

TAX AND CHARGE AMENDMENTS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends the Sales and Use Tax Act, provisions relating to a municipality's authority to levy a tax on taxable energy for a telecommunications provider, and provisions relating to a county's or municipality's authority to impose an emergency services telephone charge.

Highlighted Provisions:

This bill:

- ▶ modifies the municipal energy sales and use tax and the municipal telecommunications license tax to coordinate those taxes with the Streamlined Sales and Use Tax Agreement and state and local sales and use taxes;
- ▶ amends tax penalty provisions including:
 - changing references to the term "vendor" to "seller";
 - clarifying that penalty provisions apply to a seller that fails to remit a tax, fee, or charge monthly; and
 - providing that a seller that fails to remit a tax, fee, or charge by electronic funds transfer is subject to penalties and may not retain the percentage of sales and use taxes that the seller could otherwise retain;
- ▶ provides, amends, and repeals state and local sales and use tax definitions;
- ▶ repeals obsolete language;
- ▶ provides that certain state sales and use tax revenues be deposited into the Remote Sales Restricted Account;



- 28 ▶ repeals language requiring the Division of Finance to deposit any revenues in the
29 Remote Sales Restricted Account into the General Fund;
- 30 ▶ provides that the Remote Sales Restricted Account shall earn interest and that the
31 interest shall be deposited into the account;
- 32 ▶ modifies the sales and use tax exemption for prescription drugs;
- 33 ▶ modifies the exempt sales that are required to be reported to the State Tax
34 Commission;
- 35 ▶ requires certain sellers that file a simplified electronic return with the commission to
36 file a report with the commission, provides the information to be contained in the
37 report, provides a due date for filing the report, provides a penalty for failing to file
38 the report, and authorizes the Utah State Tax Commission to waive, reduce, or
39 compromise the penalty under certain circumstances;
- 40 ▶ amends provisions relating to the collection, remittance, and payment of a tax by a
41 seller;
- 42 ▶ addresses the duties of a certified service provider and a model 1 seller;
- 43 ▶ addresses the sales and use tax liability of a seller or certified service provider that
44 relies on a Utah State Tax Commission database or certain software in collecting
45 and remitting sales and use taxes;
- 46 ▶ requires certain sellers to file returns with the Utah State Tax Commission
47 electronically and to remit a tax, fee, or charge to the Utah State Tax Commission
48 electronically;
- 49 ▶ modifies the amount that a seller required to file a return and remit a tax, fee, or
50 charge to the Utah State Tax Commission monthly may retain;
- 51 ▶ requires the Utah State Tax Commission to make a calculation and make
52 distributions of state and local sales and use tax revenues to local taxing
53 jurisdictions under certain circumstances;
- 54 ▶ provides the circumstances under which a seller that has collected state or local
55 sales and use taxes that exceed the amount of state or local sales and use taxes the
56 seller is required to collect is presumed to have a reasonable business practice;
- 57 ▶ provides for monetary allowance for sellers registered under the Streamlined Sales
58 and Use Tax Agreement;

- 59 ▶ grants rulemaking authority to the Utah State Tax Commission;
- 60 ▶ amends provisions relating to determining the location of certain transactions;
- 61 ▶ amends provisions addressing when a seller or certified service provider that relies
- 62 on a Utah State Tax Commission database or certain software is not liable for
- 63 failing to collect state and local sales and use taxes;
- 64 ▶ amends provisions relating to the imposition of taxes on certain accommodations
- 65 and services;
- 66 ▶ amends provisions relating to the enactment, repeal, or change in the rate of a tax or
- 67 charge;
- 68 ▶ addresses procedures for administering, collecting, and enforcing state and local
- 69 sales and use taxes;
- 70 ▶ addresses when a tax rate change in the motor vehicle rental tax takes effect;
- 71 ▶ modifies the local sales and use tax for highways and public transit systems to be in
- 72 compliance with the Streamlined Sales and Use Tax Agreement and to coordinate
- 73 that tax with other state and local sales and use taxes;
- 74 ▶ modifies the emergency services telephone charge to coordinate with the
- 75 Streamlined Sales and Use Tax Agreement and state and local sales and use taxes;
- 76 and
- 77 ▶ makes technical changes.

78 **Monies Appropriated in this Bill:**

79 None

80 **Other Special Clauses:**

81 This bill takes effect on July 1, 2004.

82 **Utah Code Sections Affected:**

83 AMENDS:

- 84 **10-1-304 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
- 85 **10-1-307 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
- 86 **10-1-403**, as enacted by Chapter 253, Laws of Utah 2003
- 87 **10-1-405**, as enacted by Chapter 253, Laws of Utah 2003
- 88 **10-1-407**, as enacted by Chapter 253, Laws of Utah 2003
- 89 **10-1-408**, as enacted by Chapter 253, Laws of Utah 2003

90 **59-1-401**, as last amended by Chapters 104 and 177, Laws of Utah 2001
91 **59-12-102 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
92 **59-12-103 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
93 **59-12-103.2 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
94 **59-12-104 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
95 **59-12-105 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
96 **59-12-107 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
97 **59-12-107.1 (Effective 07/01/04)**, as enacted by Chapter 312, Laws of Utah 2003
98 **59-12-107.2 (Effective 07/01/04)**, as enacted by Chapter 312, Laws of Utah 2003
99 **59-12-108 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
100 **59-12-110 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
101 **59-12-110.1 (Effective 07/01/04)**, as enacted by Chapter 312, Laws of Utah 2003
102 **59-12-205 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
103 **59-12-207.1 (Effective 07/01/04)**, as enacted by Chapter 312, Laws of Utah 2003
104 **59-12-207.3 (Effective 07/01/04)**, as enacted by Chapter 312, Laws of Utah 2003
105 **59-12-207.5 (Effective 07/01/04)**, as enacted by Chapter 312, Laws of Utah 2003
106 **59-12-208.1 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
107 **59-12-301 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
108 **59-12-302 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
109 **59-12-352**, as last amended by Chapter 291, Laws of Utah 1998
110 **59-12-353**, as last amended by Chapter 291, Laws of Utah 1998
111 **59-12-354 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
112 **59-12-355 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
113 **59-12-356 (Effective 07/01/04)**, as enacted by Chapter 312, Laws of Utah 2003
114 **59-12-402 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
115 **59-12-403 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
116 **59-12-404 (Effective 07/01/04)**, as enacted by Chapter 312, Laws of Utah 2003
117 **59-12-501 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
118 **59-12-502 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
119 **59-12-504 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
120 **59-12-505 (Effective 07/01/04)**, as enacted by Chapter 312, Laws of Utah 2003

- 121 **59-12-603 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
- 122 **59-12-604 (Effective 07/01/04)**, as enacted by Chapter 312, Laws of Utah 2003
- 123 **59-12-703 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
- 124 **59-12-706 (Effective 07/01/04)**, as enacted by Chapter 312, Laws of Utah 2003
- 125 **59-12-802 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
- 126 **59-12-804 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
- 127 **59-12-806 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
- 128 **59-12-807 (Effective 07/01/04)**, as enacted by Chapter 312, Laws of Utah 2003
- 129 **59-12-1001 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
- 130 **59-12-1002**, as last amended by Chapter 101, Laws of Utah 2002
- 131 **59-12-1003 (Effective 07/01/04)**, as enacted by Chapter 312, Laws of Utah 2003
- 132 **59-12-1102 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
- 133 **59-12-1103 (Effective 07/01/04)**, as enacted by Chapter 312, Laws of Utah 2003
- 134 **59-12-1201**, as last amended by Chapters 270 and 291, Laws of Utah 1998
- 135 **59-12-1302 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
- 136 **59-12-1303 (Effective 07/01/04)**, as enacted by Chapter 312, Laws of Utah 2003
- 137 **59-12-1402 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
- 138 **59-12-1404 (Effective 07/01/04)**, as enacted by Chapter 312, Laws of Utah 2003
- 139 **59-12-1503**, as enacted by Chapter 282, Laws of Utah 2003
- 140 **69-2-5**, as last amended by Chapter 253, Laws of Utah 2003

141 ENACTS:

- 142 **59-12-107.4**, Utah Code Annotated 1953
- 143 **59-12-107.5**, Utah Code Annotated 1953
- 144 **59-12-122**, Utah Code Annotated 1953
- 145 **59-12-303**, Utah Code Annotated 1953
- 146 **59-12-1504**, Utah Code Annotated 1953

147 REPEALS:

- 148 **59-12-351**, as last amended by Chapter 11, Laws of Utah 2001, First Special Session

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

- 151 Section 1. Section **10-1-304 (Effective 07/01/04)** is amended to read:

152 **10-1-304 (Effective 07/01/04). Municipality may levy tax -- Rate -- Imposition or**
153 **repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Exemptions.**

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

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

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

158 (2) A municipal energy sales and use tax imposed under this part may be in addition to
159 any sales and use tax imposed by the municipality under Title 59, Chapter 12, Sales and Use
160 Tax Act.

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

162 (i) "Annexation" means an annexation to a [~~city or town~~] municipality under Title 10,
163 Chapter 2, Part 4, Annexation.

164 (ii) "Annexing area" means an area that is annexed into a [~~city or town~~] municipality.

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

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

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

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

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

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

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

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

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

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

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

183 annexing area.

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

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

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

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

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

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

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

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

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

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

200 Section 2. Section **10-1-307 (Effective 07/01/04)** is amended to read:

201 **10-1-307 (Effective 07/01/04). Collection of taxes by commission -- Distribution of**
202 **revenues -- Charge for services -- Collection of taxes by municipality.**

203 (1) Except for the direct payment provisions provided in Subsection (3), the
204 commission shall collect, enforce, and administer the municipal energy sales and use tax from
205 energy suppliers according to the procedures established in Title 59, Chapter 12, Part 1, Tax
206 Collection, except for Sections 59-12-107.1 through 59-12-107.3.

207 (2) (a) Except as provided in Subsections 10-1-203(3)(d), 10-1-305(5), and
208 10-1-310(2), the commission shall pay a municipality the difference between:

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

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

213 (B) the point of use of the taxable energy if the use occurs in a municipality that

214 imposes a municipal energy sales and use tax as provided in this part; and

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

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

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

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

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

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

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

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

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

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

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

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

240 Section 3. Section **10-1-403** is amended to read:

241 **10-1-403. Municipality may levy municipal telecommunications license tax --**
242 **Recovery from customers -- Annexation.**

243 (1) (a) Subject to the provisions of this section, beginning July 1, 2004, a municipality
244 may levy on and provide that there is collected from a telecommunications provider a

245 municipal telecommunications license tax on the telecommunications provider's gross receipts
246 from telecommunications service that are attributed to the municipality in accordance with
247 Section 10-1-407.

248 (b) To levy and provide for the collection of a municipal telecommunications license
249 tax under this part, the municipality shall adopt an ordinance that complies with the
250 requirements of Section 10-1-404.

251 (c) A municipal telecommunications license tax imposed under this part shall be at a
252 rate of up to 4% of the telecommunications provider's gross receipts from telecommunications
253 service that are attributed to the municipality in accordance with Section 10-1-407.

254 (2) A telecommunications provider may recover the amounts paid in municipal
255 telecommunications license taxes from the customers of the telecommunications provider
256 within the municipality imposing the municipal telecommunications license tax through a
257 charge that is separately identified in the statement of the transaction with the customer as the
258 recovery of a tax.

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

260 (i) "Annexation" means an annexation to a municipality under Title 10, Chapter 2, Part
261 4, Annexation.

262 (ii) "Annexing area" means an area that is annexed into a municipality.

263 (b) (i) If, on or after July 1, 2004, a municipality enacts or repeals a tax [~~under this~~
264 ~~part~~] or changes the rate of the tax under this part, the enactment, repeal, or change shall take
265 effect:

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

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

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

270 (A) that the municipality will enact or repeal a tax under this part or change the rate of
271 the tax;

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

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

274 (D) if the municipality enacts the municipal telecommunications license tax or changes
275 the rate of the tax, the new rate of the tax.

276 (c) (i) If, for an annexation that occurs on or after July 1, 2004, the annexation will
277 result in a change in the rate of the tax under this part for an annexing area, the change shall
278 take effect:

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

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

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

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

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

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

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

289 Section 4. Section **10-1-405** is amended to read:

290 **10-1-405. Collection of taxes by commission -- Uniform interlocal agreement --**
291 **Charge for services.**

292 (1) Subject to the other provisions of this section, the commission shall collect,
293 enforce, and administer any municipal telecommunications license tax imposed under this part
294 pursuant to:

295 (a) the same procedures used in the administration, collection, and enforcement of the
296 state sales and use tax under:

297 (i) Title 59, Chapter 1, General Taxation Policies; and

298 (ii) Title 59, Chapter 12, Part 1, Tax Collection:

299 (A) except for ~~[Sections]~~:

300 (I) Subsection 59-12-103(2)(d);

301 (II) Subsection 59-12-103(2)(e);

302 (III) Section 59-12-104[;];

303 (IV) Section 59-12-104.1[;and];

304 (V) Section 59-12-104.2; and

305 (VI) Sections 59-12-107.1 through 59-12-107.3; and

306 (B) except that for purposes of Section 59-12-110, the term "taxpayer" may include a

307 customer from whom a municipal telecommunications license tax is recovered in accordance
308 with Subsection 10-1-403(2); and

309 (b) a uniform interlocal agreement:

310 (i) between:

311 (A) the municipality that imposes the municipal telecommunications license tax; and

312 (B) the commission;

313 (ii) that is executed under Title 11, Chapter 13, Interlocal Cooperation Act;

314 (iii) that complies with Subsection (2)(a); and

315 (iv) that is developed by rule in accordance with Subsection (2)(b).

316 (2) (a) The uniform interlocal agreement described in Subsection (1) shall provide that
317 the commission shall:

318 (i) transmit monies collected under this part:

319 (A) monthly; and

320 (B) by electronic funds transfer by the commission to the municipality;

321 (ii) conduct audits of the municipal telecommunications license tax;

322 (iii) charge the municipality for the commission's services under this section in an
323 amount:

324 (A) sufficient to reimburse the commission for the cost to the commission in rendering
325 the services; and

326 (B) that may not exceed an amount equal to 1.5% of the municipal telecommunications
327 license tax imposed by the ordinance of the municipality; and

328 (iv) collect, enforce, and administer the municipal telecommunications license tax
329 authorized under this part pursuant to the same procedures used in the administration,
330 collection, and enforcement of the state sales and use tax as provided in Subsection (1)(a).

331 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
332 commission shall develop a uniform interlocal agreement that meets the requirements of this
333 section.

334 (3) The administrative fee charged under Subsection (2)(a) shall be:

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

336 (b) used for administration of municipal telecommunications license taxes under this
337 part.

338 Section 5. Section **10-1-407** is amended to read:

339 **10-1-407. Attributing the gross receipts from telecommunications service to a**
340 **municipality -- Rate impact.**

341 (1) The gross receipts from a telecommunications service are attributed to a
342 municipality if the gross receipts are from a transaction for telecommunications service that is
343 located within the municipality:

344 (a) for purposes of sales and use taxes under Title 59, Chapter 12, Sales and Use Tax
345 Act; and

346 (b) determined in accordance with Section ~~[59-12-207]~~ 59-12-207.4.

347 (2) (a) The rate imposed on the gross receipts for telecommunications service shall be
348 determined in accordance with Subsection (2)(b) if the location of a transaction for
349 telecommunications service is determined under Subsection (1) to be a municipality other than
350 the municipality in which is located:

351 (i) for telecommunications service other than mobile telecommunications service, the
352 customer's service address; or

353 (ii) for mobile telecommunications service, the customer's primary place of use.

354 (b) The rate imposed on the gross receipts for telecommunications service described in
355 Subsection (2)(a) shall be the lower of:

356 (i) the rate imposed by the taxing jurisdiction in which the transaction is located under
357 Subsection (1); or

358 (ii) the rate imposed by the municipality in which it is located:

359 (A) for telecommunications service other than mobile telecommunications service, the
360 customer's service address; or

361 (B) for mobile telecommunications service, the customer's primary place of use.

362 Section 6. Section **10-1-408** is amended to read:

363 **10-1-408. Procedure for taxes erroneously recovered from customers.**

364 A customer may not bring a cause of action against a telecommunications provider on
365 the basis that the telecommunications provider erroneously recovered from the customer
366 municipal telecommunications license taxes authorized by this part~~[-(1)]~~ unless the customer
367 ~~[provides the telecommunications provider written notice that:]~~ meets the same requirements
368 that a purchaser is required to meet to bring a cause of action against a seller for a refund or

369 credit as provided in Subsection 59-12-110.1(3).

370 [~~(a) the customer requests a refund of the amounts paid by the customer pursuant to~~
371 ~~Subsection 10-1-403(2); and]~~

372 [~~(b) contains the information necessary to determine the validity of the request~~
373 ~~described in Subsection (1)(a); and]~~

374 [~~(2) before 60 days from the day on which the telecommunications provider receives~~
375 ~~the written notice required by Subsection (1).]~~

376 Section 7. Section **59-1-401** is amended to read:

377 **59-1-401. Offenses and penalties -- Statute of limitations -- Commission authority**
378 **to waive, reduce, or compromise penalty or interest.**

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

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

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

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

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

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

390 (d) failure to pay any tax within 30 days after the date the commission's order
391 constituting final agency action resulting from a timely filed petition for redetermination or
392 request for agency action is issued or is considered to have been denied under Subsection
393 63-46b-13(3)(b); and

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

396 (3) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or
397 quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there
398 shall be added a penalty in an amount determined by applying the interest rate provided under
399 Section 59-1-402 plus four percentage points to the amount of the underpayment for the period

400 of the underpayment.

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

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

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

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

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

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

416 (b) If a return is not filed within the extension time period as provided in Section
417 59-7-505 or 59-10-516, penalties as provided in Subsection (1) and Subsection (2)(b) shall be
418 added in lieu of the penalty assessed under this Subsection (4) as if no extension of time for
419 filing a return had been granted.

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

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

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

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

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

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

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

433 (i) The notice of proposed penalty shall:

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

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

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

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

439 or

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

441 (iii) Any person against whom a penalty has been proposed in accordance with this
442 Subsection (5) may contest the proposed penalty by filing a petition for an adjudicative
443 proceeding with the commission.

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

448 (c) Notwithstanding Subsection (5)(a)(i), a [~~vendor~~] seller that voluntarily collects a
449 tax under Subsection 59-12-107(1)(b) is not subject to the penalty under Subsection (5)(a)(i) if
450 on or after July 1, 2001:

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

453 (A) the [~~vendor~~] seller meets one or more of the criteria described in Subsection
454 59-12-107(1)(a); and

455 (B) the commission or a county, city, or town may require the [~~vendor~~] seller to collect
456 a tax under Subsection 59-12-103(2)(a) or (b); or

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

458 (A) the [~~vendor~~] seller meets one or more of the criteria described in Subsection
459 59-12-107(1)(a); and

460 (B) the commission or a county, city, or town may require the [~~vendor~~] seller to collect
461 a tax under Subsection 59-12-103(2)(a) or (b).

462 (d) Notwithstanding Subsection (5)(a)(ii), a ~~[vendor]~~ seller that voluntarily collects a
463 tax under Subsection 59-12-107(1)(b) is not subject to the penalty under Subsection (5)(a)(ii)
464 if:

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

467 (I) the ~~[vendor]~~ seller meets one or more of the criteria described in Subsection
468 59-12-107(1)(a); and

469 (II) the commission or a county, city, or town may require the ~~[vendor]~~ seller to collect
470 a tax under Subsection 59-12-103(2)(a) or (b); or

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

472 (I) the ~~[vendor]~~ seller meets one or more of the criteria described in Subsection
473 59-12-107(1)(a); and

474 (II) the commission or a county, city, or town may require the ~~[vendor]~~ seller to collect
475 a tax under Subsection 59-12-103(2)(a) or (b); and

476 (ii) the ~~[vendor's]~~ seller's intentional disregard of law or rule is warranted by existing
477 law or by a nonfrivolous argument for the extension, modification, or reversal of existing law
478 or the establishment of new law.

479 (6) ~~[The]~~ Except as provided in Section 59-12-105, the penalty for failure to file an
480 information return, information report, or a complete supporting schedule is \$50 for each
481 information return, information report, or supporting schedule up to a maximum of \$1,000.

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

486 (8) (a) [For monthly payment of sales and use taxes under Section 59-12-108, in
487 addition to any other penalties for late payment, a vendor] A seller that fails to remit a tax, fee,
488 or charge monthly as required by Subsection 59-12-108(1)(a)(i):

489 (i) is subject to the penalties described in Subsection (1); and

490 (ii) may not retain [a] the percentage of sales and use taxes [collected as] that would
491 otherwise be allowable under [Section] Subsection 59-12-108(2).

492 (b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as

493 required by Subsection 59-12-108(1)(a)(ii)(A)(II):

494 (i) is subject to the penalties described in Subsection (1); and

495 (ii) may not retain the percentage of sales and use taxes that would otherwise be
496 allowable under Subsection 59-12-108(2).

497 (9) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as
498 provided in Subsections (9)(b) through (d).

499 (b) (i) Any person who is required by this title or any laws the commission administers
500 or regulates to register with or obtain a license or permit from the commission, who operates
501 without having registered or secured a license or permit, or who operates when the registration,
502 license, or permit is expired or not current, is guilty of a class B misdemeanor.

503 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (9)(b)(i), the fine
504 may not:

505 (A) be less than \$500; or

506 (B) exceed \$1,000.

507 (c) (i) Any person who, with intent to evade any tax or requirement of this title or any
508 lawful requirement of the commission, fails to make, render, sign, or verify any return or to
509 supply any information within the time required by law, or who makes, renders, signs, or
510 verifies any false or fraudulent return or statement, or who supplies any false or fraudulent
511 information, is guilty of a third degree felony.

512 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (9)(c)(i), the fine
513 may not:

514 (A) be less than \$1,000; or

515 (B) exceed \$5,000.

516 (d) (i) Any person who intentionally or willfully attempts to evade or defeat any tax or
517 the payment of a tax is, in addition to other penalties provided by law, guilty of a second degree
518 felony.

519 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (9)(d)(i), the fine
520 may not:

521 (A) be less than \$1,500; or

522 (B) exceed \$25,000.

523 (e) The statute of limitations for prosecution for a violation of this Subsection (9) is the

524 later of six years:

- 525 (i) from the date the tax should have been remitted; or
- 526 (ii) after the day on which the person commits the criminal offense.

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

530 Section 8. Section **59-12-102 (Effective 07/01/04)** is amended to read:

531 **59-12-102 (Effective 07/01/04). Definitions.**

532 As used in this chapter:

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

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

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

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

539 (a) listed under Subsection (4); and

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

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

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

543 (b) Section 59-12-204;

544 (c) Section 59-12-401;

545 (d) Section 59-12-402;

546 (e) Section 59-12-501;

547 (f) Section 59-12-502;

548 (g) Section 59-12-703;

549 (h) Section 59-12-802;

550 (i) Section 59-12-804;

551 (j) Section 59-12-1001;

552 (k) Section 59-12-1102;

553 (l) Section 59-12-1302; [~~or~~]

554 (m) Section 59-12-1402[~~;~~]; or

555 (n) Section 59-12-1503.

556 (5) "Aircraft" is as defined in Section 72-10-102.

557 [~~5~~] (6) "Alcoholic beverage" means a beverage that:

558 (a) is suitable for human consumption; and

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

560 [~~6~~] (7) "Area agency on aging" is as defined in Section 62A-3-101.

561 [~~7~~] (8) "Authorized carrier" means:

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

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

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

569 [~~8~~] (9) "Certified automated system" means software certified by the governing board
570 of the agreement in accordance with Section 59-12-102.1 that:

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

573 (i) on a transaction; and

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

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

577 (c) maintains a record of the transaction described in Subsection [~~8~~] (9)(a)(i).

578 [~~9~~] (10) "Certified service provider" means an agent certified:

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

580 and

581 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
582 use tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's
583 own purchases.

584 [~~10~~] (11) (a) Subject to Subsection [~~10~~] (11)(b), "clothing" means all human
585 wearing apparel suitable for general use.

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

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

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

591 [~~11~~] (12) (a) For purposes of Subsection 59-12-104(42), "coin-operated amusement
592 device" means:

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

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

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

597 (b) For purposes of Subsection 59-12-104(42), "coin-operated amusement device" does
598 not mean a coin-operated amusement device possessing a coinage mechanism that:

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

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

602 [~~12~~] (13) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or
603 other fuels that does not constitute industrial use under Subsection [~~30~~] (31) or residential use
604 under Subsection [~~54~~] (59).

605 [~~13~~] (14) (a) "Common carrier" means a person engaged in or transacting the
606 business of transporting passengers, freight, merchandise, or other property for hire within this
607 state.

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

611 (ii) For purposes of Subsection [~~13~~] (14)(b)(i), in accordance with Title 63, Chapter
612 46a, Utah Administrative Rulemaking Act, the commission may make rules defining what
613 constitutes a person's place of employment.

614 [~~14~~] (15) "Component part" includes:

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

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

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

620 (d) feed, seeds, and seedlings.

621 [~~15~~] (16) "Computer" means an electronic device that accepts information:

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

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

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

625 [~~16~~] (17) "Computer software" means a set of coded instructions designed to cause:

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

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

628 [~~17~~] (18) "Construction materials" means any tangible personal property that will be
629 converted into real property.

630 [~~18~~] (19) "Delivered electronically" means delivered to a purchaser by means other
631 than tangible storage media.

632 [~~19~~] (20) (a) "Delivery charge" means a charge:

633 (i) by a seller of:

634 (A) tangible personal property; or

635 (B) services; and

636 (ii) for preparation and delivery of the tangible personal property or services described
637 in Subsection [~~19~~] (20)(a)(i) to a location designated by the purchaser.

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

639 (i) transportation;

640 (ii) shipping;

641 (iii) postage;

642 (iv) handling;

643 (v) crating; or

644 (vi) packing.

645 [~~20~~] (21) "Dietary supplement" means a product, other than tobacco, that:

646 (a) is intended to supplement the diet;

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

- 648 (i) a vitamin;
- 649 (ii) a mineral;
- 650 (iii) an herb or other botanical;
- 651 (iv) an amino acid;
- 652 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 653 dietary intake; or
- 654 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 655 described in Subsections [~~(20)~~] (21)(b)(i) through (v);
- 656 (c) (i) except as provided in Subsection [~~(20)~~] (21)(c)(ii), is intended for ingestion in:
- 657 (A) tablet form;
- 658 (B) capsule form;
- 659 (C) powder form;
- 660 (D) softgel form;
- 661 (E) gelcap form; or
- 662 (F) liquid form; or
- 663 (ii) notwithstanding Subsection [~~(20)~~] (21)(c)(i), if the product is not intended for
- 664 ingestion in a form described in Subsections [~~(20)~~] (21)(c)(i)(A) through (F), is not
- 665 represented:
- 666 (A) as conventional food; and
- 667 (B) for use as a sole item of:
- 668 (I) a meal; or
- 669 (II) the diet; and
- 670 (d) is required to be labeled as a dietary supplement:
- 671 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 672 (ii) as required by 21 C.F.R. Sec. 101.36.
- 673 [~~(21)~~] (22) (a) "Direct mail" means printed material delivered or distributed by United
- 674 States mail or other delivery service:
- 675 (i) to:
- 676 (A) a mass audience; or
- 677 (B) addressees on a mailing list provided by a purchaser of the mailing list; and
- 678 (ii) if the cost of the printed material is not billed directly to the recipients.

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

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

683 [~~(22)~~] (23) (a) "Drug" means a compound, substance, or preparation, or a component of
684 a compound, substance, or preparation that is:

685 (i) recognized in:

686 (A) the official United States Pharmacopoeia;

687 (B) the official Homeopathic Pharmacopoeia of the United States;

688 (C) the official National Formulary; or

689 (D) a supplement to a publication listed in Subsections [~~(22)~~] (23)(a)(i)(A) through
690 (C);

691 (ii) intended for use in the:

692 (A) diagnosis of disease;

693 (B) cure of disease;

694 (C) mitigation of disease;

695 (D) treatment of disease; or

696 (E) prevention of disease; or

697 (iii) intended to affect:

698 (A) the structure of the body; or

699 (B) any function of the body.

700 (b) "Drug" does not include:

701 (i) food and food ingredients;

702 (ii) a dietary supplement;

703 (iii) an alcoholic beverage; or

704 (iv) a prosthetic device.

705 [~~(23)~~] (24) (a) Except as provided in Subsection [~~(23)~~] (24)(c), "durable medical
706 equipment" means equipment that:

707 (i) can withstand repeated use;

708 (ii) is primarily and customarily used to serve a medical purpose;

709 (iii) generally is not useful to a person in the absence of illness or injury;

- 710 (iv) is not worn in or on the body; ~~and~~
- 711 (v) is listed as eligible for payment under:
- 712 (A) Title XVIII of the federal Social Security Act; or
- 713 (B) the state plan for medical assistance under Title XIX of the federal Social Security
- 714 Act[-]; and
- 715 (vi) is used for home use only.
- 716 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 717 equipment described in Subsection [~~(23)~~] (24)(a).
- 718 (c) Notwithstanding Subsection [~~(23)~~] (24)(a), "durable medical equipment" does not
- 719 include mobility enhancing equipment.
- 720 [~~(24)~~] (25) "Electronic" means:
- 721 (a) relating to technology; and
- 722 (b) having:
- 723 (i) electrical capabilities;
- 724 (ii) digital capabilities;
- 725 (iii) magnetic capabilities;
- 726 (iv) wireless capabilities;
- 727 (v) optical capabilities;
- 728 (vi) electromagnetic capabilities; or
- 729 (vii) capabilities similar to Subsections [~~(24)~~] (25)(b)(i) through (vi).
- 730 [~~(25)~~] (26) (a) "Food and food ingredients" means substances:
- 731 (i) regardless of whether the substances are in:
- 732 (A) liquid form;
- 733 (B) concentrated form;
- 734 (C) solid form;
- 735 (D) frozen form;
- 736 (E) dried form; or
- 737 (F) dehydrated form; and
- 738 (ii) that are:
- 739 (A) sold for:
- 740 (I) ingestion by humans; or

- 741 (II) chewing by humans; and
- 742 (B) consumed for the substance's:
- 743 (I) taste; or
- 744 (II) nutritional value.
- 745 (b) "Food and food ingredients" does not include:
- 746 (i) an alcoholic beverage;
- 747 (ii) tobacco; or
- 748 (iii) prepared food.
- 749 [~~26~~] (27) (a) "Fundraising sales" means sales:
- 750 (i) (A) made by a school; or
- 751 (B) made by a school student;
- 752 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 753 materials, or provide transportation; and
- 754 (iii) that are part of an officially sanctioned school activity.
- 755 (b) For purposes of Subsection [~~26~~] (27)(a)(iii), "officially sanctioned school activity"
- 756 means a school activity:
- 757 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 758 district governing the authorization and supervision of fundraising activities;
- 759 (ii) that does not directly or indirectly compensate an individual teacher or other
- 760 educational personnel by direct payment, commissions, or payment in kind; and
- 761 (iii) the net or gross revenues from which are deposited in a dedicated account
- 762 controlled by the school or school district.
- 763 [~~27~~] (28) "Governing board of the agreement" means the governing board of the
- 764 agreement that is:
- 765 (a) authorized to administer the agreement; and
- 766 (b) established in accordance with the agreement.
- 767 [~~28~~] (29) (a) "Hearing aid" means:
- 768 (i) an instrument or device having an electronic component that is designed to:
- 769 (A) (I) improve impaired human hearing; or
- 770 (II) correct impaired human hearing; and
- 771 (B) (I) be worn in the human ear; or

- 772 (II) affixed behind the human ear;
- 773 (ii) an instrument or device that is surgically implanted into the cochlea; or
- 774 (iii) a telephone amplifying device.
- 775 (b) "Hearing aid" does not include:
- 776 (i) except as provided in Subsection [~~(28)~~] (29)(a)(i)(B) or [~~(28)~~] (29)(a)(ii), an
- 777 instrument or device having an electronic component that is designed to be worn on the body;
- 778 (ii) except as provided in Subsection [~~(28)~~] (29)(a)(iii), an assistive listening device or
- 779 system designed to be used by one individual, including:
- 780 (A) a personal amplifying system;
- 781 (B) a personal FM system;
- 782 (C) a television listening system; or
- 783 (D) a device or system similar to a device or system described in Subsections [~~(28)~~]
- 784 (29)(b)(ii)(A) through (C); or
- 785 (iii) an assistive listening device or system designed to be used by more than one
- 786 individual, including:
- 787 (A) a device or system installed in:
- 788 (I) an auditorium;
- 789 (II) a church;
- 790 (III) a conference room;
- 791 (IV) a synagogue; or
- 792 (V) a theater; or
- 793 (B) a device or system similar to a device or system described in Subsections [~~(28)~~]
- 794 (29)(b)(iii)(A)(I) through (V).
- 795 [~~(29)~~] (30) (a) "Hearing aid accessory" means a hearing aid:
- 796 (i) component;
- 797 (ii) attachment; or
- 798 (iii) accessory.
- 799 (b) "Hearing aid accessory" includes:
- 800 (i) a hearing aid neck loop;
- 801 (ii) a hearing aid cord;
- 802 (iii) a hearing aid ear mold;

- 803 (iv) hearing aid tubing;
- 804 (v) a hearing aid ear hook; or
- 805 (vi) a hearing aid remote control.
- 806 (c) "Hearing aid accessory" does not include:
- 807 (i) a component, attachment, or accessory designed to be used only with an:
- 808 (A) instrument or device described in Subsection [~~(28)~~] (29)(b)(i); or
- 809 (B) assistive listening device or system described in Subsection [~~(28)~~] (29)(b)(ii) or
- 810 (iii); or
- 811 (ii) a hearing aid battery.
- 812 [~~(30)~~] (31) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
- 813 or other fuels:
- 814 (a) in mining or extraction of minerals;
- 815 (b) in agricultural operations to produce an agricultural product up to the time of
- 816 harvest or placing the agricultural product into a storage facility, including:
- 817 (i) commercial greenhouses;
- 818 (ii) irrigation pumps;
- 819 (iii) farm machinery;
- 820 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
- 821 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 822 (v) other farming activities;
- 823 (c) in manufacturing tangible personal property at an establishment described in SIC
- 824 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 825 Executive Office of the President, Office of Management and Budget; or
- 826 (d) by a scrap recycler if:
- 827 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 828 one or more of the following items into prepared grades of processed materials for use in new
- 829 products:
- 830 (A) iron;
- 831 (B) steel;
- 832 (C) nonferrous metal;
- 833 (D) paper;

834 (E) glass;
835 (F) plastic;
836 (G) textile; or
837 (H) rubber; and
838 (ii) the new products under Subsection [~~(30)~~] (31)(d)(i) would otherwise be made with
839 nonrecycled materials.

840 [~~(31)~~] (32) (a) "Lease" or "rental" means a transfer of possession or control of tangible
841 personal property for:

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

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

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

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

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

- 854 (A) that requires the transfer of title upon completion of required payments; and
- 855 (B) in which the payment of an option price does not exceed the greater of:

- 856 (I) \$100; or
- 857 (II) 1% of the total required payments; or

858 (iii) providing tangible personal property along with an operator for a fixed period of
859 time or an indeterminate period of time if the operator is necessary for equipment to perform as
860 designed.

861 (d) For purposes of Subsection [~~(31)~~] (32)(c)(iii), an operator is necessary for
862 equipment to perform as designed if the operator's duties exceed the:

- 863 (i) set-up of tangible personal property;
- 864 (ii) maintenance of tangible personal property; or

865 (iii) inspection of tangible personal property.

866 (33) "Load and leave" means delivery to a purchaser by use of a tangible storage media
867 if the tangible storage media is not physically transferred to the purchaser.

868 [~~(32)~~] (34) "Local taxing jurisdiction" means a:

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

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

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

872 [~~(33)~~] (35) "Manufactured home" [~~means any manufactured home or mobile home~~] is

873 as defined in [Title 58, Chapter 56, Utah Uniform Building Standards Act] Section 58-56-3.

874 [~~(34)~~] (36) For purposes of Subsection 59-12-104(14), "manufacturing facility" means:

875 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard

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

877 Management and Budget; or

878 (b) a scrap recycler if:

879 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process

880 one or more of the following items into prepared grades of processed materials for use in new

881 products:

882 (A) iron;

883 (B) steel;

884 (C) nonferrous metal;

885 (D) paper;

886 (E) glass;

887 (F) plastic;

888 (G) textile; or

889 (H) rubber; and

890 (ii) the new products under Subsection [~~(34)~~] (36)(b)(i) would otherwise be made with

891 nonrecycled materials.

892 (37) "Mobile home" is as defined in Section 58-56-3.

893 [~~(35)~~] (38) "Mobile telecommunications service" is as defined in the Mobile

894 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

895 [~~(36)~~] (39) (a) Except as provided in Subsection [~~(36)~~] (39)(c), "mobility enhancing

896 equipment" means equipment that is:

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

899 (ii) appropriate for use in a:

900 (A) home; or

901 (B) motor vehicle;

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

903 (iv) listed as eligible for payment under:

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

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

907 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
908 the equipment described in Subsection [~~(36)~~] (39)(a).

909 (c) Notwithstanding Subsection [~~(36)~~] (39)(a), "mobility enhancing equipment" does
910 not include:

911 (i) a motor vehicle;

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

914 (iii) durable medical equipment; or

915 (iv) a prosthetic device.

916 [~~(37)~~] (40) "Model 1 seller" means a seller that has selected a certified service provider
917 as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales
918 and use taxes other than the seller's obligation under Section 59-12-107.4 to remit a tax on the
919 seller's own purchases.

920 [~~(38)~~] (41) "Model 2 seller" means a seller that:

921 (a) except as provided in Subsection [~~(38)~~] (41)(b), has selected a certified automated
922 system to perform the seller's sales tax functions for agreement sales and use taxes; and

923 (b) notwithstanding Subsection [~~(38)~~] (41)(a), retains responsibility for remitting all of
924 the sales tax:

925 (i) collected by the seller; and

926 (ii) to the appropriate local taxing jurisdiction.

927 [~~(39)~~] (42) (a) Subject to Subsection [~~(39)~~] (42)(b), "model 3 seller" means a seller that
928 has:

- 929 (i) sales in at least five states that are members of the agreement;
930 (ii) total annual sales revenues of at least \$500,000,000;
931 (iii) a proprietary system that calculates the amount of tax:
932 (A) for an agreement sales and use tax; and
933 (B) due to each local taxing jurisdiction; and
934 (iv) entered into a performance agreement with the governing board of the agreement.

935 (b) For purposes of Subsection [~~(39)~~] (42)(a), "model 3 seller" includes an affiliated
936 group of sellers using the same proprietary system.

937 (43) "Modular home" means a modular unit as defined in Section 58-56-3.

938 (44) "Motor vehicle" is as defined in Section 41-1a-102.

939 [~~(40)~~] (45) (a) "Multi-channel video or audio service provider" means any person or
940 group of persons that:

- 941 (i) provides multi-channel video or audio service and directly or indirectly owns a
942 significant interest in the multi-channel video or audio service; or
943 (ii) otherwise controls or is responsible through any arrangement, the management and
944 operation of the multi-channel video or audio service.

945 (b) "Multi-channel video or audio service provider" includes the following except as
946 specifically exempted by state or federal law:

- 947 (i) a cable operator;
948 (ii) a CATV provider;
949 (iii) a multi-point distribution provider;
950 (iv) a MMDS provider;
951 (v) a SMATV operator;
952 (vi) a direct-to-home satellite service provider; or
953 (vii) a DBS provider.

