)(b)(i).
5120 (ii) In accordance with title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
5121 commission may by rule define the term "catalogue sale."
5122 ~~[(e)]~~ (e) (i) If, for an annexation that occurs on or after [May 1, 2000] January 1, 2004,
5123 the annexation will result in [a change in the rate] the enactment or repeal of a tax under this
5124 part for an annexing area, the [change] enactment or repeal shall take effect:
5125 (A) except as provided in Subsection (6)(f) or (g), on the first day of a calendar quarter;
5126 and
5127 (B) after a [75-day] 90-day period beginning on the date the commission receives
5128 notice meeting the requirements of Subsection (6)[(e)] (e)(ii) from the city or town that
5129 annexes the annexing area.
5130 (ii) The notice described in Subsection (6)[(e)] (e)(i)(B) shall state:
5131 (A) that the annexation described in Subsection (6)[(e)] (e)(i) will result in [a change in
5132 the rate] an enactment or repeal of a tax under this part for the annexing area;
5133 (B) the statutory authority for the tax described in Subsection (6)[(e)] (e)(ii)(A);
5134 (C) the effective date of the tax described in Subsection (6)[(e)] (e)(ii)(A); and
5135 (D) the [new] rate of the tax described in Subsection (6)[(e)] (e)(ii)(A).
5136 (f) (i) Notwithstanding Subsection (6)(e)(i)(A), for a transaction described in
5137 Subsection (6)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing
5138 period:
5139 (A) that begins after the effective date of the imposition of the tax; and
5140 (B) if the billing period for the transaction begins before the effective date of the
5141 enactment of the tax under Subsection (1).
5142 (ii) For a transaction described in Subsection (6)(f)(iii), a tax rate repeal shall take

- 5143 effect on the first day of the last billing period:
- 5144 (A) that began before the effective date of the tax rate repeal; and
- 5145 (B) if the billing period for the transaction begins before the effective date of the tax
- 5146 rate repeal under Subsection (1).
- 5147 (iii) Subsections (6)(f)(i) and (ii) apply to transactions subject to a tax under:
- 5148 (A) Subsection 59-12-103(1)(b);
- 5149 (B) Subsection 59-12-103(1)(c);
- 5150 (C) Subsection 59-12-103(1)(d);
- 5151 (D) Subsection 59-12-103(1)(e);
- 5152 (E) Subsection 59-12-103(1)(f);
- 5153 (F) Subsection 59-12-103(1)(g);
- 5154 (G) Subsection 59-12-103(1)(h);
- 5155 (H) Subsection 59-12-103(1)(i);
- 5156 (I) Subsection 59-12-103(1)(j); or
- 5157 (J) Subsection 59-12-103(1)(k).
- 5158 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
- 5159 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
- 5160 Subsection (6)(e)(i) takes effect:
- 5161 (A) on the first day of a calendar quarter; and
- 5162 (B) beginning 60 days after the effective date of the enactment or repeal under
- 5163 Subsection (6)(e)(i).
- 5164 (ii) In accordance with title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 5165 commission may by rule define the term "catalogue sale."
- 5166 (7) (a) Except as provided in Subsection (7)(b), a city or town is not subject to the
- 5167 voter approval requirements of Subsection (3)(b) if:
- 5168 (i) on or before January 1, 1996, the city or town imposed a license fee or tax on
- 5169 businesses based on gross receipts pursuant to Section 10-1-203; or
- 5170 (ii) the city or town:
- 5171 (A) on or before June 30, 2002, obtained voter approval in accordance with Subsection
- 5172 (3)(b) to impose a tax under this part for a purpose described in Subsection (2)(a)(i); and
- 5173 (B) on or after July 1, 2002, uses the revenues generated by a tax under this part for a

5174 purpose described in Subsection (2)(a).

5175 (b) Notwithstanding Subsection (7)(a), the exception from the voter approval
5176 requirements in Subsection (7)(a)(i) does not apply to a city or town that, on or before January
5177 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts
5178 pursuant to Section 10-1-203.

5179 Section 60. Section **59-12-1003** is enacted to read:

5180 **59-12-1003. Seller reliance on commission database.**

5181 A seller that collects a tax imposed by a city or town under this part is not liable to
5182 collect and remit a tax at a rate other than a rate imposed under this part if:

5183 (1) the tax rate at which the seller collected the tax was derived from a database created
5184 by the commission containing:

5185 (a) tax rates; or

5186 (b) local taxing jurisdiction boundaries; or

5187 (2) the seller is a model 1 seller.

5188 Section 61. Section **59-12-1102** is amended to read:

5189 **59-12-1102. Base -- Rate -- Imposition of tax -- Distribution of revenue --**

5190 **Administration.**

5191 (1) (a) (i) Except as provided in [~~Subsection~~] Subsections (1)(a)(ii) and
5192 59-12-207.1(7)(c), subject to the provisions of Subsections (2) through (6), and in addition to
5193 any other tax authorized by this chapter, a county may impose by ordinance a county option
5194 sales and use tax of 1/4% upon the transactions described in Subsection 59-12-103(1).