954 [~~(41)~~] (46) "Olympic merchandise" means tangible personal property bearing an
955 Olympic designation, emblem, insignia, mark, logo, service mark, symbol, terminology,
956 trademark, or other copyrighted or protected material, including:

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

- 958 (i) "Olympic";
- 959 (ii) "Olympiad"; or
- 960 (iii) "Citius Altius Fortius";
- 961 (b) the symbol of the International Olympic Committee, consisting of five interlocking
- 962 rings;
- 963 (c) the emblem of the International Olympic Committee Corporation;
- 964 (d) a United States Olympic Committee designation, emblem, insignia, mark, logo,
- 965 service mark, symbol, terminology, trademark, or other copyrighted or protected material;
- 966 (e) any emblem of the Olympic Winter Games of 2002 that is officially designated by
- 967 the Salt Lake Organizing Committee of the Olympic Winter Games of 2002; or
- 968 (f) the mascot of the Olympic Winter Games of 2002.

969 [~~42~~] (47) (a) "Other fuels" means products that burn independently to produce heat or

970 energy.

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

972 personal property.

973 [~~43~~] (48) "Person" includes any individual, firm, partnership, joint venture,

974 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,

975 city, municipality, district, or other local governmental entity of the state, or any group or

976 combination acting as a unit.

977 [~~44~~] (49) "Place of primary use":

978 (a) for telephone service other than mobile telecommunications service, means the

979 street address representative of where the purchaser's use of the telephone service primarily

980 occurs, which shall be:

- 981 (i) the residential street address of the purchaser; or
- 982 (ii) the primary business street address of the purchaser; or
- 983 (b) for mobile telecommunications service, is as defined in the Mobile
- 984 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

985 [~~45~~] (50) (a) "Prepared food" means:

- 986 (i) food:
- 987 (A) sold in a heated state; or
- 988 (B) heated by a seller;

- 989 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 990 item; or
- 991 (iii) except as provided in Subsection [~~(45)~~] (50)(c), food sold with an eating utensil
- 992 provided by the seller, including a:
- 993 (A) plate;
- 994 (B) knife;
- 995 (C) fork;
- 996 (D) spoon;
- 997 (E) glass;
- 998 (F) cup;
- 999 (G) napkin; or
- 1000 (H) straw.
- 1001 (b) "Prepared food" does not include:
- 1002 (i) food that a seller only:
- 1003 (A) cuts;
- 1004 (B) repackages; or
- 1005 (C) pasteurizes; or
- 1006 (ii) (A) the following:
- 1007 (I) raw egg;
- 1008 (II) raw fish;
- 1009 (III) raw meat;
- 1010 (IV) raw poultry; or
- 1011 (V) a food containing an item described in Subsections [~~(45)~~] (50)(b)(ii)(A)(I) through
- 1012 (IV); and
- 1013 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 1014 Food and Drug Administration's Food Code that a consumer cook the items described in
- 1015 Subsection [~~(45)~~] (50)(b)(ii)(A) to prevent food borne illness.
- 1016 (c) Notwithstanding Subsection [~~(45)~~] (50)(a)(iii), an eating utensil provided by the
- 1017 seller does not include the following used to transport the food:
- 1018 (i) a container; or
- 1019 (ii) packaging.

1020 [~~(46)~~] (51) "Prescription" means an order, formula, or recipe that is issued:

1021 (a) (i) orally;

1022 (ii) in writing;

1023 (iii) electronically; or

1024 (iv) by any other manner of transmission; and

1025 (b) by a licensed practitioner authorized by the laws of a state.

1026 [~~(47)~~] (52) (a) Except as provided in Subsection [~~(47)~~] (52)(b)(ii) or (iii), "prewritten

1027 computer software" means computer software that is not designed and developed:

1028 (i) by the author or other creator of the computer software; and

1029 (ii) to the specifications of a specific purchaser.

1030 (b) "Prewritten computer software" includes:

1031 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer

1032 software is not designed and developed:

1033 (A) by the author or other creator of the computer software; and

1034 (B) to the specifications of a specific purchaser;

1035 (ii) notwithstanding Subsection [~~(47)~~] (52)(a), computer software designed and

1036 developed by the author or other creator of the computer software to the specifications of a

1037 specific purchaser if the computer software is sold to a person other than the purchaser; or

1038 (iii) notwithstanding Subsection [~~(47)~~] (52)(a) and except as provided in Subsection

1039 [~~(47)~~] (52)(c), prewritten computer software or a prewritten portion of prewritten computer

1040 software:

1041 (A) that is modified or enhanced to any degree; and

1042 (B) if the modification or enhancement described in Subsection [~~(47)~~] (52)(b)(iii)(A) is

1043 designed and developed to the specifications of a specific purchaser.

1044 (c) Notwithstanding Subsection [~~(47)~~] (52)(b)(iii), "prewritten computer software"

1045 does not include a modification or enhancement described in Subsection [~~(47)~~] (52)(b)(iii) if

1046 the charges for the modification or enhancement are:

1047 (i) reasonable; and

1048 (ii) separately stated on the invoice or other statement of price provided to the

1049 purchaser.

1050 [~~(48)~~] (53) (a) "Prosthetic device" means a device that is:

- 1051 (i) worn on or in the body to:
- 1052 (A) artificially replace a missing portion of the body;
- 1053 (B) prevent or correct a physical deformity or physical malfunction; or
- 1054 (C) support a weak or deformed portion of the body; and
- 1055 (ii) listed as eligible for payment under:
- 1056 (A) Title XVIII of the federal Social Security Act; or
- 1057 (B) the state plan for medical assistance under Title XIX of the federal Social Security
- 1058 Act.
- 1059 (b) "Prosthetic device" includes:
- 1060 (i) parts used in the repairs or renovation of a prosthetic device; or
- 1061 (ii) replacement parts for a prosthetic device.
- 1062 (c) "Prosthetic device" does not include:
- 1063 (i) corrective eyeglasses;
- 1064 (ii) contact lenses;
- 1065 (iii) hearing aids; or
- 1066 (iv) dental prostheses.
- 1067 [~~49~~] (54) (a) "Protective equipment" means an item:
- 1068 (i) for human wear; and
- 1069 (ii) that is:
- 1070 (A) designed as protection:
- 1071 (I) to the wearer against injury or disease; or
- 1072 (II) against damage or injury of other persons or property; and
- 1073 (B) not suitable for general use.
- 1074 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1075 commission shall make rules:
- 1076 (i) listing the items that constitute "protective equipment"; and
- 1077 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1078 under the agreement.
- 1079 [~~50~~] (55) (a) "Purchase price" and "sales price" mean the total amount of
- 1080 consideration:
- 1081 (i) valued in money; and

- 1082 (ii) for which tangible personal property or services are:
- 1083 (A) sold;
- 1084 (B) leased; or
- 1085 (C) rented.
- 1086 (b) "Purchase price" and "sales price" include:
- 1087 (i) the seller's cost of the tangible personal property or services sold;
- 1088 (ii) expenses of the seller, including:
- 1089 (A) the cost of materials used;
- 1090 (B) a labor cost;
- 1091 (C) a service cost;
- 1092 (D) interest;
- 1093 (E) a loss;
- 1094 (F) the cost of transportation to the seller; or
- 1095 (G) a tax imposed on the seller;
- 1096 (iii) a charge by the seller for any service necessary to complete the sale;
- 1097 (iv) a delivery charge; or
- 1098 (v) an installation charge.
- 1099 (c) "Purchase price" and "sales price" do not include:
- 1100 (i) a discount:
- 1101 (A) in a form including:
- 1102 (I) cash;
- 1103 (II) term; or
- 1104 (III) coupon;
- 1105 (B) that is allowed by a seller;
- 1106 (C) taken by a purchaser on a sale; and
- 1107 (D) that is not reimbursed by a third party; or
- 1108 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 1109 provided to the purchaser:
- 1110 (A) the amount of a trade-in;
- 1111 (B) the following from credit extended on the sale of tangible personal property or
- 1112 services:

- 1113 (I) interest charges;
- 1114 (II) financing charges; or
- 1115 (III) carrying charges; or
- 1116 (C) a tax or fee legally imposed directly on the consumer.
- 1117 [~~(51)~~] (56) "Purchaser" means a person to whom:
- 1118 (a) a sale of tangible personal property is made; or
- 1119 (b) a service is furnished.
- 1120 [~~(52)~~] (57) "Regularly rented" means:
- 1121 (a) rented to a guest for value three or more times during a calendar year; or
- 1122 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1123 value.
- 1124 [~~(53)~~] (58) "Rental" is as defined in Subsection [~~(31)~~] (32).
- 1125 [~~(54)~~] (59) "Residential use" means the use in or around a home, apartment building,
- 1126 sleeping quarters, and similar facilities or accommodations.
- 1127 [~~(55)~~] (60) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
- 1128 other than:
- 1129 (a) resale;
- 1130 (b) sublease; or
- 1131 (c) subrent.
- 1132 [~~(56)~~] (61) (a) "Retailer" means any person engaged in a regularly organized business
- 1133 in tangible personal property or any other taxable transaction under Subsection 59-12-103(1),
- 1134 and who is selling to the user or consumer and not for resale.
- 1135 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
- 1136 engaged in the business of selling to users or consumers within the state.
- 1137 [~~(57)~~] (62) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
- 1138 otherwise, in any manner, of tangible personal property or any other taxable transaction under
- 1139 Subsection 59-12-103(1), for consideration.
- 1140 (b) "Sale" includes:
- 1141 (i) installment and credit sales;
- 1142 (ii) any closed transaction constituting a sale;
- 1143 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this

1144 chapter;

1145 (iv) any transaction if the possession of property is transferred but the seller retains the
1146 title as security for the payment of the price; and

1147 (v) any transaction under which right to possession, operation, or use of any article of
1148 tangible personal property is granted under a lease or contract and the transfer of possession
1149 would be taxable if an outright sale were made.

1150 [~~58~~] (63) "Sale at retail" is as defined in Subsection [~~55~~] (60).

1151 [~~59~~] (64) "Sale-leaseback transaction" means a transaction by which title to tangible
1152 personal property that is subject to a tax under this chapter is transferred:

1153 (a) by a purchaser-lessee;

1154 (b) to a lessor;

1155 (c) for consideration; and

1156 (d) if:

1157 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1158 of the tangible personal property;

1159 (ii) the sale of the tangible personal property to the lessor is intended as a form of
1160 financing:

1161 (A) for the property; and

1162 (B) to the purchaser-lessee; and

1163 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1164 is required to:

1165 (A) capitalize the property for financial reporting purposes; and

1166 (B) account for the lease payments as payments made under a financing arrangement.

1167 [~~60~~] (65) "Sales price" is as defined in Subsection [~~50~~] (55).

1168 [~~61~~] (66) (a) "Sales relating to schools" means the following sales by, amounts paid
1169 to, or amounts charged by a school:

1170 (i) sales that are directly related to the school's educational functions or activities

1171 including:

1172 (A) the sale of:

1173 (I) textbooks;

1174 (II) textbook fees;

- 1175 (III) laboratory fees;
- 1176 (IV) laboratory supplies; or
- 1177 (V) safety equipment;
- 1178 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 1179 that:
- 1180 (I) a student is specifically required to wear as a condition of participation in a
- 1181 school-related event or school-related activity; and
- 1182 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 1183 place of ordinary clothing;
- 1184 (C) sales of the following if the net or gross revenues generated by the sales are
- 1185 deposited into a school district fund or school fund dedicated to school meals:
- 1186 (I) food and food ingredients; or
- 1187 (II) prepared food; or
- 1188 (D) transportation charges for official school activities; or
- 1189 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 1190 event or school-related activity.
- 1191 (b) "Sales relating to schools" does not include:
- 1192 (i) bookstore sales of items that are not educational materials or supplies;
- 1193 (ii) except as provided in Subsection [~~(61)~~] (66)(a)(i)(B):
- 1194 (A) clothing;
- 1195 (B) clothing accessories or equipment;
- 1196 (C) protective equipment; or
- 1197 (D) sports or recreational equipment; or
- 1198 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1199 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1200 (A) other than a:
- 1201 (I) school;
- 1202 (II) nonprofit organization authorized by a school board or a governing body of a
- 1203 private school to organize and direct a competitive secondary school activity; or
- 1204 (III) nonprofit association authorized by a school board or a governing body of a
- 1205 private school to organize and direct a competitive secondary school activity; and

- 1206 (B) that is required to collect sales and use taxes under this chapter.
- 1207 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1208 commission may make rules defining the term "passed through."
- 1209 [~~62~~] (67) For purposes of this section and Section 59-12-104, "school" means:
- 1210 (a) an elementary school or a secondary school that:
- 1211 (i) is a:
- 1212 (A) public school; or
- 1213 (B) private school; and
- 1214 (ii) provides instruction for one or more grades kindergarten through 12; or
- 1215 (b) a public school district.
- 1216 [~~63~~] (68) "Seller" means a person that makes a sale, lease, or rental of:
- 1217 (a) tangible personal property; or
- 1218 (b) a service.
- 1219 [~~64~~] (69) (a) "Semiconductor fabricating or processing materials" means tangible
- 1220 personal property:
- 1221 (i) used primarily in the process of:
- 1222 (A) (I) manufacturing a semiconductor; or
- 1223 (II) fabricating a semiconductor; or
- 1224 (B) maintaining an environment suitable for a semiconductor; or
- 1225 (ii) consumed primarily in the process of:
- 1226 (A) (I) manufacturing a semiconductor; or
- 1227 (II) fabricating a semiconductor; or
- 1228 (B) maintaining an environment suitable for a semiconductor.
- 1229 (b) "Semiconductor fabricating or processing materials" includes:
- 1230 (i) parts used in the repairs or renovations of tangible personal property described in
- 1231 Subsection [~~64~~] (69)(a); or
- 1232 (ii) a chemical, catalyst, or other material used to:
- 1233 (A) produce or induce in a semiconductor a:
- 1234 (I) chemical change; or
- 1235 (II) physical change;
- 1236 (B) remove impurities from a semiconductor; or

- 1237 (C) improve the marketable condition of a semiconductor.
- 1238 [~~(65)~~] (70) "Senior citizen center" means a facility having the primary purpose of
- 1239 providing services to the aged as defined in Section 62A-3-101.
- 1240 (71) "Simplified electronic return" means the electronic return:
- 1241 (a) described in Section 318(C) of the agreement; and
- 1242 (b) approved by the governing board of the agreement.
- 1243 [~~(66)~~] (72) (a) "Sports or recreational equipment" means an item:
- 1244 (i) designed for human use; and
- 1245 (ii) that is:
- 1246 (A) worn in conjunction with:
- 1247 (I) an athletic activity; or
- 1248 (II) a recreational activity; and
- 1249 (B) not suitable for general use.
- 1250 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1251 commission shall make rules:
- 1252 (i) listing the items that constitute "sports or recreational equipment"; and
- 1253 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1254 equipment" under the agreement.
- 1255 [~~(67)~~] (73) "State" means the state of Utah, its departments, and agencies.
- 1256 [~~(68)~~] (74) "Storage" means any keeping or retention of tangible personal property or
- 1257 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
- 1258 except sale in the regular course of business.
- 1259 [~~(69)~~] (75) (a) "Tangible personal property" means personal property that:
- 1260 (i) may be:
- 1261 (A) seen;
- 1262 (B) weighed;
- 1263 (C) measured;
- 1264 (D) felt; or
- 1265 (E) touched; or
- 1266 (ii) is in any manner perceptible to the senses.
- 1267 (b) "Tangible personal property" includes:

- 1268 (i) electricity;
- 1269 (ii) water;
- 1270 (iii) gas;
- 1271 (iv) steam; or
- 1272 (v) prewritten computer software.
- 1273 [~~(70)~~] (76) (a) "Telephone service" means a two-way transmission:
- 1274 (i) by:
- 1275 (A) wire;
- 1276 (B) radio;
- 1277 (C) lightwave; or
- 1278 (D) other electromagnetic means; and
- 1279 (ii) of one or more of the following:
- 1280 (A) a sign;
- 1281 (B) a signal;
- 1282 (C) writing;
- 1283 (D) an image;
- 1284 (E) sound;
- 1285 (F) a message;
- 1286 (G) data; or
- 1287 (H) other information of any nature.
- 1288 (b) "Telephone service" includes:
- 1289 (i) mobile telecommunications service;
- 1290 (ii) private communications service; or
- 1291 (iii) automated digital telephone answering service.
- 1292 (c) "Telephone service" does not include a service or a transaction that a state or a
- 1293 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
- 1294 Tax Freedom Act, Pub. L. No. 105-277.
- 1295 [~~(74)~~] (77) Notwithstanding where a call is billed or paid, "telephone service address"
- 1296 means:
- 1297 (a) if the location described in this Subsection [~~(74)~~] (77)(a) is known, the location of
- 1298 the telephone service equipment:

- 1299 (i) to which a call is charged; and
- 1300 (ii) from which the call originates or terminates;
- 1301 (b) if the location described in Subsection ~~[(71)]~~ (77)(a) is not known but the location
- 1302 described in this Subsection ~~[(71)]~~ (77)(b) is known, the location of the origination point of the
- 1303 signal of the telephone service first identified by:
- 1304 (i) the telecommunications system of the seller; or
- 1305 (ii) if the system used to transport the signal is not that of the seller, information
- 1306 received by the seller from its service provider; or
- 1307 (c) if the locations described in Subsection ~~[(71)]~~ (77)(a) or (b) are not known, the
- 1308 location of a purchaser's primary place of use.
- 1309 ~~[(72)]~~ (78) (a) "Telephone service provider" means a person that:
- 1310 (i) owns, controls, operates, or manages a telephone service; and
- 1311 (ii) engages in an activity described in Subsection ~~[(72)]~~ (78)(a)(i) for the shared use
- 1312 with or resale to any person of the telephone service.
- 1313 (b) A person described in Subsection ~~[(72)]~~ (78)(a) is a telephone service provider
- 1314 whether or not the Public Service Commission of Utah regulates:
- 1315 (i) that person; or
- 1316 (ii) the telephone service that the person owns, controls, operates, or manages.
- 1317 ~~[(73)]~~ (79) "Tobacco" means:
- 1318 (a) a cigarette;
- 1319 (b) a cigar;
- 1320 (c) chewing tobacco;
- 1321 (d) pipe tobacco; or
- 1322 (e) any other item that contains tobacco.
- 1323 ~~[(74)]~~ (80) (a) "Use" means the exercise of any right or power over tangible personal
- 1324 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that
- 1325 property, item, or service.
- 1326 (b) "Use" does not include the sale, display, demonstration, or trial of that property in
- 1327 the regular course of business and held for resale.
- 1328 ~~[(75)] "Vehicle" means any~~
- 1329 (81) (a) Subject to Subsection (81)(b), "vehicle" means the following that are required

1330 to be titled, registered, or titled and registered:

1331 (i) an aircraft[;] as defined in Section 72-10-102; [~~any~~]

1332 (ii) a vehicle[;] as defined in Section 41-1a-102; [~~any~~]

1333 (iii) an off-highway vehicle[;] as defined in Section 41-22-2; [~~and any~~] or

1334 (iv) a vessel[;] as defined in Section 41-1a-102[; ~~that is required to be titled, registered,~~
1335 ~~or both. "Vehicle," for~~].

1336 (b) For purposes of Subsection 59-12-104(35) only, [~~also~~] "vehicle" includes [~~any~~]:

1337 (i) a vehicle described in Subsection (81)(a); or

1338 (ii) (A) a locomotive[;];

1339 (B) a freight car[;];

1340 (C) a railroad work equipment[;]; or

1341 (D) other railroad rolling stock.

1342 [~~(76)~~] (82) "Vehicle dealer" means a person engaged in the business of buying, selling,
1343 or exchanging [~~vehicles~~] a vehicle as defined in Subsection [~~(75)~~] (81).

1344 (83) "Watercraft" means a vessel as defined in Section 73-18-2.

1345 (84) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
1346 location by the United States Postal Service.

1347 Section 9. Section **59-12-103 (Effective 07/01/04)** is amended to read:

1348 **59-12-103 (Effective 07/01/04). Sales and use tax base -- Rates -- Effective dates --**
1349 **Use of sales and use tax revenues.**

1350 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
1351 charged for the following transactions:

1352 (a) retail sales of tangible personal property made within the state;

1353 (b) amounts paid:

1354 (i) (A) to a common carrier; or

1355 (B) whether the following are municipally or privately owned, to a:

1356 (I) telephone service provider; or

1357 (II) telegraph corporation as defined in Section 54-2-1; and

1358 (ii) for:

1359 (A) all transportation;

1360 (B) telephone service, other than mobile telecommunications service, that originates

- 1361 and terminates within the boundaries of this state;
- 1362 (C) mobile telecommunications service that originates and terminates within the
- 1363 boundaries of one state only to the extent permitted by the Mobile Telecommunications
- 1364 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
- 1365 (D) telegraph service;
- 1366 (c) sales of the following for commercial use:
- 1367 (i) gas;
- 1368 (ii) electricity;
- 1369 (iii) heat;
- 1370 (iv) coal;
- 1371 (v) fuel oil; or
- 1372 (vi) other fuels;
- 1373 (d) sales of the following for residential use:
- 1374 (i) gas;
- 1375 (ii) electricity;
- 1376 (iii) heat;
- 1377 (iv) coal;
- 1378 (v) fuel oil; or
- 1379 (vi) other fuels;
- 1380 (e) sales of prepared food;
- 1381 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 1382 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 1383 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 1384 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 1385 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 1386 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 1387 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 1388 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 1389 exhibition, cultural, or athletic activity;
- 1390 (g) amounts paid or charged for services:
- 1391 (i) for repairs or renovations of tangible personal property, unless Section 59-12-104

1392 provides for an exemption from sales and use tax for:

1393 (A) the tangible personal property; and

1394 (B) parts used in the repairs or renovations of the tangible personal property described

1395 in Subsection (1)(g)(i)(A), whether or not any parts are actually used in the repairs or

1396 renovations of that tangible personal property; or

1397 (ii) to install tangible personal property in connection with other tangible personal

1398 property, unless the tangible personal property being installed is exempt from sales and use tax

1399 under Section 59-12-104;

1400 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for

1401 cleaning or washing of tangible personal property;

1402 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court

1403 accommodations and services that are regularly rented for less than 30 consecutive days;

1404 (j) amounts paid or charged for laundry or dry cleaning services;

1405 (k) amounts paid or charged for leases or rentals of tangible personal property if:

1406 (i) the tangible personal property's situs is in this state;

1407 (ii) the lessee took possession of the tangible personal property in this state; or

1408 (iii) within this state the tangible personal property is:

1409 (A) stored;

1410 (B) used; or

1411 (C) otherwise consumed;

1412 (l) amounts paid or charged for tangible personal property if within this state the

1413 tangible personal property is:

1414 (i) stored;

1415 (ii) used; or

1416 (iii) consumed;

1417 (m) amounts paid or charged for prepaid telephone calling cards; and

1418 (n) amounts paid or charged for multi-channel video or audio service provided by a

1419 multi-channel video or audio service provider:

1420 (i) within the state; and

1421 (ii) to the extent permitted by federal law.

1422 (2) (a) Except as provided in Subsection (2)(b), beginning on July 1, 2001, a state tax

1423 and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

1424 (i) a state tax imposed on the transaction at a rate of 4.75%; and

1425 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1426 transaction under this chapter other than this part.

1427 (b) Notwithstanding Subsection (2)(a), beginning on July 1, 2001, a state tax and a
1428 local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

1429 (i) a state tax imposed on the transaction at a rate of 2%; and

1430 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1431 transaction under this chapter other than this part.

1432 (c) Subject to Subsections (2)(d) and (e), a tax rate change for a tax rate imposed under
1433 the following shall take effect on the first day of a calendar quarter:

1434 (i) Subsection (2)(a)(i); or

1435 (ii) Subsection (2)(b)(i).

1436 (d) (i) For a transaction described in Subsection (2)(d)(iii), a tax rate increase shall take
1437 effect on the first day of the first billing period:

1438 (A) that begins after the effective date of the tax rate increase; and

1439 (B) if the billing period for the transaction begins before the effective date of a tax rate
1440 increase imposed under:

1441 (I) Subsection (2)(a)(i); or

1442 (II) Subsection (2)(b)(i).

1443 (ii) For a transaction described in Subsection (2)(d)(iii), a tax rate decrease shall take
1444 effect on the first day of the last billing period:

1445 (A) that began before the effective date of the tax rate decrease; and

1446 (B) if the billing period for the transaction begins before the effective date of a tax rate
1447 decrease imposed under:

1448 (I) Subsection (2)(a)(i); or

1449 (II) Subsection (2)(b)(i).

1450 (iii) Subsections (2)(d)(i) and (ii) apply to transactions subject to a tax under:

1451 (A) Subsection (1)(b);

1452 (B) Subsection (1)(c);

1453 (C) Subsection (1)(d);

- 1454 (D) Subsection (1)(e);
- 1455 (E) Subsection (1)(f);
- 1456 (F) Subsection (1)(g);
- 1457 (G) Subsection (1)(h);
- 1458 (H) Subsection (1)(i);
- 1459 (I) Subsection (1)(j); or
- 1460 (J) Subsection (1)(k).

1461 (e) (i) If a tax due under Subsection (2)(a)(i) on a catalogue sale is computed on the
 1462 basis of sales and use tax rates published in the catalogue, a change in a tax rate imposed under
 1463 Subsection (2)(a)(i) takes effect:

- 1464 (A) on the first day of a calendar quarter; and
- 1465 (B) beginning 60 days after the effective date of the tax rate change under Subsection
 1466 (2)(a)(i).

1467 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
 1468 the commission may by rule define the term "catalogue sale."

1469 (3) (a) Except as provided in Subsections (4) through (7) [~~and (9)~~], the following state
 1470 taxes shall be deposited into the General Fund:

- 1471 (i) the tax imposed by Subsection (2)(a)(i); or
- 1472 (ii) the tax imposed by Subsection (2)(b)(i).
- 1473 (b) The local taxes described in Subsections (2)(a)(ii) and (2)(b)(ii) shall be distributed
 1474 to a county, city, or town as provided in this chapter.

1475 [~~(4) (a) (i) Notwithstanding Subsection (3)(a) and except as provided in Subsection (9),~~
 1476 ~~for fiscal year 2002-03 only, the lesser of the following amounts shall be transferred or~~
 1477 ~~deposited as provided in Subsections (4)(a)(ii) through (vii):]~~

- 1478 [~~(A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:]~~
- 1479 [~~(F) by a 1/16% tax rate on the transactions described in Subsection (1); and]~~
- 1480 [~~(H) for fiscal year 2002-03; or]~~
- 1481 [~~(B) \$18,743,000.]~~

1482 [(ii) (A) For fiscal year 2002-03 only, \$2,300,000 of the amount described in
 1483 Subsection (4)(a)(i) shall be transferred as dedicated credits to the Department of Natural
 1484 Resources to:]

1485 ~~[(I) implement the measures described in Subsections 63-34-14(4)(a) through (d) to~~
1486 ~~protect sensitive plant and animal species; or]~~

1487 ~~[(H) award grants, up to the amount authorized by the Legislature in an appropriations~~
1488 ~~act, to political subdivisions of the state to implement the measures described in Subsections~~
1489 ~~63-34-14(4)(a) through (d) to protect sensitive plant and animal species.]~~

1490 ~~[(B) Money transferred to the Department of Natural Resources under Subsection~~
1491 ~~(4)(a)(ii)(A) may not be used to assist the United States Fish and Wildlife Service or any other~~
1492 ~~person to list or attempt to have listed a species as threatened or endangered under the~~
1493 ~~Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.]~~

1494 ~~[(C) At the end of fiscal year 2002-03:]~~

1495 ~~[(I) 50% of any unexpended dedicated credits shall lapse to the Water Resources~~
1496 ~~Conservation and Development Fund created in Section 73-10-24;]~~

1497 ~~[(H) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan~~
1498 ~~Program Subaccount created in Section 73-10c-5; and]~~

1499 ~~[(H) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan~~
1500 ~~Program Subaccount created in Section 73-10c-5.]~~

1501 ~~[(iii) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection~~
1502 ~~(4)(a)(i) shall be deposited in the Agriculture Resource Development Fund created in Section~~
1503 ~~4-18-6.]~~

1504 ~~[(iv) (A) For fiscal year 2002-03 only, \$100,000 of the amount described in Subsection~~
1505 ~~(4)(a)(i) shall be transferred as dedicated credits to the Division of Water Rights to cover the~~
1506 ~~costs incurred in hiring legal and technical staff for the adjudication of water rights.]~~

1507 ~~[(B) At the end of fiscal year 2002-03:]~~

1508 ~~[(I) 50% of any unexpended dedicated credits shall lapse to the Water Resources~~
1509 ~~Conservation and Development Fund created in Section 73-10-24;]~~

1510 ~~[(H) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan~~
1511 ~~Program Subaccount created in Section 73-10c-5; and]~~

1512 ~~[(H) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan~~
1513 ~~Program Subaccount created in Section 73-10c-5.]~~

1514 ~~[(v) (A) For fiscal year 2002-03 only, 50% of the amount described in Subsection~~
1515 ~~(4)(a)(i) that remains after making the transfers and deposits required by Subsections (4)(a)(ii)~~

1516 through (iv) shall be deposited in the Water Resources Conservation and Development Fund
1517 created in Section 73-10-24 for use by the Division of Water Resources.]

1518 [~~(B)~~ In addition to the uses allowed of the Water Resources Conservation and
1519 Development Fund under Section 73-10-24, the Water Resources Conservation and
1520 Development Fund may also be used to:]

1521 [~~(f)~~ provide a portion of the local cost share, not to exceed in fiscal year 2002-03 50%
1522 of the funds made available to the Division of Water Resources under this section, of potential
1523 project features of the Central Utah Project;]

1524 [~~(H)~~ conduct hydrologic and geotechnical investigations by the Department of Natural
1525 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
1526 quantifying surface and ground water resources and describing the hydrologic systems of an
1527 area in sufficient detail so as to enable local and state resource managers to plan for and
1528 accommodate growth in water use without jeopardizing the resource;]

1529 [~~(HH)~~ fund state required dam safety improvements; and]

1530 [~~(IV)~~ protect the state's interest in interstate water compact allocations, including the
1531 hiring of technical and legal staff.]

1532 [~~(vi)~~ For fiscal year 2002-03 only, 25% of the amount described in Subsection (4)(a)(i)
1533 that remains after making the transfers and deposits required by Subsections (4)(a)(ii) through
1534 (iv) shall be deposited in the Utah Wastewater Loan Program Subaccount created in Section
1535 73-10c-5 for use by the Water Quality Board to fund wastewater projects.]

1536 [~~(vii)~~ For fiscal year 2002-03 only, 25% of the amount described in Subsection (4)(a)(i)
1537 that remains after making the transfers and deposits required by Subsections (4)(a)(ii) through
1538 (iv) shall be deposited in the Drinking Water Loan Program Subaccount created in Section
1539 73-10c-5 for use by the Division of Drinking Water to:]

1540 [~~(A)~~ provide for the installation and repair of collection, treatment, storage, and
1541 distribution facilities for any public water system, as defined in Section 19-4-102;]

1542 [~~(B)~~ develop underground sources of water, including springs and wells; and]

1543 [~~(C)~~ develop surface water sources.]

1544 [~~(b)(i)~~ (4)(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or
1545 after July 1, 2003, the lesser of the following amounts shall be used as provided in Subsections
1546 (4)(b)~~(ii)~~ through ~~(vii)~~ (g):

1547 ~~[(A)]~~ (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
1548 ~~[(F)]~~ (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
1549 ~~[(H)]~~ (B) for the fiscal year; or
1550 ~~[(B)]~~ (ii) \$17,500,000.
1551 ~~[(ii)-(A)]~~ (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
1552 described in Subsection (4)~~[(b)(i)]~~(a) shall be transferred each year as dedicated credits to the
1553 Department of Natural Resources to:
1554 ~~[(F)]~~ (A) implement the measures described in Subsections 63-34-14(4)(a) through (d)
1555 to protect sensitive plant and animal species; or
1556 ~~[(H)]~~ (B) award grants, up to the amount authorized by the Legislature in an
1557 appropriations act, to political subdivisions of the state to implement the measures described in
1558 Subsections 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.
1559 ~~[(B)]~~ (ii) Money transferred to the Department of Natural Resources under Subsection
1560 (4)(b)~~[(ii)-(A)]~~(i) may not be used to assist the United States Fish and Wildlife Service or any
1561 other person to list or attempt to have listed a species as threatened or endangered under the
1562 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.
1563 ~~[(C)]~~ (iii) At the end of each fiscal year:
1564 ~~[(F)]~~ (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1565 Conservation and Development Fund created in Section 73-10-24;
1566 ~~[(H)]~~ (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater
1567 Loan Program Subaccount created in Section 73-10c-5; and
1568 ~~[(H)]~~ (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water
1569 Loan Program Subaccount created in Section 73-10c-5.
1570 ~~[(iii)]~~ (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount
1571 described in Subsection (4)(b)(i) shall be deposited each year in the Agriculture Resource
1572 Development Fund created in Section 4-18-6.
1573 ~~[(iv)-(A)]~~ (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount
1574 described in Subsection (4)~~[(b)(i)]~~(a) shall be transferred each year as dedicated credits to the
1575 Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the
1576 adjudication of water rights.
1577 ~~[(B)]~~ (ii) At the end of each fiscal year:

1578 [~~(F)~~] (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1579 Conservation and Development Fund created in Section 73-10-24;

1580 [~~(H)~~] (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater
1581 Loan Program Subaccount created in Section 73-10c-5; and

1582 [~~(HH)~~] (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water
1583 Loan Program Subaccount created in Section 73-10c-5.

1584 [~~(v)~~-(A)] (e)(i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount
1585 described in Subsection (4)[~~(b)~~-(i)](a) shall be deposited in the Water Resources Conservation
1586 and Development Fund created in Section 73-10-24 for use by the Division of Water
1587 Resources.

1588 [~~(B)~~] (ii) In addition to the uses allowed of the Water Resources Conservation and
1589 Development Fund under Section 73-10-24, the Water Resources Conservation and
1590 Development Fund may also be used to:

1591 [~~(F)~~] (A) provide a portion of the local cost share, not to exceed in any fiscal year 50%
1592 of the funds made available to the Division of Water Resources under this section, of potential
1593 project features of the Central Utah Project;

1594 [~~(H)~~] (B) conduct hydrologic and geotechnical investigations by the Department of
1595 Natural Resources in a cooperative effort with other state, federal, or local entities, for the
1596 purpose of quantifying surface and ground water resources and describing the hydrologic
1597 systems of an area in sufficient detail so as to enable local and state resource managers to plan
1598 for and accommodate growth in water use without jeopardizing the resource;

1599 [~~(HH)~~] (C) fund state required dam safety improvements; and

1600 [~~(IV)~~] (D) protect the state's interest in interstate water compact allocations, including
1601 the hiring of technical and legal staff.

1602 [~~(vi)~~] (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount
1603 described in Subsection (4)[~~(b)~~-(i)](a) shall be deposited in the Utah Wastewater Loan Program
1604 Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater
1605 projects.

1606 [~~(vii)~~] (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount
1607 described in Subsection (4)[~~(b)~~-(i)](a) shall be deposited in the Drinking Water Loan Program
1608 Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

1609 ~~[(A)]~~ (i) provide for the installation and repair of collection, treatment, storage, and
1610 distribution facilities for any public water system, as defined in Section 19-4-102;

1611 ~~[(B)]~~ (ii) develop underground sources of water, including springs and wells; and

1612 ~~[(C)]~~ (iii) develop surface water sources.

1613 ~~[(5)(a)(i) Notwithstanding Subsection (3)(a), for fiscal year 2002-03 only, the lesser~~
1614 ~~of the following amounts shall be transferred or deposited as provided in Subsections (5)(a)(ii)~~
1615 ~~through (iv):]~~

1616 ~~[(A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:]~~
1617 ~~[(F) by a 1/16% tax rate on the transactions described in Subsection (1); and]~~
1618 ~~[(H) for the fiscal year; or]~~

1619 ~~[(B) \$18,743,000.]~~

1620 ~~[(ii) (A) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection~~
1621 ~~(5)(a)(i) shall be deposited in the Transportation Corridor Preservation Revolving Loan Fund~~
1622 ~~created in Section 72-2-117.]~~

1623 ~~[(B) At least 50% of the money deposited in the Transportation Corridor Preservation~~
1624 ~~Revolving Loan Fund under Subsection (5)(a)(ii)(A) shall be used to fund loan applications~~
1625 ~~made by the Department of Transportation at the request of local governments.]~~

1626 ~~[(iii) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection~~
1627 ~~(5)(a)(i) shall be transferred as nonlapsing dedicated credits to the Department of~~
1628 ~~Transportation for the State Park Access Highways Improvement Program created in Section~~
1629 ~~72-3-207.]~~

1630 ~~[(iv) For fiscal year 2002-03 only, the amount described in Subsection (5)(a)(i) that~~
1631 ~~remains after making the transfers and deposits required by Subsections (5)(a)(ii) and (iii) shall~~
1632 ~~be deposited in the class B and class C roads account to be expended as provided in Title 72,~~
1633 ~~Chapter 2, Transportation Finances Act, for the use of class B and C roads.]~~

1634 ~~[(b)(i)]~~ (5)(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or
1635 after July 1, 2003, the lesser of the following amounts shall be used as provided in Subsections
1636 ~~(5)(b)[(ii)]~~ through ~~[(iv)]~~ (d):

1637 ~~[(A)]~~ (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
1638 ~~[(F)]~~ (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
1639 ~~[(H)]~~ (B) for the fiscal year; or

1640 ~~[(B)]~~ (ii) \$18,743,000.

1641 ~~[(ii)(A)]~~ (b) (i) For a fiscal year beginning on or after July 1, 2003, 3% of the amount
1642 described in Subsection (5)~~[(b)(i)]~~(a) shall be deposited each year in the Transportation
1643 Corridor Preservation Revolving Loan Fund created in Section 72-2-117.

1644 ~~[(B)]~~ (ii) At least 50% of the money deposited in the Transportation Corridor
1645 Preservation Revolving Loan Fund under Subsection (5)(b)~~[(ii)(A)]~~(i) shall be used to fund
1646 loan applications made by the Department of Transportation at the request of local
1647 governments.

1648 ~~[(iii)]~~ (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount
1649 described in Subsection (5)~~[(b)(i)]~~(a) shall be transferred each year as nonlapsing dedicated
1650 credits to the Department of Transportation for the State Park Access Highways Improvement
1651 Program created in Section 72-3-207.

1652 ~~[(iv)]~~ (d) For a fiscal year beginning on or after July 1, 2003, 94% of the amount
1653 described in Subsection (5)~~[(b)(i)]~~(a) shall be deposited in the class B and class C roads
1654 account to be expended as provided in Title 72, Chapter 2, Transportation Finances Act, for the
1655 use of class B and C roads.

1656 (6) Notwithstanding Subsection (3)(a), beginning on January 1, 2000, the Division of
1657 Finance shall deposit into the Centennial Highway Fund created in Section 72-2-118 a portion
1658 of the taxes listed under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate
1659 on the taxable transactions under Subsection (1).

1660 ~~[(7) Notwithstanding Subsection (3)(a), beginning on July 1, 1999, the commission
1661 shall deposit into the Airport to University of Utah Light Rail Restricted Account created in
1662 Section 17A-2-1064 the portion of the sales and use tax under Section 59-12-204 that is:]~~

1663 ~~[(a) generated by a city or town that will have constructed within its boundaries the
1664 Airport to University of Utah Light Rail described in the Transportation Equity Act for the 21st
1665 Century, Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and]~~

1666 ~~[(b) equal to the revenues generated by a 1/64% tax rate on the taxable items and
1667 services under Subsection (1):]~~

1668 ~~[(8) (a) For purposes of amounts paid or charged as admission or user fees relating to
1669 the Olympic Winter Games of 2002, the amounts are considered to be paid or charged on the
1670 day on which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 or a~~

1671 person designated by the Salt Lake Organizing Committee for the Olympic Winter Games of
1672 2002 sends a purchaser confirmation of the purchase of an admission or user fee described in
1673 Subsection (1)(f).]

1674 ~~[(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~
1675 ~~the commission shall make rules defining what constitutes sending a purchaser confirmation~~
1676 ~~under Subsection (8)(a).]~~

1677 ~~[(9) (a) For fiscal year 2002-03 only, the following amounts shall be subtracted from~~
1678 ~~the total amount required to be deposited or transferred in accordance with Subsection (4):]~~

1679 ~~[(i) \$25,000 shall be subtracted from the total amount required to be transferred to the~~
1680 ~~Division of Water Rights in accordance with Subsection (4)(a)(iv);]~~

1681 ~~[(ii) \$385,000 shall be subtracted from the total amount required to be deposited into~~
1682 ~~the Agriculture Resource Development Fund in accordance with Subsection (4)(a)(iii);]~~

1683 ~~[(iii) \$350,000 shall be subtracted from the total amount required to be transferred to~~
1684 ~~the Department of Natural Resources in accordance with Subsection (4)(a)(ii);]~~

1685 ~~[(iv) \$3,012,500 shall be subtracted from the total amount required to be deposited into~~
1686 ~~the Drinking Water Loan Program Subaccount in accordance with Subsection (4)(a)(vii);]~~

1687 ~~[(v) \$3,012,500 shall be subtracted from the total amount required to be deposited into~~
1688 ~~the Utah Wastewater Loan Program Subaccount in accordance with Subsection (4)(a)(vi); and]~~

1689 ~~[(vi) \$5,715,000 shall be subtracted from the total amount required to be deposited into~~
1690 ~~the Water Resources Conservation and Development Fund in accordance with Subsection~~
1691 ~~(4)(a)(v).]~~

1692 ~~[(b) The amounts subtracted under Subsection (9)(a) shall be deposited into the~~
1693 ~~General Fund.]~~

1694 (7) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal
1695 year 2003-04, the commission shall each year on or before the September 30 immediately
1696 following the last day of the fiscal year deposit the difference described in Subsection (7)(b)
1697 into the Remote Sales Restricted Account created in Section 59-12-103.2 if that difference is
1698 greater than \$0.

1699 (b) The difference described in Subsection (7)(a) is equal to the difference between:

1700 (i) the total amount of the following revenues the commission received from sellers
1701 collecting a tax in accordance with Subsection 59-12-107(1)(b) for the fiscal year immediately

1702 preceding the September 30 described in Subsection (7)(a):

1703 (A) revenues under Subsection (2)(a)(i); and

1704 (B) revenues under Subsection (2)(b)(i); and

1705 (ii) \$7,279,673.

1706 Section 10. Section **59-12-103.2 (Effective 07/01/04)** is amended to read:

1707 **59-12-103.2 (Effective 07/01/04). Remote Sales Restricted Account -- Creation.**

1708 (1) There is created within the General Fund a restricted account known as the
1709 "Remote Sales Restricted Account."

1710 [~~(2) On or before December 1, 2004, the Division of Finance shall deposit any~~
1711 ~~revenues in the Remote Sales Restricted Account into the General Fund.]~~

1712 (2) The account shall be funded from the portion of the sales and use tax deposited by
1713 the commission as provided in Section 59-12-103.

1714 (3) (a) The account shall earn interest.

1715 (b) The interest described in Subsection (3)(a) shall be deposited into the account.

1716 Section 11. Section **59-12-104 (Effective 07/01/04)** is amended to read:

1717 **59-12-104 (Effective 07/01/04). Exemptions.**

1718 The following sales and uses are exempt from the taxes imposed by this chapter:

1719 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
1720 under Chapter 13, Motor and Special Fuel Tax Act;

1721 (2) sales to the state, its institutions, and its political subdivisions; however, this
1722 exemption does not apply to sales of:

1723 (a) construction materials except:

1724 (i) construction materials purchased by or on behalf of institutions of the public
1725 education system as defined in Utah Constitution Article X, Section 2, provided the
1726 construction materials are clearly identified and segregated and installed or converted to real
1727 property which is owned by institutions of the public education system; and

1728 (ii) construction materials purchased by the state, its institutions, or its political
1729 subdivisions which are installed or converted to real property by employees of the state, its
1730 institutions, or its political subdivisions; or

1731 (b) tangible personal property in connection with the construction, operation,
1732 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities

1733 providing additional project capacity, as defined in Section 11-13-103;

1734 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

1735 (i) the proceeds of each sale do not exceed \$1; and

1736 (ii) the seller or operator of the vending machine reports an amount equal to 150% of

1737 the cost of the item described in Subsection (3)(a) as goods consumed; and

1738 (b) Subsection (3)(a) applies to:

1739 (i) food and food ingredients; or

1740 (ii) prepared food;

1741 (4) sales of the following to a commercial airline carrier for in-flight consumption:

1742 (a) food and food ingredients;

1743 (b) prepared food; or

1744 (c) services related to Subsection (4)(a) or (b);

1745 (5) sales of parts and equipment for installation in aircraft operated by common carriers

1746 in interstate or foreign commerce;

1747 (6) sales of commercials, motion picture films, prerecorded audio program tapes or

1748 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture

1749 exhibitor, distributor, or commercial television or radio broadcaster;

1750 (7) sales of cleaning or washing of tangible personal property by a coin-operated

1751 laundry or dry cleaning machine;

1752 (8) (a) except as provided in Subsection (8)(b), sales made to or by religious or

1753 charitable institutions in the conduct of their regular religious or charitable functions and

1754 activities, if the requirements of Section 59-12-104.1 are fulfilled;

1755 (b) the exemption provided for in Subsection (8)(a) does not apply to the following

1756 sales, uses, leases, or rentals relating to the Olympic Winter Games of 2002 made to or by an

1757 organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue

1758 Code:

1759 (i) retail sales of Olympic merchandise;

1760 (ii) except as provided in Subsection (50), admissions or user fees described in

1761 Subsection 59-12-103(1)(f);

1762 (iii) sales of accommodations and services as provided in Subsection 59-12-103(1)(i),

1763 except for accommodations and services:

1764 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter
1765 Games of 2002;

1766 (B) exclusively used by:

1767 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
1768 Olympic Winter Games of 2002; or

1769 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic
1770 Winter Games of 2002; and

1771 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of
1772 2002 does not receive reimbursement; or

1773 (iv) a lease or rental of a vehicle as defined in Section 41-1a-102, except for a lease or
1774 rental of a vehicle:

1775 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter
1776 Games of 2002;

1777 (B) exclusively used by:

1778 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
1779 Olympic Winter Games of 2002; or

1780 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic
1781 Winter Games of 2002; and

1782 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of
1783 2002 does not receive reimbursement;

1784 (9) sales of vehicles of a type required to be registered under the motor vehicle laws of
1785 this state which are made to bona fide nonresidents of this state and are not afterwards
1786 registered or used in this state except as necessary to transport them to the borders of this state;

1787 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

1788 (i) the item is intended for human use; and

1789 (ii) (A) [the purchaser presents] a prescription was issued for the item; [and] or
1790 (B) the item was purchased by a hospital or other medical facility; and

1791 (b) (i) Subsection (10)(a) applies to:

1792 (A) a drug;

1793 (B) a syringe; or

1794 (C) a stoma supply; and

1795 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1796 commission may by rule define the terms:

1797 (A) "syringe"; or

1798 (B) "stoma supply";

1799 (11) sales or use of property, materials, or services used in the construction of or
1800 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

1801 (12) (a) sales of an item described in Subsection (12)(c) served by:

1802 (i) the following if the item described in Subsection (12)(c) is not available to the
1803 general public:

1804 (A) a church; or

1805 (B) a charitable institution;

1806 (ii) an institution of higher education if:

1807 (A) the item described in Subsection (12)(c) is not available to the general public; or

1808 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
1809 offered by the institution of higher education; or

1810 (b) sales of an item described in Subsection (12)(c) provided at:

1811 (i) a medical facility; or

1812 (ii) a nursing facility; and

1813 (c) Subsections (12)(a) and (b) apply to:

1814 (i) food and food ingredients;

1815 (ii) prepared food; or

1816 (iii) alcoholic beverages;

1817 (13) isolated or occasional sales by persons not regularly engaged in business, except
1818 the sale of vehicles or vessels required to be titled or registered under the laws of this state in
1819 which case the tax is based upon:

1820 (a) the bill of sale or other written evidence of value of the vehicle or vessel being sold;

1821 or

1822 (b) in the absence of a bill of sale or other written evidence of value, the then existing
1823 fair market value of the vehicle or vessel being sold as determined by the commission;

1824 (14) (a) the following purchases or leases by a manufacturer on or after July 1, 1995:

1825 (i) machinery and equipment:

- 1826 (A) used in the manufacturing process;
- 1827 (B) having an economic life of three or more years; and
- 1828 (C) used:
 - 1829 (I) to manufacture an item sold as tangible personal property; and
 - 1830 (II) in new or expanding operations in a manufacturing facility in the state; and
 - 1831 (ii) subject to the provisions of Subsection (14)(b), normal operating replacements that:
 - 1832 (A) have an economic life of three or more years;
 - 1833 (B) are used in the manufacturing process in a manufacturing facility in the state;
 - 1834 (C) are used to replace or adapt an existing machine to extend the normal estimated
 - 1835 useful life of the machine; and
 - 1836 (D) do not include repairs and maintenance;
 - 1837 (b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:
 - 1838 (i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in
 - 1839 Subsection (14)(a)(ii) is exempt;
 - 1840 (ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described
 - 1841 in Subsection (14)(a)(ii) is exempt; and
 - 1842 (iii) beginning July 1, 1998, 100% of the sale or lease described in Subsection
 - 1843 (14)(a)(ii) is exempt;
 - 1844 (c) for purposes of this Subsection (14), the commission shall by rule define the terms
 - 1845 "new or expanding operations" and "establishment"; and
 - 1846 (d) on or before October 1, 1991, and every five years after October 1, 1991, the
 - 1847 commission shall:
 - 1848 (i) review the exemptions described in Subsection (14)(a) and make recommendations
 - 1849 to the Revenue and Taxation Interim Committee concerning whether the exemptions should be
 - 1850 continued, modified, or repealed; and
 - 1851 (ii) include in its report:
 - 1852 (A) the cost of the exemptions;
 - 1853 (B) the purpose and effectiveness of the exemptions; and
 - 1854 (C) the benefits of the exemptions to the state;
 - 1855 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
 - 1856 (i) tooling;

- 1857 (ii) special tooling;
- 1858 (iii) support equipment;
- 1859 (iv) special test equipment; or
- 1860 (v) parts used in the repairs or renovations of tooling or equipment described in
- 1861 Subsections (15)(a)(i) through (iv); and
- 1862 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
- 1863 (i) the tooling, equipment, or parts are used or consumed exclusively in the
- 1864 performance of any aerospace or electronics industry contract with the United States
- 1865 government or any subcontract under that contract; and
- 1866 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
- 1867 title to the tooling, equipment, or parts is vested in the United States government as evidenced
- 1868 by:
 - 1869 (A) a government identification tag placed on the tooling, equipment, or parts; or
 - 1870 (B) listing on a government-approved property record if placing a government
 - 1871 identification tag on the tooling, equipment, or parts is impractical;
- 1872 (16) intrastate movements of:
 - 1873 (a) freight by common carriers; or
 - 1874 (b) passengers:
 - 1875 (i) by taxicabs as described in SIC Code 4121 of the 1987 Standard Industrial
 - 1876 Classification Manual of the federal Executive Office of the President, Office of Management
 - 1877 and Budget;
 - 1878 (ii) transported by an establishment described in SIC Code 4111 of the 1987 Standard
 - 1879 Industrial Classification Manual of the federal Executive Office of the President, Office of
 - 1880 Management and Budget, if the transportation originates and terminates within a county of the
 - 1881 first, second, or third class; or
 - 1882 (iii) transported by the following described in SIC Code 4789 of the 1987 Standard
 - 1883 Industrial Classification Manual of the federal Executive Office of the President, Office of
 - 1884 Management and Budget:
 - 1885 (A) a horse-drawn cab; or
 - 1886 (B) a horse-drawn carriage;
 - 1887 (17) sales of newspapers or newspaper subscriptions;

1888 (18) (a) except as provided in Subsection (18)(b), tangible personal property traded in
1889 as full or part payment of the purchase price, except that for purposes of calculating sales or use
1890 tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and
1891 the tax is based upon:

1892 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
1893 vehicle being traded in; or

1894 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
1895 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
1896 commission; and

1897 (b) notwithstanding Subsection (18)(a), Subsection (18)(a) does not apply to the
1898 following items of tangible personal property traded in as full or part payment of the purchase
1899 price:

1900 (i) money;

1901 (ii) electricity;

1902 (iii) water;

1903 (iv) gas; or

1904 (v) steam;

1905 (19) sprays and insecticides used to control insects, diseases, and weeds for
1906 commercial production of fruits, vegetables, feeds, seeds, and animal products, but not those
1907 sprays and insecticides used in the processing of the products;

1908 (20) (a) (i) sales of tangible personal property used or consumed primarily and directly
1909 in farming operations, including sales of irrigation equipment and supplies used for agricultural
1910 production purposes, whether or not they become part of real estate and whether or not
1911 installed by farmer, contractor, or subcontractor, but not sales of:

1912 (A) machinery, equipment, materials, and supplies used in a manner that is incidental
1913 to farming, such as hand tools and maintenance and janitorial equipment and supplies;

1914 (B) tangible personal property used in any activities other than farming, such as office
1915 equipment and supplies, equipment and supplies used in sales or distribution of farm products,
1916 in research, or in transportation; or

1917 (C) any vehicle required to be registered by the laws of this state, without regard to the
1918 use to which the vehicle is put; or

1919 (ii) sales of parts used in the repairs or renovations of tangible personal property if the
1920 tangible personal property is exempt under Subsection (20)(a); or
1921 (b) sales of hay;

1922 (21) exclusive sale of locally grown seasonal crops, seedling plants, or garden, farm, or
1923 other agricultural produce if sold by a producer during the harvest season;

1924 (22) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
1925 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

1926 (23) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
1927 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
1928 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
1929 manufacturer, processor, wholesaler, or retailer;

1930 (24) property stored in the state for resale;

1931 (25) property brought into the state by a nonresident for his or her own personal use or
1932 enjoyment while within the state, except property purchased for use in Utah by a nonresident
1933 living and working in Utah at the time of purchase;

1934 (26) property purchased for resale in this state, in the regular course of business, either
1935 in its original form or as an ingredient or component part of a manufactured or compounded
1936 product;

1937 (27) property upon which a sales or use tax was paid to some other state, or one of its
1938 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
1939 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
1940 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
1941 Act;

1942 (28) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
1943 person for use in compounding a service taxable under the subsections;

1944 (29) purchases made in accordance with the special supplemental nutrition program for
1945 women, infants, and children established in 42 U.S.C. Sec. 1786;

1946 (30) beginning on July 1, 1999, through June 30, 2004, sales or leases of rolls, rollers,
1947 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
1948 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
1949 Manual of the federal Executive Office of the President, Office of Management and Budget;

- 1950 (31) sales of boats of a type required to be registered under Title 73, Chapter 18, State
1951 Boating Act, boat trailers, and outboard motors which are made to bona fide nonresidents of
1952 this state and are not thereafter registered or used in this state except as necessary to transport
1953 them to the borders of this state;
- 1954 (32) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah
1955 where a sales or use tax is not imposed, even if the title is passed in Utah;
- 1956 (33) amounts paid for the purchase of telephone service for purposes of providing
1957 telephone service;
- 1958 (34) fares charged to persons transported directly by a public transit district created
1959 under the authority of Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;
- 1960 (35) sales or leases of vehicles to, or use of vehicles by an authorized carrier;
- 1961 (36) (a) 45% of the sales price of any new manufactured home; and
1962 (b) 100% of the sales price of any used manufactured home;
- 1963 (37) sales relating to schools and fundraising sales;
- 1964 (38) sales or rentals of durable medical equipment if a person presents a prescription
1965 for the durable medical equipment;
- 1966 (39) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
1967 Section 72-11-102; and
- 1968 (b) the commission shall by rule determine the method for calculating sales exempt
1969 under Subsection (39)(a) that are not separately metered and accounted for in utility billings;
- 1970 (40) sales to a ski resort of:
- 1971 (a) snowmaking equipment;
1972 (b) ski slope grooming equipment;
- 1973 (c) passenger ropeways as defined in Section 72-11-102; or
1974 (d) parts used in the repairs or renovations of equipment or passenger ropeways
1975 described in Subsections (40)(a) through (c);
- 1976 (41) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 1977 (42) sales or rentals of the right to use or operate for amusement, entertainment, or
1978 recreation a coin-operated amusement device as defined in Section 59-12-102;
- 1979 (43) sales of cleaning or washing of tangible personal property by a coin-operated car
1980 wash machine;

1981 (44) sales by the state or a political subdivision of the state, except state institutions of
1982 higher education as defined in Section 53B-3-102, of:

1983 (a) photocopies; or

1984 (b) other copies of records held or maintained by the state or a political subdivision of
1985 the state;

1986 (45) (a) amounts paid:

1987 (i) to a person providing intrastate transportation to an employer's employee to or from
1988 the employee's primary place of employment;

1989 (ii) by an:

1990 (A) employee; or

1991 (B) employer; and

1992 (iii) pursuant to a written contract between:

1993 (A) the employer; and

1994 (B) (I) the employee; or

1995 (II) a person providing transportation to the employer's employee; and

1996 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1997 commission may for purposes of Subsection (45)(a) make rules defining what constitutes an
1998 employee's primary place of employment;

1999 (46) amounts paid for admission to an athletic event at an institution of higher
2000 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
2001 20 U.S.C. Sec. 1681 et seq.;

2002 (47) sales of telephone service charged to a prepaid telephone calling card;

2003 (48) (a) sales of:

2004 (i) hearing aids;

2005 (ii) hearing aid accessories; or

2006 (iii) except as provided in Subsection (48)(b), parts used in the repairs or renovations
2007 of hearing aids or hearing aid accessories; and

2008 (b) for purposes of this Subsection (48), notwithstanding Subsection (48)(a)(iii),
2009 "parts" does not include batteries;

2010 (49) (a) sales made to or by:

2011 (i) an area agency on aging; or

2012 (ii) a senior citizen center owned by a county, city, or town; or
2013 (b) sales made by a senior citizen center that contracts with an area agency on aging;
2014 (50) (a) beginning on July 1, 2000, through June 30, 2002, amounts paid or charged as
2015 admission or user fees described in Subsection 59-12-103(1)(f) relating to the Olympic Winter
2016 Games of 2002 if the amounts paid or charged are established by the Salt Lake Organizing
2017 Committee for the Olympic Winter Games of 2002 in accordance with requirements of the
2018 International Olympic Committee; and
2019 (b) the State Olympic Officer and the Salt Lake Organizing Committee for the Olympic
2020 Winter Games of 2002 shall make at least two reports during the 2000 interim:
2021 (i) to the:
2022 (A) Olympic Coordination Committee; and
2023 (B) Revenue and Taxation Interim Committee; and
2024 (ii) regarding the status of:
2025 (A) agreements relating to the funding of public safety services for the Olympic Winter
2026 Games of 2002;
2027 (B) agreements relating to the funding of services, other than public safety services, for
2028 the Olympic Winter Games of 2002;
2029 (C) other agreements relating to the Olympic Winter Games of 2002 as requested by
2030 the Olympic Coordination Committee or the Revenue and Taxation Interim Committee;
2031 (D) other issues as requested by the Olympic Coordination Committee or the Revenue
2032 and Taxation Interim Committee; or
2033 (E) a combination of Subsections (50)(b)(ii)(A) through (D);
2034 (51) (a) beginning on July 1, 2001, through June 30, 2007, and subject to Subsection
2035 (51)(b), a sale or lease of semiconductor fabricating or processing materials regardless of
2036 whether the semiconductor fabricating or processing materials:
2037 (i) actually come into contact with a semiconductor; or
2038 (ii) ultimately become incorporated into real property;
2039 (b) (i) beginning on July 1, 2001, through June 30, 2002, 10% of the sale or lease
2040 described in Subsection (51)(a) is exempt;
2041 (ii) beginning on July 1, 2002, through June 30, 2003, 50% of the sale or lease
2042 described in Subsection (51)(a) is exempt; and

2043 (iii) beginning on July 1, 2003, through June 30, 2007, the entire amount of the sale or
2044 lease described in Subsection (51)(a) is exempt; and

2045 (c) each year on or before the November interim meeting, the Revenue and Taxation
2046 Interim Committee shall:

2047 (i) review the exemption described in this Subsection (51) and make recommendations
2048 concerning whether the exemption should be continued, modified, or repealed; and

2049 (ii) include in the review under this Subsection (51)(c):

2050 (A) the cost of the exemption;

2051 (B) the purpose and effectiveness of the exemption; and

2052 (C) the benefits of the exemption to the state;

2053 (52) an amount paid by or charged to a purchaser for accommodations and services
2054 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
2055 59-12-104.2;

2056 (53) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
2057 sports event registration certificate in accordance with Section 41-3-306 for the event period
2058 specified on the temporary sports event registration certificate;

2059 (54) sales or uses of electricity, if the sales or uses are:

2060 (a) made under a tariff adopted by the Public Service Commission of Utah only for
2061 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
2062 source, as designated in the tariff by the Public Service Commission of Utah; and

2063 (b) for an amount of electricity that is:

2064 (i) unrelated to the amount of electricity used by the person purchasing the electricity
2065 under the tariff described in Subsection (54)(a); and

2066 (ii) equivalent to the number of kilowatthours specified in the tariff described in
2067 Subsection (54)(a) that may be purchased under the tariff described in Subsection (54)(a);

2068 (55) sales or rentals of mobility enhancing equipment if a person presents a
2069 prescription for the mobility enhancing equipment;

2070 (56) sales of water in a:

2071 (a) pipe;

2072 (b) conduit;

2073 (c) ditch; or

- 2074 (d) reservoir;
- 2075 (57) sales of currency or coinage that constitute legal tender of the United States or of a
- 2076 foreign nation;
- 2077 (58) (a) sales of an item described in Subsection (58)(b) if the item:
- 2078 (i) does not constitute legal tender of any nation; and
- 2079 (ii) has a gold, silver, or platinum content of 80% or more; and
- 2080 (b) Subsection (58)(a) applies to a gold, silver, or platinum:
- 2081 (i) ingot;
- 2082 (ii) bar;
- 2083 (iii) medallion; or
- 2084 (iv) decorative coin;
- 2085 (59) amounts paid on a sale-leaseback transaction; and
- 2086 (60) sales of a prosthetic device:
- 2087 (a) for use on or in a human;
- 2088 (b) for which a prescription is issued; and
- 2089 (c) to a person that presents a prescription for the prosthetic device.

2090 Section 12. Section **59-12-105 (Effective 07/01/04)** is amended to read:

2091 **59-12-105 (Effective 07/01/04). Certain exempt sales to be reported -- Penalties.**

2092 (1) ~~[(a)]~~ An owner or purchaser shall report to the commission the amount of sales or
2093 uses exempt under Subsection 59-12-104(14)~~[(39), (40);]~~ or (51).

2094 (2) (a) A seller that files a simplified electronic return with the commission shall file a
2095 report containing the information described in Subsection (2)(b).

2096 (b) The report required by Subsection (2)(a) shall contain the following amounts:

2097 (i) for each store location that the seller has within the state:

2098 (A) the total amount of sales;

2099 (B) the total amount of sales that are exempt from a tax imposed by this chapter; and

2100 (C) the difference between the amount described in Subsection (2)(b)(i)(A) and the
2101 amount described in Subsection (2)(b)(i)(B);

2102 (ii) for the total amount of sales that the seller makes from a location in the state other
2103 than a fixed place of business in the state:

2104 (A) the total amount of sales;

2105 (B) the total amount of sales that are exempt from a tax imposed by this chapter; and
 2106 (C) the difference between the amount described in Subsection (2)(b)(ii)(A) and the
 2107 amount described in Subsection (2)(b)(ii)(B); and
 2108 (iii) for the total amount of sales that the seller makes where inventory is shipped from
 2109 a location outside the state:
 2110 (A) the total amount of sales;
 2111 (B) the total amount of sales that are exempt from a tax imposed by this chapter; and
 2112 (C) the difference between the amount described in Subsection (2)(b)(iii)(A) and the
 2113 amount described in Subsection (2)(b)(iii)(B).

2114 ~~[(b) The]~~ (3) (a) A report required by Subsection (1)~~[(a)]~~ or (2) shall be filed:
 2115 (i) with the commission; and
 2116 (ii) on a form prescribed by the commission.
 2117 (b) A report required by Subsection (2) shall be filed electronically.
 2118 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
 2119 commission shall make rules providing:
 2120 (i) the information required to be included in the ~~[report]~~ reports described in
 2121 ~~[Subsection]~~ Subsections (1)~~[(a)]~~ and (2); and
 2122 (ii) one or more due dates for filing the report described in:
 2123 (A) Subsection (1)~~[(a)]~~; and
 2124 (B) Subsection (2).

2125 ~~[(2) Except]~~ (4) (a) Notwithstanding Section 59-1-401, and except as provided in
 2126 Subsections ~~[(3)]~~ (4)(b) and ~~[(4)]~~ (6), if the owner or purchaser fails to report the full amount of
 2127 the exemptions granted under Subsection 59-12-104(14)~~[(39), (40),]~~ or (51) on the report
 2128 required by Subsection (1)~~[(a)]~~, the commission shall impose a penalty equal to the lesser of:
 2129 ~~[(a)]~~ (i) 10% of the sales and use tax that would have been imposed if the exemption
 2130 had not applied; or
 2131 ~~[(b)]~~ (ii) \$1,000.

2132 ~~[(3)]~~ (b) Notwithstanding Subsection ~~[(2)]~~ (4)(a)(i), the commission may not impose a
 2133 penalty under Subsection ~~[(2)]~~ (4)(a)(i) if the owner or purchaser files an amended report:
 2134 ~~[(a)]~~ (i) containing the amount of the exemption; and
 2135 ~~[(b)]~~ (ii) before the owner or purchaser receives a notice of audit from the commission.

2136 (5) Notwithstanding Section 59-1-401, and except as provided in Subsection (6), if a
2137 seller fails to report the amounts required by Subsection (2), the commission shall impose a
2138 penalty of \$1,000.

2139 [~~4~~] (6) (a) Notwithstanding Subsection [~~2~~] (4)(a) or (5), the commission may waive,
2140 reduce, or compromise a penalty imposed under this section if the commission finds there are
2141 reasonable grounds for the waiver, reduction, or compromise.

2142 (b) If the commission waives, reduces, or compromises a penalty under Subsection
2143 [~~4~~] (6)(a), the commission shall make a record of the grounds for waiving, reducing, or
2144 compromising the penalty.

2145 Section 13. Section **59-12-107 (Effective 07/01/04)** is amended to read:

2146 **59-12-107 (Effective 07/01/04). Collection, remittance, and payment of tax by**
2147 **sellers or other persons -- Voluntary collection may not be used as a factor in determining**
2148 **whether a seller is required to pay certain taxes, fees, or charges -- Returns -- Direct**
2149 **payment by purchaser of vehicle -- Other liability for collection -- Credits -- Treatment of**
2150 **bad debt -- Deposit and sale of security -- Penalties.**

2151 (1) (a) Except as provided in Sections 59-12-107.1 through [~~59-12-107.3~~] 59-12-107.4,
2152 each seller shall pay or collect and remit the sales and use taxes imposed by this chapter if
2153 within this state the seller:

2154 (i) has or utilizes:

2155 (A) an office;

2156 (B) a distribution house;

2157 (C) a sales house;

2158 (D) a warehouse;

2159 (E) a service enterprise; or

2160 (F) a place of business similar to Subsections (1)(a)(i)(A) through (E);

2161 (ii) maintains a stock of goods;

2162 (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the
2163 state, unless the seller's only activity in the state is:

2164 (A) advertising; or

2165 (B) solicitation by:

2166 (I) direct mail;

- 2167 (II) electronic mail;
- 2168 (III) the Internet;
- 2169 (IV) telephone; or
- 2170 (V) a means similar to Subsections (1)(a)(iii)(A) or (B);
- 2171 (iv) regularly engages in the delivery of property in the state other than by:
- 2172 (A) common carrier; or
- 2173 (B) United States mail; or
- 2174 (v) regularly engages in an activity directly related to the leasing or servicing of
- 2175 property located within the state.
- 2176 (b) ~~[If a]~~ A seller that does not meet one or more of the criteria provided for in
- 2177 Subsection (1)(a)~~[-, the seller]~~:
- 2178 (i) except as provided in Subsection (1)(b)(ii), may voluntarily:
- 2179 (A) collect a tax on a transaction described in Subsection 59-12-103(1); and
- 2180 (B) remit the tax to the commission as provided in this part; or
- 2181 (ii) notwithstanding Subsection (1)(b)(i), shall collect a tax on a transaction described
- 2182 in Subsection 59-12-103(1) if Section 59-12-103.1 requires the seller to collect the tax.
- 2183 (c) The ~~[voluntary]~~ collection and remittance of a tax under this chapter by a seller that
- 2184 is registered under the agreement may not be used as a factor in determining whether ~~[a]~~ that
- 2185 seller is required by Subsection (1)(a) to:
- 2186 (i) pay a tax, fee, or charge under:
- 2187 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 2188 (B) Section 19-6-716;
- 2189 (C) Section 19-6-805;
- 2190 (D) Section 69-2-5.5; or
- 2191 (E) this title; or
- 2192 (ii) collect and remit a tax, fee, or charge under:
- 2193 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 2194 (B) Section 19-6-716;
- 2195 (C) Section 19-6-805;
- 2196 (D) Section 69-2-5.5; or
- 2197 (E) this title.

2198 (d) A person shall pay a use tax imposed by this chapter on a transaction described in
2199 Subsection 59-12-103(1) if:

2200 (i) the seller did not collect a [use] tax imposed by this chapter on the transaction; and

2201 (ii) the person:

2202 (A) stores the tangible personal property in the state;

2203 (B) uses the tangible personal property in the state; or

2204 (C) consumes the tangible personal property in the state.

2205 (e) Notwithstanding ~~[the provisions of]~~ Subsection (1)(a), the ownership of property
2206 that is located at the premises of a printer's facility with which the retailer has contracted for
2207 printing and that consists of the final printed product, property that becomes a part of the final
2208 printed product, or copy from which the printed product is produced, shall not result in the
2209 retailer being considered to have or maintain an office, distribution house, sales house,
2210 warehouse, service enterprise, or other place of business, or to maintain a stock of goods,
2211 within this state.

2212 (2) (a) Except as provided in Sections 59-12-107.1 through ~~[59-12-107.3]~~ 59-12-107.4,
2213 a seller shall collect a tax under this chapter from a purchaser.

2214 (b) A seller may not collect as tax an amount, without regard to fractional parts of one
2215 cent, in excess of the tax computed at the rates prescribed by this chapter.

2216 (c) (i) Each seller shall:

2217 (A) give the purchaser a receipt for the [use] tax collected; or

2218 (B) bill the [use] tax as a separate item and declare the name of this state and the
2219 seller's sales and use tax license number on the invoice for the sale.

2220 (ii) The receipt or invoice is prima facie evidence that the seller has collected the [use]
2221 tax and relieves the purchaser of the liability for reporting the [use] tax to the commission as a
2222 consumer.

2223 (d) A seller is not required to maintain a separate account for the tax collected, but is
2224 considered to be a person charged with receipt, safekeeping, and transfer of public moneys.

2225 (e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the
2226 benefit of the state and for payment to the commission in the manner and at the time provided
2227 for in this chapter.

2228 (f) If any seller, during any reporting period, collects as a tax an amount in excess of

2229 the lawful state and local percentage of total taxable sales allowed under this chapter, the seller
2230 shall remit to the commission the full amount of the tax imposed under this chapter, plus any
2231 excess.

2232 (g) If the accounting methods regularly employed by the seller in the transaction of the
2233 seller's business are such that reports of sales made during a calendar month or quarterly period
2234 will impose unnecessary hardships, the commission may accept reports at intervals that will, in
2235 the commission's opinion, better suit the convenience of the taxpayer or seller and will not
2236 jeopardize collection of the tax.

2237 (3) (a) Except as provided in Subsections (4) [~~and (5)~~] through (6) and in Section
2238 59-12-108, the sales or use tax imposed by this chapter is due and payable to the commission
2239 quarterly on or before the last day of the month next succeeding each calendar quarterly period.

2240 (b) (i) Each seller shall, on or before the last day of the month next succeeding each
2241 calendar quarterly period, file with the commission a return for the preceding quarterly period.

2242 (ii) The seller shall remit with the return under Subsection (3)(b)(i) the amount of the
2243 tax required under this chapter to be collected or paid for the period covered by the return.

2244 (c) (i) [~~Each~~] Except as provided in Subsections (3)(c)(ii) and (4)(b)(i)(C), each return
2245 shall contain information and be in a form the commission prescribes by rule.

2246 (ii) Notwithstanding Subsection (3)(c)(i), a seller described in Subsection (1)(b) that is
2247 registered under the agreement shall file a return required by this section electronically.

2248 (d) The sales tax as computed in the return shall be based upon the total nonexempt
2249 sales made during the period, including both cash and charge sales.

2250 (e) The use tax as computed in the return shall be based upon the total amount of sales
2251 and purchases for storage, use, or other consumption in this state made during the period,
2252 including both by cash and by charge.

2253 (f) [~~The~~] (i) Subject to Subsection (3)(f)(ii) and in accordance with Title 63, Chapter
2254 46a, Utah Administrative Rulemaking Act, the commission may by rule extend the time for
2255 making returns and paying the taxes. [~~No~~]

2256 (ii) An extension under Subsection (3)(f)(i) may not be for more than 90 days.

2257 (g) The commission may require returns and payment of the tax to be made for other
2258 than quarterly periods if the commission considers it necessary in order to ensure the payment
2259 of the tax imposed by this chapter.

2260 ~~[(h) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~
2261 ~~the commission may make rules requiring a seller to file an information return:]~~

2262 ~~[(i) for information required by this chapter that is not included in any sales and use tax~~
2263 ~~return developed in accordance with the agreement, and]~~

2264 ~~[(ii) not more frequently than every six months.]~~

2265 (4) (a) (i) Notwithstanding Subsection (3) and except as provided in Subsection
2266 (4)(a)(ii), a tax collected in accordance with Subsection (1)(b) by a seller described in
2267 Subsection (4)(d) shall be due and payable:

2268 (A) to the commission;

2269 (B) annually; and

2270 (C) on or before the last day of the month immediately following the last day of each
2271 calendar year.

2272 (ii) Notwithstanding Subsection (4)(a)(i), the commission may require that a tax
2273 collected in accordance with Subsection (1)(b) by a seller described in Subsection (4)(d) be due
2274 and payable:

2275 (A) to the commission; and

2276 (B) on the last day of the month immediately following any month in which the seller
2277 has accumulated a total of at least \$1,000 in agreement sales and use tax.

2278 (b) (i) A tax remitted to the commission under Subsection (4)(a) shall be accompanied
2279 by a return that:

2280 (A) contains information prescribed by the commission; ~~and]~~

2281 (B) is in a form prescribed by the commission[-]; and

2282 (C) notwithstanding Subsection (3)(c)(i), is filed electronically as required by
2283 Subsection (3)(c)(ii).

2284 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
2285 the commission shall make rules prescribing:

2286 (A) the information required to be contained in a return described in Subsection
2287 (4)(b)(i); and

2288 (B) the form of the return described in Subsection (4)(b)(i).

2289 (c) The tax collected in accordance with this Subsection (4) calculated in the return
2290 described in Subsection (4)(b) shall be calculated on the basis of the total amount of taxable

2291 transactions described in Subsection 59-12-103(1) conducted by a seller described in
 2292 Subsection (4)(d), including:

2293 (i) a cash transaction; and
 2294 (ii) a charge transaction.

2295 (d) This Subsection (4) applies to a seller that is:

2296 (i) registered under the agreement;
 2297 [~~(ii) does not meet one or more of the criteria provided for in Subsection (1)(a) to be~~
 2298 ~~required to collect a tax under this chapter; and]~~
 2299 (ii) described in Subsection (1)(b); and
 2300 (iii) not a:
 2301 (A) model 1 seller;
 2302 (B) model 2 seller; or
 2303 (C) model 3 seller.

2304 (5) (a) Notwithstanding Subsection (3) and except as provided in Subsection (5)(b), a
 2305 tax collected in accordance with this chapter by a seller that files a simplified electronic return
 2306 shall be due and payable:
 2307 (i) monthly on or before the last day of the month immediately following the month for
 2308 which the seller collects a tax under this chapter; and
 2309 (ii) for the month for which the seller collects a tax under this chapter.
 2310 (b) Notwithstanding Subsection (5)(a), a tax collected in accordance with Subsection
 2311 (1)(b) by a seller described in Subsection (4)(d) that files a simplified electronic return, shall be
 2312 due and payable as provided in Subsection (4)(a).

2313 [~~(5)] (6) (a) Notwithstanding Subsection (3), on each vehicle sale made by other than a
 2314 regular licensed vehicle dealer, the purchaser shall pay the sales or use tax directly to the
 2315 commission if the vehicle is subject to titling or registration under the laws of this state.~~

2316 (b) The commission shall collect the tax described in Subsection [~~(5)] (6)(a) when the
 2317 vehicle is titled or registered.~~

2318 [~~(6)] (7) If any sale of tangible personal property or any other taxable transaction under
 2319 Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not
 2320 responsible for the collection or payment of the tax imposed on the sale and the retailer is
 2321 responsible for the collection or payment of the tax imposed on the sale if:~~

2322 (a) the retailer represents that the personal property is purchased by the retailer for
2323 resale; and

2324 (b) the personal property is not subsequently resold.

2325 [~~(7)~~] (8) If any sale of property or service subject to the tax is made to a person
2326 prepaying sales or use tax in accordance with Title 63, Chapter 51, Resource Development, or
2327 to a contractor or subcontractor of that person, the person to whom such payment or
2328 consideration is payable is not responsible for the collection or payment of the sales or use tax
2329 and the person prepaying the sales or use tax is responsible for the collection or payment of the
2330 sales or use tax if the person prepaying the sales or use tax represents that the amount prepaid
2331 as sales or use tax has not been fully credited against sales or use tax due and payable under the
2332 rules promulgated by the commission.

2333 [~~(8)~~] (9) (a) For purposes of this Subsection [~~(8)~~] (9):

2334 (i) Except as provided in Subsection [~~(8)~~] (9)(a)(ii), "bad debt" is as defined in Section
2335 166, Internal Revenue Code.

2336 (ii) Notwithstanding Subsection [~~(8)~~] (9)(a)(i), "bad debt" does not include:

2337 (A) an amount included in the purchase price of tangible personal property or a service
2338 that is:

2339 (I) not a transaction described in Subsection 59-12-103(1); or

2340 (II) exempt under Section 59-12-104;

2341 (B) a financing charge;

2342 (C) interest;

2343 (D) a tax imposed under this chapter on the purchase price of tangible personal
2344 property or a service;

2345 (E) an uncollectible amount on tangible personal property that:

2346 (I) is subject to a tax under this chapter; and

2347 (II) remains in the possession of a seller until the full purchase price is paid;

2348 (F) an expense incurred in attempting to collect any debt; or

2349 (G) an amount that a seller does not collect on repossessed property.