5195 (ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this
5196 section on[~~-(A)~~] the sales and uses described in Section 59-12-104 to the extent the sales and
5197 uses are exempt from taxation under Section 59-12-104[~~;-and~~].

5198 [~~(B) any amounts paid or charged by a vendor that collects a tax under Subsection~~
5199 ~~59-12-107(1)(b) unless all of the counties in the state impose a tax under this section.~~]

5200 (b) For purposes of this Subsection (1), the location of a transaction shall be
5201 determined in accordance with Sections 59-12-207.1 through 59-2-207.4.

5202 [~~(b)~~] (c) The county option sales and use tax under this section shall be imposed:

5203 (i) upon [~~sales and uses made in~~] transactions that are located within the county,
5204 including [~~sales and uses made~~] transactions that are located within municipalities in the

5205 county; and

5206 (ii) except as provided in Subsection (1)[~~(c)~~] (d), beginning on the first day of January:

5207 (A) of the next calendar year after adoption of the ordinance imposing the tax if the
5208 ordinance is adopted on or before May 25; or

5209 (B) of the second calendar year after adoption of the ordinance imposing the tax if the
5210 ordinance is adopted after May 25.

5211 [~~(c)~~] (d) Notwithstanding Subsection (1)[~~(b)~~] (c)(ii), the county option sales and use tax
5212 under this section shall be imposed:

5213 (i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before
5214 September 4, 1997; or

5215 (ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997
5216 but after September 4, 1997.

5217 (2) (a) Before imposing a county option sales and use tax under Subsection (1), a
5218 county shall hold two public hearings on separate days in geographically diverse locations in
5219 the county.

5220 (b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting
5221 time of no earlier than 6 p.m.

5222 (ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven
5223 days after the day the first advertisement required by Subsection (2)(c) is published.

5224 (c) (i) Before holding the public hearings required by Subsection (2)(a), the county
5225 shall advertise in a newspaper of general circulation in the county:

5226 (A) its intent to adopt a county option sales and use tax;

5227 (B) the date, time, and location of each public hearing; and

5228 (C) a statement that the purpose of each public hearing is to obtain public comments
5229 regarding the proposed tax.

5230 (ii) The advertisement shall be published once each week for the two weeks preceding
5231 the earlier of the two public hearings.

5232 (iii) The advertisement shall be no less than 1/8 page in size, and the type used shall be
5233 no smaller than 18 point and surrounded by a 1/4-inch border.

5234 (iv) The advertisement may not be placed in that portion of the newspaper where legal
5235 notices and classified advertisements appear.

5236 (v) Whenever possible:

5237 (A) the advertisement shall appear in a newspaper that is published at least five days a
5238 week, unless the only newspaper in the county is published less than five days a week; and

5239 (B) the newspaper selected shall be one of general interest and readership in the
5240 community, and not one of limited subject matter.

5241 (d) The adoption of an ordinance imposing a county option sales and use tax is subject
5242 to a local referendum election as provided in Title 20A, Chapter 7, Part 6, Local Referenda -
5243 Procedures, except that:

5244 (i) notwithstanding Subsection 20A-7-609(2)(a), the county clerk shall hold a
5245 referendum election that qualifies for the ballot on the earlier of the next regular general
5246 election date or the next municipal general election date more than 155 days after adoption of
5247 an ordinance under this section;

5248 (ii) for 1997 only, the 120-day period in Subsection 20A-7-606(1) shall be 30 days; and

5249 (iii) the deadlines in Subsection 20A-7-606(2) and (3) do not apply, and the clerk shall
5250 take the actions required by those subsections before the referendum election.

5251 (3) (a) [~~Except as provided in Subsection (4), if~~] If the aggregate population of the
5252 counties imposing a county option sales and use tax under Subsection (1) is less than 75% of
5253 the state population, the tax levied under Subsection (1) shall be distributed to the county in
5254 which the tax was collected.

5255 (b) [~~Except as provided in Subsection (4), if~~] If the aggregate population of the counties
5256 imposing a county option sales and use tax under Subsection (1) is greater than or equal to 75%
5257 of the state population:

5258 (i) 50% of the tax collected under Subsection (1) in each county shall be distributed to
5259 the county in which the tax was collected; and

5260 (ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection
5261 (1) in each county shall be distributed proportionately among all counties imposing the tax,
5262 based on the total population of each county.

5263 (c) If the amount to be distributed annually to a county under Subsection (3)(b)(ii),
5264 when combined with the amount distributed to the county under Subsection (3)(b)(i), does not
5265 equal at least \$75,000, then:

5266 (i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall

5267 be increased so that, when combined with the amount distributed to the county under
5268 Subsection (3)(b)(i), the amount distributed annually to the county is \$75,000; and
5269 (ii) the amount to be distributed annually to all other counties under Subsection
5270 (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under
5271 Subsection (3)(c)(i).

5272 (d) The commission shall establish rules to implement the distribution of the tax under
5273 Subsections (3)(a), (b), and (c).

5274 [~~(4) Notwithstanding Subsections (3)(a) and (b), if a county imposes a tax under this~~
5275 ~~section on any amounts paid or charged by a vendor that collects a tax under Subsection~~
5276 ~~59-12-107(1)(b), the revenues generated by the tax shall be distributed as provided in~~
5277 ~~Subsection 59-12-103(3)(c).]~~

5278 [~~(5)~~ (4) (a) Except as provided in Subsections [~~(5)~~ (4)(b) and (c), a county option
5279 sales and use tax under Subsection (1) shall be imposed and administered in the same manner
5280 as a tax imposed under [Title 59, Chapter 12,] Part 2, Local Sales and Use Tax Act.

5281 (b) A county option sales and use tax imposed under this part is not subject to[~~(i)~~] the
5282 distribution provisions of [Subsections] Section 59-12-205[~~(2) and (3)~~]; and (ii) the earmarking
5283 provisions of Subsection 59-12-205(4)].

5284 (c) The fee charged by the commission under Section 59-12-206 shall be based on the
5285 distribution amounts resulting after all the applicable distribution calculations under Subsection
5286 (3) have been made.

5287 [~~(6)~~ (5) (a) For purposes of this Subsection [~~(6)~~ (5):

5288 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
5289 Annexation to County.

5290 (ii) "Annexing area" means an area that is annexed into a county.

5291 (b) (i) If, on or after [~~May 1, 2000~~] January 1, 2004, a county enacts or repeals a tax [or
5292 ~~changes the rate of a tax~~] under this part, the enactment[;] or repeal[~~, or change~~] shall take
5293 effect:

5294 (A) except as provided in Subsection (5)(c) or (d), on the first day of a calendar
5295 quarter; and

5296 (B) after a [~~75-day~~] 90-day period beginning on the date the commission receives
5297 notice meeting the requirements of Subsection [~~(6)~~ (5)(b)(ii) from the county.

- 5298 (ii) The notice described in Subsection [~~(6)~~] (5)(b)(i)(B) shall state:
- 5299 (A) that the county will enact or repeal a tax [~~or change the rate of a tax~~] under this
- 5300 part;
- 5301 (B) the statutory authority for the tax described in Subsection [~~(6)~~] (5)(b)(ii)(A);
- 5302 (C) the effective date of the tax described in Subsection [~~(6)~~] (5)(b)(ii)(A); and
- 5303 (D) if the county enacts the tax [~~or changes the rate of the tax~~] described in Subsection
- 5304 [~~(6)~~] (5)(b)(ii)(A), the [new] rate of the tax.
- 5305 (c) (i) Notwithstanding Subsection (5)(b)(i)(A), for a transaction described in
- 5306 Subsection (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing
- 5307 period:
- 5308 (A) that begins after the effective date of the imposition of the tax; and
- 5309 (B) if the billing period for the transaction begins before the effective date of the
- 5310 enactment of the tax under Subsection (1).
- 5311 (ii) For a transaction described in Subsection (5)(c)(iii), a tax rate repeal shall take
- 5312 effect on the first day of the last billing period:
- 5313 (A) that began before the effective date of the tax rate repeal; and
- 5314 (B) if the billing period for the transaction begins before the effective date of the tax
- 5315 rate repeal under Subsection (1).
- 5316 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:
- 5317 (A) Subsection 59-12-103(1)(b);
- 5318 (B) Subsection 59-12-103(1)(c);
- 5319 (C) Subsection 59-12-103(1)(d);
- 5320 (D) Subsection 59-12-103(1)(e);
- 5321 (E) Subsection 59-12-103(1)(f);
- 5322 (F) Subsection 59-12-103(1)(g);
- 5323 (G) Subsection 59-12-103(1)(h);
- 5324 (H) Subsection 59-12-103(1)(i);
- 5325 (I) Subsection 59-12-103(1)(j); or
- 5326 (J) Subsection 59-12-103(1)(k).
- 5327 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
- 5328 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in

5329 Subsection (5)(b)(i) takes effect:

5330 (A) on the first day of a calendar quarter; and

5331 (B) beginning 60 days after the effective date of the enactment or repeal under

5332 Subsection (5)(b)(i).

5333 (ii) In accordance with title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
5334 commission may by rule define the term "catalogue sale."

5335 ~~[(c)]~~ (e) (i) If, for an annexation that occurs on or after ~~May 1, 2000~~ January 1, 2004,
5336 the annexation will result in ~~a change in the rate~~ the enactment or repeal of a tax under this
5337 part for an annexing area, the ~~change~~ enactment or repeal shall take effect:

5338 (A) except as provided in Subsection (3)(f) or (g), on the first day of a calendar quarter;
5339 and

5340 (B) after a ~~75-day~~ 90-day period beginning on the date the commission receives
5341 notice meeting the requirements of Subsection ~~[(6)(c)] (5)(e)(ii)~~ from the county that annexes
5342 the annexing area.