2350 (b) A seller may deduct bad debt from the total amount from which a tax under this
2351 chapter is calculated on a return.

2352 (c) A seller may file a refund claim with the commission if:

- 2353 (i) the amount of bad debt for the time period described in Subsection [~~(8)~~] (9)(e)
2354 exceeds the amount of the seller's sales that are subject to a tax under this chapter for that same
2355 time period; and
- 2356 (ii) as provided in Section 59-12-110.
- 2357 (d) A bad debt deduction under this section may not include interest.
- 2358 (e) A bad debt may be deducted under this Subsection [~~(8)~~] (9) on a return for the time
2359 period during which the bad debt:
- 2360 (i) is written off as uncollectible in the seller's books and records; and
2361 (ii) would be eligible for a bad debt deduction:
- 2362 (A) for federal income tax purposes; and
2363 (B) if the seller were required to file a federal income tax return.
- 2364 (f) If a seller recovers any portion of bad debt for which the seller makes a deduction or
2365 claims a refund under this Subsection [~~(8)~~] (9), the seller shall report and remit a tax under this
2366 chapter:
- 2367 (i) on the portion of the bad debt the seller recovers; and
2368 (ii) on a return filed for the time period for which the portion of the bad debt is
2369 recovered.
- 2370 (g) For purposes of reporting a recovery of a portion of bad debt under Subsection [~~(8)~~]
2371 (9)(f), a seller shall apply amounts received on the bad debt in the following order:
- 2372 (A) in a proportional amount:
- 2373 (I) to the purchase price of the tangible personal property or service; and
2374 (II) to the tax due under this chapter on the tangible personal property or service; and
2375 (B) to:
- 2376 (I) interest charges;
2377 (II) service charges; and
2378 (III) other charges.
- 2379 (h) A seller's certified service provider may make a deduction or claim a refund for bad
2380 debt on behalf of the seller:
- 2381 (i) in accordance with this Subsection [~~(8)~~] (9); and
2382 (ii) if the certified service provider credits or refunds the full amount of the bad debt
2383 deduction or refund to the seller.

2384 (i) A bad debt may be allocated among the states that are members of the agreement if
2385 a seller's books and records support that allocation.

2386 ~~[(9)]~~ (10) (a) The commission may require any person subject to the tax imposed under
2387 this chapter to deposit with the commission security as the commission determines, if the
2388 commission considers it necessary to ensure compliance with this chapter.

2389 (b) The commission may sell the security at public sale if it becomes necessary to do so
2390 in order to recover any tax, interest, or penalty due.

2391 (c) (i) The commission shall serve notice of the sale upon the person who deposited the
2392 securities.

2393 (ii) Notice under Subsection ~~[(9)]~~ (10)(c)(i) sent to the last-known address as it appears
2394 in the records of the commission is sufficient for the purposes of this requirement.

2395 (d) The commission shall return to the person who deposited the security any amount
2396 of the sale proceeds that exceed the amounts due under this chapter.

2397 ~~[(10)]~~ (11) (a) A seller may not, with intent to evade any tax, fail to timely remit the
2398 full amount of tax required by this chapter.

2399 (b) A violation of this section is punishable as provided in Section 59-1-401.

2400 (c) Each person who fails to pay any tax to the state or any amount of tax required to be
2401 paid to the state, except amounts determined to be due by the commission under Sections
2402 59-12-110 and 59-12-111, within the time required by this chapter, or who fails to file any
2403 return as required by this chapter, shall pay, in addition to the tax, penalties and interest as
2404 provided in Section 59-12-110.

2405 (d) For purposes of prosecution under this section, each quarterly tax period in which a
2406 seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the
2407 tax required to be remitted, constitutes a separate offense.

2408 Section 14. Section **59-12-107.1 (Effective 07/01/04)** is amended to read:

2409 **59-12-107.1 (Effective 07/01/04). Direct payment permit.**

2410 (1) The commission may issue a direct payment permit to a seller that:

2411 (a) obtains a license under Section 59-12-106;

2412 (b) is required to remit taxes under this chapter by electronic funds transfer in
2413 accordance with ~~[Section]~~ Subsection 59-12-108(1);

2414 (c) has a record of timely payment of taxes under this chapter as determined by the

2415 commission; and
2416 (d) demonstrates to the commission that the seller has the ability to determine the
2417 appropriate location of a transaction:
2418 (i) under:
2419 (A) Section 59-12-205;
2420 (B) Section 59-12-207.1; and
2421 (C) Section 59-12-207.3; and
2422 (ii) for each transaction for which the seller makes a purchase using the direct payment
2423 permit.
2424 (2) A direct payment permit may not be used in connection with the following
2425 transactions:
2426 (a) a purchase of the following purchased in the same transaction:
2427 (i) prepared food; and
2428 (ii) food and food ingredients;
2429 (b) amounts paid or charged for accommodations and services described in Subsection
2430 59-12-103(1)(i);
2431 (c) amounts paid or charged for admission or user fees under Subsection
2432 59-12-103(1)(f);
2433 (d) a purchase of:
2434 (i) a motor vehicle;
2435 (ii) an aircraft;
2436 (iii) a watercraft;
2437 (iv) a modular home;
2438 (v) a manufactured home; or
2439 (vi) a mobile home;
2440 (e) amounts paid under Subsection 59-12-103(1)(b); or
2441 (f) sales under Subsection 59-12-103(1)(c).
2442 (3) The holder of a direct payment permit shall:
2443 (a) present evidence of the direct payment permit to a seller at the time the holder of
2444 the direct payment permit makes a purchase using the direct payment permit;
2445 (b) determine the appropriate location of a transaction [~~under~~]:

2446 (i) under:
2447 (A) Section 59-12-205;
2448 (B) Section 59-12-207.1; or
2449 (C) Section 59-12-207.3; and
2450 (ii) for each transaction for which the holder of the direct payment permit makes a
2451 purchase using the direct payment permit;
2452 (c) notwithstanding Section 59-12-107 and subject to Subsection 59-12-107.2(4),
2453 determine the amount of any agreement sales and use tax due on each transaction for which the
2454 holder of the direct payment permit uses the direct payment permit;
2455 (d) report and remit to the commission the agreement sales and use tax described in
2456 Subsection (3)(c) at the same time and in the same manner as the holder of the direct payment
2457 permit reports and remits a tax under this chapter; and
2458 (e) maintain records:
2459 (i) that indicate the appropriate location of a transaction:
2460 (A) under:
2461 (I) Section 59-12-205;
2462 (II) Section 59-12-207.1; or
2463 (III) Section 59-12-207.3; and
2464 (B) for each transaction for which a purchase is made using the direct payment permit;
2465 and
2466 (ii) necessary to determine the amount described in Subsection (3)(c) for each
2467 transaction for which the holder of the direct payment permit uses the direct payment permit.
2468 (4) A seller that is presented evidence of a direct payment permit at the time of a
2469 transaction:
2470 (a) notwithstanding Section 59-12-107, may not collect agreement sales and use tax on
2471 the transaction;
2472 (b) shall, for a period of three years from the date the seller files a return with the
2473 commission reporting the transaction, retain records to verify that the transaction was made
2474 using a direct payment permit; and
2475 (c) notwithstanding Section 59-12-107, is not liable for agreement sales and use tax on
2476 the transaction.

2477 (5) The holder of a direct payment permit may calculate the amount the holder of the
2478 direct payment permit may retain under Section 59-12-108 on the amount described in
2479 Subsection (3)(c):

2480 (a) for each transaction for which the holder of the direct payment permit uses the
2481 direct payment permit; and

2482 (b) that the holder of the direct payment permit remits to the commission under this
2483 section.

2484 (6) The commission may revoke a direct payment permit issued under this section at
2485 any time if the holder of the direct payment permit fails to comply with any provision of this
2486 chapter.

2487 (7) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2488 commission may make rules to administer this section.

2489 Section 15. Section **59-12-107.2 (Effective 07/01/04)** is amended to read:

2490 **59-12-107.2 (Effective 07/01/04). Services, computer software, or digital goods**
2491 **concurrently available for use in more than one location.**

2492 (1) (a) Notwithstanding Section 59-12-107 and except as provided in Subsection (4), if
2493 a purchaser of a good or service described in Subsection (1)(b) that is not the holder of a direct
2494 payment permit under Section 59-12-107.1 knows at the time of purchase that the good or
2495 service described in Subsection (1)(b) will be concurrently available for use in more than one
2496 location, the purchaser shall:

2497 (i) provide to the seller at the time of purchase a form:

2498 (A) prescribed by the commission; and

2499 (B) indicating that the good or service described in Subsection (1)(b) will be
2500 concurrently available for use in more than one location;

2501 (ii) apportion the purchase price of the good or service described in Subsection (1)(b)
2502 among the locations determined in accordance with Section 59-12-205 and Subsection
2503 59-12-207.1~~(9)~~(10);

2504 (iii) determine the agreement sales and use tax for each location determined in
2505 accordance with Section 59-12-205 and Subsection 59-12-207.1~~(9)~~(10) by calculating the
2506 product of:

2507 (A) the tax rate for the location determined in accordance with Section 59-12-205 and

2508 Subsection 59-12-207.1~~(9)~~(10); and
2509 (B) the amount of the purchase price apportioned to that location under Subsection
2510 (1)(a)(ii); and
2511 (iv) remit to the commission the agreement sales and use tax calculated under
2512 Subsection (1)(a)(iii) for each location determined in accordance with Section 59-12-205 and
2513 Subsection 59-12-207.1~~(9)~~(10).
2514 (b) Subsection (1)(a) applies to:
2515 (i) a service;
2516 (ii) prewritten computer software delivered electronically; or
2517 (iii) a digital good.
2518 (2) The method a purchaser may use to make the apportionment required by Subsection
2519 (1) shall be:
2520 (a) reasonable;
2521 (b) uniform;
2522 (c) consistent; and
2523 (d) supported by the purchaser's business records as those business records exist at the
2524 time of the transaction.
2525 (3) Upon receipt of the form described in Subsection (1)(a)(i):
2526 (a) a seller:
2527 (i) is not liable to collect or remit agreement sales and use tax for that transaction; and
2528 (ii) shall keep a record of the form described in Subsection (1)(a)(i) for three years
2529 from the date the seller files a return with the commission reporting that transaction; and
2530 (b) the form shall remain in effect:
2531 (i) for all future transactions between the seller described in Subsection (3)(a) and the
2532 purchaser; and
2533 (ii) until the form is revoked in writing by the purchaser.
2534 (4) (a) Notwithstanding Subsection (1), a purchaser of a good or service described in
2535 Subsection (1)(b) is not required to provide to a seller the form described in Subsection
2536 (1)(a)(i) if the purchaser:
2537 (i) knows at the time of purchase that the good or service described in Subsection
2538 (1)(b) will be concurrently available for use in more than one location; and

2539 (ii) is the holder of a direct payment permit under Section 59-12-107.1.

2540 (b) A purchaser described in Subsection (4)(a) is subject to Subsection (2) in
2541 determining the apportionment of agreement sales and use tax due on the good or service
2542 described in Subsection (1)(b).

2543 Section 16. Section **59-12-107.4** is enacted to read:

2544 **59-12-107.4. Certified service provider liability.**

2545 (1) Notwithstanding Section 59-12-107 and except as provided in Subsection (2), if a
2546 model 1 seller selects a certified service provider as the model 1 seller's agent:

2547 (a) the certified service provider shall collect and remit agreement sales and use taxes
2548 to the commission:

2549 (i) that the model 1 seller would otherwise be required to remit to the commission
2550 under this chapter; and

2551 (ii) as provided in this chapter; and

2552 (b) the model 1 seller is not liable for the certified service provider's failure to collect
2553 and remit any agreement sales and use taxes to the commission that the model 1 seller would
2554 otherwise be required to remit to the commission under this chapter.

2555 (2) Notwithstanding Subsection (1), the model 1 seller described in Subsection (1):

2556 (a) shall remit to the commission any sales and use taxes imposed by this chapter:

2557 (i) on the model 1 seller's purchases; and

2558 (ii) as provided in this chapter; and

2559 (b) is liable for any sales and use tax liability arising from the model 1 seller's fraud.

2560 Section 17. Section **59-12-107.5** is enacted to read:

2561 **59-12-107.5. Seller or certified service provider reliance on commission database**
2562 **or certain software.**

2563 A seller or certified service provider is not liable for failing to collect and remit a tax at
2564 a tax rate imposed under this part if:

2565 (1) the tax rate at which the seller or certified service provider collected the tax was
2566 derived from a database created by the commission containing tax rates;

2567 (2) the failure to collect and remit the tax is as a result of the seller's or certified service
2568 provider's reliance on incorrect data provided by the commission in the taxability matrix
2569 required by Section 328 of the agreement;

2570 (3) for a model 2 seller, the failure to collect and remit the tax:
 2571 (a) is due to an error in the certified automated system used by the model 2 seller; and
 2572 (b) occurs prior to an audit of the certified automated system that reveals the error in
 2573 the certified automated system; or

2574 (4) for a model 3 seller, the failure to collect and remit the tax:
 2575 (a) is due to an error in the proprietary system used by the model 3 seller; and
 2576 (b) occurs prior to an audit of the proprietary system that reveals the error in the
 2577 proprietary system.

2578 Section 18. Section **59-12-108 (Effective 07/01/04)** is amended to read:

2579 **59-12-108 (Effective 07/01/04). Monthly payment -- Penalty -- Amount of tax a**
 2580 **seller may retain.**

2581 (1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this
 2582 chapter of \$50,000 or more for the previous calendar year shall:

2583 (i) file a return with the commission:

2584 (A) monthly on or before the last day of the month immediately following the month
 2585 for which the seller collects a tax under this chapter; and

2586 (B) for the month for which the seller collects a tax under this chapter; and

2587 (ii) (A) except as provided in Subsection (1)(a)(ii)(B) or (1)(c), remit with the return
 2588 required by Subsection (1)(a)(i) the amount the person is required to remit to the commission
 2589 for each tax, fee, or charge described in Subsection (1)(b):

2590 [~~(A)~~] (I) if that seller's tax liability under this chapter for the previous calendar year is
 2591 less than \$96,000, by any method permitted by the commission; or

2592 [~~(B)~~] (II) if that seller's tax liability under this chapter for the previous calendar year is
 2593 \$96,000 or more, by electronic funds transfer[-]; or

2594 (B) notwithstanding Subsection (1)(a)(ii)(A), a seller shall remit electronically with the
 2595 return required by Subsection (1)(a)(i) the amount the person is required to remit to the
 2596 commission for each tax, fee, or charge described in Subsection (1)(b) if that seller:

2597 (I) is required by Section 59-12-107 to file the return electronically; or

2598 (II) (Aa) is required to collect and remit a tax under Subsection 59-12-107(1)(a); and

2599 (Bb) files a simplified electronic return.

2600 (b) Subsections (1)(a)(i) and (ii) apply to the following taxes, fees, or charges:

2601 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

2602 (ii) a fee under Section 19-6-716;

2603 (iii) a fee under Section 19-6-805;

2604 (iv) a charge under Section 69-2-5.5; or

2605 (v) a tax under this chapter.

2606 (c) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63, Chapter 46a,

2607 Utah Administrative Rulemaking Act, the commission ~~[may]~~ shall make rules providing for a

2608 method for making same-day payments other than by electronic funds transfer if making

2609 payments by electronic funds transfer fails.

2610 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

2611 commission shall establish by rule procedures and requirements for determining the amount a

2612 seller is required to remit to the commission under this Subsection (1).

2613 (2) (a) Except as provided in Subsection (2)(b), a seller subject to Subsection (1) or a

2614 seller described in Subsection (3) may retain each month an amount not to exceed:

2615 (i) ~~[1.5%]~~ 1.31% of any amounts the seller is required to remit to the commission for:

2616 (A) ~~[for]~~ the month for which the seller is filing a return in accordance with Subsection

2617 (1); and

2618 (B) ~~[under this part]~~ an agreement sales and use tax; and

2619 (ii) 1% of any amounts the seller is required to remit to the commission:

2620 (A) for the month for which the seller is filing a return in accordance with Subsection

2621 (1); and

2622 (B) under:

2623 (I) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

2624 ~~[(II) Part 2, Local Sales and Use Tax Act;]~~

2625 ~~[(III) Part 5, Public Transit Tax;]~~

2626 ~~[(IV) Part 10, Highways or Public Transit System Tax;]~~

2627 ~~[(V)]~~ (II) Subsection 59-12-603(1)(a)(i); or

2628 ~~[(VI)]~~ (III) Subsection 59-12-603(1)(a)(ii).

2629 (b) Notwithstanding Subsection (2)(a), a state government entity that is required to

2630 remit taxes monthly in accordance with Subsection (1) may not retain any amount under

2631 Subsection (2)(a).

2632 (3) A seller that has a tax liability under this chapter for the previous calendar year of
2633 less than \$50,000 may:

2634 (a) voluntarily meet the requirements of Subsection (1); and

2635 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the
2636 amounts allowed by Subsection (2)(a).

2637 (4) Penalties for late payment shall be as provided in Section 59-1-401.

2638 (5) (a) For any amounts required to be remitted to the commission under this part, the
2639 commission shall each month calculate an amount equal to the difference between:

2640 (i) the total amount retained for that month by all sellers had the percentage listed
2641 under Subsection (2)(a)(i) been 1.5%; and

2642 (ii) the total amount retained for that month by all sellers at the percentage listed under
2643 Subsection (2)(a)(i).

2644 (b) The commission shall each month allocate the amount calculated under Subsection
2645 (5)(a) to each local taxing jurisdiction on the basis of the proportion of agreement sales and use
2646 tax that the commission distributes to each local taxing jurisdiction for that month compared to
2647 the total agreement sales and use tax that the commission distributes for that month to all local
2648 taxing jurisdictions.

2649 Section 19. Section **59-12-110 (Effective 07/01/04)** is amended to read:

2650 **59-12-110 (Effective 07/01/04). Overpayments, deficiencies, and refunds**
2651 **procedures.**

2652 (1) (a) As soon as practicable after a return is filed, the commission shall examine the
2653 return.

2654 (b) If the commission determines that the correct amount of tax to be remitted is
2655 greater or less than the amount shown to be due on the return, the commission shall recompute
2656 the tax.

2657 (c) If the amount paid exceeds the amount due, the excess, plus interest as provided in
2658 Section 59-1-402, shall be credited or refunded to the taxpayer as provided in Subsection (2).

2659 (d) The commission may not credit or refund to the taxpayer interest on an
2660 overpayment under Subsection (1)(c) if the commission determines that the overpayment was
2661 made for the purpose of investment.

2662 (2) (a) If a taxpayer pays a tax, penalty, or interest more than once or the commission

2663 erroneously receives, collects, or computes any tax, penalty, or interest, including an
2664 overpayment described in Subsection (1)(c), the commission shall:

2665 (i) credit the amount of tax, penalty, or interest paid by the taxpayer against any
2666 amounts of tax, penalties, or interest the taxpayer owes; and

2667 (ii) refund any balance to the taxpayer or the taxpayer's successors, administrators,
2668 executors, or assigns.

2669 (b) Except as provided in Subsections (2)(c) and (d) or Section 19-2-124, a taxpayer
2670 shall file a claim with the commission to obtain a refund or credit under this Subsection (2)
2671 within three years from the day on which the taxpayer overpaid the tax, penalty, or interest.

2672 (c) Notwithstanding Subsection (2)(b), beginning on July 1, 1998, the commission
2673 shall extend the period for a taxpayer to file a claim under Subsection (2)(b) if:

2674 (i) the three-year period under Subsection (2)(b) has not expired; and
2675 (ii) the commission and the taxpayer sign a written agreement:

2676 (A) authorizing the extension; and
2677 (B) providing for the length of the extension.

2678 (d) Notwithstanding Subsection (2)(b), a seller that files a claim for a refund under
2679 Subsection 59-12-107[~~(8)~~] (9)(c) for bad debt shall file the claim with the commission within
2680 three years from the date on which the seller could first claim the refund for the bad debt.

2681 (e) A taxpayer may file a claim to obtain a refund or credit under this Subsection (2)
2682 regardless of whether the taxpayer received or objected to a notice of deficiency or a notice of
2683 assessment as provided in Subsection 59-12-114(1).

2684 (f) A taxpayer may obtain a refund under this Subsection (2) of a tax paid under this
2685 chapter on a transaction that is taxable under Section 59-12-103 if:

2686 (i) the sale or use was exempt from sales and use taxes under Section 59-12-104 on the
2687 date of purchase; and
2688 (ii) except as provided in Subsection (2)(c), the taxpayer files a claim for a refund with
2689 the commission as provided in Subsections (2)(b) through (e).

2690 (g) If the commission denies a claim for a refund or credit under this Subsection (2),
2691 the taxpayer may request a redetermination of the denial by filing a petition or request for
2692 agency action with the commission as provided in Title 63, Chapter 46b, Administrative
2693 Procedures Act.

2694 (3) If the commission erroneously determines an amount to be due from a taxpayer, the
2695 commission shall authorize the amounts to be cancelled upon its records.

2696 (4) (a) Subject to the provisions of Subsection (4)(b), the commission may impose on a
2697 deficiency under this section:

2698 (i) a penalty as provided in Section 59-1-401; and

2699 (ii) interest as provided in Section 59-1-402.

2700 (b) The commission may impose a penalty and interest on the entire deficiency if any
2701 part of the deficiency is due to:

2702 (i) negligence;

2703 (ii) intentional disregard of law or rule; or

2704 (iii) fraud with intent to evade the tax.

2705 (5) (a) Except as provided in Subsection (5)(b), a taxpayer shall pay a tax deficiency,
2706 including penalties or interest under this section, within ten days after the commission provides
2707 the taxpayer notice and demand of the deficiency, penalty, or interest.

2708 (b) Notwithstanding Subsection (5)(a), a taxpayer may pay a tax deficiency, penalty, or
2709 interest within 30 days after the commission provides the taxpayer notice and demand of the
2710 deficiency, penalty, or interest if the commission determines:

2711 (i) that a greater amount was due than was shown on the return; and

2712 (ii) the tax is not in jeopardy.

2713 (6) (a) Except as provided in Subsections (6)(c) through (f), the commission shall
2714 assess the amount of taxes imposed by this chapter, and any penalties and interest, within three
2715 years after a taxpayer files a return.

2716 (b) Except as provided in Subsections (6)(c) through (f), if the commission does not
2717 make an assessment under Subsection (6)(a) within three years, the commission may not
2718 commence a proceeding for the collection of the taxes after the expiration of the three-year
2719 period.

2720 (c) Notwithstanding Subsections (6)(a) and (b), the commission may make an
2721 assessment or commence a proceeding to collect a tax at any time if a deficiency is due to:

2722 (i) fraud; or

2723 (ii) failure to file a return.

2724 (d) Notwithstanding Subsections (6)(a) and (b), beginning on July 1, 1998, the

2725 commission may extend the period to make an assessment or to commence a proceeding to
2726 collect the tax under this chapter if:

2727 (i) the three-year period under this Subsection (6) has not expired; and

2728 (ii) the commission and the taxpayer sign a written agreement:

2729 (A) authorizing the extension; and

2730 (B) providing for the length of the extension.

2731 (e) If the commission delays an audit at the request of a taxpayer, the commission may
2732 make an assessment as provided in Subsection (6)(f) if:

2733 (i) the taxpayer subsequently refuses to agree to an extension request by the
2734 commission; and

2735 (ii) the three-year period under this Subsection (6) expires before the commission
2736 completes the audit.

2737 (f) An assessment under Subsection (6)(e) shall be:

2738 (i) for the time period for which the commission could not make an assessment
2739 because of the expiration of the three-year period; and

2740 (ii) in an amount equal to the difference between:

2741 (A) the commission's estimate of the amount of taxes the taxpayer would have been
2742 assessed for the time period described in Subsection (6)(f)(i); and

2743 (B) the amount of taxes the taxpayer actually paid for the time period described in
2744 Subsection (6)(f)(i).

2745 Section 20. Section **59-12-110.1 (Effective 07/01/04)** is amended to read:

2746 **59-12-110.1 (Effective 07/01/04). Refund or credit for taxes overpaid by a**
2747 **purchaser.**

2748 (1) Subject to the other provisions of this section, a purchaser may request from a seller
2749 a refund or credit of any amount that:

2750 (a) the purchaser overpaid in taxes under this chapter; and

2751 (b) was collected by the seller.

2752 (2) (a) Except as provided in Subsection (2)(b), the procedure described in Subsection
2753 (1) is in addition to the process for a taxpayer to file a claim for a refund or credit with the
2754 commission under Section 59-12-110.

2755 (b) Notwithstanding Subsection (2)(a):

2756 (i) the commission is not required to make a refund or credit of an amount for which as
2757 of the date the refund or credit is to be given the purchaser has requested or received a refund
2758 or credit from the seller; and

2759 (ii) a seller is not required to refund or credit an amount for which as of the date the
2760 refund is to be given the purchaser has requested or received a refund or credit from the
2761 commission.

2762 (3) A purchaser may not bring a cause of action against a seller for a refund or credit
2763 described in Subsection (1):

2764 (a) unless the purchaser provided the seller written notice that:

2765 (i) the purchaser requests the refund or credit described in Subsection (1); and

2766 (ii) contains the information necessary for the seller to determine the validity of the
2767 request; and

2768 (b) sooner than 60 days after the day on which the seller receives the written notice
2769 described in Subsection (3)(a).

2770 (4) A seller that has collected a tax under this chapter that exceeds the amount the
2771 seller is required to collect under this chapter is presumed to have a reasonable business
2772 practice if the seller:

2773 (a) collected a tax under this chapter that exceeds the amount the seller is required to
2774 collect under this chapter through the use of:

2775 (i) a provider certified by the state; or

2776 (ii) a system certified by the state, including a proprietary system certified by the state;
2777 and

2778 (b) has remitted to the commission all taxes that the seller is required to remit to the
2779 commission under this chapter.

2780 Section 21. Section **59-12-122** is enacted to read:

2781 **59-12-122. Monetary allowance for a seller registered under the agreement.**

2782 A seller that is registered under the agreement shall receive the monetary allowance
2783 determined:

2784 (1) by the governing board of the agreement; and

2785 (2) in accordance with Article VI, Monetary Allowances for New Technological
2786 Models for Sales Tax Collection, of the agreement.

2787 Section 22. Section **59-12-205 (Effective 07/01/04)** is amended to read:
 2788 **59-12-205 (Effective 07/01/04). Ordinances to conform with statutory**
 2789 **amendments -- Distribution of tax revenues -- Rulemaking authority -- Determination of**
 2790 **population.**

2791 (1) Each county, city, and town, in order to maintain in effect sales and use tax
 2792 ordinances adopted pursuant to Section 59-12-204, shall, within 30 days of any amendment of
 2793 any applicable provisions of Part 1, Tax Collection, adopt amendments of their respective sales
 2794 and use tax ordinances to conform with the amendments to Part 1, Tax Collection, insofar as
 2795 they relate to sales and use taxes.

2796 (2) ~~[(a)]~~ Except as provided in Subsection ~~[(3)]~~ (7):

2797 ~~[(i)]~~ (a) 50% of each dollar collected from the sales and use tax authorized by this part
 2798 shall be paid to each county, city, and town on the basis of the percentage that the population of
 2799 the county, city, or town bears to the total population of all counties, cities, and towns in the
 2800 state; and

2801 ~~[(ii)]~~ (b) notwithstanding Sections 59-12-207.1 through 59-12-207.4, 50% of each
 2802 dollar collected from the sales and use tax authorized by this part shall be paid to each county,
 2803 city, and town on the basis of the location where the transaction is consummated ~~[under~~
 2804 ~~Subsection (2)(b)]~~ as determined under this section.

2805 ~~[(b)]~~ (3) For purposes of Subsection (2)(a), the location where a transaction is
 2806 consummated is determined ~~[as follows:]~~ in accordance with Subsections (4) through (6).

2807 (4) (a) For a transaction that is reported to the commission on a return other than a
 2808 simplified electronic return, the location where the transaction is consummated is determined
 2809 in accordance with Subsections (4)(b) through (h).

2810 ~~[(i)]~~ (b) (i) ~~[except]~~ Except as provided in Subsections ~~[(2)(b)(ii)]~~ (4)(c) through ~~[(iv)]~~
 2811 (h), for a transaction described in Subsection (4)(b)(ii), the location where [a] the transaction is
 2812 consummated is the place of business of the seller[;].

2813 (ii) Subsection (4)(b)(i) applies to a transaction other than a transaction described in:

2814 (A) Subsection (4)(c)(ii);

2815 (B) Subsection (4)(d)(ii);

2816 (C) Subsection (4)(e)(ii);

2817 (D) Subsection (4)(f)(ii);

2818 (E) Subsection (4)(g)(ii); or
2819 (F) Subsection (4)(h).
2820 ~~[(ii)]~~ (c) (i) [notwithstanding] Notwithstanding Subsection [(2)(b)(i), if tangible
2821 personal property is shipped from outside the state] (4)(b), for a transaction described in
2822 Subsection (4)(c)(ii), the location where the transaction is consummated [is the same as the
2823 location of the transaction determined under] is determined by allocating the total revenues
2824 remitted to the commission each month that are generated by the tax imposed under this
2825 section on the transactions described in Subsection (4)(c)(ii):
2826 (A) to each local taxing jurisdiction; and
2827 (B) on the basis of the population of each local taxing jurisdiction as compared to the
2828 population of the state.
2829 ~~[(A) Section 59-12-207.1;]~~
2830 ~~[(B) Section 59-12-207.2;]~~
2831 ~~[(C) Section 59-12-207.3; or]~~
2832 ~~[(D) Section 59-12-207.4;]~~
2833 (ii) Subsection (4)(c)(i) applies to a transaction:
2834 (A) made by a seller described in Subsection 59-12-107(1)(b); and
2835 (B) involving tangible personal property that is shipped from outside the state.
2836 ~~[(iii)]~~ (d) (i) [notwithstanding] Notwithstanding Subsection [(2)(b)(i) and subject to
2837 Subsection (2)(c), if the transaction is made from a location in the state other than a fixed place
2838 of business in the state] (4)(b), for a transaction described in Subsection (4)(d)(ii), the location
2839 where the transaction is consummated is [the same as the location of the transaction determined
2840 under] determined by allocating the total revenues reported to the commission each month that
2841 are generated by the tax imposed under this section on the transactions described in Subsection
2842 (4)(d)(ii):
2843 (A) to local taxing jurisdictions within a county; and
2844 (B) on the basis of the proportion of total revenues generated by the transactions
2845 described in Subsection (4)(b)(ii) that are reported to the commission for that month within a
2846 local taxing jurisdiction within that county as compared to the total revenues generated by the
2847 transactions described in Subsection (4)(b)(ii) that are reported to the commission for that
2848 month within all local taxing jurisdictions within that county.

2849 ~~[(A) Section 59-12-207.1;]~~
2850 ~~[(B) Section 59-12-207.2;]~~
2851 ~~[(C) Section 59-12-207.3; or]~~
2852 ~~[(D) Section 59-12-207.4; or]~~
2853 (ii) Subsection (4)(d)(i) applies to a transaction:
2854 (A) made from a location in the state other than a fixed place of business in the state;
2855 or
2856 (B) (I) made by a seller described in Subsection 59-12-107(1)(a); and
2857 (II) involving tangible personal property that is shipped from outside the state.
2858 (e) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection
2859 (4)(e)(ii), the location where the transaction is consummated is determined by allocating the
2860 total revenues reported to the commission each month that are generated by the tax imposed
2861 under this section on the transactions described in Subsection (4)(e)(ii):
2862 (A) to local taxing jurisdictions; and
2863 (B) on the basis of the proportion of the total revenues generated by the transactions
2864 described in Subsection (4)(b)(ii) that are reported to the commission for that month within
2865 each local taxing jurisdiction as compared to the total revenues generated by the transactions
2866 described in Subsection (4)(b)(ii) that are reported to the commission for that month within the
2867 state.
2868 (ii) Subsection (4)(e)(i) applies to a transaction involving tangible personal property
2869 purchased with a direct payment permit in accordance with Section 59-12-107.1.
2870 (f) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection
2871 (4)(f)(ii), the location where the transaction is consummated is each location where the good or
2872 service described in Subsection 59-12-107.2(1)(b) is used.
2873 (ii) Subsection (4)(f)(i) applies to a transaction involving a good or service:
2874 (A) described in Subsection 59-12-107.2(1)(b);
2875 (B) that is concurrently available for use in more than one location; and
2876 (C) is purchased using the form described in Section 59-12-107.2.
2877 (g) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection
2878 (4)(g)(ii), the location where the transaction is consummated is determined by allocating the
2879 total revenues reported to the commission each month that are generated by the tax imposed

2880 under this section on the transactions described in Subsection (4)(g)(ii):

2881 (A) to local taxing jurisdictions; and

2882 (B) on the basis of the proportion of the total revenues generated by the transactions

2883 described in Subsection (4)(b)(ii) that are reported to the commission for that month within

2884 each local taxing jurisdiction as compared to the total revenues generated by the transactions

2885 described in Subsection (4)(b)(ii) that are reported to the commission for that month within the

2886 state.

2887 (ii) Subsection (4)(g)(i) applies to a transaction involving a purchase of direct mail if

2888 the purchaser of the direct mail provides to the seller the form described in Subsection

2889 59-12-107.3(1)(a) at the time of the purchase of the direct mail.

2890 [(iv)] (h) [if the transaction involves] Notwithstanding Subsection (4)(b), for a

2891 transaction involving the sale of a telephone service, the location where the transaction is

2892 consummated is the same as the location of the transaction determined under Section

2893 59-12-207.4.

2894 (5) (a) For a transaction that is reported to the commission on a simplified electronic

2895 return, the location where the transaction is consummated is determined in accordance with

2896 Subsections (5)(b) through (e).

2897 (b) (i) Except as provided in Subsections (5)(c) through (e), the location where a

2898 transaction is consummated is determined by allocating the total revenues reported to the

2899 commission each month on the simplified electronic return:

2900 (A) to local taxing jurisdictions; and

2901 (B) on the basis of the proportion of the total revenues generated by the transactions

2902 described in Subsection (4)(b)(ii) that are reported to the commission in accordance with

2903 Subsection (5)(b)(ii) for that month within each local taxing jurisdiction as compared to the

2904 total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported

2905 to the commission in accordance with Subsection (5)(b)(ii) for that month within the state.

2906 (ii) In making the allocations required by Subsection (5)(b)(i), the commission shall

2907 use the total revenues generated by the transactions described in Subsection (4)(b)(ii) reported

2908 to the commission:

2909 (A) in the report required by Subsection 59-12-105(2); and

2910 (B) if a local taxing jurisdiction reports revenues to the commission in accordance with

2911 Subsection (5)(b)(iii), in the report made in accordance with Subsection (5)(b)(iii).

2912 (iii) (A) For purposes of this Subsection (5)(b), a local taxing jurisdiction may report to

2913 the commission the revenues generated by a tax imposed by this chapter within the local taxing

2914 jurisdiction if a seller:

2915 (I) opens an additional place of business within the local taxing jurisdiction after the

2916 seller makes an initial application for a license under Section 59-12-106; and

2917 (II) estimates that the additional place of business will increase by 5% or more the

2918 revenues generated by a tax imposed by this chapter within the local taxing jurisdiction.

2919 (B) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

2920 the commission may make rules providing procedures and requirements for making the report

2921 described in this Subsection (5)(b).

2922 (c) (i) Notwithstanding Subsection (5)(b), for a transaction described in Subsection

2923 (5)(c)(ii), the location where the transaction is consummated is determined by allocating the

2924 total revenues reported to the commission each month that are generated by the tax imposed

2925 under this section on the transactions described in Subsection (5)(c)(ii):

2926 (A) to local taxing jurisdictions within a county; and

2927 (B) on the basis of the proportion of the total revenues generated by the transactions

2928 described in Subsection (4)(b)(ii) that are reported to the commission for that month within a

2929 local taxing jurisdiction within that county as compared to the total revenues generated by the

2930 transactions described in Subsection (4)(b)(ii) that are reported to the commission for that

2931 month within all local taxing jurisdictions within that county.

2932 (ii) Subsection (5)(c)(i) applies to a transaction:

2933 (A) made from a location in the state other than a fixed place of business in the state;

2934 or

2935 (B) (I) made by a seller described in Subsection 59-12-107(1)(a); and

2936 (II) involving tangible personal property that is shipped from outside the state.

2937 (d) Notwithstanding Subsection (5)(b), for a transaction made by a seller described in

2938 Subsection 59-12-107(1)(b), the location where the transaction is consummated is determined

2939 by allocating the total revenues remitted to the commission each month that are generated by

2940 the tax imposed under this section on the transactions made by a seller described in Subsection

2941 59-12-107(1)(b):

2942 (A) to each local taxing jurisdiction; and
 2943 (B) on the basis of the population of each local taxing jurisdiction as compared to the
 2944 population of the state.

2945 (e) (i) Notwithstanding Subsection (5)(b), for a transaction described in Subsection
 2946 (5)(e)(ii), the location where the transaction is consummated is determined by allocating the
 2947 total revenues reported to the commission each month that are generated by the tax imposed
 2948 under this section on the transactions described in Subsection (5)(e)(ii):

2949 (A) to local taxing jurisdictions; and
 2950 (B) on the basis of the proportion of the total revenues generated by the transactions
 2951 described in Subsection (4)(b)(ii) that are reported to the commission for that month within
 2952 each local taxing jurisdiction as compared to the total revenues generated by the transactions
 2953 described in Subsection (4)(b)(ii) that are reported to the commission for that month within the
 2954 state.

2955 (ii) Subsection (5)(e)(i) applies to a transaction involving tangible personal property
 2956 purchased with a direct payment permit in accordance with Section 59-12-107.1.

2957 ~~[(e) In]~~ (6) For purposes of Subsections (4) and (5) and in accordance with Title 63,
 2958 Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules defining
 2959 what constitutes a fixed place of business in the state.

2960 ~~[(3)]~~ (7) (a) Notwithstanding Subsection (2), a county, city, or town may not receive a
 2961 tax revenue distribution less than .75% of the taxable sales within the boundaries of the county,
 2962 city, or town.

2963 (b) The commission shall proportionally reduce quarterly distributions to any county,
 2964 city, or town that, but for the reduction, would receive a distribution in excess of 1% of the
 2965 sales and use tax revenue collected within the boundaries of the county, city, or town.

2966 ~~[(4)]~~ (8) (a) Population figures for purposes of this section shall be based on the most
 2967 recent official census or census estimate of the United States Census Bureau.

2968 (b) If a needed population estimate is not available from the United States Census
 2969 Bureau, population figures shall be derived from the estimate from the Utah Population
 2970 Estimates Committee created by executive order of the governor.

2971 ~~[(5)]~~ (9) The population of a county for purposes of this section shall be determined
 2972 solely from the unincorporated area of the county.

2973 Section 23. Section **59-12-207.1 (Effective 07/01/04)** is amended to read:
2974 **59-12-207.1 (Effective 07/01/04). Definitions -- Location of certain transactions --**
2975 **Reports to commission -- Direct payment provision for a seller making certain purchases**
2976 **-- Exceptions.**

2977 (1) As used in this section:

2978 (a) (i) "Receive" and "receipt" mean:

2979 (A) taking possession of tangible personal property;

2980 (B) making first use of services; or

2981 (C) for a digital good, the earlier of:

2982 (I) taking possession of tangible personal property; or

2983 (II) making first use of services.

2984 (ii) "Receive" and "receipt" do not include possession by a shipping company on behalf
2985 of a purchaser.

2986 (b) "Transportation equipment" means:

2987 (i) a locomotive or railcar that is utilized for the carriage of persons or property in
2988 interstate commerce;

2989 (ii) a truck or truck-tractor with a gross vehicle weight rating of 10,001 pounds or more
2990 that is:

2991 (A) registered under Section 41-1a-301; and

2992 (B) operated under the authority of a carrier authorized and certificated:

2993 (I) by the United States Department of Transportation or another federal authority; and

2994 (II) to engage in the carriage of persons or property in interstate commerce;

2995 (iii) a trailer, semitrailer, or passenger bus that is:

2996 (A) registered under Section 41-1a-301; and

2997 (B) operated under the authority of a carrier authorized and certificated:

2998 (I) by the United States Department of Transportation or another federal authority; and

2999 (II) to engage in the carriage of persons or property in interstate commerce;

3000 (iv) an aircraft that is operated by an air carrier authorized and certificated:

3001 (A) by the United States Department of Transportation or another federal or foreign
3002 authority; and

3003 (B) to engage in the carriage of persons or property in interstate commerce; or

3004 (v) a container designed for use on, or a component part attached or secured on an item
3005 listed in Subsections (1)(b)(i) through (iv).

3006 (2) Except as provided in [~~Subsection (11)] Subsections (8) and (14), if tangible
3007 personal property or a service that is subject to taxation under this chapter is received by a
3008 purchaser at a business location of a seller, the location of the transaction is the business
3009 location of the seller.~~

3010 (3) [~~Except~~] Subject to Subsection (10), and except as provided in Subsections (7), (8),
3011 [~~and~~] (9), (11), and (14), if tangible personal property or a service that is subject to taxation
3012 under this chapter is not received by a purchaser at a business location of a seller, the location
3013 of the transaction is the location where the purchaser takes receipt of the tangible personal
3014 property or services.

3015 (4) [~~Except~~] Subject to Subsection (10), and except as provided in Subsections (7), (8),
3016 [~~and~~] (9), (11), and (14), if Subsection (2) or (3) does not apply, the location of the transaction
3017 is the location indicated by an address for or other information on the purchaser if:

- 3018 (a) the address or other information is available from the seller's business records; and
- 3019 (b) use of the address or other information from the seller's records does not constitute
3020 bad faith.

3021 (5) (a) [~~Except~~] Subject to Subsection (10), and except as provided in Subsections (7),
3022 (8), (9), (11), and [(11)] (14), if Subsection (2), (3), or (4) does not apply, the location of the
3023 transaction is the location indicated by an address for the purchaser if:

- 3024 (i) the address was obtained during the consummation of the transaction; and
- 3025 (ii) use of the address described in Subsection (5)(a)(i) does not constitute bad faith.
- 3026 (b) An address used under Subsection (5)(a) may include the address of a purchaser's
3027 payment instrument if no other address is available.

3028 (6) [~~Except~~] Subject to Subsection (10), and except as provided in Subsections (7), (8),
3029 (9), (11), and [(11)] (14), if Subsection (2), (3), (4), or (5) does not apply or if a seller does not
3030 have sufficient information to apply Subsection (2), (3), (4), or (5), the location of the
3031 transaction is the location indicated by the address from which:

- 3032 (a) except as provided in Subsection (6)(b), for tangible personal property that is
3033 subject to taxation under this chapter, the tangible personal property was shipped;
- 3034 (b) notwithstanding Subsection (6)(a), for computer software delivered electronically

3035 or a digital good that is subject to taxation under this chapter, the computer software delivered
3036 electronically or digital good was first available for transmission by the seller; or

3037 (c) for a service that is subject to taxation under this chapter, the service was provided.

3038 (7) (a) ~~For purposes of~~ As used in this Subsection (7), "shared ZIP Code" means:

3039 (i) a nine-digit ZIP Code ~~[assigned by the United States Postal Service]~~ that is located
3040 within two or more local taxing jurisdictions[-]; or

3041 (ii) a five-digit ZIP Code that is located within two or more local taxing jurisdictions if:

3042 (A) a nine-digit ZIP Code is not available for a location; or

3043 (B) after exercising due diligence, a seller is unable to determine a nine-digit ZIP Code
3044 for a location.

3045 (b) Notwithstanding Subsections (3) through (6) and except as provided in Subsection
3046 (7)(d)(ii), if the location of a transaction determined under Subsections (3) through (6) is in a
3047 shared ZIP Code, the location of the transaction is:

3048 (i) if there is only one local taxing jurisdiction that imposes the lowest agreement
3049 combined tax rate for the shared ZIP Code, the local taxing jurisdiction that imposes the lowest
3050 agreement combined tax rate; or

3051 (ii) if two or more local taxing jurisdictions impose the lowest agreement combined tax
3052 rate for the shared ZIP Code, the local taxing jurisdiction that:

3053 (A) imposes the lowest agreement combined tax rate for the shared ZIP Code; and

3054 (B) has located within the local taxing jurisdiction the largest number of street
3055 addresses within the shared ZIP Code.

3056 (c) A seller shall collect a tax imposed under this chapter at the lowest agreement
3057 combined tax rate imposed within the local taxing jurisdiction in which the transaction is
3058 located under Subsection (7)(b) notwithstanding the following:

3059 (i) Section 59-12-204;

3060 (ii) Section 59-12-401;

3061 (iii) Section 59-12-402;

3062 (iv) Section 59-12-501;

3063 (v) Section 59-12-502;

3064 (vi) Section 59-12-703;

3065 (vii) Section 59-12-802;

3066 (viii) Section 59-12-804;
3067 (ix) Section 59-12-1001;
3068 (x) Section 59-12-1102;
3069 (xi) Section 59-12-1302; [~~and~~]
3070 (xii) Section 59-12-1402[-]; and
3071 (xiii) Section 59-12-1503.
3072 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
3073 commission may make rules:
3074 (i) providing for the circumstances under which a seller has exercised due diligence in
3075 determining the nine-digit ZIP Code for an address; or
3076 (ii) notwithstanding Subsection (7)(b), for determining the local taxing jurisdiction
3077 within which a transaction is located if a seller is unable to determine the local taxing
3078 jurisdiction within which the transaction is located under Subsection (7)(b).
3079 (8) Notwithstanding Subsections (2) through (6), the location of a transaction made
3080 with a direct payment permit described in Section 59-12-107.1 is:
3081 (a) for a tax imposed under Section 59-12-204, the location determined under Section
3082 59-12-205; or
3083 (b) for a tax imposed under this chapter other than under Section 59-12-204, the
3084 location at which the tangible personal property or service purchased using the direct payment
3085 permit is used.
3086 [~~(8)~~] (9) Notwithstanding Subsections (3) through (5), the location of a purchase of
3087 direct mail is the location described in Subsection (6), if the purchaser of the direct mail:
3088 (a) has not been issued a direct payment permit under Section 59-12-107.1; and
3089 (b) does not provide the seller the form or information described in Subsection
3090 59-12-107.3(1).
3091 (10) (a) Except as provided in Subsection (10)(b), the location of a transaction
3092 determined under Subsections (3) through (6), (8), and (9), is the local taxing jurisdiction
3093 within which:
3094 (i) the nine-digit ZIP Code assigned to the location determined under Subsections (3)
3095 through (6), (8), and (9) is located; or
3096 (ii) the five-digit ZIP Code assigned to the location determined under Subsections (3)

3097 through (6), (8), and (9) is located if:

3098 (A) a nine-digit ZIP Code is not available for the location determined under

3099 Subsections (3) through (6), (8), and (9); or

3100 (B) after exercising due diligence, a seller is unable to determine a nine-digit ZIP Code

3101 for the location determined under Subsections (3) through (6), (8), and (9).

3102 (b) Notwithstanding Subsection (10)(a), in accordance with Title 63, Chapter 46a, Utah

3103 Administrative Rulemaking Act, the commission may make rules for determining the local

3104 taxing jurisdiction within which a transaction is located if a seller is unable to determine the

3105 local taxing jurisdiction within which the transaction is located under Subsection (10)(a).

3106 (11) (a) As used in this Subsection (11), "florist delivery transaction" means a

3107 transaction commenced by a florist that transmits an order:

3108 (i) by:

3109 (A) telegraph;

3110 (B) telephone; or

3111 (C) a means of communication similar to Subsection (11)(a)(i)(A) or (B); and

3112 (ii) for delivery to another place:

3113 (A) in this state; or

3114 (B) outside this state.

3115 (b) Notwithstanding Subsections (3) through (6), beginning on July 1, 2004, through

3116 December 31, 2005, the location of a florist delivery transaction is the business location of the

3117 florist that commences the florist delivery transaction.

3118 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

3119 commission may by rule:

3120 (i) define the terms:

3121 (A) "business location"; and

3122 (B) "florist";

3123 (ii) define what constitutes a means of communication similar to Subsection

3124 (11)(a)(i)(A) or (B); and

3125 (iii) provide procedures for determining when a transaction is commenced.

3126 ~~[(9)]~~ (12) If a purchaser knows at the time that the purchaser purchases a service,

3127 prewritten computer software delivered electronically, or a digital good that the service,

3128 prewritten computer software delivered electronically, or digital good will be concurrently
3129 available for use in more than one location, the purchaser shall:

3130 (a) determine the location of the transaction under this section for each location in
3131 which the service, prewritten computer software delivered electronically, or digital good will
3132 be concurrently available for use; and

3133 (b) apportion the purchase price of the service, prewritten computer software delivered
3134 electronically, or digital good:

3135 (i) among each location determined under Subsection [~~9~~] (12)(a); and

3136 (ii) in accordance with Section 59-12-107.2.

3137 [~~10~~] (13) (a) A tax collected under this chapter shall be reported to the commission
3138 on a form that identifies the location of each transaction that occurred during the return filing
3139 period.

3140 (b) The form described in Subsection [~~10~~] (13)(a) shall be filed with the commission
3141 as required under this chapter.

3142 [~~11~~] (14) This section does not apply to:

3143 (a) amounts charged by a seller for:

3144 (i) telephone service; or

3145 (ii) the retail sale or transfer of:

3146 (A) a motor vehicle other than a motor vehicle that is transportation equipment;

3147 (B) an aircraft other than an aircraft that is transportation equipment;

3148 (C) a watercraft;

3149 (D) a modular home;

3150 (E) a manufactured home; or

3151 (F) a mobile home; or

3152 (iii) except as provided in Section 59-12-207.3, the lease or rental of tangible personal
3153 property other than tangible personal property that is transportation equipment; or

3154 (b) a tax paid under this chapter:

3155 (i) by a seller; and

3156 (ii) for the seller's purchases.

3157 Section 24. Section **59-12-207.3 (Effective 07/01/04)** is amended to read:

3158 **59-12-207.3 (Effective 07/01/04). Location of transaction involving lease or rental**

3159 **of certain tangible personal property.**

3160 (1) (a) For purposes of this section, "primary property location" means an address for
3161 tangible personal property:

3162 (i) provided by a lessee to a lessor; and

3163 (ii) that is available to the lessor from the lessor's records maintained in the ordinary
3164 course of business.

3165 (b) "Primary property location" does not include an address described in Subsection
3166 (1)(a) if use of that address constitutes bad faith.

3167 (2) (a) Except as provided in Subsection (2)(b) or (5), if a lease or rental of tangible
3168 personal property subject to taxation under this part requires recurring periodic payments:

3169 (i) notwithstanding Section 59-12-207.1, the location of the transaction for any down
3170 payment and for the first recurring periodic payment is as provided in Sections 59-12-205 and
3171 59-12-207.1; and

3172 (ii) the location of the transaction for the second recurring periodic payment and
3173 subsequent recurring periodic payments is the primary property location for each time period
3174 covered by the recurring periodic payment.

3175 (b) Notwithstanding Subsection (2)(a), if a transaction subject to taxation under this
3176 chapter involving a lease or rental of a motor vehicle, trailer, semitrailer, or aircraft that is not
3177 transportation equipment under Section 59-12-207.1 requires recurring periodic payments, the
3178 location of the transaction for any down payment and for each recurring periodic payment shall
3179 be the primary property location for each time period covered by the recurring periodic
3180 payment.

3181 (3) Notwithstanding Section 59-12-207.1 and except as provided in Subsection (5), if a
3182 transaction involving a lease or rental of the following does not require recurring periodic
3183 payments, the location of the transaction shall be as provided in Sections 59-12-205 and
3184 59-12-207.1 for each lease payment for:

3185 (a) tangible personal property subject to taxation under this chapter; or

3186 (b) a motor vehicle, trailer, semitrailer, or aircraft that is:

3187 (i) not transportation equipment under Section 59-12-207.1; and

3188 (ii) subject to taxation under this chapter.

3189 (4) This section does not affect the imposition or computation of a tax under this

3190 chapter on:

3191 (a) a lease or rental of tangible personal property subject to a tax under this chapter on:

3192 (i) the basis of a lump sum; or

3193 (ii) an accelerated basis; or

3194 (b) an acquisition of tangible personal property:

3195 (i) subject to taxation under this chapter; and

3196 (ii) for lease.

3197 (5) This section does not apply to a transaction involving the lease or rental of tangible
3198 personal property that is transportation equipment as defined in Section 59-12-207.1.

3199 Section 25. Section **59-12-207.5 (Effective 07/01/04)** is amended to read:

3200 **59-12-207.5 (Effective 07/01/04). Seller or certified service provider reliance on**
3201 **commission database or certain software.**

3202 A seller or certified service provider [~~that collects a tax imposed by a county, city, or~~
3203 ~~town under this part~~] is not liable for failing to collect and remit a tax at a tax rate imposed
3204 under this part if:

3205 (1) the tax rate at which the seller or certified service provider collected the tax was
3206 derived from a database created by the commission containing:

3207 [~~(1)~~] (a) tax rates; or

3208 [~~(2)~~] (b) local taxing jurisdiction boundaries[-];

3209 (2) the failure to collect and remit the tax is as a result of the seller's or certified service
3210 provider's reliance on incorrect data provided by the commission in the taxability matrix
3211 required by Section 328 of the agreement;

3212 (3) for a model 2 seller, the failure to collect and remit the tax:

3213 (a) is due to an error in the certified automated system used by the model 2 seller; and

3214 (b) occurs prior to an audit of the certified automated system that reveals the error in
3215 the certified automated system; or

3216 (4) for a model 3 seller, the failure to collect and remit the tax:

3217 (a) is due to an error in the proprietary system used by the model 3 seller; and

3218 (b) occurs prior to an audit of the proprietary system that reveals the error in the
3219 proprietary system.

3220 Section 26. Section **59-12-208.1 (Effective 07/01/04)** is amended to read:

3221 **59-12-208.1 (Effective 07/01/04). Enactment or repeal of tax -- Effective date --**

3222 **Notice requirements.**

3223 (1) For purposes of this section:

3224 (a) "Annexation" means an annexation to:

3225 (i) a county under Title 17, Chapter 2, Annexation to County; or

3226 (ii) a city or town under Title 10, Chapter 2, Part 4, Annexation.

3227 (b) "Annexing area" means an area that is annexed into a county, city, or town.

3228 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after July 1, 2004, a
3229 county, city, or town enacts or repeals a tax under this part, the enactment or repeal shall take
3230 effect:

3231 (i) on the first day of a calendar quarter; and

3232 (ii) after a 90-day period beginning on the date the commission receives notice meeting
3233 the requirements of Subsection (2)(b) from the county, city, or town.

3234 (b) The notice described in Subsection (2)(a)(ii) shall state:

3235 (i) that the county, city, or town will enact or repeal a tax under this part;

3236 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

3237 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

3238 (iv) if the county, city, or town enacts the tax described in Subsection (2)(b)(i), the rate
3239 of the tax.

3240 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
3241 (2)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

3242 (A) that begins after the effective date of the ~~[imposition]~~ enactment of the tax; and

3243 (B) if the billing period for the transaction begins before the effective date of the
3244 enactment of the tax under Section 59-12-204.

3245 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
3246 (2)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

3247 (A) that began before the effective date of the repeal of the tax; and

3248 (B) if the billing period for the transaction begins before the effective date of the repeal
3249 of the tax imposed under Section 59-12-204.

3250 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:

3251 (A) Subsection 59-12-103(1)(b);

- 3252 (B) Subsection 59-12-103(1)(c);
- 3253 (C) Subsection 59-12-103(1)(d);
- 3254 (D) Subsection 59-12-103(1)(e);
- 3255 (E) Subsection 59-12-103(1)(f);
- 3256 (F) Subsection 59-12-103(1)(g);
- 3257 (G) Subsection 59-12-103(1)(h);
- 3258 (H) Subsection 59-12-103(1)(i);
- 3259 (I) Subsection 59-12-103(1)(j); or
- 3260 (J) Subsection 59-12-103(1)(k).
- 3261 (d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue
- 3262 sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 3263 enactment or repeal of a tax described in Subsection (2)(a) takes effect:
- 3264 (A) on the first day of a calendar quarter; and
- 3265 (B) beginning 60 days after the effective date of the enactment or repeal under
- 3266 Subsection (2)(a).
- 3267 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 3268 the commission may by rule define the term "catalogue sale."
- 3269 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs
- 3270 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
- 3271 part for an annexing area, the enactment or repeal shall take effect:
- 3272 (i) on the first day of a calendar quarter; and
- 3273 (ii) after a 90-day period beginning on the date the commission receives notice meeting
- 3274 the requirements of Subsection (3)(b) from the county, city, or town that annexes the annexing
- 3275 area.
- 3276 (b) The notice described in Subsection (3)(a)(ii) shall state:
- 3277 (i) that the annexation described in Subsection (3)(a) will result in an enactment or
- 3278 repeal of a tax under this part for the annexing area;
- 3279 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);
- 3280 (iii) the effective date of the tax described in Subsection (3)(b)(i); and
- 3281 (iv) the rate of the tax described in Subsection (3)(b)(i).
- 3282 (c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection

3283 (3)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

3284 (A) that begins after the effective date of the enactment of the tax; and

3285 (B) if the billing period for the transaction begins before the effective date of the
3286 [~~imposition~~] enactment of the tax under Section 59-12-204.

3287 (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection

3288 (3)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

3289 (A) that began before the effective date of the repeal of the tax; and

3290 (B) if the billing period for the transaction begins before the effective date of the repeal
3291 of the tax imposed under Section 59-12-204.

3292 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:

3293 (A) Subsection 59-12-103(1)(b);

3294 (B) Subsection 59-12-103(1)(c);

3295 (C) Subsection 59-12-103(1)(d);

3296 (D) Subsection 59-12-103(1)(e);

3297 (E) Subsection 59-12-103(1)(f);

3298 (F) Subsection 59-12-103(1)(g);

3299 (G) Subsection 59-12-103(1)(h);

3300 (H) Subsection 59-12-103(1)(i);

3301 (I) Subsection 59-12-103(1)(j); or

3302 (J) Subsection 59-12-103(1)(k).

3303 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue
3304 sale is computed on the basis of sales and use tax rates published in the catalogue, an
3305 enactment or repeal of a tax described in Subsection (3)(a) takes effect:

3306 (A) on the first day of a calendar quarter; and

3307 (B) beginning 60 days after the effective date of the enactment or repeal under
3308 Subsection (3)(a).

3309 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
3310 the commission may by rule define the term "catalogue sale."

3311 Section 27. Section **59-12-301 (Effective 07/01/04)** is amended to read:

3312 **59-12-301 (Effective 07/01/04). Transient room tax -- Rate -- Enactment or repeal**
3313 **of tax -- Tax rate change -- Effective date -- Notice requirements.**

3314 (1) (a) Any county legislative body may impose a transient room tax of not to exceed
3315 3% ~~[of the rent for every occupancy of a suite or room:]~~ on the accommodations and services
3316 described in Subsection 59-12-103(1)(i).

3317 ~~[(i) on the following entities doing business as motor courts, motels, hotels, inns, or~~
3318 ~~providing similar public accommodations:]~~

3319 ~~[(A) a person;]~~

3320 ~~[(B) a company;]~~

3321 ~~[(C) a corporation; or]~~

3322 ~~[(D) a person, group, or organization similar to Subsections (1)(a)(i)(A) through (C);~~
3323 ~~and]~~

3324 ~~[(ii) if the suite or room is regularly rented for less than 30 consecutive days.]~~

3325 (b) The revenues raised from the tax imposed under Subsection (1)(a) shall be used for
3326 the purposes listed in Section 17-31-2.

3327 (c) The tax imposed under Subsection (1)(a) shall be in addition to the tourism,
3328 recreation, cultural, and convention tax imposed under Part 6, Tourism, Recreation, Cultural,
3329 and Convention Facilities Tax.

3330 (d) A county legislative body imposing a tax under this part shall impose the tax on the
3331 ~~[rents]~~ accommodations and services described in Subsection (1)(a) relating to the Olympic
3332 Winter Games of 2002 made to or by an organization exempt from federal income taxation
3333 under Section 501(c)(3), Internal Revenue Code, except for ~~[rents]~~ accommodations and
3334 services described in Subsection (1)(a):

3335 (i) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter
3336 Games of 2002;

3337 (ii) exclusively used by:

3338 (A) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
3339 Olympic Winter Games of 2002; or

3340 (B) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic
3341 Winter Games of 2002; and

3342 (iii) for which the Salt Lake Organizing Committee for the Olympic Winter Games of
3343 2002 does not receive reimbursement.

3344 (2) Subject to Subsection (3), a county legislative body:

- 3345 (a) may increase or decrease the [~~transient room~~] tax authorized under this part; and
- 3346 (b) shall regulate the [~~transient room~~] tax authorized under this part by ordinance.
- 3347 (3) (a) For purposes of this Subsection (3):
- 3348 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
- 3349 Annexation to County.
- 3350 (ii) "Annexing area" means an area that is annexed into a county.
- 3351 (b) (i) Except as provided in Subsection (3)(c), if, on or after July 1, 2004, a county
- 3352 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or
- 3353 change shall take effect:
- 3354 (A) on the first day of a calendar quarter; and
- 3355 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 3356 the requirements of Subsection (3)(b)(ii) from the county.
- 3357 (ii) The notice described in Subsection (3)(b)(i)(B) shall state:
- 3358 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;
- 3359 (B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);
- 3360 (C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and
- 3361 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
- 3362 (3)(b)(ii)(A), the rate of the tax.
- 3363 (c) (i) Notwithstanding Subsection (3)(b)(i), for a transaction described in Subsection
- 3364 (3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
- 3365 first billing period:
- 3366 (A) that begins after the effective date of the enactment of the tax or the tax rate
- 3367 increase; and
- 3368 (B) if the billing period for the transaction begins before the effective date of the
- 3369 enactment of the tax or the tax rate increase imposed under this section.
- 3370 (ii) Notwithstanding Subsection (3)(b)(i), for a transaction described in Subsection
- 3371 (3)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
- 3372 billing period:
- 3373 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
- 3374 and
- 3375 (B) if the billing period for the transaction begins before the effective date of the repeal

3376 of the tax or the tax rate decrease imposed under this section.

3377 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under
3378 Subsection 59-12-103(1)(i).

3379 (d) (i) Except as provided in Subsection (3)(e), if, for an annexation that occurs on or
3380 after July 1, 2004, the annexation will result in the enactment, repeal, or a change in the rate of
3381 a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

3382 (A) on the first day of a calendar quarter; and

3383 (B) after a 90-day period beginning on the date the commission receives notice meeting
3384 the requirements of Subsection (3)(d)(ii) from the county that annexes the annexing area.

3385 (ii) The notice described in Subsection (3)(d)(i)(B) shall state:

3386 (A) that the annexation described in Subsection (3)(d)(i) will result in an enactment,
3387 repeal, or change in the rate of a tax under this part for the annexing area;

3388 (B) the statutory authority for the tax described in Subsection (3)(d)(ii)(A);

3389 (C) the effective date of the tax described in Subsection (3)(d)(ii)(A); and

3390 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
3391 (3)(d)(ii)(A), the rate of the tax.

3392 (e) (i) Notwithstanding Subsection (3)(d)(i), for a transaction described in Subsection
3393 (3)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
3394 first billing period:

3395 (A) that begins after the effective date of the enactment of the tax or the tax rate
3396 increase; and

3397 (B) if the billing period for the transaction begins before the effective date of the
3398 enactment of the tax or the tax rate increase imposed under this section.

3399 (ii) Notwithstanding Subsection (3)(d)(i), for a transaction described in Subsection
3400 (3)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
3401 billing period:

3402 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
3403 and

3404 (B) if the billing period for the transaction begins before the effective date of the repeal
3405 of the tax or the tax rate decrease imposed under this section.

3406 (iii) Subsections (3)(e)(i) and (ii) apply to transactions subject to a tax under

3407 Subsection 59-12-103(1)(i).

3408 Section 28. Section **59-12-302 (Effective 07/01/04)** is amended to read:

3409 **59-12-302 (Effective 07/01/04). Collection of tax -- Administrative fee -- Penalties**
 3410 **-- Commission to interpret, audit, and adjudicate transient room tax.**

3411 (1) (a) Except as provided in Subsection (1)(b) or (c), the [transient room] tax
 3412 ~~authorized under this part shall be [levied at the same time and collected in the same manner as~~
 3413 ~~provided in] administered, collected, and enforced in accordance with:~~

3414 (i) the same procedures used to administer, collect, and enforce the tax under:

3415 (A) Part 1, Tax Collection; or

3416 (B) Part 2, Local Sales and Use Tax Act; and

3417 (ii) Chapter 1, General Taxation Policies.

3418 (b) (i) Notwithstanding Section 59-12-206, each county may collect the tax imposed by
 3419 the county and need not transmit the tax to the commission or contract with the commission to
 3420 collect the tax.

3421 (ii) The amount of tax collected shall be reported to the commission as provided in
 3422 Subsection 59-12-207.1[~~(10)~~](13).

3423 (c) Notwithstanding Subsection (1)(a), a tax under this part is not subject to:

3424 (i) Sections 59-12-107.1 through 59-12-107.3;

3425 (ii) Sections 59-12-207.1 through 59-12-207.4; or

3426 (iii) Subsections 59-12-205(2) through [~~(5)~~] (9).

3427 (d) (i) If the commission collects a tax under this part, the commission:

3428 (A) except as provided in Subsection (1)(d)(i)(B), shall distribute the revenues
 3429 generated by the tax to the county within which the revenues were generated; and

3430 (B) notwithstanding Subsection (1)(d)(i)(A), may retain an amount of tax collected
 3431 under this part of not to exceed the lesser of:

3432 (I) 1.5%; or

3433 (II) an amount equal to the cost to the commission of administering this part.

3434 (ii) Any amount the commission retains under Subsection (1)(d)(i)(B) shall be:

3435 (A) placed in the Sales and Use Tax Administrative Fees Account; and

3436 (B) used as provided in Subsection 59-12-206(2).

3437 (2) (a) The tax ordinance adopted by a county pursuant to Section 59-12-301 may

3438 include provisions for the imposition of penalties and interest if a person or entity required to
3439 pay [~~transient room taxes~~] a tax under this [section] part fails to timely remit the [~~transient~~
3440 ~~room taxes~~] tax to the collecting agent.

3441 (b) A county legislative body may not establish penalties and interest by ordinance that
3442 exceed the penalties and interest rates authorized for the commission in Sections 59-1-401 and
3443 59-1-402.

3444 (3) A county may adopt an ordinance imposing penalties and interest under Subsection
3445 (2) only if the county does not contract with the commission to collect the tax.

3446 (4) If a county elects to collect the tax as provided in Subsection (1), the commission
3447 shall interpret, audit, and adjudicate the tax imposed under this part.

3448 Section 29. Section **59-12-303** is enacted to read:

3449 **59-12-303. Seller or certified service provider reliance on commission database or**
3450 **certain software.**

3451 A seller or certified service provider is not liable for failing to collect and remit a tax at
3452 a tax rate imposed under this part if:

3453 (1) the tax rate at which the seller or certified service provider collected the tax was
3454 derived from a database created by the commission containing:

3455 (a) tax rates; or

3456 (b) local taxing jurisdiction boundaries;

3457 (2) the failure to collect and remit the tax is as a result of the seller's or certified service
3458 provider's reliance on incorrect data provided by the commission in the taxability matrix
3459 required by Section 328 of the agreement;

3460 (3) for a model 2 seller, the failure to collect and remit the tax:

3461 (a) is due to an error in the certified automated system used by the model 2 seller; and

3462 (b) occurs prior to an audit of the certified automated system that reveals the error in
3463 the certified automated system; or

3464 (4) for a model 3 seller, the failure to collect and remit the tax:

3465 (a) is due to an error in the proprietary system used by the model 3 seller; and

3466 (b) occurs prior to an audit of the proprietary system that reveals the error in the
3467 proprietary system.

3468 Section 30. Section **59-12-352** is amended to read:

3469 **59-12-352. Transient room tax authority for municipalities -- Purposes for which**
3470 **revenues may be used.**

3471 (1) (a) The governing body of a municipality may impose a [~~transient room~~] tax [~~on the~~
3472 ~~rents charged to transients occupying public accommodations in an amount that is less than or~~
3473 ~~equal to~~] of not to exceed 1% [of the rents charged] on the accommodations and services
3474 described in Subsection 59-12-103(1)(i).

3475 (b) A governing body of a municipality imposing a tax under this section shall impose
3476 the tax on the [~~rents~~] accommodations and services described in Subsection (1)(a) relating to
3477 the Olympic Winter Games of 2002 made to or by an organization exempt from federal income
3478 taxation under Section 501(c)(3), Internal Revenue Code, except for [~~rents~~] accommodations
3479 and services described in Subsection (1)(a):

3480 (i) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter
3481 Games of 2002;

3482 (ii) exclusively used by:

3483 (A) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
3484 Olympic Winter Games of 2002; or

3485 (B) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic
3486 Winter Games of 2002; and

3487 (iii) for which the Salt Lake Organizing Committee for the Olympic Winter Games of
3488 2002 does not receive reimbursement.

3489 (2) Subject to the limitations of Subsection (1), a governing body of a municipality
3490 may, by ordinance, increase or decrease the [~~transient room~~] tax under this part.

3491 (3) A governing body of a municipality shall regulate the [~~transient room~~] tax under
3492 this part by ordinance.

3493 (4) Revenues generated by the [~~transient room~~] tax under this part may be used for
3494 general fund purposes.

3495 Section 31. Section **59-12-353** is amended to read:

3496 **59-12-353. Additional municipal transient room tax to repay bonded or other**
3497 **indebtedness.**

3498 (1) (a) Subject to the limitations of Subsection (2), the governing body of a
3499 municipality may, in addition to the [~~municipal transient room~~] tax authorized under Section

3500 59-12-352, impose a [~~transient room~~] tax [~~on the rents described in Subsection 59-12-352(1)(a)~~
3501 ~~in an amount that is less than or equal to 1/2%~~] of not to exceed .5% on the accommodations
3502 and services described in Subsection 59-12-103(1)(i) if the governing body of the municipality:

3503 (i) before January 1, 1996, levied and collected a license fee or tax under Section
3504 10-1-203; and

3505 (ii) before January 1, 1997, took official action to obligate the municipality in reliance
3506 on the license fees or taxes under Subsection (1)(a)(i) to the payment of debt service on bonds
3507 or other indebtedness, including lease payments under a lease purchase agreement.

3508 (b) A governing body of a municipality imposing a tax under this section shall impose
3509 the tax on the [~~rents~~] accommodations and services described in Subsection 59-12-352(1)(a)
3510 relating to the Olympic Winter Games of 2002 made to or by an organization exempt from
3511 federal income taxation under Section 501(c)(3), Internal Revenue Code, except for [~~rents~~]
3512 accommodations and services described in Subsection 59-12-352(1)(a):

3513 (i) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter
3514 Games of 2002;

3515 (ii) exclusively used by:

3516 (A) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
3517 Olympic Winter Games of 2002; or

3518 (B) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic
3519 Winter Games of 2002; and

3520 (iii) for which the Salt Lake Organizing Committee for the Olympic Winter Games of
3521 2002 does not receive reimbursement.

3522 (2) The governing body of a municipality may impose the [~~transient room~~] tax under
3523 this section until the sooner of:

3524 (a) the day on which the following have been paid in full:

3525 (i) the debt service on bonds or other indebtedness, including lease payments under a
3526 lease purchase agreement described in Subsection (1)(a)(ii); and

3527 (ii) refunding obligations that the municipality incurred as a result of the debt service
3528 on bonds or other indebtedness, including lease payments under a lease purchase agreement
3529 described in Subsection (1)(a)(ii); or

3530 (b) 25 years from the day on which the municipality levied the [~~transient room~~] tax

3531 under this section.

3532 Section 32. Section **59-12-354 (Effective 07/01/04)** is amended to read:

3533 **59-12-354 (Effective 07/01/04). Collection of tax -- Administrative fee -- Penalties**
 3534 **-- Commission to interpret, audit, and adjudicate transient room tax.**

3535 (1) Except as provided in Subsections (2) and (3), [~~a governing body of a municipality~~
 3536 ~~levying a transient room tax]~~ the tax authorized under this part shall [~~levy the tax at the same~~
 3537 ~~time and collect the tax in the same manner as provided in]~~ be administered, collected, and
 3538 enforced in accordance with:

3539 (a) the same procedures used to administer, collect, and enforce the tax under:

3540 (i) Part 1, Tax Collection; or

3541 (ii) Part 2, Local Sales and Use Tax Act; and

3542 (b) Chapter 1, General Taxation Policies.

3543 (2) Notwithstanding Section 59-12-206, a municipality imposing a [~~transient room~~] tax
 3544 under this part:

3545 (a) may collect the tax and is not required to:

3546 (i) transmit revenues generated by the tax to the commission; or

3547 (ii) contract with the commission to collect the tax;

3548 (b) shall report the revenues it collects to the commission as provided in Subsection
 3549 59-12-207.1[~~(10)~~](13); and

3550 (c) subject to the limitations of Subsections (4) and (5), may adopt an ordinance
 3551 imposing penalties and interest on a person who:

3552 (i) is required to pay the tax under this part; and

3553 (ii) does not remit the tax to the collecting agent in a timely manner.

3554 (d) (i) If the commission collects a tax under this part, the commission:

3555 (A) except as provided in Subsection (2)(d)(i)(B), shall distribute the revenues
 3556 generated by the tax to the municipality within which the revenues were generated; and

3557 (B) notwithstanding Subsection (2)(d)(i)(A), may retain an amount of tax collected
 3558 under this part of not to exceed the lesser of:

3559 (I) 1.5%; or

3560 (II) an amount equal to the cost to the commission of administering this part.

3561 (ii) Any amount the commission retains under Subsection (2)(d)(i)(B) shall be:

- 3562 (A) placed in the Sales and Use Tax Administrative Fees Account; and
- 3563 (B) used as provided in Subsection 59-12-206(2).
- 3564 (3) Notwithstanding Subsection (1)(a), the tax under this part is not subject to:
- 3565 (a) Sections 59-12-107.1 through 59-12-107.3;
- 3566 (b) Subsections 59-12-205(2) through [~~(5)~~] (9); or
- 3567 (c) Sections 59-12-207.1 through 59-12-207.4.
- 3568 (4) A governing body of a municipality adopting an ordinance imposing penalties and
- 3569 interest under Subsection (2)(c) may impose penalties and interest in amounts that are less than
- 3570 or equal to the penalties and interest rates authorized for the commission under Sections
- 3571 59-1-401 and 59-1-402.

3572 (5) A municipality may adopt an ordinance imposing penalties and interest under
 3573 Subsection (2)(c) only if the municipality does not contract with the commission to collect the
 3574 tax.

3575 (6) If a municipality elects to collect the tax as provided in Subsection (2), the
 3576 commission shall interpret, audit, and adjudicate the tax imposed under this part.

3577 Section 33. Section **59-12-355 (Effective 07/01/04)** is amended to read:

3578 **59-12-355 (Effective 07/01/04). Enactment or repeal of tax -- Tax rate change --**
 3579 **Effective date -- Notice requirements.**

3580 (1) For purposes of this section:

3581 (a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
 3582 4, Annexation.

3583 (b) "Annexing area" means an area that is annexed into a city or town.

3584 (2) (a) Except as provided in Subsection (2)(c), if, on or after July 1, 2004, a city or
 3585 town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,
 3586 or change shall take effect:

3587 (i) on the first day of a calendar quarter; and

3588 (ii) after a 90-day period beginning on the date the commission receives notice meeting
 3589 the requirements of Subsection (2)(b) from the city or town.

3590 (b) The notice described in Subsection (2)(a)(ii) shall state:

3591 (i) that the city or town will enact or repeal a tax or change the rate of a tax under this
 3592 part;

- 3593 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);
3594 (iii) the effective date of the tax described in Subsection (2)(b)(i); and
3595 (iv) if the city or town enacts the tax or changes the rate of the tax described in
3596 Subsection (2)(b)(i), the rate of the tax.
- 3597 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
3598 (2)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
3599 first billing period:
- 3600 (A) that begins after the effective date of the enactment of the tax or the tax rate
3601 increase; and
- 3602 (B) if the billing period for the transaction begins before the effective date of the
3603 enactment of the tax or the tax rate increase imposed under:
- 3604 (I) Section 59-12-352; or
3605 (II) Section 59-12-353.
- 3606 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
3607 (2)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
3608 billing period:
- 3609 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
3610 and
- 3611 (B) if the billing period for the transaction begins before the effective date of the repeal
3612 of the tax or the tax rate decrease imposed under:
- 3613 (I) Section 59-12-352; or
3614 (II) Section 59-12-353.
- 3615 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under
3616 Subsection 59-12-103(1)(i).
- 3617 (3) (a) Except as provided in Subsection (3)(c), if, for an annexation that occurs on or
3618 after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a
3619 tax under this part for an annexing area, the enactment, repeal, or change shall take effect:
- 3620 (i) on the first day of a calendar quarter; and
3621 (ii) after a 90-day period beginning on the date the commission receives notice meeting
3622 the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.
- 3623 (b) The notice described in Subsection (3)(a)(ii) shall state:

3624 (i) that the annexation described in Subsection (3)(a) will result in an enactment,
3625 repeal, or change in the rate of a tax under this part for the annexing area;

3626 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);

3627 (iii) the effective date of the tax described in Subsection (3)(b)(i); and

3628 (iv) if the [county] city or town enacts the tax or changes the rate of the tax described
3629 in Subsection (3)(b)(i), the rate of the tax.

3630 (c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
3631 (3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
3632 first billing period:

3633 (A) that begins after the effective date of the enactment of the tax or the tax rate
3634 increase; and

3635 (B) if the billing period for the transaction begins before the effective date of the
3636 enactment of the tax or the tax rate increase imposed under:

3637 (I) Section 59-12-352; or

3638 (II) Section 59-12-353.

3639 (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
3640 (3)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
3641 billing period:

3642 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
3643 and

3644 (B) if the billing period for the transaction begins before the effective date of the repeal
3645 of the tax or the tax rate decrease imposed under:

3646 (I) Section 59-12-352; or

3647 (II) Section 59-12-353.

3648 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under
3649 Subsection 59-12-103(1)(i).

3650 Section 34. Section **59-12-356 (Effective 07/01/04)** is amended to read:

3651 **59-12-356 (Effective 07/01/04). Seller or certified service provider reliance on**
3652 **commission database or certain software.**

3653 A seller or certified service provider [~~that collects a tax imposed by a county or~~
3654 ~~municipality under this part~~] is not liable for failing to collect and remit a tax at a tax rate

3655 imposed under this part if:

3656 (1) the tax rate at which the seller or certified service provider collected the tax was
3657 derived from a database created by the commission containing:

3658 [~~(1)~~] (a) tax rates; or

3659 [~~(2)~~] (b) local taxing jurisdiction boundaries[-];

3660 (2) the failure to collect and remit the tax is as a result of the seller's or certified service
3661 provider's reliance on incorrect data provided by the commission in the taxability matrix
3662 required by Section 328 of the agreement;

3663 (3) for a model 2 seller, the failure to collect and remit the tax:

3664 (a) is due to an error in the certified automated system used by the model 2 seller; and

3665 (b) occurs prior to an audit of the certified automated system that reveals the error in
3666 the certified automated system; or

3667 (4) for a model 3 seller, the failure to collect and remit the tax:

3668 (a) is due to an error in the proprietary system used by the model 3 seller; and

3669 (b) occurs prior to an audit of the proprietary system that reveals the error in the
3670 proprietary system.