5343 (ii) The notice described in Subsection ~~[(6)(c)] (5)(e)(i)(B)~~ shall state:

5344 (A) that the annexation described in Subsection ~~[(6)(c)] (5)(e)(i)~~ will result in ~~a~~
5345 ~~change in the rate~~ an enactment or repeal of a tax under this part for the annexing area;

5346 (B) the statutory authority for the tax described in Subsection ~~[(6)(c)] (5)(e)(ii)(A)~~;

5347 (C) the effective date of the tax described in Subsection ~~[(6)(c)] (5)(e)(ii)(A)~~; and

5348 (D) the ~~new~~ rate of the tax described in Subsection ~~[(6)(c)] (5)(e)(ii)(A)~~.

5349 (f) (i) Notwithstanding Subsection (5)(e)(i)(A), for a transaction described in
5350 Subsection (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing
5351 period:

5352 (A) that begins after the effective date of the imposition of the tax; and

5353 (B) if the billing period for the transaction begins before the effective date of the
5354 enactment of the tax under Subsection (1).

5355 (ii) For a transaction described in Subsection (5)(f)(iii), a tax rate repeal shall take
5356 effect on the first day of the last billing period:

5357 (A) that began before the effective date of the tax rate repeal; and

5358 (B) if the billing period for the transaction begins before the effective date of the tax
5359 rate repeal under Subsection (1).

- 5360 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:
- 5361 (A) Subsection 59-12-103(1)(b);
- 5362 (B) Subsection 59-12-103(1)(c);
- 5363 (C) Subsection 59-12-103(1)(d);
- 5364 (D) Subsection 59-12-103(1)(e);
- 5365 (E) Subsection 59-12-103(1)(f);
- 5366 (F) Subsection 59-12-103(1)(g);
- 5367 (G) Subsection 59-12-103(1)(h);
- 5368 (H) Subsection 59-12-103(1)(i);
- 5369 (I) Subsection 59-12-103(1)(j); or
- 5370 (J) Subsection 59-12-103(1)(k).
- 5371 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
- 5372 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
- 5373 Subsection (5)(e)(i) takes effect:
- 5374 (A) on the first day of a calendar quarter; and
- 5375 (B) beginning 60 days after the effective date of the enactment or repeal under
- 5376 Subsection (5)(e)(i).
- 5377 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 5378 the commission may by rule define the term "catalogue sale."
- 5379 Section 62. Section **59-12-1103** is enacted to read:
- 5380 **59-12-1103. Seller reliance on commission database.**
- 5381 A seller that collects a tax imposed by a county under this part is not liable to collect
- 5382 and remit a tax at a rate other than a rate imposed under this part if:
- 5383 (1) the tax rate at which the seller collected the tax was derived from a database created
- 5384 by the commission containing:
- 5385 (a) tax rates; or
- 5386 (b) local taxing jurisdiction boundaries; or
- 5387 (2) the seller is a model 1 seller.
- 5388 Section 63. Section **59-12-1302** is amended to read:
- 5389 **59-12-1302. Authority to impose -- Base -- Rate -- Imposition or repeal of tax --**
- 5390 **Tax rate change -- Effective date -- Notice requirements.**

5391 (1) [~~Beginning~~] Except as provided in Subsection 59-12-207.1(7)(c), beginning on or
5392 after January 1, 1998, the governing body of a town may impose a tax as provided in this part
5393 in an amount that does not exceed 1%.

5394 (2) A town may impose a tax as provided in this part if the town imposed a license fee
5395 or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1,
5396 1996.

5397 (3) A town imposing a tax under this section shall:

5398 (a) except as provided in Subsection (4), impose the tax on the transactions described
5399 in Subsection 59-12-103(1) located within the town; and

5400 (b) provide an effective date for the tax as provided in Subsection (5).

5401 (4) (a) Notwithstanding Subsection (3)(a), a town may not impose a tax under this
5402 section on~~[-(a)]~~ the sales and uses described in Section 59-12-104 to the extent the sales and
5403 uses are exempt from taxation under Section 59-12-104~~[-and]~~.

5404 ~~[(b) any amounts paid or charged by a vendor that collects a tax under Subsection~~
5405 ~~59-12-107(1)(b).]~~

5406 (b) For purposes of this Subsection (1), the location of a transaction shall be
5407 determined in accordance with Sections 59-12-207.1 through 59-2-207.4.

5408 (5) (a) For purposes of this Subsection (5):

5409 (i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4,
5410 Annexation.

5411 (ii) "Annexing area" means an area that is annexed into a town.

5412 (b) (i) If, on or after ~~[May 1, 2000]~~ January 1, 2004, a town enacts or repeals a tax or
5413 changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

5414 (A) except as provided in Subsection (5)(c) or (d), on the first day of a calendar
5415 quarter; and

5416 (B) after a ~~[75-day]~~ 90-day period beginning on the date the commission receives
5417 notice meeting the requirements of Subsection (5)(b)(ii) from the town.

5418 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

5419 (A) that the town will enact or repeal a tax or change the rate of a tax under this part;

5420 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

5421 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

5422 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
5423 (5)(b)(ii)(A), the ~~new~~ rate of the tax.

5424 (c) (i) Notwithstanding Subsection (5)(b)(i)(A), for a transaction described in
5425 Subsection (5)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first
5426 day of the first billing period:

5427 (A) that begins after the effective date of the enactment of the tax or the tax rate
5428 increase; and

5429 (B) if the billing period for the transaction begins before the effective date of the
5430 enactment of the tax or the tax rate increase imposed under Subsection (1).

5431 (ii) For a transaction described in Subsection (5)(c)(iii), the repeal of a tax or a tax rate
5432 decrease shall take effect on the first day of the last billing period:

5433 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
5434 and

5435 (B) if the billing period for the transaction begins before the effective date of the repeal
5436 of the tax or the tax rate decrease imposed under Subsection (1).

5437 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

5438 (A) Subsection 59-12-103(1)(b);

5439 (B) Subsection 59-12-103(1)(c);

5440 (C) Subsection 59-12-103(1)(d);

5441 (D) Subsection 59-12-103(1)(e);

5442 (E) Subsection 59-12-103(1)(f);

5443 (F) Subsection 59-12-103(1)(g);

5444 (G) Subsection 59-12-103(1)(h);

5445 (H) Subsection 59-12-103(1)(i);

5446 (I) Subsection 59-12-103(1)(j); or

5447 (J) Subsection 59-12-103(1)(k).

5448 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
5449 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
5450 a tax described in Subsection (5)(b)(i) takes effect:

5451 (A) on the first day of a calendar quarter; and

5452 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the

5453 rate of the tax under Subsection (5)(b)(i).

5454 (ii) In accordance with title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
5455 commission may by rule define the term "catalogue sale."

5456 ~~(c)~~ (e) (i) If, for an annexation that occurs on or after ~~May 1, 2000~~ January 1, 2004,
5457 the annexation will result in ~~a~~ the enactment, repeal, or change in the rate of a tax under this
5458 part for an annexing area, the enactment, repeal, or change shall take effect:

5459 (A) except as provided in Subsection (5)(f) or (g), on the first day of a calendar quarter;
5460 and

5461 (B) after a ~~75-day~~ 90-day period beginning on the date the commission receives
5462 notice meeting the requirements of Subsection (5)~~(c)~~ (e)(ii) from the town that annexes the
5463 annexing area.

5464 (ii) The notice described in Subsection (5)~~(c)~~ (e)(i)(B) shall state:

5465 (A) that the annexation described in Subsection (5)~~(c)~~ (e)(i) will result in ~~a~~ an
5466 enactment, repeal, or change in the rate of a tax under this part for the annexing area;

5467 (B) the statutory authority for the tax described in Subsection (5)~~(c)~~ (e)(ii)(A);

5468 (C) the effective date of the tax described in Subsection (5)~~(c)~~ (e)(ii)(A); and

5469 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
5470 (5)(e)(ii)(A), the ~~new~~ rate of the tax ~~[described in Subsection (5)(c)(ii)(A)].~~

5471 (f) (i) Notwithstanding Subsection (5)(e)(i)(A), for a transaction described in
5472 Subsection (5)(f)(iii), the enactment of a tax or a tax rate increase shall take effect on the first
5473 day of the first billing period:

5474 (A) that begins after the effective date of the enactment of the tax or the tax rate
5475 increase; and

5476 (B) if the billing period for the transaction begins before the effective date of the
5477 enactment of the tax or the tax rate increase imposed under Subsection (1).

5478 (ii) For a transaction described in Subsection (5)(f)(iii), the repeal of a tax or a tax rate
5479 decrease shall take effect on the first day of the last billing period:

5480 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
5481 and

5482 (B) if the billing period for the transaction begins before the effective date of the repeal
5483 of the tax or the tax rate decrease imposed under Subsection (1).