3671 Section 35. Section **59-12-402 (Effective 07/01/04)** is amended to read:

3672 **59-12-402 (Effective 07/01/04). Additional resort communities sales tax -- Base --**
3673 **Rate -- Collection fees -- Resolution and voter approval requirements -- Election**
3674 **requirements -- Notice requirements -- Ordinance requirements.**

3675 (1) (a) Except as provided in Subsections (1)(b) and 59-12-207.1(7)(c), and subject to
3676 the limitations of Subsections (2) through (6), the governing body of a municipality in which
3677 the transient room capacity is greater than or equal to 66% of the permanent census population
3678 may, in addition to the sales tax authorized under Section 59-12-401, impose an additional
3679 resort communities sales tax in an amount that is less than or equal to [~~1/2%~~] .5% on the
3680 transactions described in Subsection 59-12-103(1) located within the municipality.

3681 (b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not
3682 impose a tax under this section on:

3683 (i) the sale of:

3684 (A) a motor vehicle;

3685 (B) an aircraft;

3686 (C) a watercraft;
3687 (D) a modular home;
3688 (E) a manufactured home; or
3689 (F) a mobile home; or
3690 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3691 are exempt from taxation under Section 59-12-104.

3692 (c) For purposes of this Subsection (1), the location of a transaction shall be
3693 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

3694 (2) (a) An amount equal to the total of any costs incurred by the state in connection
3695 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
3696 the state from its collection fees received in connection with the implementation of Subsection
3697 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
3698 provided for in Subsection (1).

3699 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
3700 those cities and towns according to the amount of revenue the respective cities and towns
3701 generate in that year through imposition of that tax.

3702 (3) To impose an additional resort communities sales tax under this section, the
3703 governing body of the municipality shall:

3704 (a) pass a resolution approving the tax; and

3705 (b) except as provided in Subsection (6), obtain voter approval for the tax as provided
3706 in Subsection (4).

3707 (4) To obtain voter approval for an additional resort communities sales tax under
3708 Subsection (3)(b), a municipality shall:

3709 (a) hold the additional resort communities sales tax election during:

3710 (i) a regular general election; or

3711 (ii) a municipal general election; and

3712 (b) publish notice of the election:

3713 (i) 15 days or more before the day on which the election is held; and

3714 (ii) in a newspaper of general circulation in the municipality.

3715 (5) An ordinance approving an additional resort communities sales tax under this
3716 section shall provide an effective date for the tax as provided in Section 59-12-403.

3717 (6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the
3718 voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the
3719 municipality imposed a license fee or tax on businesses based on gross receipts pursuant to
3720 Section 10-1-203.

3721 (b) The exception from the voter approval requirements in Subsection (6)(a) does not
3722 apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only
3723 one class of businesses based on gross receipts pursuant to Section 10-1-203.

3724 Section 36. Section **59-12-403 (Effective 07/01/04)** is amended to read:

3725 **59-12-403 (Effective 07/01/04). Enactment or repeal of tax -- Tax rate change --**
3726 **Effective date -- Notice requirements -- Administration, collection, and enforcement of**
3727 **tax.**

3728 (1) For purposes of this section:

3729 (a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
3730 4, Annexation.

3731 (b) "Annexing area" means an area that is annexed into a city or town.

3732 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after July 1, 2004, a city
3733 or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment,
3734 repeal, or change shall take effect:

3735 (i) on the first day of a calendar quarter; and

3736 (ii) after a 90-day period beginning on the date the commission receives notice meeting
3737 the requirements of Subsection (2)(b) from the city or town.

3738 (b) The notice described in Subsection (2)(a)(ii) shall state:

3739 (i) that the city or town will enact or repeal a tax or change the rate of a tax under this
3740 part;

3741 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

3742 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

3743 (iv) if the city or town enacts the tax or changes the rate of the tax described in
3744 Subsection (2)(b)(i), the rate of the tax.

3745 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
3746 (2)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
3747 first billing period:

- 3748 (A) that begins after the effective date of the enactment of the tax or the tax rate
- 3749 increase; and
- 3750 (B) if the billing period for the transaction begins before the effective date of the
- 3751 enactment of the tax or the tax rate increase imposed under:
- 3752 (I) Section 59-12-401; or
- 3753 (II) Section 59-12-402.
- 3754 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
- 3755 (2)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
- 3756 billing period:
- 3757 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
- 3758 and
- 3759 (B) if the billing period for the transaction begins before the effective date of the repeal
- 3760 of the tax or the tax rate decrease imposed under:
- 3761 (I) Section 59-12-401; or
- 3762 (II) Section 59-12-402.
- 3763 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:
- 3764 (A) Subsection 59-12-103(1)(b);
- 3765 (B) Subsection 59-12-103(1)(c);
- 3766 (C) Subsection 59-12-103(1)(d);
- 3767 (D) Subsection 59-12-103(1)(e);
- 3768 (E) Subsection 59-12-103(1)(f);
- 3769 (F) Subsection 59-12-103(1)(g);
- 3770 (G) Subsection 59-12-103(1)(h);
- 3771 (H) Subsection 59-12-103(1)(i);
- 3772 (I) Subsection 59-12-103(1)(j); or
- 3773 (J) Subsection 59-12-103(1)(k).
- 3774 (d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue
- 3775 sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 3776 enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:
- 3777 (A) on the first day of a calendar quarter; and
- 3778 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the

3779 rate of the tax under Subsection (2)(a).

3780 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
3781 the commission may by rule define the term "catalogue sale."

3782 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs
3783 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
3784 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
3785 effect:

3786 (i) on the first day of a calendar quarter; and

3787 (ii) after a 90-day period beginning on the date the commission receives notice meeting
3788 the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.

3789 (b) The notice described in Subsection (3)(a)(ii) shall state:

3790 (i) that the annexation described in Subsection (3)(a) will result in an enactment,
3791 repeal, or change in the rate of a tax under this part for the annexing area;

3792 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);

3793 (iii) the effective date of the tax described in Subsection (3)(b)(i); and

3794 (iv) if the city or town enacts the tax or changes the rate of the tax described in
3795 Subsection (3)(b)(i), the rate of the tax.

3796 (c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
3797 (3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
3798 first billing period:

3799 (A) that begins after the effective date of the enactment of the tax or the tax rate
3800 increase; and

3801 (B) if the billing period for the transaction begins before the effective date of the
3802 enactment of the tax or the tax rate increase imposed under:

3803 (I) Section 59-12-401; or

3804 (II) Section 59-12-402.

3805 (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
3806 (3)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
3807 billing period:

3808 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;

3809 and

3810 (B) if the billing period for the transaction begins before the effective date of the repeal
3811 of the tax or the tax rate decrease imposed under:

3812 (I) Section 59-12-401; or

3813 (II) Section 59-12-402.

3814 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:

3815 (A) Subsection 59-12-103(1)(b);

3816 (B) Subsection 59-12-103(1)(c);

3817 (C) Subsection 59-12-103(1)(d);

3818 (D) Subsection 59-12-103(1)(e);

3819 (E) Subsection 59-12-103(1)(f);

3820 (F) Subsection 59-12-103(1)(g);

3821 (G) Subsection 59-12-103(1)(h);

3822 (H) Subsection 59-12-103(1)(i);

3823 (I) Subsection 59-12-103(1)(j); or

3824 (J) Subsection 59-12-103(1)(k).

3825 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue
3826 sale is computed on the basis of sales and use tax rates published in the catalogue, an
3827 enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:

3828 (A) on the first day of a calendar quarter; and

3829 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
3830 rate of the tax under Subsection (3)(a).

3831 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
3832 the commission may by rule define the term "catalogue sale."

3833 (4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be
3834 administered, collected, and enforced in accordance with:

3835 (i) the same procedures used to administer, collect, and enforce the tax under:

3836 (A) Part 1, Tax Collection; or

3837 (B) Part 2, Local Sales and Use Tax Act; and

3838 (ii) Chapter 1, General Taxation Policies.

3839 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to
3840 Subsections 59-12-205(2) through (9).

3841 Section 37. Section **59-12-404 (Effective 07/01/04)** is amended to read:

3842 **59-12-404 (Effective 07/01/04). Seller or certified service provider reliance on**
 3843 **commission database or certain software.**

3844 A seller or certified service provider [~~that collects a tax imposed by a city or town under~~
 3845 ~~this part~~] is not liable for failing to collect and remit a tax at a tax rate imposed under this part
 3846 if:

3847 (1) the tax rate at which the seller or certified service provider collected the tax was
 3848 derived from a database created by the commission containing:

3849 [~~(1)~~] (a) tax rates; or

3850 [~~(2)~~] (b) local taxing jurisdiction boundaries[-];

3851 (2) the failure to collect and remit the tax is as a result of the seller's or certified service
 3852 provider's reliance on incorrect data provided by the commission in the taxability matrix
 3853 required by Section 328 of the agreement;

3854 (3) for a model 2 seller, the failure to collect and remit the tax:

3855 (a) is due to an error in the certified automated system used by the model 2 seller; and

3856 (b) occurs prior to an audit of the certified automated system that reveals the error in
 3857 the certified automated system; or

3858 (4) for a model 3 seller, the failure to collect and remit the tax:

3859 (a) is due to an error in the proprietary system used by the model 3 seller; and

3860 (b) occurs prior to an audit of the proprietary system that reveals the error in the
 3861 proprietary system.

3862 Section 38. Section **59-12-501 (Effective 07/01/04)** is amended to read:

3863 **59-12-501 (Effective 07/01/04). Public transit tax -- Base -- Rate -- Voter**
 3864 **approval.**

3865 (1) (a) (i) Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), in
 3866 addition to other sales and use taxes, any county, city, or town within a transit district
 3867 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act, may impose a
 3868 sales and use tax of [~~1/4 of 1%~~] .25% on the transactions described in Subsection 59-12-103(1)
 3869 located within the county, city, or town, to fund a public transportation system.

3870 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax
 3871 under this section on the sales and uses described in Section 59-12-104 to the extent the sales

3872 and uses are exempt from taxation under Section 59-12-104.

3873 (b) For purposes of this Subsection (1), the location of a transaction shall be
3874 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

3875 (c) (i) A county, city, or town may impose a tax under this section only if the governing
3876 body of the county, city, or town, by resolution, submits the proposal to all the qualified voters
3877 within the county, city, or town for approval at a general or special election conducted in the
3878 manner provided by statute.

3879 (ii) An election under Subsection 17B-2-512(3)(a)(ii) approving the annexation of an
3880 area to a public transit district or local district and approving for that annexed area the sales and
3881 use tax authorized by this section satisfies the election requirement of Subsection (1)(c)(i) for
3882 the area to be annexed to the public transit district or local district.

3883 (2) (a) If only a portion of a county is included within a public transit district, the
3884 proposal may be submitted only to the qualified voters residing within the boundaries of the
3885 proposed or existing public transit district.

3886 (b) Notice of any such election shall be given by the county, city, or town governing
3887 body 15 days in advance in the manner prescribed by statute.

3888 (c) If a majority of the voters voting in such election approve the proposal, it shall
3889 become effective on the date provided by the county, city, or town governing body.

3890 (3) This section may not be construed to require an election in jurisdictions where
3891 voters have previously approved a public transit sales or use tax.

3892 Section 39. Section **59-12-502 (Effective 07/01/04)** is amended to read:

3893 **59-12-502 (Effective 07/01/04). Additional public transit tax for expanded system**
3894 **and fixed guideway and interstate improvements -- Base -- Rate -- Voter approval.**

3895 (1) (a) (i) Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), and in
3896 addition to other sales and use taxes, including the public transit district tax authorized by
3897 Section 59-12-501, a county, city, or town within a transit district organized under Title 17A,
3898 Chapter 2, Part 10, Utah Public Transit District Act, may impose a sales and use tax of [~~1/4 of~~
3899 ~~1%~~ .25% on the transactions described in Subsection 59-12-103(1) located within the county,
3900 city, or town, to fund a fixed guideway and expanded public transportation system.

3901 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax
3902 under this section on the sales and uses described in Section 59-12-104 to the extent the sales

3903 and uses are exempt from taxation under Section 59-12-104.

3904 (b) For purposes of this Subsection (1), the location of a transaction shall be
3905 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

3906 (c) (i) A county, city, or town may impose the tax under this section only if the
3907 governing body of the county, city, or town submits, by resolution, the proposal to all the
3908 qualified voters within the county, city, or town for approval at a general or special election
3909 conducted in the manner provided by statute.

3910 (ii) Notice of the election under Subsection (1)(c)(i) shall be given by the county, city,
3911 or town governing body 15 days in advance in the manner prescribed by statute.

3912 (2) If the majority of the voters voting in this election approve the proposal, it shall
3913 become effective on the date provided by the county, city, or town governing body.

3914 (3) (a) This section may not be construed to require an election in jurisdictions where
3915 voters have previously approved a public transit sales or use tax.

3916 (b) This section shall be construed to require an election to impose the sales and use
3917 tax authorized by this section, including jurisdictions where the voters have previously
3918 approved the sales and use tax authorized by Section 59-12-501, but this section may not be
3919 construed to affect the sales and use tax authorized by Section 59-12-501.

3920 (4) No public funds shall be spent to promote the required election.

3921 (5) Notwithstanding the designated use of revenues in Subsection (1), of the revenues
3922 generated by the tax imposed under this section by any county of the first class:

3923 (a) 75% shall be allocated to fund a fixed guideway and expanded public transportation
3924 system; and

3925 (b) 25% shall be allocated to fund new construction, major renovations, and
3926 improvements to Interstate 15 and state highways within the county and to pay any debt service
3927 and bond issuance costs related to those projects.

3928 (6) A county of the first class may, through an interlocal agreement, authorize the
3929 deposit or transfer of the portion of the revenues described in Subsection (5)(b) to the Public
3930 Transportation System Tax Highway Fund created in Section 72-2-121.

3931 Section 40. Section **59-12-504 (Effective 07/01/04)** is amended to read:

3932 **59-12-504 (Effective 07/01/04). Enactment or repeal of tax -- Effective date --**
3933 **Notice requirements.**

- 3934 (1) For purposes of this section:
- 3935 (a) "Annexation" means an annexation to:
- 3936 (i) a county under Title 17, Chapter 2, Annexation to County; or
- 3937 (ii) a city or town under Title 10, Chapter 2, Part 4, Annexation.
- 3938 (b) "Annexing area" means an area that is annexed into a county, city, or town.
- 3939 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after July 1, 2004, a
- 3940 county, city, or town enacts or repeals a tax under this part, the enactment or repeal shall take
- 3941 effect:
- 3942 (i) on the first day of a calendar quarter; and
- 3943 (ii) after a 90-day period beginning on the date the commission receives notice meeting
- 3944 the requirements of Subsection (2)(b) from the county, city, or town.
- 3945 (b) The notice described in Subsection (2)(a)(ii) shall state:
- 3946 (i) that the county, city, or town will enact or repeal a tax under this part;
- 3947 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);
- 3948 (iii) the effective date of the tax described in Subsection (2)(b)(i); and
- 3949 (iv) if the county, city, or town enacts the tax described in Subsection (2)(b)(i), the rate
- 3950 of the tax.
- 3951 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
- 3952 (2)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 3953 (A) that begins after the effective date of the ~~[imposition]~~ enactment of the tax; and
- 3954 (B) if the billing period for the transaction begins before the effective date of the
- 3955 enactment of the tax under:
- 3956 (I) Section 59-12-501; or
- 3957 (II) Section 59-12-502.
- 3958 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
- 3959 (2)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 3960 (A) that began before the effective date of the repeal of the tax; and
- 3961 (B) if the billing period for the transaction begins before the effective date of the repeal
- 3962 of the tax imposed under:
- 3963 (I) Section 59-12-501; or
- 3964 (II) Section 59-12-502.

- 3965 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:
3966 (A) Subsection 59-12-103(1)(b);
3967 (B) Subsection 59-12-103(1)(c);
3968 (C) Subsection 59-12-103(1)(d);
3969 (D) Subsection 59-12-103(1)(e);
3970 (E) Subsection 59-12-103(1)(f);
3971 (F) Subsection 59-12-103(1)(g);
3972 (G) Subsection 59-12-103(1)(h);
3973 (H) Subsection 59-12-103(1)(i);
3974 (I) Subsection 59-12-103(1)(j); or
3975 (J) Subsection 59-12-103(1)(k).
- 3976 (d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue
3977 sale is computed on the basis of sales and use tax rates published in the catalogue, an
3978 enactment or repeal of a tax described in Subsection (2)(a) takes effect:
3979 (A) on the first day of a calendar quarter; and
3980 (B) beginning 60 days after the effective date of the enactment or repeal under
3981 Subsection (2)(a).
- 3982 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
3983 the commission may by rule define the term "catalogue sale."
- 3984 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs
3985 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
3986 part for an annexing area, the enactment or repeal shall take effect:
3987 (i) on the first day of a calendar quarter; and
3988 (ii) after a 90-day period beginning on the date the commission receives notice meeting
3989 the requirements of Subsection (3)(b) from the county, city, or town that annexes the annexing
3990 area.
- 3991 (b) The notice described in Subsection (3)(a)(ii) shall state:
3992 (i) that the annexation described in Subsection (3)(a) will result in an enactment or
3993 repeal of a tax under this part for the annexing area;
3994 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);
3995 (iii) the effective date of the tax described in Subsection (3)(b)(i); and

3996 (iv) the rate of the tax described in Subsection (3)(b)(i).
3997 (c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
3998 (3)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
3999 (A) that begins after the effective date of the ~~[imposition]~~ enactment of the tax; and
4000 (B) if the billing period for the transaction begins before the effective date of the
4001 enactment of the tax under:
4002 (I) Section 59-12-501; or
4003 (II) Section 59-12-502.
4004 (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
4005 (3)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
4006 (A) that began before the effective date of the repeal of the tax; and
4007 (B) if the billing period for the transaction begins before the effective date of the repeal
4008 of the tax imposed under:
4009 (I) Section 59-12-501; or
4010 (II) Section 59-12-502.
4011 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:
4012 (A) Subsection 59-12-103(1)(b);
4013 (B) Subsection 59-12-103(1)(c);
4014 (C) Subsection 59-12-103(1)(d);
4015 (D) Subsection 59-12-103(1)(e);
4016 (E) Subsection 59-12-103(1)(f);
4017 (F) Subsection 59-12-103(1)(g);
4018 (G) Subsection 59-12-103(1)(h);
4019 (H) Subsection 59-12-103(1)(i);
4020 (I) Subsection 59-12-103(1)(j); or
4021 (J) Subsection 59-12-103(1)(k).
4022 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue
4023 sale is computed on the basis of sales and use tax rates published in the catalogue, an
4024 enactment or repeal of a tax described in Subsection (3)(a) takes effect:
4025 (A) on the first day of a calendar quarter; and
4026 (B) beginning 60 days after the effective date of the enactment or repeal under

4027 Subsection (3)(a).

4028 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4029 the commission may by rule define the term "catalogue sale."

4030 (4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be
4031 administered, collected, and enforced in accordance with:

4032 (i) the same procedures used to administer, collect, and enforce the tax under:

4033 (A) Part 1, Tax Collection; or

4034 (B) Part 2, Local Sales and Use Tax Act; and

4035 (ii) Chapter 1, General Taxation Policies.

4036 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to

4037 Subsections 59-12-205(2) through (9).

4038 Section 41. Section **59-12-505 (Effective 07/01/04)** is amended to read:

4039 **59-12-505 (Effective 07/01/04). Seller or certified service provider reliance on**
4040 **commission database.**

4041 A seller or certified service provider [~~that collects a tax imposed by a county, city, or~~
4042 ~~town under this part~~] is not liable for failing to collect and remit a tax at a rate imposed under
4043 this part if:

4044 (1) the tax rate at which the seller or certified service provider collected the tax was
4045 derived from a database created by the commission containing:

4046 [~~(1)~~] (a) tax rates; or

4047 [~~(2)~~] (b) local taxing jurisdiction boundaries[-];

4048 (2) the failure to collect and remit the tax is as a result of the seller's or certified service
4049 provider's reliance on incorrect data provided by the commission in the taxability matrix
4050 required by Section 328 of the agreement;

4051 (3) for a model 2 seller, the failure to collect and remit the tax:

4052 (a) is due to an error in the certified automated system used by the model 2 seller; and

4053 (b) occurs prior to an audit of the certified automated system that reveals the error in
4054 the certified automated system; or

4055 (4) for a model 3 seller, the failure to collect and remit the tax:

4056 (a) is due to an error in the proprietary system used by the model 3 seller; and

4057 (b) occurs prior to an audit of the proprietary system that reveals the error in the

4058 proprietary system.

4059 Section 42. Section **59-12-603 (Effective 07/01/04)** is amended to read:

4060 **59-12-603 (Effective 07/01/04). County tax -- Bases -- Rates -- Use of revenues --**
 4061 **Collection -- Adoption of ordinance required -- Administration -- Distribution --**
 4062 **Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.**

4063 (1) In addition to any other taxes, a county legislative body may, as provided in this
 4064 part, impose a [~~tourism, recreation, cultural, and convention~~] tax as follows:

4065 (a) (i) a county legislative body of any county may impose a tax of not to exceed 3% on
 4066 all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and
 4067 rentals of motor vehicles made for the purpose of temporarily replacing a person's motor
 4068 vehicle that is being repaired pursuant to a repair or an insurance agreement;

4069 (ii) beginning on or after January 1, 1999, a county legislative body of any county
 4070 imposing a tax under Subsection (1)(a)(i) may, in addition to imposing the tax under
 4071 Subsection (1)(a)(i), impose a tax of not to exceed 4% on all short-term leases and rentals of
 4072 motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for
 4073 the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to
 4074 a repair or an insurance agreement;

4075 (b) a county legislative body of any county may impose a tax of not to exceed 1% of all
 4076 sales of prepared foods and beverages that are sold by restaurants; and

4077 (c) a county legislative body of any county may impose a tax of not to exceed [~~1/2% of~~
 4078 ~~the rent for every occupancy of a suite or room:~~] .5% on the accommodations and services
 4079 described in Subsection 59-12-103(1)(i).

4080 [~~(i) on the following entities doing business as motor courts, motels, hotels, inns, or~~
 4081 ~~providing similar public accommodations:]~~

4082 [~~(A) a person;~~]

4083 [~~(B) a company;~~]

4084 [~~(C) a corporation; or~~]

4085 [~~(D) a person, group, or organization similar to Subsections (1)(c)(i)(A) through (C);~~

4086 ~~and]~~

4087 [~~(ii) if the suite or room is regularly rented for less than 30 consecutive days.]~~

4088 (2) The revenue from the imposition of the taxes provided for in Subsections (1)(a)

4089 through (c) may be used for the purposes of financing tourism promotion, and the
4090 development, operation, and maintenance of tourist, recreation, cultural, and convention
4091 facilities as defined in Section 59-12-602.

4092 (3) The tax imposed under Subsection (1)(c) shall be in addition to the [~~transient room~~]
4093 tax imposed under Part 3, Transient Room Tax, and may be imposed only by a county of the
4094 first class.

4095 [~~(4) (a) (i) Except as provided in Subsection (4)(a)(ii), a tax imposed under this part
4096 shall be levied at the same time and collected in the same manner as provided in Part 2, Local
4097 Sales and Use Tax Act.]~~

4098 [~~(ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to
4099 Subsections 59-12-205(2) through (5).]~~

4100 [~~(b)~~] (4) A tax imposed under this part may be pledged as security for bonds, notes, or
4101 other evidences of indebtedness incurred by a county under Title 11, Chapter 14, Utah
4102 Municipal Bond Act, to finance tourism, recreation, cultural, and convention facilities.

4103 (5) (a) In order to impose the tax under Subsection (1), each county legislative body
4104 shall annually adopt an ordinance imposing the tax.

4105 (b) (i) The ordinance under Subsection (5)(a) shall include provisions substantially the
4106 same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on
4107 those items and sales described in Subsection (1).

4108 (ii) A county legislative body imposing a tax under this part shall impose the tax as
4109 provided in this section on the leases, rentals, [~~and~~] sales, and accommodations and services
4110 described in Subsection (1) relating to the Olympic Winter Games of 2002 made to or by an
4111 organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue
4112 Code, except for leases, rentals, [~~and~~] sales, and accommodations and services described in
4113 Subsection (1):

4114 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter
4115 Games of 2002;

4116 (B) exclusively used by:

4117 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
4118 Olympic Winter Games of 2002; or

4119 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic

4120 Winter Games of 2002; and

4121 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of
4122 2002 does not receive reimbursement.

4123 (c) The name of the county as the taxing agency shall be substituted for that of the state
4124 where necessary, and an additional license is not required if one has been or is issued under
4125 Section 59-12-106.

4126 (6) In order to maintain in effect its tax ordinance adopted under this part, each county
4127 legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1,
4128 Tax Collection, adopt amendments to its tax ordinance to conform with the applicable
4129 amendments to Part 1, Tax Collection.

4130 (7) (a) (i) ~~[The commission]~~ Except as provided in Subsection (7)(a)(ii), a tax
4131 authorized under this part shall be administered, collected, and enforced in accordance with:

4132 ~~[(a) administer, collect, and enforce the tax authorized under this part pursuant to:]~~

4133 ~~[(i)]~~ (A) the same procedures used to administer, collect, and enforce the ~~[sales and~~
4134 ~~use]~~ tax under:

4135 (I) Part 1, Tax Collection;

4136 (II) Part 2, Local Sales and Use Tax Act; and

4137 ~~[(i)]~~ (B) Chapter 1, General Taxation Policies~~;~~.

4138 (ii) Notwithstanding Subsection (7)(a)(i), a tax under this part is not subject to:

4139 (A) Sections 59-12-107.1 through 59-12-107.3;

4140 (B) Subsections 59-12-205(2) through (9); or

4141 (C) Sections 59-12-207.1 through 59-12-207.4.

4142 (b) Except as provided in Subsection (7)(c):

4143 ~~[(b)]~~ (i) ~~[except as provided in Subsection (7)(c),]~~ for a tax under this part other than
4144 the tax under Subsection (1)(a)(ii), the commission shall distribute the revenues to the county
4145 imposing the tax; and

4146 (ii) ~~[except as provided in Subsection (7)(c),]~~ for a tax under Subsection (1)(a)(ii), the
4147 commission shall distribute the revenues according to the distribution formula provided in
4148 Subsection (8)~~[-and]~~.

4149 (c) Notwithstanding Subsection (7)(b), the commission shall deduct from the
4150 distributions under Subsection (7)(b) an administrative charge for collecting the tax as provided

4151 in Section 59-12-206.

4152 (8) The commission shall distribute the revenues generated by the tax under Subsection
4153 (1)(a)(ii) to each county collecting a tax under Subsection (1)(a)(ii) according to the following
4154 formula:

4155 (a) the commission shall distribute 70% of the revenues based on the percentages
4156 generated by dividing the revenues collected by each county under Subsection (1)(a)(ii) by the
4157 total revenues collected by all counties under Subsection (1)(a)(ii); and

4158 (b) the commission shall distribute 30% of the revenues based on the percentages
4159 generated by dividing the population of each county collecting a tax under Subsection (1)(a)(ii)
4160 by the total population of all counties collecting a tax under Subsection (1)(a)(ii).

4161 (9) (a) For purposes of this Subsection (9):

4162 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
4163 Annexation to County.

4164 (ii) "Annexing area" means an area that is annexed into a county.

4165 (b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county
4166 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or
4167 change shall take effect:

4168 (A) on the first day of a calendar quarter; and

4169 (B) after a 90-day period beginning on the date the commission receives notice meeting
4170 the requirements of Subsection (9)(b)(ii) from the county.

4171 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:

4172 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

4173 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

4174 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

4175 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
4176 (9)(b)(ii)(A), the rate of the tax.

4177 (c) (i) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection
4178 (9)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
4179 first billing period:

4180 (A) that begins after the effective date of the enactment of the tax or the tax rate
4181 increase; and

4182 (B) if the billing period for the transaction begins before the effective date of the
4183 enactment of the tax or the tax rate increase imposed under Subsection (1).

4184 (ii) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection
4185 (9)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
4186 billing period:

4187 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
4188 and

4189 (B) if the billing period for the transaction begins before the effective date of the repeal
4190 of the tax or the tax rate decrease imposed under Subsection (1).

4191 (iii) Subsections (9)(c)(i) and (ii) apply to transactions subject to a tax under:

4192 (A) Subsection 59-12-103(1)(e);

4193 (B) Subsection 59-12-103(1)(i); or

4194 (C) Subsection 59-12-103(1)(k).

4195 (d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or
4196 after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a
4197 tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

4198 (A) on the first day of a calendar quarter; and

4199 (B) after a 90-day period beginning on the date the commission receives notice meeting
4200 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

4201 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

4202 (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,
4203 repeal, or change in the rate of a tax under this part for the annexing area;

4204 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

4205 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

4206 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
4207 (9)(d)(ii)(A), the rate of the tax [~~described in Subsection (9)(d)(ii)(A)~~].

4208 (e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
4209 (9)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
4210 first billing period:

4211 (A) that begins after the effective date of the enactment of the tax or the tax rate
4212 increase; and

4213 (B) if the billing period for the transaction begins before the effective date of the
4214 enactment of the tax or the tax rate increase imposed under Subsection (1).

4215 (ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
4216 (9)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
4217 billing period:

4218 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
4219 and

4220 (B) if the billing period for the transaction begins before the effective date of the repeal
4221 of the tax or the tax rate decrease imposed under Subsection (1).

4222 (iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:

4223 (A) Subsection 59-12-103(1)(e);

4224 (B) Subsection 59-12-103(1)(i); or

4225 (C) Subsection 59-12-103(1)(k).

4226 Section 43. Section **59-12-604 (Effective 07/01/04)** is amended to read:

4227 **59-12-604 (Effective 07/01/04). Seller or certified service provider reliance on**
4228 **commission database.**

4229 A seller or certified service provider [~~that collects a tax imposed by a county under this~~
4230 ~~part~~] is not liable for failing to collect and remit a tax at a tax rate imposed under this part if:

4231 (1) the tax rate at which the seller or certified service provider collected the tax was
4232 derived from a database created by the commission containing:

4233 [~~(1)~~] (a) tax rates; or

4234 [~~(2)~~] (b) local taxing jurisdiction boundaries[-];

4235 (2) the failure to collect and remit the tax is as a result of the seller's or certified service
4236 provider's reliance on incorrect data provided by the commission in the taxability matrix
4237 required by Section 328 of the agreement;

4238 (3) for a model 2 seller, the failure to collect and remit the tax:

4239 (a) is due to an error in the certified automated system used by the model 2 seller; and

4240 (b) occurs prior to an audit of the certified automated system that reveals the error in
4241 the certified automated system; or

4242 (4) for a model 3 seller, the failure to collect and remit the tax:

4243 (a) is due to an error in the proprietary system used by the model 3 seller; and

4244 (b) occurs prior to an audit of the proprietary system that reveals the error in the
4245 proprietary system.

4246 Section 44. Section **59-12-703 (Effective 07/01/04)** is amended to read:

4247 **59-12-703 (Effective 07/01/04). Opinion question election -- Enactment of tax --**
4248 **Uses of tax monies -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

4249 (1) (a) (i) Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), a county
4250 legislative body may submit an opinion question to the residents of that county, by majority
4251 vote of all members of the legislative body, so that each resident of the county has an
4252 opportunity to express the resident's opinion on the imposition of a local sales and use tax of
4253 .1% on the transactions described in Subsection 59-12-103(1) located within the county, to
4254 fund recreational and zoological facilities, botanical, cultural, and zoological organizations, and
4255 rural radio stations, in that county.

4256 (ii) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
4257 tax under this section on the sales and uses described in Section 59-12-104 to the extent the
4258 sales and uses are exempt from taxation under Section 59-12-104.

4259 (b) For purposes of this Subsection (1), the location of a transaction shall be
4260 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

4261 (c) The election shall follow the procedures outlined in Title 11, Chapter 14, Utah
4262 Municipal Bond Act.

4263 (2) (a) If the county legislative body determines that a majority of the county's
4264 registered voters voting on the imposition of the tax have voted in favor of the imposition of
4265 the tax as prescribed in Subsection (1)(a), the county legislative body may impose the tax by a
4266 majority vote of all members of the legislative body on the transactions:

4267 (i) described in Subsection (1); and

4268 (ii) within the county, including the cities and towns located in the county.

4269 (b) A county legislative body may revise county ordinances to reflect statutory changes
4270 to the distribution formula or eligible recipients of revenues generated from a tax imposed
4271 under Subsection (2)(a):

4272 (i) after the county legislative body submits an opinion question to residents of the
4273 county in accordance with Subsection (1)[~~(b)~~] giving them the opportunity to express their
4274 opinion on the proposed revisions to county ordinances; and

4275 (ii) if the county legislative body determines that a majority of those voting on the
4276 opinion question have voted in favor of the revisions.

4277 (3) The monies generated from any tax imposed under Subsection (2) shall be used for
4278 funding:

4279 (a) recreational and zoological facilities located within the county or a city or town
4280 located in the county; and

4281 (b) ongoing operating expenses of:

4282 (i) recreational facilities described in Subsection (3)(a);

4283 (ii) botanical, cultural, and zoological organizations within the county; and

4284 (iii) rural radio stations within the county.

4285 (4) (a) A tax authorized under this part shall be:

4286 (i) except as provided in Subsection (4)(b), [~~levied at the same time and collected in~~
4287 ~~the same manner as provided]~~ administered, collected, and enforced in accordance with:

4288 (A) the same procedures used to administer, collect, and enforce the tax under:

4289 (I) Part 1, Tax Collection; or

4290 (II) Part 2, Local Sales and Use Tax Act; and

4291 (B) Chapter 1, General Taxation Policies; and

4292 (ii) levied for a period of ten years and may be reauthorized at the end of the ten-year
4293 period in accordance with this section.

4294 (b) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to
4295 Subsections 59-12-205(2) through [~~(5)] (9).~~

4296 (5) (a) For purposes of this Subsection (5):

4297 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
4298 Annexation to County.

4299 (ii) "Annexing area" means an area that is annexed into a county.

4300 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
4301 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

4302 (A) on the first day of a calendar quarter; and

4303 (B) after a 90-day period beginning on the date the commission receives notice meeting
4304 the requirements of Subsection (5)(b)(ii) from the county.

4305 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

- 4306 (A) that the county will enact or repeal a tax under this part;
- 4307 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
- 4308 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
- 4309 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the
- 4310 tax.
- 4311 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
- 4312 (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 4313 (A) that begins after the effective date of the ~~[imposition]~~ enactment of the tax; and
- 4314 (B) if the billing period for the transaction begins before the effective date of the
- 4315 enactment of the tax under this section.
- 4316 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
- 4317 (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 4318 (A) that began before the effective date of the repeal of the tax; and
- 4319 (B) if the billing period for the transaction begins before the effective date of the repeal
- 4320 of the tax imposed under this section.
- 4321 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:
- 4322 (A) Subsection 59-12-103(1)(b);
- 4323 (B) Subsection 59-12-103(1)(c);
- 4324 (C) Subsection 59-12-103(1)(d);
- 4325 (D) Subsection 59-12-103(1)(e);
- 4326 (E) Subsection 59-12-103(1)(f);
- 4327 (F) Subsection 59-12-103(1)(g);
- 4328 (G) Subsection 59-12-103(1)(h);
- 4329 (H) Subsection 59-12-103(1)(i);
- 4330 (I) Subsection 59-12-103(1)(j); or
- 4331 (J) Subsection 59-12-103(1)(k).
- 4332 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a
- 4333 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 4334 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:
- 4335 (A) on the first day of a calendar quarter; and
- 4336 (B) beginning 60 days after the effective date of the enactment or repeal under

4337 Subsection (5)(b)(i).

4338 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4339 the commission may by rule define the term "catalogue sale."

4340 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on
4341 or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
4342 part for an annexing area, the enactment or repeal shall take effect:

4343 (A) on the first day of a calendar quarter; and

4344 (B) after a 90-day period beginning on the date the commission receives notice meeting
4345 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

4346 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

4347 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
4348 repeal of a tax under this part for the annexing area;

4349 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

4350 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

4351 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

4352 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
4353 (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

4354 (A) that begins after the effective date of the ~~[imposition]~~ enactment of the tax; and

4355 (B) if the billing period for the transaction begins before the effective date of the
4356 enactment of the tax under this section.

4357 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
4358 (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

4359 (A) that began before the effective date of the repeal of the tax; and

4360 (B) if the billing period for the transaction begins before the effective date of the repeal
4361 of the tax imposed under this section.

4362 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

4363 (A) Subsection 59-12-103(1)(b);

4364 (B) Subsection 59-12-103(1)(c);

4365 (C) Subsection 59-12-103(1)(d);

4366 (D) Subsection 59-12-103(1)(e);

4367 (E) Subsection 59-12-103(1)(f);

4368 (F) Subsection 59-12-103(1)(g);

4369 (G) Subsection 59-12-103(1)(h);

4370 (H) Subsection 59-12-103(1)(i);

4371 (I) Subsection 59-12-103(1)(j); or

4372 (J) Subsection 59-12-103(1)(k).

4373 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a
4374 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
4375 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

4376 (A) on the first day of a calendar quarter; and

4377 (B) beginning 60 days after the effective date of the enactment or repeal under
4378 Subsection (5)(e)(i).

4379 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4380 the commission may by rule define the term "catalogue sale."

4381 Section 45. Section **59-12-706 (Effective 07/01/04)** is amended to read:

4382 **59-12-706 (Effective 07/01/04). Seller or certified service provider reliance on**
4383 **commission database or certain software.**

4384 A seller or certified service provider [~~that collects a tax imposed by a county under this~~
4385 ~~part]~~ is not liable for failing to collect and remit a tax at a tax rate imposed under this part if:

4386 (1) the tax rate at which the seller or certified service provider collected the tax was
4387 derived from a database created by the commission containing:

4388 [~~(1)~~] (a) tax rates; or

4389 [~~(2)~~] (b) local taxing jurisdiction boundaries[-];

4390 (2) the failure to collect and remit the tax is as a result of the seller's or certified service
4391 provider's reliance on incorrect data provided by the commission in the taxability matrix
4392 required by Section 328 of the agreement;

4393 (3) for a model 2 seller, the failure to collect and remit the tax:

4394 (a) is due to an error in the certified automated system used by the model 2 seller; and

4395 (b) occurs prior to an audit of the certified automated system that reveals the error in
4396 the certified automated system; or

4397 (4) for a model 3 seller, the failure to collect and remit the tax:

4398 (a) is due to an error in the proprietary system used by the model 3 seller; and

4399 (b) occurs prior to an audit of the proprietary system that reveals the error in the
4400 proprietary system.

4401 Section 46. Section **59-12-802 (Effective 07/01/04)** is amended to read:

4402 **59-12-802 (Effective 07/01/04). Imposition of rural county health care facilities**
4403 **tax -- Base -- Rate.**

4404 (1) (a) A county legislative body may impose a sales and use tax of up to 1%:

4405 (i) except as provided in Subsections (1)(b) and 59-12-207.1(7)(c), on the transactions
4406 described in Subsection 59-12-103(1) located within the county; and

4407 (ii) to fund rural county health care facilities in that county.