- 5484 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:
- 5485 (A) Subsection 59-12-103(1)(b);
- 5486 (B) Subsection 59-12-103(1)(c);
- 5487 (C) Subsection 59-12-103(1)(d);
- 5488 (D) Subsection 59-12-103(1)(e);
- 5489 (E) Subsection 59-12-103(1)(f);
- 5490 (F) Subsection 59-12-103(1)(g);
- 5491 (G) Subsection 59-12-103(1)(h);
- 5492 (H) Subsection 59-12-103(1)(i);
- 5493 (I) Subsection 59-12-103(1)(j); or
- 5494 (J) Subsection 59-12-103(1)(k).
- 5495 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
- 5496 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
- 5497 a tax described in Subsection (5)(e)(i) takes effect:
- 5498 (A) on the first day of a calendar quarter; and
- 5499 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
- 5500 rate of the tax under Subsection (5)(e)(i).
- 5501 (ii) In accordance with title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 5502 commission may by rule define the term "catalogue sale."
- 5503 (6) The commission shall:
- 5504 (a) except as provided in Subsection (6)(c), distribute the revenues generated by the tax
- 5505 under this section to the town imposing the tax;
- 5506 (b) administer, collect, and enforce the tax authorized under this section pursuant to:
- 5507 (i) the same procedures used to administer, collect, and enforce the sales and use tax
- 5508 under Part 1, Tax Collection; and
- 5509 (ii) Chapter 1, General Taxation Policies; and
- 5510 (c) deduct from the distribution under Subsection (6)(a) an administrative charge for
- 5511 collecting the tax as provided in Section 59-12-206.
- 5512 Section 64. Section **59-12-1303** is enacted to read:
- 5513 **59-12-1303. Seller reliance on commission database.**
- 5514 A seller that collects a tax imposed by a town under this part is not liable to collect and

5515 remit a tax at a rate other than a rate imposed under this part if:

5516 (1) the tax rate at which the seller collected the tax was derived from a database created

5517 by the commission containing:

5518 (a) tax rates; or

5519 (b) local taxing jurisdiction boundaries; or

5520 (2) the seller is a model 1 seller.

5521 Section 65. Section **59-12-1402** is amended to read:

5522 **59-12-1402. Opinion question election -- Imposition of tax -- Uses of tax monies.**

5523 (1) (a) (i) Except as provided in [~~Subsection~~] Subsections (1)(a)(ii) and

5524 59-12-207.1(7)(c), and subject to Subsection (6), beginning on January 1, 2003, a city or town

5525 legislative body subject to this part may submit an opinion question to the residents of that city

5526 or town, by majority vote of all members of the legislative body, so that each resident of the

5527 city or town has an opportunity to express the resident's opinion on the imposition of a local

5528 sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located

5529 within the city or town, to fund recreational and zoological facilities and botanical, cultural,

5530 and zoological organizations in that city or town.

5531 (ii) Notwithstanding Subsection (1)(a)(i), a city or town legislative body may not
5532 impose a tax under this section:

5533 (A) if the county in which the city or town is located imposes a tax under Part 7,
5534 County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or
5535 Facilities; or

5536 (B) on the sales and uses described in Section 59-12-104 to the extent the sales and
5537 uses are exempt from taxation under Section 59-12-104[~~;~~and].

5538 [~~(C) on any amounts paid or charged by a vendor that collects a tax under Subsection~~
5539 ~~59-12-107(1)(b).~~]

5540 (b) For purposes of this Subsection (1), the location of a transaction shall be
5541 determined in accordance with Sections 59-12-207.1 through 59-2-207.4.

5542 [~~(b)~~] (c) The election shall follow the procedures outlined in Title 11, Chapter 14, Utah
5543 Municipal Bond Act, except as provided in Subsection (6).

5544 (2) If the city or town legislative body determines that a majority of the city's or town's
5545 registered voters voting on the imposition of the tax have voted in favor of the imposition of

5546 the tax as prescribed in Subsection (1)(a), the city or town legislative body may impose the tax
5547 by a majority vote of all members of the legislative body.

5548 (3) The monies generated from any tax imposed under Subsection (2) shall be used for
5549 financing:

5550 (a) recreational and zoological facilities within the city or town; and

5551 (b) ongoing operating expenses of botanical, cultural, and zoological organizations
5552 within the city or town.

5553 (4) Taxes imposed under this part shall be:

5554 (a) levied at the same time and collected in the same manner as provided in Part 2,
5555 Local Sales and Use Tax Act, except that the collection and distribution of the tax revenue is
5556 not subject to [~~Subsection~~] Section 59-12-205[~~(2)~~]; and

5557 (b) (i) levied for a period of five years; and

5558 (ii) may be reauthorized at the end of the five-year period in accordance with this
5559 section.

5560 (5) (a) For purposes of this Subsection (5):

5561 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
5562 4, Annexation.

5563 (ii) "Annexing area" means an area that is annexed into a city or town.

5564 (b) (i) If, on or after [~~January 1, 2003~~] January 1, 2004, a city or town enacts or repeals
5565 a tax [~~or changes the rate of a tax~~] under this part, the enactment[;] or repeal[; ~~or change~~] shall
5566 take effect:

5567 (A) except as provided in Subsection (5)(c) or (d), on the first day of a calendar
5568 quarter; and

5569 (B) after a [~~75-day~~] 90-day period beginning on the date the commission receives
5570 notice meeting the requirements of Subsection (5)(b)(ii) from the city or town.

5571 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

5572 (A) that the city or town will enact or repeal a tax [~~or change the rate of a tax~~] under
5573 this part;

5574 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

5575 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

5576 (D) if the city or town enacts the tax [~~or changes the rate of the tax~~] described in

5577 Subsection (5)(b)(ii)(A), the [new] rate of the tax.

5578 (c) (i) Notwithstanding Subsection (5)(b)(i)(A), for a transaction described in

5579 Subsection (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing

5580 period:

5581 (A) that begins after the effective date of the imposition of the tax; and

5582 (B) if the billing period for the transaction begins before the effective date of the

5583 enactment of the tax under Subsection (1).

5584 (ii) For a transaction described in Subsection (5)(c)(iii), a tax rate repeal shall take

5585 effect on the first day of the last billing period:

5586 (A) that began before the effective date of the tax rate repeal; and

5587 (B) if the billing period for the transaction begins before the effective date of the tax

5588 rate repeal under Subsection (1).

5589 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

5590 (A) Subsection 59-12-103(1)(b);

5591 (B) Subsection 59-12-103(1)(c);

5592 (C) Subsection 59-12-103(1)(d);

5593 (D) Subsection 59-12-103(1)(e);

5594 (E) Subsection 59-12-103(1)(f);

5595 (F) Subsection 59-12-103(1)(g);

5596 (G) Subsection 59-12-103(1)(h);

5597 (H) Subsection 59-12-103(1)(i);

5598 (I) Subsection 59-12-103(1)(j); or

5599 (J) Subsection 59-12-103(1)(k).

5600 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of

5601 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in

5602 Subsection (5)(b)(i) takes effect:

5603 (A) on the first day of a calendar quarter; and

5604 (B) beginning 60 days after the effective date of the enactment or repeal under

5605 Subsection (5)(b)(i).

5606 (ii) In accordance with title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

5607 commission may by rule define the term "catalogue sale."

5608 ~~(e)~~ (e) (i) If, for an annexation that occurs on or after ~~January 1, 2003~~ January 1,
5609 2004, the annexation will result in ~~a change in the rate~~ the enactment or repeal of a tax under
5610 this part for an annexing area, the ~~change~~ enactment or repeal shall take effect:

5611 (A) except as provided in Subsection (5)(f) or (g), on the first day of a calendar quarter;
5612 and

5613 (B) after a ~~75-day~~ 90-day period beginning on the date the commission receives
5614 notice meeting the requirements of Subsection (5)~~(e)~~ (e)(ii) from the city or town that
5615 annexes the annexing area.

5616 (ii) The notice described in Subsection (5)~~(e)~~ (e)(i)(B) shall state:

5617 (A) that the annexation described in Subsection (5)~~(e)~~ (e)(i) will result in ~~a change in~~
5618 ~~the rate of~~ an enactment or repeal a tax under this part for the annexing area;

5619 (B) the statutory authority for the tax described in Subsection (5)~~(e)~~ (e)(ii)(A);

5620 (C) the effective date of the tax described in Subsection (5)~~(e)~~ (e)(ii)(A); and

5621 (D) the ~~new~~ rate of the tax described in Subsection (5)~~(e)~~ (e)(ii)(A).

5622 (f) (i) Notwithstanding Subsection (5)(e)(i)(A), for a transaction described in
5623 Subsection (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing
5624 period:

5625 (A) that begins after the effective date of the imposition of the tax; and

5626 (B) if the billing period for the transaction begins before the effective date of the
5627 enactment of the tax under Subsection (1).

5628 (ii) For a transaction described in Subsection (5)(f)(iii), a tax rate repeal shall take
5629 effect on the first day of the last billing period:

5630 (A) that began before the effective date of the tax rate repeal; and

5631 (B) if the billing period for the transaction begins before the effective date of the tax
5632 rate repeal under Subsection (1).

5633 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

5634 (A) Subsection 59-12-103(1)(b);

5635 (B) Subsection 59-12-103(1)(c);

5636 (C) Subsection 59-12-103(1)(d);

5637 (D) Subsection 59-12-103(1)(e);

5638 (E) Subsection 59-12-103(1)(f);

5639 (F) Subsection 59-12-103(1)(g);

5640 (G) Subsection 59-12-103(1)(h);

5641 (H) Subsection 59-12-103(1)(i);

5642 (I) Subsection 59-12-103(1)(j); or

5643 (J) Subsection 59-12-103(1)(k).

5644 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
5645 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
5646 Subsection (5)(e)(i) takes effect:

5647 (A) on the first day of a calendar quarter; and

5648 (B) beginning 60 days after the effective date of the enactment or repeal under
5649 Subsection (5)(e)(i).

5650 (ii) In accordance with title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
5651 commission may by rule define the term "catalogue sale."