4408 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
4409 tax under this section on:

4410 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
4411 are exempt from taxation under Section 59-12-104; or

4412 (ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in
4413 a city that imposes a tax under Section 59-12-804.

4414 (c) For purposes of this Subsection (1), the location of a transaction shall be
4415 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

4416 (2) (a) Before imposing a tax under Subsection (1)(a), a county legislative body shall
4417 obtain approval to impose the tax from a majority of the:

4418 (i) members of the county's legislative body; and

4419 (ii) county's registered voters voting on the imposition of the tax.

4420 (b) The county legislative body shall conduct the election according to the procedures
4421 and requirements of Title 11, Chapter 14, Utah Municipal Bond Act.

4422 (3) The monies generated by a tax imposed under Subsection (1) may only be used for
4423 the financing of:

4424 (a) ongoing operating expenses of a rural county health care facility;

4425 (b) the acquisition of land for a rural county health care facility; or

4426 (c) the design, construction, equipping, or furnishing of a rural county health care
4427 facility.

4428 (4) (a) A tax under this section shall be:

4429 (i) except as provided in Subsection (4)(b), [~~levied at the same time and collected~~]

4430 administered, collected, and enforced in [the same manner as provided in] accordance with:

4431 (A) the same procedures used to administer, collect, and enforce the tax under:

4432 (I) Part 1, Tax Collection; or

4433 (II) Part 2, Local Sales and Use Tax Act; and

4434 (B) Chapter 1, General Taxation Policies; and

4435 (ii) levied for a period of ten years and may be reauthorized at the end of the ten-year
4436 period by the county legislative body as provided in Subsection (1).

4437 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
4438 Subsections 59-12-205(2) through [~~(5)~~] (9).

4439 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected
4440 under this section for the cost of administering this tax.

4441 Section 47. Section **59-12-804 (Effective 07/01/04)** is amended to read:

4442 **59-12-804 (Effective 07/01/04). Imposition of rural city hospital tax -- Base --**
4443 **Rate.**

4444 (1) (a) A city legislative body may impose a sales and use tax of up to 1%:

4445 (i) except as provided in Subsections (1)(b) and 59-12-207.1(7)(c), on the transactions
4446 described in Subsection 59-12-103(1) located within the city; and

4447 (ii) to fund rural city hospitals in that city.

4448 (b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax
4449 under this section on the sales and uses described in Section 59-12-104 to the extent the sales
4450 and uses are exempt from taxation under Section 59-12-104.

4451 (c) For purposes of this Subsection (1), the location of a transaction shall be
4452 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

4453 (2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall
4454 obtain approval to impose the tax from a majority of the:

4455 (i) members of the city legislative body; and

4456 (ii) city's registered voters voting on the imposition of the tax.

4457 (b) The city legislative body shall conduct the election according to the procedures and
4458 requirements of Title 11, Chapter 14, Utah Municipal Bond Act.

4459 (3) The monies generated by a tax imposed under Subsection (1) may only be used for
4460 the financing of:

- 4461 (a) ongoing operating expenses of a rural city hospital;
- 4462 (b) the acquisition of land for a rural city hospital; or
- 4463 (c) the design, construction, equipping, or furnishing of a rural city hospital.
- 4464 (4) (a) A tax under this section shall be:
- 4465 (i) except as provided in Subsection (4)(b), [~~levied at the same time and collected~~]
- 4466 administered, collected, and enforced in [the same manner as provided in] accordance with:
- 4467 (A) the same procedures used to administer, collect, and enforce the tax under:
- 4468 (I) Part 1, Tax Collection; or
- 4469 (II) Part 2, Local Sales and Use Tax Act; and
- 4470 (B) Chapter 1, General Taxation Policies; and
- 4471 (ii) levied for a period of ten years and may be reauthorized at the end of the ten-year
- 4472 period by the city legislative body as provided in Subsection (1).

4473 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to

4474 Subsections 59-12-205(2) through [~~(5)~~] (9).

4475 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected

4476 under this section for the cost of administering the tax.

4477 Section 48. Section **59-12-806 (Effective 07/01/04)** is amended to read:

4478 **59-12-806 (Effective 07/01/04). Enactment or repeal of tax -- Tax rate change --**

4479 **Effective date -- Notice requirements.**

4480 (1) For purposes of this section:

4481 (a) "Annexation" means an annexation to:

4482 (i) a county under Title 17, Chapter 2, Annexation to County; or

4483 (ii) a city under Title 10, Chapter 2, Part 4, Annexation.

4484 (b) "Annexing area" means an area that is annexed into a county or city.

4485 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after July 1, 2004, a

4486 county or city enacts or repeals a tax or changes the rate of a tax under this part, the enactment,

4487 repeal, or change shall take effect:

4488 (i) on the first day of a calendar quarter; and

4489 (ii) after a 90-day period beginning on the date the commission receives notice meeting

4490 the requirements of Subsection (2)(b) from the county or city.

4491 (b) The notice described in Subsection (2)(a)(ii) shall state:

4492 (i) that the county or city will enact or repeal a tax or change the rate of a tax under this
4493 part;

4494 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

4495 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

4496 (iv) if the county or city enacts the tax or changes the rate of the tax described in
4497 Subsection (2)(b)(i), the rate of the tax.

4498 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
4499 (2)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
4500 first billing period:

4501 (A) that begins after the effective date of the ~~[imposition]~~ enactment of the tax or the
4502 tax rate increase; and

4503 (B) if the billing period for the transaction begins before the effective date of the
4504 enactment of the tax or the tax rate increase imposed under:

4505 (I) Section 59-12-802; or

4506 (II) Section 59-12-804.

4507 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
4508 (2)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
4509 billing period:

4510 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
4511 and

4512 (B) if the billing period for the transaction begins before the effective date of the repeal
4513 of the tax or the tax rate decrease imposed under:

4514 (I) Section 59-12-802; or

4515 (II) Section 59-12-804.

4516 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:

4517 (A) Subsection 59-12-103(1)(b);

4518 (B) Subsection 59-12-103(1)(c);

4519 (C) Subsection 59-12-103(1)(d);

4520 (D) Subsection 59-12-103(1)(e);

4521 (E) Subsection 59-12-103(1)(f);

4522 (F) Subsection 59-12-103(1)(g);

- 4523 (G) Subsection 59-12-103(1)(h);
4524 (H) Subsection 59-12-103(1)(i);
4525 (I) Subsection 59-12-103(1)(j); or
4526 (J) Subsection 59-12-103(1)(k).
- 4527 (d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue
4528 sale is computed on the basis of sales and use tax rates published in the catalogue, an
4529 enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:
- 4530 (A) on the first day of a calendar quarter; and
4531 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
4532 rate of the tax under Subsection (2)(a).
- 4533 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4534 the commission may by rule define the term "catalogue sale."
- 4535 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs
4536 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
4537 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
4538 effect:
- 4539 (i) on the first day of a calendar quarter; and
4540 (ii) after a 90-day period beginning on the date the commission receives notice meeting
4541 the requirements of Subsection (3)(b) from the county or city that annexes the annexing area.
- 4542 (b) The notice described in Subsection (3)(a)(ii) shall state:
- 4543 (i) that the annexation described in Subsection (3)(a) will result in an enactment,
4544 repeal, or change in the rate of a tax under this part for the annexing area;
4545 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);
4546 (iii) the effective date of the tax described in Subsection (3)(b)(i); and
4547 (iv) if the county or city enacts the tax or changes the rate of the tax described in
4548 Subsection (3)(b)(i), the rate of the tax.
- 4549 (c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
4550 (3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
4551 first billing period:
- 4552 (A) that begins after the effective date of the enactment of the tax or the tax rate
4553 increase; and

4554 (B) if the billing period for the transaction begins before the effective date of the
4555 enactment of the tax or the tax rate increase imposed under:

4556 (I) Section 59-12-802; or

4557 (II) Section 59-12-804.

4558 (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
4559 (3)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
4560 billing period:

4561 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;

4562 and

4563 (B) if the billing period for the transaction begins before the effective date of the repeal
4564 of the tax or the tax rate decrease imposed under:

4565 (I) Section 59-12-802; or

4566 (II) Section 59-12-804.

4567 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:

4568 (A) Subsection 59-12-103(1)(b);

4569 (B) Subsection 59-12-103(1)(c);

4570 (C) Subsection 59-12-103(1)(d);

4571 (D) Subsection 59-12-103(1)(e);

4572 (E) Subsection 59-12-103(1)(f);

4573 (F) Subsection 59-12-103(1)(g);

4574 (G) Subsection 59-12-103(1)(h);

4575 (H) Subsection 59-12-103(1)(i);

4576 (I) Subsection 59-12-103(1)(j); or

4577 (J) Subsection 59-12-103(1)(k).

4578 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue
4579 sale is computed on the basis of sales and use tax rates published in the catalogue, an
4580 enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:

4581 (A) on the first day of a calendar quarter; and

4582 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
4583 rate of a tax under Subsection (3)(a).

4584 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

4585 the commission may by rule define the term "catalogue sale."

4586 Section 49. Section **59-12-807 (Effective 07/01/04)** is amended to read:

4587 **59-12-807 (Effective 07/01/04). Seller or certified service provider reliance on**
 4588 **commission database or certain software.**

4589 A seller or certified service provider [~~that collects a tax imposed by a county or city~~
 4590 ~~under this part~~] is not liable for failing to collect and remit a tax at a tax rate imposed under this
 4591 part if:

4592 (1) the tax rate at which the seller or certified service provider collected the tax was
 4593 derived from a database created by the commission containing:

4594 [~~(1)~~] (a) tax rates; or

4595 [~~(2)~~] (b) local taxing jurisdiction boundaries[-];

4596 (2) the failure to collect and remit the tax is as a result of the seller's or certified service
 4597 provider's reliance on incorrect data provided by the commission in the taxability matrix
 4598 required by Section 328 of the agreement;

4599 (3) for a model 2 seller, the failure to collect and remit the tax:

4600 (a) is due to an error in the certified automated system used by the model 2 seller; and

4601 (b) occurs prior to an audit of the certified automated system that reveals the error in
 4602 the certified automated system; or

4603 (4) for a model 3 seller, the failure to collect and remit the tax:

4604 (a) is due to an error in the proprietary system used by the model 3 seller; and

4605 (b) occurs prior to an audit of the proprietary system that reveals the error in the
 4606 proprietary system.

4607 Section 50. Section **59-12-1001 (Effective 07/01/04)** is amended to read:

4608 **59-12-1001 (Effective 07/01/04). Authority to impose tax for highways or to fund**
 4609 **a system for public transit -- Ordinance requirements -- Voter approval requirements --**
 4610 **Election requirements -- Notice of election requirements -- Exceptions to voter approval**
 4611 **requirements -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

4612 (1) (a) Except as provided in Subsections (1)(b) and 59-12-207.1(7)(c), a city or town
 4613 in which the transactions described in Subsection 59-12-103(1) are not subject to a sales and
 4614 use tax under Section 59-12-501 may as provided in this part impose a sales and use tax of
 4615 [~~1/4%~~] .25% on the transactions described in Subsection 59-12-103(1) located within the city

4616 or town.

4617 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
4618 section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are
4619 exempt from taxation under Section 59-12-104.

4620 (c) For purposes of this Subsection (1), the location of a transaction shall be
4621 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

4622 (2) (a) A city or town imposing a tax under this part may use the revenues generated by
4623 the tax:

4624 (i) for the construction and maintenance of highways under the jurisdiction of the city
4625 or town imposing the tax;

4626 (ii) subject to Subsection (2)(b), to fund a system for public transit; or

4627 (iii) for a combination of the purposes described in Subsections (2)(a)(i) and (ii).

4628 (b) (i) For purposes of Subsection (2)(a)(ii) and except as provided in Subsection
4629 (2)(b)(ii), "public transit" is as defined in Section 17A-2-1004.

4630 (ii) Notwithstanding Subsection (2)(b)(i), "public transit" does not include a fixed
4631 guideway system.

4632 (3) To impose a tax under this part, the governing body of the city or town shall:

4633 (a) pass an ordinance approving the tax; and

4634 (b) except as provided in Subsection (7), obtain voter approval for the tax as provided
4635 in Subsection (4).

4636 (4) To obtain voter approval for a tax under Subsection (3)(b), a city or town shall:

4637 (a) hold an election during:

4638 (i) a regular general election; or

4639 (ii) a municipal general election; and

4640 (b) publish notice of the election:

4641 (i) 15 days or more before the day on which the election is held; and

4642 (ii) in a newspaper of general circulation in the city or town.

4643 (5) An ordinance approving a tax under this part shall provide an effective date for the
4644 tax as provided in Subsection (6).

4645 (6) (a) For purposes of this Subsection (6):

4646 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part

- 4647 4, Annexation.
- 4648 (ii) "Annexing area" means an area that is annexed into a city or town.
- 4649 (b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after July 1, 2004, a city
4650 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:
- 4651 (A) on the first day of a calendar quarter; and
- 4652 (B) after a 90-day period beginning on the date the commission receives notice meeting
4653 the requirements of Subsection (6)(b)(ii) from the city or town.
- 4654 (ii) The notice described in Subsection (6)(b)(i)(B) shall state:
- 4655 (A) that the city or town will enact or repeal a tax under this part;
- 4656 (B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);
- 4657 (C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and
- 4658 (D) if the city or town enacts the tax described in Subsection (6)(b)(ii)(A), the rate of
4659 the tax.
- 4660 (c) (i) Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection
4661 (6)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 4662 (A) that begins after the effective date of the ~~[imposition]~~ enactment of the tax; and
- 4663 (B) if the billing period for the transaction begins before the effective date of the
4664 enactment of the tax under Subsection (1).
- 4665 (ii) Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection
4666 (6)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 4667 (A) that began before the effective date of the repeal of the tax; and
- 4668 (B) if the billing period for the transaction begins before the effective date of the repeal
4669 of the tax imposed under Subsection (1).
- 4670 (iii) Subsections (6)(c)(i) and (ii) apply to transactions subject to a tax under:
- 4671 (A) Subsection 59-12-103(1)(b);
- 4672 (B) Subsection 59-12-103(1)(c);
- 4673 (C) Subsection 59-12-103(1)(d);
- 4674 (D) Subsection 59-12-103(1)(e);
- 4675 (E) Subsection 59-12-103(1)(f);
- 4676 (F) Subsection 59-12-103(1)(g);
- 4677 (G) Subsection 59-12-103(1)(h);

- 4678 (H) Subsection 59-12-103(1)(i);
4679 (I) Subsection 59-12-103(1)(j); or
4680 (J) Subsection 59-12-103(1)(k).
- 4681 (d) (i) Notwithstanding Subsection (6)(b)(i), if a tax due under this chapter on a
4682 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
4683 enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:
- 4684 (A) on the first day of a calendar quarter; and
4685 (B) beginning 60 days after the effective date of the enactment or repeal under
4686 Subsection (6)(b)(i).
- 4687 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4688 the commission may by rule define the term "catalogue sale."
- 4689 (e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs
4690 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
4691 part for an annexing area, the enactment or repeal shall take effect:
- 4692 (A) on the first day of a calendar quarter; and
4693 (B) after a 90-day period beginning on the date the commission receives notice meeting
4694 the requirements of Subsection (6)(e)(ii) from the city or town that annexes the annexing area.
- 4695 (ii) The notice described in Subsection (6)(e)(i)(B) shall state:
- 4696 (A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or
4697 repeal of a tax under this part for the annexing area;
4698 (B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);
4699 (C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and
4700 (D) the rate of the tax described in Subsection (6)(e)(ii)(A).
- 4701 (f) (i) Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection
4702 (6)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 4703 (A) that begins after the effective date of the ~~imposition~~ enactment of the tax; and
4704 (B) if the billing period for the transaction begins before the effective date of the
4705 enactment of the tax under Subsection (1).
- 4706 (ii) Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection
4707 (6)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 4708 (A) that began before the effective date of the repeal of the tax; and

4709 (B) if the billing period for the transaction begins before the effective date of the repeal
4710 of the tax imposed under Subsection (1).

4711 (iii) Subsections (6)(f)(i) and (ii) apply to transactions subject to a tax under:

4712 (A) Subsection 59-12-103(1)(b);

4713 (B) Subsection 59-12-103(1)(c);

4714 (C) Subsection 59-12-103(1)(d);

4715 (D) Subsection 59-12-103(1)(e);

4716 (E) Subsection 59-12-103(1)(f);

4717 (F) Subsection 59-12-103(1)(g);

4718 (G) Subsection 59-12-103(1)(h);

4719 (H) Subsection 59-12-103(1)(i);

4720 (I) Subsection 59-12-103(1)(j); or

4721 (J) Subsection 59-12-103(1)(k).

4722 (g) (i) Notwithstanding Subsection (6)(e)(i), if a tax due under this chapter on a
4723 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
4724 enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:

4725 (A) on the first day of a calendar quarter; and

4726 (B) beginning 60 days after the effective date of the enactment or repeal under
4727 Subsection (6)(e)(i).

4728 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4729 the commission may by rule define the term "catalogue sale."

4730 (7) (a) Except as provided in Subsection (7)(b), a city or town is not subject to the
4731 voter approval requirements of Subsection (3)(b) if:

4732 (i) on or before January 1, 1996, the city or town imposed a license fee or tax on
4733 businesses based on gross receipts pursuant to Section 10-1-203; or

4734 (ii) the city or town:

4735 (A) on or before June 30, 2002, obtained voter approval in accordance with Subsection
4736 (3)(b) to impose a tax under this part for a purpose described in Subsection (2)(a)(i); and

4737 (B) on or after July 1, 2002, uses the revenues generated by a tax under this part for a
4738 purpose described in Subsection (2)(a).

4739 (b) Notwithstanding Subsection (7)(a), the exception from the voter approval

4740 requirements in Subsection (7)(a)(i) does not apply to a city or town that, on or before January
4741 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts
4742 pursuant to Section 10-1-203.

4743 Section 51. Section **59-12-1002** is amended to read:

4744 **59-12-1002. Collection of taxes by commission -- Charge for service.**

4745 (1) The commission shall:

4746 (a) collect the tax imposed by a city or town under this part; and

4747 (b) subject to ~~[the limitations of]~~ Subsection ~~[(2)]~~ (3), transmit to the city or town

4748 monthly by electronic funds transfer the revenues generated by the tax imposed by the city or
4749 town.

4750 (2) (a) Except as provided in Subsection (2)(b), a tax authorized under this part shall be
4751 administered, collected, and enforced in accordance with:

4752 (i) the same procedures used to administer, collect, and enforce the tax under:

4753 (A) Part 1, Tax Collection; or

4754 (B) Part 2, Local Sales and Use Tax Act; and

4755 (ii) Chapter 1, General Taxation Policies.

4756 (b) Notwithstanding Subsection (2)(a), a tax under this part is not subject to
4757 Subsections 59-12-205(2) through (9).

4758 ~~[(2)]~~ (3) (a) The commission shall charge a city or town imposing a tax under this part
4759 a fee for administering the tax as provided in Subsections ~~[(2)]~~ (3)(b) and (c).

4760 (b) The fee shall be in an amount equal to the costs of administering the tax under this
4761 part, except that the fee may not exceed 1-1/2% of the revenues generated in the city or town
4762 by the tax under this part.

4763 (c) Fees under this Subsection ~~[(2)]~~ (3) shall be:

4764 (i) placed in the Sales and Use Tax Administrative Fees Account; and

4765 (ii) used for sales tax administration as provided in Subsection 59-12-206(2).

4766 Section 52. Section **59-12-1003 (Effective 07/01/04)** is amended to read:

4767 **59-12-1003 (Effective 07/01/04). Seller or certified service provider reliance on**
4768 **commission database or certain software.**

4769 A seller or certified service provider ~~[that collects a tax imposed by a city or town under~~
4770 ~~this part]~~ is not liable for failing to collect and remit a tax at a tax rate imposed under this part

4771 if:

4772 (1) the tax rate at which the seller or certified service provider collected the tax was
4773 derived from a database created by the commission containing:

4774 ~~[(1)]~~ (a) tax rates; or

4775 ~~[(2)]~~ (b) local taxing jurisdiction boundaries[-];

4776 (2) the failure to collect and remit the tax is as a result of the seller's or certified service
4777 provider's reliance on incorrect data provided by the commission in the taxability matrix
4778 required by Section 328 of the agreement;

4779 (3) for a model 2 seller, the failure to collect and remit the tax:

4780 (a) is due to an error in the certified automated system used by the model 2 seller; and

4781 (b) occurs prior to an audit of the certified automated system that reveals the error in
4782 the certified automated system; or

4783 (4) for a model 3 seller, the failure to collect and remit the tax:

4784 (a) is due to an error in the proprietary system used by the model 3 seller; and

4785 (b) occurs prior to an audit of the proprietary system that reveals the error in the
4786 proprietary system.

4787 Section 53. Section **59-12-1102 (Effective 07/01/04)** is amended to read:

4788 **59-12-1102 (Effective 07/01/04). Base -- Rate -- Imposition of tax -- Distribution**
4789 **of revenue -- Administration -- Enactment or repeal of tax -- Effective date -- Notice**
4790 **requirements.**

4791 (1) (a) (i) Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), subject to
4792 the provisions of Subsections (2) through (5), and in addition to any other tax authorized by
4793 this chapter, a county may impose by ordinance a county option sales and use tax of ~~[1/4%]~~
4794 .25% upon the transactions described in Subsection 59-12-103(1).

4795 (ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this
4796 section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are
4797 exempt from taxation under Section 59-12-104.

4798 (b) For purposes of this Subsection (1), the location of a transaction shall be
4799 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

4800 (c) The county option sales and use tax under this section shall be imposed:

4801 (i) upon transactions that are located within the county, including transactions that are

4802 located within municipalities in the county; and

4803 (ii) except as provided in Subsection (1)(d) or (5), beginning on the first day of

4804 January:

4805 (A) of the next calendar year after adoption of the ordinance imposing the tax if the

4806 ordinance is adopted on or before May 25; or

4807 (B) of the second calendar year after adoption of the ordinance imposing the tax if the

4808 ordinance is adopted after May 25.

4809 (d) Notwithstanding Subsection (1)(c)(ii), the county option sales and use tax under

4810 this section shall be imposed:

4811 (i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before

4812 September 4, 1997; or

4813 (ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997

4814 but after September 4, 1997.

4815 (2) (a) Before imposing a county option sales and use tax under Subsection (1), a

4816 county shall hold two public hearings on separate days in geographically diverse locations in

4817 the county.

4818 (b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting

4819 time of no earlier than 6 p.m.

4820 (ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven

4821 days after the day the first advertisement required by Subsection (2)(c) is published.

4822 (c) (i) Before holding the public hearings required by Subsection (2)(a), the county

4823 shall advertise in a newspaper of general circulation in the county:

4824 (A) its intent to adopt a county option sales and use tax;

4825 (B) the date, time, and location of each public hearing; and

4826 (C) a statement that the purpose of each public hearing is to obtain public comments

4827 regarding the proposed tax.

4828 (ii) The advertisement shall be published once each week for the two weeks preceding

4829 the earlier of the two public hearings.

4830 (iii) The advertisement shall be no less than 1/8 page in size, and the type used shall be

4831 no smaller than 18 point and surrounded by a 1/4-inch border.

4832 (iv) The advertisement may not be placed in that portion of the newspaper where legal

4833 notices and classified advertisements appear.

4834 (v) Whenever possible:

4835 (A) the advertisement shall appear in a newspaper that is published at least five days a
4836 week, unless the only newspaper in the county is published less than five days a week; and

4837 (B) the newspaper selected shall be one of general interest and readership in the
4838 community, and not one of limited subject matter.

4839 (d) The adoption of an ordinance imposing a county option sales and use tax is subject
4840 to a local referendum election as provided in Title 20A, Chapter 7, Part 6, Local Referenda -
4841 Procedures, except that:

4842 (i) notwithstanding Subsection 20A-7-609(2)(a), the county clerk shall hold a
4843 referendum election that qualifies for the ballot on the earlier of the next regular general
4844 election date or the next municipal general election date more than 155 days after adoption of
4845 an ordinance under this section;

4846 (ii) for 1997 only, the 120-day period in Subsection 20A-7-606(1) shall be 30 days; and

4847 (iii) the deadlines in Subsection 20A-7-606(2) and (3) do not apply, and the clerk shall
4848 take the actions required by those subsections before the referendum election.

4849 (3) (a) If the aggregate population of the counties imposing a county option sales and
4850 use tax under Subsection (1) is less than 75% of the state population, the tax levied under
4851 Subsection (1) shall be distributed to the county in which the tax was collected.

4852 (b) If the aggregate population of the counties imposing a county option sales and use
4853 tax under Subsection (1) is greater than or equal to 75% of the state population:

4854 (i) 50% of the tax collected under Subsection (1) in each county shall be distributed to
4855 the county in which the tax was collected; and

4856 (ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection
4857 (1) in each county shall be distributed proportionately among all counties imposing the tax,
4858 based on the total population of each county.

4859 (c) If the amount to be distributed annually to a county under Subsection (3)(b)(ii),
4860 when combined with the amount distributed to the county under Subsection (3)(b)(i), does not
4861 equal at least \$75,000, then:

4862 (i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall
4863 be increased so that, when combined with the amount distributed to the county under

4864 Subsection (3)(b)(i), the amount distributed annually to the county is \$75,000; and
4865 (ii) the amount to be distributed annually to all other counties under Subsection
4866 (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under
4867 Subsection (3)(c)(i).

4868 (d) The commission shall establish rules to implement the distribution of the tax under
4869 Subsections (3)(a), (b), and (c).

4870 (4) (a) Except as provided in Subsection (4)(b) or (c), a tax authorized under this part
4871 shall be [~~imposed and~~] administered, collected, and enforced in [~~the same manner as a tax~~
4872 ~~imposed~~] accordance with:

4873 (i) the same procedures used to administer, collect, and enforce the tax under:
4874 (A) Part 1, Tax Collection; or
4875 (B) Part 2, Local Sales and Use Tax Act[-]; and
4876 (ii) Chapter 1, General Taxation Policies.

4877 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to
4878 Subsections 59-12-205(2) through [~~(5)~~] (9).

4879 (c) Notwithstanding Subsection (4)(a), the fee charged by the commission under
4880 Section 59-12-206 shall be based on the distribution amounts resulting after all the applicable
4881 distribution calculations under Subsection (3) have been made.

4882 (5) (a) For purposes of this Subsection (5):
4883 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
4884 Annexation to County.
4885 (ii) "Annexing area" means an area that is annexed into a county.

4886 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
4887 county enacts or repeals a tax under this part:
4888 (A) (I) the enactment shall take effect as provided in Subsection (1)(c); or
4889 (II) the repeal shall take effect on the first day of a calendar quarter; and
4890 (B) after a 90-day period beginning on the date the commission receives notice meeting
4891 the requirements of Subsection (5)(b)(ii) from the county.
4892 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:
4893 (A) that the county will enact or repeal a tax under this part;
4894 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

- 4895 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
4896 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the
4897 tax.
- 4898 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
4899 (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
4900 (A) that begins after the effective date of the ~~[imposition]~~ enactment of the tax; and
4901 (B) if the billing period for the transaction begins before the effective date of the
4902 enactment of the tax under Subsection (1).
- 4903 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
4904 (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
4905 (A) that began before the effective date of the repeal of the tax; and
4906 (B) if the billing period for the transaction begins before the effective date of the repeal
4907 of the tax imposed under Subsection (1).
- 4908 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:
4909 (A) Subsection 59-12-103(1)(b);
4910 (B) Subsection 59-12-103(1)(c);
4911 (C) Subsection 59-12-103(1)(d);
4912 (D) Subsection 59-12-103(1)(e);
4913 (E) Subsection 59-12-103(1)(f);
4914 (F) Subsection 59-12-103(1)(g);
4915 (G) Subsection 59-12-103(1)(h);
4916 (H) Subsection 59-12-103(1)(i);
4917 (I) Subsection 59-12-103(1)(j); or
4918 (J) Subsection 59-12-103(1)(k).
- 4919 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a
4920 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
4921 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:
4922 (A) on the first day of a calendar quarter; and
4923 (B) beginning 60 days after the effective date of the enactment or repeal under
4924 Subsection (5)(b)(i).
- 4925 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

4926 the commission may by rule define the term "catalogue sale."

4927 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
4928 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
4929 part for an annexing area, the enactment or repeal shall take effect:

4930 (A) on the first day of a calendar quarter; and

4931 (B) after a 90-day period beginning on the date the commission receives notice meeting
4932 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

4933 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

4934 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
4935 repeal of a tax under this part for the annexing area;

4936 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

4937 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

4938 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

4939 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
4940 (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

4941 (A) that begins after the effective date of the ~~[imposition]~~ enactment of the tax; and

4942 (B) if the billing period for the transaction begins before the effective date of the
4943 enactment of the tax under Subsection (1).

4944 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
4945 (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

4946 (A) that began before the effective date of the repeal of the tax; and

4947 (B) if the billing period for the transaction begins before the effective date of the repeal
4948 of the tax imposed under Subsection (1).

4949 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

4950 (A) Subsection 59-12-103(1)(b);

4951 (B) Subsection 59-12-103(1)(c);

4952 (C) Subsection 59-12-103(1)(d);

4953 (D) Subsection 59-12-103(1)(e);

4954 (E) Subsection 59-12-103(1)(f);

4955 (F) Subsection 59-12-103(1)(g);

4956 (G) Subsection 59-12-103(1)(h);

4957 (H) Subsection 59-12-103(1)(i);

4958 (I) Subsection 59-12-103(1)(j); or

4959 (J) Subsection 59-12-103(1)(k).

4960 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a
4961 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
4962 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

4963 (A) on the first day of a calendar quarter; and

4964 (B) beginning 60 days after the effective date of the enactment or repeal under
4965 Subsection (5)(e)(i).

4966 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4967 the commission may by rule define the term "catalogue sale."

4968 Section 54. Section **59-12-1103 (Effective 07/01/04)** is amended to read:

4969 **59-12-1103 (Effective 07/01/04). Seller or certified service provider reliance on**
4970 **commission database or certain software.**

4971 A seller or certified service provider [~~that collects a tax imposed by a county under this~~
4972 ~~part]~~ is not liable for failing to collect and remit a tax at a tax rate imposed under this part if:

4973 (1) the tax rate at which the seller or certified service provider collected the tax was
4974 derived from a database created by the commission containing:

4975 [~~(1)~~] (a) tax rates; or

4976 [~~(2)~~] (b) local taxing jurisdiction boundaries[-];

4977 (2) the failure to collect and remit the tax is as a result of the seller's or certified service
4978 provider's reliance on incorrect data provided by the commission in the taxability matrix
4979 required by Section 328 of the agreement;

4980 (3) for a model 2 seller, the failure to collect and remit the tax:

4981 (a) is due to an error in the certified automated system used by the model 2 seller; and

4982 (b) occurs prior to an audit of the certified automated system that reveals the error in
4983 the certified automated system; or

4984 (4) for a model 3 seller, the failure to collect and remit the tax:

4985 (a) is due to an error in the proprietary system used by the model 3 seller; and

4986 (b) occurs prior to an audit of the proprietary system that reveals the error in the
4987 proprietary system.

4988 Section 55. Section **59-12-1201** is amended to read:

4989 **59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Collection --**

4990 **Deposits.**

4991 (1) (a) Except as provided [~~under~~] in Subsection [~~(2)~~] (3), there is imposed a tax of
4992 2.5% on all short-term leases and rentals of motor vehicles not exceeding 30 days.

4993 (b) The tax imposed in this section is in addition to all other state, county, or municipal
4994 fees and taxes imposed on rentals of motor vehicles.

4995 (c) A tax under this part shall be imposed on the short-term leases and rentals described
4996 in Subsection (1)(a) relating to the Olympic Winter Games of 2002 made to or by an
4997 organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue
4998 Code, except for short-term leases and rentals described in Subsection (1)(a):

4999 (i) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter
5000 Games of 2002;

5001 (ii) exclusively used by:

5002 (A) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
5003 Olympic Winter Games of 2002; or

5004 (B) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic
5005 Winter Games of 2002; and

5006 (iii) for which the Salt Lake Organizing Committee for the Olympic Winter Games of
5007 2002 does not receive reimbursement.

5008 (2) (a) Subject to Subsection (2)(b), a tax rate change for the tax imposed under
5009 Subsection (1) shall take effect on the first day of a calendar quarter.

5010 (b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall
5011 take effect on the first day of the first billing period:

5012 (A) that begins after the effective date of the tax rate increase; and

5013 (B) if the billing period for the transaction begins before the effective date of a tax rate
5014 increase imposed under Subsection (1).

5015 (ii) For a transaction subject to a tax under Subsection (1), a tax rate decrease shall take
5016 effect on the first day of the last billing period:

5017 (A) that began before the effective date of the tax rate decrease; and

5018 (B) if the billing period for the transaction begins before the effective date of a tax rate

5019 decrease imposed under Subsection (1).

5020 [~~(2)~~] (3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

5021 (a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

5022 (b) the motor vehicle is rented as a personal household goods moving van; or

5023 (c) the lease or rental of the motor vehicle is made for the purpose of temporarily

5024 replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an

5025 insurance agreement.

5026 [~~(3)~~] (4) (a) (i) [~~The commission shall administer, collect, and enforce the~~] Except as

5027 provided in Subsection (4)(a)(ii), the tax authorized under this section [pursuant to] shall be

5028 administered, collected, and enforced in accordance with:

5029 (A) the same procedures used [~~in the administration, collection, and enforcement of] to~~

5030 administer, collect, and enforce the [sales and use] tax under [Title 59, Chapter 12,];

5031 (I) Part 1, Tax Collection[;]; or

5032 (II) Part 2, Local Sales and Use Tax Act; and [~~Title 59,]~~

5033 (B) Chapter 1, General Taxation Policies.

5034 (ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to:

5035 (A) Subsections 59-12-103(4) through (7);

5036 (B) Sections 59-12-107.1 through 59-12-107.3;

5037 (C) Subsections 59-12-205(2) through (9); or

5038 (D) Sections 59-12-207.1 through 59-12-207.4.

5039 (b) The commission may retain a maximum of 1-1/2% of the tax collected under this

5040 section for the costs of rendering its services under this section.

5041 (c) Except as provided under Subsection [~~(3)~~] (4)(b), all revenue received by the

5042 commission under this section shall be deposited daily with the state treasurer and credited

5043 monthly to the Transportation Corridor Preservation Revolving Loan Fund under Section

5044 72-2-117.

5045 [~~(4) The tax under this section is not subject to the distribution of tax revenues~~

5046 ~~provided under Sections 59-12-205 and 59-12-103.]~~

5047 Section 56. Section **59-12-1302 (Effective 07/01/04)** is amended to read:

5048 **59-12-1302 (Effective 07/01/04). Authority to impose -- Base -- Rate -- Enactment**

5049 **or repeal of tax -- Tax rate change -- Effective date -- Notice requirements.**

5050 (1) Except as provided in Subsection 59-12-207.1(7)(c), beginning on or after January
5051 1, 1998, the governing body of a town may impose a tax as provided in this part in an amount
5052 that does not exceed 1%.

5053 (2) A town may impose a tax as provided in this part if the town imposed a license fee
5054 or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1,
5055 1996.

5056 (3) A town imposing a tax under this section shall:

5057 (a) except as provided in Subsection (4), impose the tax on the transactions described
5058 in Subsection 59-12-103(1) located within the town; and

5059 (b) provide an effective date for the tax as provided in Subsection (5).

5060 (4) (a) Notwithstanding Subsection (3)(a), a town may not impose a tax under this
5061 section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are
5062 exempt from taxation under Section 59-12-104.

5063 (b) For purposes of this Subsection (4), the location of a transaction shall be
5064 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

5065 (5) (a) For purposes of this Subsection (5):

5066 (i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4,
5067 Annexation.

5068 (ii) "Annexing area" means an area that is annexed into a town.

5069 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
5070 town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,
5071 or change shall take effect:

5072 (A) on the first day of a calendar quarter; and

5073 (B) after a 90-day period beginning on the date the commission receives notice meeting
5074 the requirements of Subsection (5)(b)(ii) from the town.

5075 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

5076 (A) that the town will enact or repeal a tax or change the rate of a tax under this part;

5077 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

5078 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

5079 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
5080 (5)(b)(ii)(A), the rate of the tax.

5081 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
5082 (5)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
5083 first billing period:

5084 (A) that begins after the effective date of the enactment of the tax or the tax rate
5085 increase; and

5086 (B) if the billing period for the transaction begins before the effective date of the
5087 enactment of the tax or the tax rate increase imposed under Subsection (1).

5088 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
5089 (5)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
5090 billing period:

5091 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
5092 and

5093 (B) if the billing period for the transaction begins before the effective date of the repeal
5094 of the tax or the tax rate decrease imposed under Subsection (1).

5095 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

5096 (A) Subsection 59-12-103(1)(b);

5097 (B) Subsection 59-12-103(1)(c);

5098 (C) Subsection 59-12-103(1)(d);

5099 (D) Subsection 59-12-103(1)(e);

5100 (E) Subsection 59-12-103(1)(f);

5101 (F) Subsection 59-12-103(1)(g);

5102 (G) Subsection 59-12-103(1)(h);

5103 (H) Subsection 59-12-103(1)(i);

5104 (I) Subsection 59-12-103(1)(j); or

5105 (J) Subsection 59-12-103(1)(k).

5106 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a
5107 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
5108 enactment, repeal, or change in the rate of a tax described in Subsection (5)(b)(i) takes effect:

5109 (A) on the first day of a calendar quarter; and

5110 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
5111 rate of the tax under Subsection (5)(b)(i).

5112 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
5113 the commission may by rule define the term "catalogue sale."

5114 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
5115 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
5116 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
5117 effect:

5118 (A) on the first day of a calendar quarter; and

5119 (B) after a 90-day period beginning on the date the commission receives notice meeting
5120 the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

5121 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

5122 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment,
5123 repeal, or change in the rate of a tax under this part for the annexing area;

5124 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

5125 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

5126 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
5127 (5)(e)(ii)(A), the rate of the tax.

5128 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
5129 (5)(f)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
5130 first billing period:

5131 (A) that begins after the effective date of the enactment of the tax or the tax rate
5132 increase; and

5133 (B) if the billing period for the transaction begins before the effective date of the
5134 enactment of the tax or the tax rate increase imposed under Subsection (1).

5135 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
5136 (5)(f)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
5137 billing period:

5138 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
5139 and

5140 (B) if the billing period for the transaction begins before the effective date of the repeal
5141 of the tax or the tax rate decrease imposed under Subsection (1).