5652 (6) (a) Before a city or town legislative body submits an opinion question to the
5653 residents of the city or town under Subsection (1)(a)(i), the city or town legislative body shall:

5654 (i) submit to the county legislative body in which the city or town is located a written
5655 notice of the intent to submit the opinion question to the residents of the city or town; and

5656 (ii) receive from the county legislative body:

5657 (A) a written resolution passed by the county legislative body stating that the county
5658 legislative body is not seeking to impose a tax under Part 7, County Option Funding for
5659 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

5660 (B) a written statement that in accordance with Subsection (6)(b) the results of a county
5661 opinion question submitted to the residents of the county under Part 7, County Option Funding
5662 for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city
5663 or town legislative body to submit the opinion question to the residents of the city or town in
5664 accordance with this part.

5665 (b) (i) Within 60 days after the day the county legislative body receives from a city or
5666 town legislative body described in Subsection (6)(a) the notice of the intent to submit an
5667 opinion question to the residents of the city or town, the county legislative body shall provide
5668 the city or town legislative body:

5669 (A) the written resolution described in Subsection (6)(a)(ii)(A); or

5670 (B) written notice that the county legislative body will submit an opinion question to
5671 the residents of the county under Part 7, County Option Funding for Botanical, Cultural,
5672 Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under
5673 that part.

5674 (ii) If the county legislative body provides the city or town legislative body the written
5675 notice that the county legislative body will submit an opinion question as provided in
5676 Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no
5677 later than, from the date the county legislative body sends the written notice, the later of:

5678 (A) a 12-month period;

5679 (B) the next regular primary election; or

5680 (C) the next regular general election.

5681 (iii) Within 30 days of the date of the canvass of the election at which the opinion
5682 question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the
5683 city or town legislative body described in Subsection (6)(a) written results of the opinion
5684 question submitted by the county legislative body under Part 7, County Option Funding for
5685 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

5686 (A) (I) the city or town legislative body may not impose a tax under this part because a
5687 majority of the county's registered voters voted in favor of the county imposing the tax and the
5688 county legislative body by a majority vote approved the imposition of the tax; or

5689 (II) for at least 12 months from the date the written results are submitted to the city or
5690 town legislative body, the city or town legislative body may not submit to the county legislative
5691 body a written notice of the intent to submit an opinion question under this part because a
5692 majority of the county's registered voters voted against the county imposing the tax and the
5693 majority of the registered voters who are residents of the city or town described in Subsection
5694 (6)(a) voted against the imposition of the county tax; or

5695 (B) the city or town legislative body may submit the opinion question to the residents
5696 of the city or town in accordance with this part because although a majority of the county's
5697 registered voters voted against the county imposing the tax, the majority of the registered voters
5698 who are residents of the city or town voted for the imposition of the county tax.

5699 (c) Notwithstanding Subsection (6)(b), at any time a county legislative body may
5700 provide a city or town legislative body described in Subsection (6)(a) a written resolution

5701 passed by the county legislative body stating that the county legislative body is not seeking to
5702 impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and
5703 Zoological Organizations or Facilities, which permits the city or town legislative body to
5704 submit under Subsection (1)(a)(i) an opinion question to the city's or town's residents.

5705 Section 66. Section **59-12-1404** is enacted to read:

5706 **59-12-1404. Seller reliance on commission database.**

5707 A seller that collects a tax imposed by a city or town under this part is not liable to
5708 collect and remit a tax at a rate other than a rate imposed under this part if:

5709 (1) the tax rate at which the seller collected the tax was derived from a database created
5710 by the commission containing:

5711 (a) tax rates; or

5712 (b) local taxing jurisdiction boundaries; or

5713 (2) the seller is a model 1 seller.

5714 Section 67. **Repealer.**

5715 This act repeals:

5716 Section **59-12-207, Report of tax collections -- Point of sale when retailer has no**
5717 **permanent place of business or more than one place of business is determined by rule of**
5718 **commission -- Public utilities -- Mobile telecommunications service.**

5719 Section 68. **Effective date.**

5720 This act takes effect on January 1, 2004.

Legislative Review Note

as of 2-21-03 5:52 PM

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

Office of Legislative Research and General Counsel

State Impact

Passage of this bill could increase the General Fund by \$675,000 in FY 2004 and by \$1,400,000 in FY 2005. There is also the potential for a local sales tax increase of \$249,000 in FY 2004 and \$516,000 in FY 2005. The Tax Commission would require an appropriation of \$1,321,000 from the Sales and Use Tax Administration Fee in FY 2004 and an appropriation of \$554,000 in FY 2005 to implement the provisions of the bill.

	<u>FY 04 Approp.</u>	<u>FY 05 Approp.</u>	<u>FY 04 Revenue</u>	<u>FY 05 Revenue</u>
General Fund	\$0	\$0	\$675,000	\$1,400,000
Sales Tax Admin. Fee	\$1,321,000	\$554,000	\$0	\$0
TOTAL	\$1,321,000	\$554,000	\$675,000	\$1,400,000

Individual and Business Impact

There could be some increase cost to vendors to keep track of Utah based sales.