5142 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

- 5143 (A) Subsection 59-12-103(1)(b);
 5144 (B) Subsection 59-12-103(1)(c);
 5145 (C) Subsection 59-12-103(1)(d);
 5146 (D) Subsection 59-12-103(1)(e);
 5147 (E) Subsection 59-12-103(1)(f);
 5148 (F) Subsection 59-12-103(1)(g);
 5149 (G) Subsection 59-12-103(1)(h);
 5150 (H) Subsection 59-12-103(1)(i);
 5151 (I) Subsection 59-12-103(1)(j); or
 5152 (J) Subsection 59-12-103(1)(k).
- 5153 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a
 5154 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
 5155 enactment, repeal, or change in the rate of a tax described in Subsection (5)(e)(i) takes effect:
- 5156 (A) on the first day of a calendar quarter; and
 5157 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
 5158 rate of the tax under Subsection (5)(e)(i).
- 5159 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
 5160 the commission may by rule define the term "catalogue sale."
- 5161 (6) The commission shall:
- 5162 (a) except as provided in Subsection (6)(c), distribute the revenues generated by the tax
 5163 under this section to the town imposing the tax;
- 5164 (b) except as provided in Subsection (7), administer, collect, and enforce the tax
 5165 authorized under this section [~~pursuant to~~] in accordance with:
- 5166 (i) the same procedures used to administer, collect, and enforce the [~~sales and use~~] tax
 5167 under;
- 5168 (A) Part 1, Tax Collection; [~~and~~] or
 5169 (B) Part 2, Local Sales and Use Tax Act; and
- 5170 (ii) Chapter 1, General Taxation Policies; and
- 5171 (c) deduct from the distribution under Subsection (6)(a) an administrative charge for
 5172 collecting the tax as provided in Section 59-12-206.
- 5173 (7) Notwithstanding Subsection (6)(b), a tax under this section is not subject to

5174 Subsections 59-12-205(2) through (9).

5175 Section 57. Section **59-12-1303 (Effective 07/01/04)** is amended to read:

5176 **59-12-1303 (Effective 07/01/04). Seller or certified service provider reliance on**
5177 **commission database or certain software.**

5178 A seller or certified service provider [~~that collects a tax imposed by a town under this~~
5179 ~~part~~] is not liable for failing to collect and remit a tax at a tax rate imposed under this part if:

5180 (1) the tax rate at which the seller or certified service provider collected the tax was
5181 derived from a database created by the commission containing:

5182 [~~(1)~~] (a) tax rates; or

5183 [~~(2)~~] (b) local taxing jurisdiction boundaries[-];

5184 (2) the failure to collect and remit the tax is as a result of the seller's or certified service
5185 provider's reliance on incorrect data provided by the commission in the taxability matrix
5186 required by Section 328 of the agreement;

5187 (3) for a model 2 seller, the failure to collect and remit the tax:

5188 (a) is due to an error in the certified automated system used by the model 2 seller; and

5189 (b) occurs prior to an audit of the certified automated system that reveals the error in
5190 the certified automated system; or

5191 (4) for a model 3 seller, the failure to collect and remit the tax:

5192 (a) is due to an error in the proprietary system used by the model 3 seller; and

5193 (b) occurs prior to an audit of the proprietary system that reveals the error in the
5194 proprietary system.

5195 Section 58. Section **59-12-1402 (Effective 07/01/04)** is amended to read:

5196 **59-12-1402 (Effective 07/01/04). Opinion question election -- Imposition of tax --**
5197 **Uses of tax monies -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

5198 (1) (a) (i) Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), and
5199 subject to Subsection (6), beginning on January 1, 2003, a city or town legislative body subject
5200 to this part may submit an opinion question to the residents of that city or town, by majority
5201 vote of all members of the legislative body, so that each resident of the city or town has an
5202 opportunity to express the resident's opinion on the imposition of a local sales and use tax of
5203 .1% on the transactions described in Subsection 59-12-103(1) located within the city or town,
5204 to fund recreational and zoological facilities and botanical, cultural, and zoological

5205 organizations in that city or town.

5206 (ii) Notwithstanding Subsection (1)(a)(i), a city or town legislative body may not
5207 impose a tax under this section:

5208 (A) if the county in which the city or town is located imposes a tax under Part 7,
5209 County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or
5210 Facilities; or

5211 (B) on the sales and uses described in Section 59-12-104 to the extent the sales and
5212 uses are exempt from taxation under Section 59-12-104.

5213 (b) For purposes of this Subsection (1), the location of a transaction shall be
5214 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

5215 (c) The election shall follow the procedures outlined in Title 11, Chapter 14, Utah
5216 Municipal Bond Act, except as provided in Subsection (6).

5217 (2) If the city or town legislative body determines that a majority of the city's or town's
5218 registered voters voting on the imposition of the tax have voted in favor of the imposition of
5219 the tax as prescribed in Subsection (1)(a), the city or town legislative body may impose the tax
5220 by a majority vote of all members of the legislative body.

5221 (3) The monies generated from any tax imposed under Subsection (2) shall be used for
5222 financing:

5223 (a) recreational and zoological facilities within the city or town; and

5224 (b) ongoing operating expenses of botanical, cultural, and zoological organizations
5225 within the city or town.

5226 (4) (a) A tax authorized under this part shall be:

5227 (i) except as provided in Subsection (4)(b), [~~levied at the same time and collected in~~
5228 ~~the same manner as provided in~~] administered, collected, and enforced in accordance with:

5229 (A) the same procedures used to administer, collect, and enforce the tax under:

5230 (I) Part 1, Tax Collection; or

5231 (II) Part 2, Local Sales and Use Tax Act; and

5232 (B) Chapter 1, General Taxation Policies; and

5233 (ii) (A) levied for a period of five years; and

5234 (B) may be reauthorized at the end of the five-year period in accordance with this
5235 section.

5236 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
5237 Subsections 59-12-205(2) through [~~5~~] (9).

5238 (5) (a) For purposes of this Subsection (5):

5239 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
5240 4, Annexation.

5241 (ii) "Annexing area" means an area that is annexed into a city or town.

5242 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city
5243 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

5244 (A) on the first day of a calendar quarter; and

5245 (B) after a 90-day period beginning on the date the commission receives notice meeting
5246 the requirements of Subsection (5)(b)(ii) from the city or town.

5247 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

5248 (A) that the city or town will enact or repeal a tax under this part;

5249 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

5250 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

5251 (D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of
5252 the tax.

5253 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
5254 (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

5255 (A) that begins after the effective date of the ~~imposition~~ enactment of the tax; and

5256 (B) if the billing period for the transaction begins before the effective date of the
5257 enactment of the tax under this section.

5258 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
5259 (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

5260 (A) that began before the effective date of the repeal of the tax; and

5261 (B) if the billing period for the transaction begins before the effective date of the repeal
5262 of the tax imposed under this section.

5263 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

5264 (A) Subsection 59-12-103(1)(b);

5265 (B) Subsection 59-12-103(1)(c);

5266 (C) Subsection 59-12-103(1)(d);

- 5267 (D) Subsection 59-12-103(1)(e);
5268 (E) Subsection 59-12-103(1)(f);
5269 (F) Subsection 59-12-103(1)(g);
5270 (G) Subsection 59-12-103(1)(h);
5271 (H) Subsection 59-12-103(1)(i);
5272 (I) Subsection 59-12-103(1)(j); or
5273 (J) Subsection 59-12-103(1)(k).
- 5274 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a
5275 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
5276 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:
- 5277 (A) on the first day of a calendar quarter; and
5278 (B) beginning 60 days after the effective date of the enactment or repeal under
5279 Subsection (5)(b)(i).
- 5280 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
5281 the commission may by rule define the term "catalogue sale."
- 5282 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
5283 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
5284 part for an annexing area, the enactment or repeal shall take effect:
- 5285 (A) on the first day of a calendar quarter; and
5286 (B) after a 90-day period beginning on the date the commission receives notice meeting
5287 the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.
- 5288 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:
- 5289 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
5290 repeal of a tax under this part for the annexing area;
5291 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);
5292 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and
5293 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).
- 5294 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
5295 (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 5296 (A) that begins after the effective date of the ~~[imposition]~~ enactment of the tax; and
5297 (B) if the billing period for the transaction begins before the effective date of the

5298 enactment of the tax under this section.

5299 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
5300 (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

5301 (A) that began before the effective date of the repeal of the tax; and

5302 (B) if the billing period for the transaction begins before the effective date of the repeal
5303 of the tax imposed under this section.

5304 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

5305 (A) Subsection 59-12-103(1)(b);

5306 (B) Subsection 59-12-103(1)(c);

5307 (C) Subsection 59-12-103(1)(d);

5308 (D) Subsection 59-12-103(1)(e);

5309 (E) Subsection 59-12-103(1)(f);

5310 (F) Subsection 59-12-103(1)(g);

5311 (G) Subsection 59-12-103(1)(h);

5312 (H) Subsection 59-12-103(1)(i);

5313 (I) Subsection 59-12-103(1)(j); or

5314 (J) Subsection 59-12-103(1)(k).

5315 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a
5316 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
5317 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

5318 (A) on the first day of a calendar quarter; and

5319 (B) beginning 60 days after the effective date of the enactment or repeal under
5320 Subsection (5)(e)(i).

5321 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
5322 the commission may by rule define the term "catalogue sale."

5323 (6) (a) Before a city or town legislative body submits an opinion question to the
5324 residents of the city or town under Subsection (1)(a)(i), the city or town legislative body shall:

5325 (i) submit to the county legislative body in which the city or town is located a written
5326 notice of the intent to submit the opinion question to the residents of the city or town; and

5327 (ii) receive from the county legislative body:

5328 (A) a written resolution passed by the county legislative body stating that the county

5329 legislative body is not seeking to impose a tax under Part 7, County Option Funding for
5330 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

5331 (B) a written statement that in accordance with Subsection (6)(b) the results of a county
5332 opinion question submitted to the residents of the county under Part 7, County Option Funding
5333 for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city
5334 or town legislative body to submit the opinion question to the residents of the city or town in
5335 accordance with this part.

5336 (b) (i) Within 60 days after the day the county legislative body receives from a city or
5337 town legislative body described in Subsection (6)(a) the notice of the intent to submit an
5338 opinion question to the residents of the city or town, the county legislative body shall provide
5339 the city or town legislative body:

5340 (A) the written resolution described in Subsection (6)(a)(ii)(A); or

5341 (B) written notice that the county legislative body will submit an opinion question to
5342 the residents of the county under Part 7, County Option Funding for Botanical, Cultural,
5343 Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under
5344 that part.

5345 (ii) If the county legislative body provides the city or town legislative body the written
5346 notice that the county legislative body will submit an opinion question as provided in
5347 Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no
5348 later than, from the date the county legislative body sends the written notice, the later of:

5349 (A) a 12-month period;

5350 (B) the next regular primary election; or

5351 (C) the next regular general election.

5352 (iii) Within 30 days of the date of the canvass of the election at which the opinion
5353 question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the
5354 city or town legislative body described in Subsection (6)(a) written results of the opinion
5355 question submitted by the county legislative body under Part 7, County Option Funding for
5356 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

5357 (A) (I) the city or town legislative body may not impose a tax under this part because a
5358 majority of the county's registered voters voted in favor of the county imposing the tax and the
5359 county legislative body by a majority vote approved the imposition of the tax; or

5360 (II) for at least 12 months from the date the written results are submitted to the city or
5361 town legislative body, the city or town legislative body may not submit to the county legislative
5362 body a written notice of the intent to submit an opinion question under this part because a
5363 majority of the county's registered voters voted against the county imposing the tax and the
5364 majority of the registered voters who are residents of the city or town described in Subsection
5365 (6)(a) voted against the imposition of the county tax; or

5366 (B) the city or town legislative body may submit the opinion question to the residents
5367 of the city or town in accordance with this part because although a majority of the county's
5368 registered voters voted against the county imposing the tax, the majority of the registered voters
5369 who are residents of the city or town voted for the imposition of the county tax.

5370 (c) Notwithstanding Subsection (6)(b), at any time a county legislative body may
5371 provide a city or town legislative body described in Subsection (6)(a) a written resolution
5372 passed by the county legislative body stating that the county legislative body is not seeking to
5373 impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and
5374 Zoological Organizations or Facilities, which permits the city or town legislative body to
5375 submit under Subsection (1)(a)(i) an opinion question to the city's or town's residents.

5376 Section 59. Section **59-12-1404 (Effective 07/01/04)** is amended to read:

5377 **59-12-1404 (Effective 07/01/04). Seller or certified service provider reliance on**
5378 **commission database or certain software.**

5379 A seller or certified service provider [~~that collects a tax imposed by a city or town under~~
5380 ~~this part~~] is not liable for failing to collect and remit a tax at a tax rate imposed under this part
5381 if:

5382 (1) the tax rate at which the seller or certified service provider collected the tax was
5383 derived from a database created by the commission containing:

5384 [(+) (a) tax rates; or

5385 [(2)] (b) local taxing jurisdiction boundaries[-];

5386 (2) the failure to collect and remit the tax is as a result of the seller's or certified service
5387 provider's reliance on incorrect data provided by the commission in the taxability matrix
5388 required by Section 328 of the agreement;

5389 (3) for a model 2 seller, the failure to collect and remit the tax:

5390 (a) is due to an error in the certified automated system used by the model 2 seller; and

5391 (b) occurs prior to an audit of the certified automated system that reveals the error in
 5392 the certified automated system; or

5393 (4) for a model 3 seller, the failure to collect and remit the tax:

5394 (a) is due to an error in the proprietary system used by the model 3 seller; and

5395 (b) occurs prior to an audit of the proprietary system that reveals the error in the
 5396 proprietary system.

5397 Section 60. Section **59-12-1503** is amended to read:

5398 **59-12-1503. Opinion question election -- Imposition of tax -- Use of tax revenues**
 5399 **-- Administration, collection, and enforcement of tax by commission -- Administrative fee**
 5400 **-- Enactment or repeal of tax -- Annexation -- Notice.**

5401 (1) (a) Beginning on or after April 1, 2004, and subject to the other provisions of this
 5402 part, the county legislative body of a qualifying county may impose a sales and use tax of .25%:

5403 (i) except as provided in [~~Subsection~~] Subsections (1)(b) and 59-12-207.1(7)(c), on the
 5404 transactions:

5405 (A) described in Subsection 59-12-103(1); and

5406 (B) within the county, including the cities and towns within the county;

5407 (ii) for the purposes determined by the county legislative body in accordance with
 5408 Subsection (2); and

5409 (iii) in addition to any other sales and use tax authorized under this chapter.

5410 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
 5411 tax under this section on~~[-(†)]~~ the sales and uses described in Section 59-12-104 to the extent
 5412 the sales and uses are exempt from taxation under Section 59-12-104~~[-; and]~~.

5413 ~~[(ii) any amount paid or charged by a vendor that collects a tax under Subsection~~
 5414 ~~59-12-107(1)(b).]~~

5415 (c) For purposes of this Subsection (1), the location of a transaction shall be
 5416 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

5417 (2) (a) Subject to Subsection (2)(b), before obtaining the approval required by
 5418 Subsection (3), a county legislative body shall adopt a resolution specifying the percentage of
 5419 revenues the county will receive from the tax under this part that will be allocated to fund one
 5420 or more of the following:

5421 (i) a project or service relating to a fixed guideway system:

5422 (A) for the portion of the project or service that is performed within the county; and
5423 (B) if the fixed guideway system is owned and operated by a public transit district
5424 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;

5425 (ii) a project or service relating to a system for public transit:
5426 (A) for the portion of the project or service that is performed within the county; and
5427 (B) if the system for public transit is owned and operated by a public transit district
5428 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; or
5429 (iii) the following relating to a state highway within the county:
5430 (A) a project beginning on or after the day on which a county legislative body imposes
5431 a tax under this part only within the county involving:
5432 (I) new construction;
5433 (II) a renovation;
5434 (III) an improvement; or
5435 (IV) an environmental study;
5436 (B) debt service on a project described in Subsections (2)(a)(iii)(A)(I) through (IV); or
5437 (C) bond issuance costs relating to a project described in Subsections (2)(a)(iii)(A)(I)
5438 through (IV).

5439 (b) (i) A county legislative body shall in the resolution required by Subsection (2)(a)
5440 allocate as required by Subsection (2)(a) 100% of the revenues the county will receive from the
5441 tax under this part.
5442 (ii) For purposes of Subsection (2)(b), the revenues a county will receive from the tax
5443 under this part do not include amounts retained by the commission in accordance with
5444 Subsection (8).

5445 (3) (a) Before imposing a tax under this part, a county legislative body shall:
5446 (i) obtain approval from a majority of the members of the county legislative body to:
5447 (A) impose the tax; and
5448 (B) allocate the revenues the county will receive from the tax in accordance with the
5449 resolution adopted in accordance with Subsection (2); and
5450 (ii) subject to Subsection (3)(b), submit an opinion question to the county's registered
5451 voters voting on the imposition of the tax so that each registered voter has the opportunity to
5452 express the registered voter's opinion on whether a tax should be imposed under this part.

- 5453 (b) The opinion question required by Subsection (3)(a)(ii) shall state the allocations
5454 specified in the resolution:
- 5455 (i) adopted in accordance with Subsection (2); and
5456 (ii) approved by the county legislative body in accordance with Subsection (3)(a).
- 5457 (c) The election required by this Subsection (3) shall be held:
- 5458 (i) (A) at a regular general election; and
5459 (B) in accordance with the procedures and requirements of Title 20A, Election Code,
5460 governing regular general elections; or
5461 (ii) (A) at a special election called by the county legislative body;
5462 (B) only on the date of a municipal general election provided in Subsection
5463 20A-1-202(1); and
5464 (C) in accordance with the procedures and requirements of Section [~~20A-a-203~~]
5465 20A-1-203.
- 5466 (4) (a) Subject to Subsection (8), if a county legislative body determines that a majority
5467 of the county's registered voters voting on the imposition of the tax have voted in favor of the
5468 imposition of the tax in accordance with Subsection (3), the county legislative body may
5469 impose the tax by a majority vote of all of the members of the county legislative body.
- 5470 (b) If a county legislative body imposes a tax under Subsection (4)(a), the revenues
5471 generated by the tax shall be:
- 5472 (i) allocated in accordance with the allocations specified in the resolution under
5473 Subsection (2); and
5474 (ii) expended as provided in this part.
- 5475 (5) If a county legislative body allocates revenues generated by the tax for a project
5476 described in Subsection (2)(a)(iii)(A), before beginning the project the county legislative body
5477 shall:
- 5478 (a) obtain approval from the Transportation Commission to complete the project; and
5479 (b) enter into an interlocal agreement:
- 5480 (i) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;
5481 (ii) with the Department of Transportation; and
5482 (iii) to complete the project.
- 5483 (6) (a) If after a county legislative body imposes a tax under Subsection (4) the county

5484 legislative body seeks to change the allocation of the tax specified in the resolution under
5485 Subsection (2), the county legislative body may change the allocation of the tax by:

5486 (i) adopting a resolution in accordance with Subsection (2) specifying the percentage of
5487 revenues the county will receive from the tax under this part that will be allocated to fund one
5488 or more of the systems or projects described in Subsection (2);

5489 (ii) obtaining approval to change the allocation of the tax from a majority of the
5490 members of the county legislative body; and

5491 (iii) (A) submitting an opinion question to the county's registered voters voting on
5492 changing the allocation of the tax so that each registered voter has the opportunity to express
5493 the registered voter's opinion on whether the allocation of the tax should be changed; and

5494 (B) obtaining approval to change the allocation of the tax from a majority of the
5495 county's registered voters voting on changing the allocation of the tax.

5496 (b) (i) The opinion question required by Subsection (6)(a)(iii) shall state the allocations
5497 specified in the resolution:

5498 (A) adopted in accordance with Subsection (6)(a)(i); and

5499 (B) approved by the county legislative body in accordance with Subsection (6)(a)(ii).

5500 (ii) The election required by Subsection (6)(a)(iii) shall follow the procedures and
5501 requirements of Title 11, Chapter 14, Utah Municipal Bond Act.

5502 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), revenues generated by a tax
5503 under this part that are allocated for a purpose described in Subsection (2)(a)(i) or (ii) shall be
5504 transmitted:

5505 (A) by the commission;

5506 (B) to the county;

5507 (C) monthly; and

5508 (D) by electronic funds transfer.

5509 (ii) Notwithstanding Subsection (7)(a)(i), a county may request that the commission
5510 transfer the revenues described in Subsection (7)(a)(i):

5511 (A) directly to a public transit district:

5512 (I) organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; and

5513 (II) designated by the county; and

5514 (B) by providing written notice to the commission:

5515 (I) requesting the revenues to be transferred directly to a public transit district as
5516 provided in Subsection (7)(a)(ii)(A); and

5517 (II) designating the public transit district to which the revenues are requested to be
5518 transferred.

5519 (b) Revenues generated by a tax under this part that are allocated for a purpose
5520 described in Subsection (2)(a)(iii) shall be:

5521 (i) deposited into the State Highway Projects Within Counties Fund created by Section
5522 72-2-121.1; and

5523 (ii) expended as provided in Section 72-2-121.1.

5524 (8) (a) (i) ~~[The commission shall administer, collect, and enforce]~~ Except as provided
5525 in Subsection (8)(a)(ii), the tax authorized under this part shall be administered, collected, and
5526 enforced in accordance with ~~[the procedures outlined in]:~~

5527 (A) the same procedures used to administer, collect, and enforce the tax under:

5528 ~~[(i)] (I) Part 1, Tax Collection[, for the administration, collection, and enforcement of~~
5529 ~~the state sales and use tax]; [and] or~~

5530 (II) Part 2, Local Sales and Use Tax Act; and

5531 ~~[(ii)] (B) Chapter 1, General Taxation Policies.~~

5532 (ii) Notwithstanding Subsection (8)(a)(i), a tax under this part is not subject to
5533 Subsections 59-12-205(2) through (9).

5534 (b) (i) The commission may retain an amount of tax collected under this part of not to
5535 exceed the lesser of:

5536 (A) 1.5%; or

5537 (B) an amount equal to the cost to the commission of administering this part.

5538 (ii) Any amount the commission retains under Subsection (8)(b)(i) shall be:

5539 (A) placed in the Sales and Use Tax Administrative Fees Account; and

5540 (B) used as provided in Subsection 59-12-206(2).

5541 (9) (a) (i) ~~[If,]~~ Except as provided in Subsection (9)(b) or (c), if, on or after [April] July
5542 1, 2004, a county enacts or repeals a tax under this part, the enactment or repeal shall take
5543 effect:

5544 (A) on the first day of a calendar quarter; and

5545 (B) after a ~~[75-day]~~ 90-day period beginning on the date the commission receives

5546 notice meeting the requirements of Subsection (9)(a)(ii) from the county.

5547 (ii) The notice described in Subsection (9)(a)(i)(B) shall state:

5548 (A) that the county will enact or repeal a tax under this part;

5549 (B) the statutory authority for the tax described in Subsection (9)(a)(ii)(A);

5550 (C) the effective date of the tax described in Subsection (9)(a)(ii)(A); and

5551 (D) if the county enacts the tax described in Subsection (9)(a)(ii)(A), the rate of the tax.

5552 (b) (i) Notwithstanding Subsection (9)(a)(i), for a transaction described in Subsection

5553 (9)(b)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

5554 (A) that begins after the effective date of the enactment of the tax; and

5555 (B) if the billing period for the transaction begins before the effective date of the

5556 enactment of the tax under Subsection (1).

5557 (ii) Notwithstanding Subsection (9)(a)(i), for a transaction described in Subsection

5558 (9)(b)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

5559 (A) that began before the effective date of the repeal of the tax; and

5560 (B) if the billing period for the transaction begins before the effective date of the repeal

5561 of the tax imposed under Subsection (1).

5562 (iii) Subsections (9)(b)(i) and (ii) apply to transactions subject to a tax under:

5563 (A) Subsection 59-12-103(1)(b);

5564 (B) Subsection 59-12-103(1)(c);

5565 (C) Subsection 59-12-103(1)(d);

5566 (D) Subsection 59-12-103(1)(e);

5567 (E) Subsection 59-12-103(1)(f);

5568 (F) Subsection 59-12-103(1)(g);

5569 (G) Subsection 59-12-103(1)(h);

5570 (H) Subsection 59-12-103(1)(i);

5571 (I) Subsection 59-12-103(1)(j); or

5572 (J) Subsection 59-12-103(1)(k).

5573 (c) (i) Notwithstanding Subsection (9)(a)(i), if a tax due under this chapter on a

5574 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an

5575 enactment or repeal of a tax described in Subsection (9)(a)(i) takes effect:

5576 (A) on the first day of a calendar quarter; and

5577 (B) beginning 60 days after the effective date of the enactment or repeal under
5578 Subsection (9)(a)(i).

5579 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
5580 the commission may by rule define the term "catalogue sale."

5581 ~~[(b)]~~ (d) (i) ~~[f]~~ Except as provided in Subsection (9)(e) or (f), if, for an annexation that
5582 occurs on or after ~~[April]~~ July 1, 2004, the annexation will result in the enactment or repeal of a
5583 tax under this part for an annexing area, the enactment or repeal shall take effect:

5584 (A) on the first day of a calendar quarter; and

5585 (B) after a ~~[75-day]~~ 90-day period beginning on the date the commission receives
5586 notice meeting the requirements of Subsection (9)~~[(b)]~~(d)(ii) from the county that annexes the
5587 annexing area.

5588 (ii) The notice described in Subsection (9)~~[(b)]~~(d)(i)(B) shall state:

5589 (A) that the annexation described in Subsection (9)~~[(b)]~~(d)(i)(B) will result in an
5590 enactment or repeal of a tax under this part for the annexing area;

5591 (B) the statutory authority for the tax described in Subsection (9)~~[(b)]~~(d)(ii)(A);

5592 (C) the effective date of the tax described in Subsection (9)~~[(b)]~~(d)(ii)(A); and

5593 (D) the rate of the tax described in Subsection (9)~~[(b)]~~(d)(ii)(A).

5594 (e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
5595 (9)(e)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

5596 (A) that begins after the effective date of the enactment of the tax; and

5597 (B) if the billing period for the transaction begins before the effective date of the
5598 enactment of the tax under Subsection (1).

5599 (ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
5600 (9)(e)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

5601 (A) that began before the effective date of the repeal of the tax; and

5602 (B) if the billing period for the transaction begins before the effective date of the repeal
5603 of the tax imposed under Subsection (1).

5604 (iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:

5605 (A) Subsection 59-12-103(1)(b);

5606 (B) Subsection 59-12-103(1)(c);

5607 (C) Subsection 59-12-103(1)(d);

- 5608 (D) Subsection 59-12-103(1)(e);
5609 (E) Subsection 59-12-103(1)(f);
5610 (F) Subsection 59-12-103(1)(g);
5611 (G) Subsection 59-12-103(1)(h);
5612 (H) Subsection 59-12-103(1)(i);
5613 (I) Subsection 59-12-103(1)(j); or
5614 (J) Subsection 59-12-103(1)(k).
- 5615 (f) (i) Notwithstanding Subsection (9)(d)(i), if a tax due under this chapter on a
5616 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
5617 enactment or repeal of a tax described in Subsection (9)(d)(i) takes effect:
- 5618 (A) on the first day of a calendar quarter; and
5619 (B) beginning 60 days after the effective date of the enactment or repeal under
5620 Subsection (9)(d)(i).
- 5621 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
5622 the commission may by rule define the term "catalogue sale."
- 5623 Section 61. Section **59-12-1504** is enacted to read:
- 5624 **59-12-1504. Seller or certified service provider reliance on commission database**
5625 **or certain software.**
- 5626 A seller or certified service provider is not liable for failing to collect and remit a tax at
5627 a tax rate imposed under this part if:
- 5628 (1) the tax rate at which the seller or certified service provider collected the tax was
5629 derived from a database created by the commission containing:
- 5630 (a) tax rates; or
5631 (b) local taxing jurisdiction boundaries;
- 5632 (2) the failure to collect and remit the tax is as a result of the seller's or certified service
5633 provider's reliance on incorrect data provided by the commission in the taxability matrix
5634 required by Section 328 of the agreement;
- 5635 (3) for a model 2 seller, the failure to collect and remit the tax:
- 5636 (a) is due to an error in the certified automated system used by the model 2 seller; and
5637 (b) occurs prior to an audit of the certified automated system that reveals the error in
5638 the certified automated system; or

5639 (4) for a model 3 seller, the failure to collect and remit the tax:
5640 (a) is due to an error in the proprietary system used by the model 3 seller; and
5641 (b) occurs prior to an audit of the proprietary system that reveals the error in the
5642 proprietary system.

5643 Section 62. Section **69-2-5** is amended to read:

5644 **69-2-5. Funding for 911 emergency telephone service.**

5645 (1) In providing funding of 911 emergency telephone service, any public agency
5646 establishing a 911 emergency telephone service may:

5647 (a) seek assistance from the federal or state government, to the extent constitutionally
5648 permissible, in the form of loans, advances, grants, subsidies, and otherwise, directly or
5649 indirectly;

5650 (b) seek funds appropriated by local governmental taxing authorities for the funding of
5651 public safety agencies; and

5652 (c) seek gifts, donations, or grants from individuals, corporations, or other private
5653 entities.

5654 (2) For purposes of providing funding of 911 emergency telephone service, special
5655 service districts may raise funds as provided in Section 17A-2-1322 and may borrow money
5656 and incur indebtedness as provided in Section 17A-2-1316.

5657 (3) (a) Except as provided in Subsection (3)(b) and subject to the other provisions of
5658 this Subsection (3) a county, city, or town within which 911 emergency telephone service is
5659 provided may levy monthly an emergency services telephone charge on:

5660 (i) each local exchange service switched access line within the boundaries of the
5661 county, city, or town; and

5662 (ii) each revenue producing radio communications access line with a billing address
5663 within the boundaries of the county, city, or town.

5664 (b) Notwithstanding Subsection (3)(a), an access line provided for public coin
5665 telephone service is exempt from emergency telephone charges.

5666 (c) The amount of the charge levied under this section may not exceed:

5667 (i) 53 cents per month for each local exchange service switched access line; and

5668 (ii) 53 cents per month for each radio communications access line.

5669 (d) (i) For purposes of this Subsection (3)(d) the following terms shall be defined as

5670 provided in Section 59-12-102:

5671 (A) "mobile telecommunications service";

5672 (B) "primary place of use";

5673 (C) "service address"; and

5674 (D) "telephone service."

5675 (ii) An access line described in Subsection (3)(a) is considered to be within the
5676 boundaries of a county, city, or town if the telephone services provided over the access line are
5677 located within the county, city, or town:

5678 (A) for purposes of sales and use taxes under Title 59, Chapter 12, Sales and Use Tax
5679 Act; and

5680 (B) determined in accordance with Section [~~59-12-207~~] 59-12-207.4.

5681 (iii) The rate imposed on an access line under this section shall be determined in
5682 accordance with Subsection (3)(d)(iv) if the location of an access line described in Subsection
5683 (3)(a) is determined under Subsection (3)(d)(ii) to be a county, city, or town other than county,
5684 city, or town in which is located:

5685 (A) for telephone service other than mobile telecommunications service, the
5686 purchaser's service address; or

5687 (B) for mobile telecommunications service, the purchaser's primary place of use.

5688 (iv) The rate imposed on an access line under this section shall be the lower of:

5689 (A) the rate imposed by the county, city, or town in which the access line is located
5690 under Subsection (3)(d)(ii); or

5691 (B) the rate imposed by the county, city, or town in which it is located:

5692 (I) for telephone service other than mobile telecommunications service, the purchaser's
5693 service address; or

5694 (II) for mobile telecommunications service, the purchaser's primary place of use.

5695 (e) (i) A county, city, or town shall notify the Public Service Commission of the intent
5696 to levy the charge under this Subsection (3) at least 30 days prior to the effective date of the
5697 charge being levied.

5698 (ii) For purposes of this Subsection (3)(e):

5699 (A) "Annexation" means an annexation to:

5700 (I) a city or town under Title 10, Chapter 2, Part 4, Annexation; or

5701 (II) a county under Title 17, Chapter 2, Annexation to County.

5702 (B) "Annexing area" means an area that is annexed into a county, city, or town.

5703 (iii) (A) [~~ff~~] Except as provided in Subsection (3)(e)(iii)(C) or (D), if on or after July

5704 1, 2003, a county, city, or town enacts or repeals a charge or changes the amount of the charge

5705 under this section, the enactment [~~or~~], repeal, or change shall take effect:

5706 (I) on the first day of a calendar quarter; and

5707 (II) after a [~~75-day~~] 90-day period beginning on the date the State Tax Commission

5708 receives notice meeting the requirements of Subsection (3)(e)(iii)(B) from the county, city, or

5709 town.

5710 (B) The notice described in Subsection (3)(e)(iii)(A) shall state:

5711 (I) that the county, city, or town will enact or repeal a charge or change the amount of

5712 the charge under this section;

5713 (II) the statutory authority for the charge described in Subsection (3)(e)(iii)(B)(I); [~~and~~]

5714 (III) the effective date of the charge described in Subsection (3)(e)(iii)(B)(I)[~~;~~]; and

5715 (IV) if the county, city, or town enacts the charge or changes the amount of the charge

5716 described in Subsection (3)(e)(iii)(B)(I), the amount of the charge.

5717 (C) Notwithstanding Subsection (3)(e)(iii)(A), the enactment of a charge or a charge

5718 increase under this section shall take effect on the first day of the first billing period:

5719 (I) that begins after the effective date of the enactment of the charge or the charge

5720 increase; and

5721 (II) if the billing period for the charge begins before the effective date of the enactment

5722 of the charge or the charge increase imposed under this section.

5723 (D) Notwithstanding Subsection (3)(e)(iii)(A), the repeal of a charge or a charge

5724 decrease under this section shall take effect on the first day of the last billing period:

5725 (I) that began before the effective date of the repeal of the charge or the charge

5726 decrease; and

5727 (II) if the billing period for the charge begins before the effective date of the repeal of

5728 the charge or the charge decrease imposed under this section.

5729 (iv) (A) [~~ff~~] Except as provided in Subsection (3)(e)(iv)(C) or (D), if for an annexation

5730 that occurs on or after July 1, 2003, the annexation will result in the enactment, repeal, or a

5731 change in the amount of a charge imposed under this section [~~being imposed in~~] for an

5732 annexing area, the enactment, repeal, or change shall take effect:

5733 (I) on the first day of a calendar quarter; and

5734 (II) after a [~~75-day~~] 90-day period beginning on the date the State Tax Commission
5735 receives notice meeting the requirements of Subsection (3)(e)(iv)(B) from the county, city, or
5736 town that annexes the annexing area.

5737 (B) The notice described in Subsection (3)(e)(iv)(A) shall state:

5738 (I) that the annexation described in Subsection (3)(e)(iv)(A) will result in an
5739 enactment, repeal, or a change in the charge being imposed under this section for the annexing
5740 area;

5741 (II) the statutory authority for the charge described in Subsection (3)(e)(iv)(B)(I); [~~and~~]

5742 (III) the effective date of the charge described in Subsection (3)(e)(iv)(B)(I)[-]; and

5743 (IV) if the county, city, or town enacts the charge or changes the amount of the charge
5744 described in Subsection (3)(e)(iv)(B)(I), the amount of the charge.

5745 (C) Notwithstanding Subsection (3)(e)(iv)(A), the enactment of a charge or a charge
5746 increase under this section shall take effect on the first day of the first billing period:

5747 (I) that begins after the effective date of the enactment of the charge or the charge
5748 increase; and

5749 (II) if the billing period for the charge begins before the effective date of the enactment
5750 of the charge or the charge increase imposed under this section.

5751 (D) Notwithstanding Subsection (3)(e)(iv)(A), the repeal of a charge or a charge
5752 decrease under this section shall take effect on the first day of the last billing period:

5753 (I) that began before the effective date of the repeal of the charge or the charge
5754 decrease; and

5755 (II) if the billing period for the charge begins before the effective date of the repeal of
5756 the charge or the charge decrease imposed under this section.

5757 (f) Subject to Subsection (3)(g), an emergency services telephone charge levied under
5758 this section shall:

5759 (i) be billed and collected by the person that provides the:

5760 (A) local exchange service switched access line services; or

5761 (B) radio communications access line services; and

5762 (ii) remitted to the State Tax Commission.

5763 (g) An emergency services telephone charge on a mobile telecommunications service
5764 may be levied, billed, and collected only to the extent permitted by the Mobile
5765 Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

5766 (h) The State Tax Commission shall:

5767 (i) collect, enforce, and administer the charge imposed under this Subsection (3)
5768 pursuant to the same procedures used in the administration, collection, and enforcement of the
5769 state sales and use taxes under:

5770 (A) Title 59, Chapter 1, General Taxation Policies; and

5771 (B) Title 59, Chapter 12, Part 1, Tax Collection, except for [Sections]:

5772 (I) Section 59-12-104[-];

5773 (II) Section 59-12-104.1[-, and];

5774 (III) Section 59-12-104.2; and

5775 (IV) Sections 59-12-107.1 through 59-12-107.3;

5776 (ii) transmit monies collected under this Subsection (3):

5777 (A) monthly; and

5778 (B) by electronic funds transfer by the commission to the county, city, or town that
5779 imposes the charge; and

5780 (iii) charge the county, city, or town for the State Tax Commission's services under this
5781 Subsection (3) in an amount:

5782 (A) sufficient to reimburse the State Tax Commission for the cost to the State Tax
5783 Commission in rendering the services; and

5784 (B) that may not exceed an amount equal to 1.5% of the charges imposed under this
5785 Subsection (3).

5786 (4) (a) Any money received by a public agency for the provision of 911 emergency
5787 telephone service shall be deposited in a special emergency telephone service fund.

5788 (b) (i) The money in the emergency telephone service fund described in Subsection
5789 (4)(a) shall be expended by the public agency to pay the costs of establishing, installing,
5790 maintaining, and operating a 911 emergency telephone system or integrating a 911 system into
5791 an established public safety dispatch center, including contracting with the providers of local
5792 exchange service, radio communications service, and vendors of appropriate terminal
5793 equipment as necessary to implement the 911 emergency telephone service.

5794 (ii) Revenues derived for the funding of 911 emergency telephone service may only be
5795 used for that portion of costs related to the operation of the 911 emergency telephone system
5796 when such a system is integrated with any public safety dispatch system.

5797 Section 63. **Repealer.**

5798 This bill repeals:

5799 Section **59-12-351, Definitions.**

5800 Section 64. **Effective date.**

5801 This bill takes effect on July 1, 2004, except that the amendments in this bill to Section
5802 59-1-403 (Contingently Effective 05/02/05) take effect as provided in Chapter 327, Section 30,
5803 Laws of Utah 2003.

Legislative Review Note
as of 2-3-04 3:45 PM

This bill allocates certain state sales and use tax revenues to counties, cities, and towns to prevent revenue losses to those counties, cities, and towns. The revenue losses are as a result of changes in the amount of local sales and use taxes a seller may retain if that seller is required to remit sales and use taxes to the state on a monthly basis. The bill does not provide the purposes for which the counties, cities, and towns may use the allocated revenues. Utah Constitution Article XIII, Section 5, Utah's "vertical revenue sharing" provision, provides that "the Legislature may not impose a tax for the purpose of a political subdivision of the State, but may by statute authorize political subdivisions of the State to assess and collect taxes for their own purposes." There is no Utah case holding that this constitutional provision prohibits the Legislature from allocating state revenues to local governments. However, there is some authority indicating that such an allocation may constitute impermissible vertical revenue sharing if the revenues are used for a purely local purpose. A court could find that this allocation to counties, cities, and towns constitutes impermissible vertical revenue sharing if the court determines that because the bill does not provide the purposes for which the allocated revenues may be expended, those revenues may be expended for purely local purposes. However, a court could uphold the constitutionality of the allocation as having a state purpose by finding that the state has an interest in simplifying state and local sales and use taxes and this allocation prevents a resulting revenue loss to local governments.

Office of Legislative Research and General Counsel

AMENDED NOTE

State Impact

Passage of this bill could result in a shift in local revenues between impacted entities. However the statewide impact should be revenue neutral. There is a shift of revenues in the bill from the General Fund to a Restricted account in the amount of \$468,500. This bill has a Legislative Review Note. There may be additional costs to the State if there is a challenge in the courts.

| | <u>FY 2005</u> <u>Approp.</u> | <u>FY 2006</u> <u>Approp.</u> | <u>FY 2005</u> <u>Revenue</u> | <u>FY 2006</u> <u>Revenue</u> |
|------------------|----------------------------------|----------------------------------|----------------------------------|----------------------------------|
| General Fund | \$0 | \$0 | (\$468,500) | (\$468,500) |
| Restricted Funds | \$0 | \$0 | \$468,500 | \$468,500 |
| TOTAL | \$0 | \$0 | \$0 | \$0 |

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst