

1                                   **TAXATION OF MULTI-CHANNEL VIDEO OR**  
2   **AUDIO SERVICE**

3   2004 GENERAL SESSION  
4   STATE OF UTAH

5                                   **Sponsor: Michael G. Waddoups**

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7 **LONG TITLE**

8 **General Description:**

9                   This bill modifies the Sales and Use Tax Act to modify the transactions that are subject  
10 to sales and use tax and enacts the Multi-Channel Video or Audio Service Tax Act.

11 **Highlighted Provisions:**

12                   This bill:

- 13                   ▶ deletes certain definitions;
- 14                   ▶ defines terms;
- 15                   ▶ removes certain amounts paid or charged for multi-channel video or audio service  
16 from the sales and use tax base;
- 17                   ▶ imposes a state tax on amounts paid or charged for multi-channel video or audio  
18 service, including:
- 19                   • providing for the collection of the tax, assessments, audits, and imposition of  
20 penalties and interest by the State Tax Commission;
- 21                   • providing that the tax will be deposited into the General Fund; and
- 22                   • enacting record keeping requirements for a multi-channel video or audio service  
23 provider;
- 24                   ▶ requires the Revenue and Taxation Interim Committee to conduct a study on  
25 amounts paid or charged for multi-channel video or audio service by a  
26 multi-channel video or audio service provider; and
- 27                   ▶ makes technical changes.



28 **Monies Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 This bill provides an effective date.

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **59-12-102 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003

35 **59-12-103 (Superseded 07/01/04)**, as last amended by Chapter 318, Laws of Utah 2003

36 **59-12-103 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003

37 ENACTS:

38 **59-26-101**, Utah Code Annotated 1953

39 **59-26-102**, Utah Code Annotated 1953

40 **59-26-103**, Utah Code Annotated 1953

41 **59-26-104**, Utah Code Annotated 1953

42 **59-26-105**, Utah Code Annotated 1953

43 **59-26-106**, Utah Code Annotated 1953

44 **59-26-107**, Utah Code Annotated 1953

45 **59-26-108**, Utah Code Annotated 1953

46 **59-26-109**, Utah Code Annotated 1953

47 **59-26-110**, Utah Code Annotated 1953



48  
49 *Be it enacted by the Legislature of the state of Utah:*

50 Section 1. Section **59-12-102 (Effective 07/01/04)** is amended to read:

51 **59-12-102 (Effective 07/01/04). Definitions.**

52 As used in this chapter:

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

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

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

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

- 59 (a) listed under Subsection (4); and
- 60 (b) that are imposed within a local taxing jurisdiction.
- 61 (4) "Agreement sales and use tax" means a tax imposed under:
  - 62 (a) Subsection 59-12-103(2)(a)(i);
  - 63 (b) Section 59-12-204;
  - 64 (c) Section 59-12-401;
  - 65 (d) Section 59-12-402;
  - 66 (e) Section 59-12-501;
  - 67 (f) Section 59-12-502;
  - 68 (g) Section 59-12-703;
  - 69 (h) Section 59-12-802;
  - 70 (i) Section 59-12-804;
  - 71 (j) Section 59-12-1001;
  - 72 (k) Section 59-12-1102;
  - 73 (l) Section 59-12-1302; or
  - 74 (m) Section 59-12-1402.
- 75 (5) "Alcoholic beverage" means a beverage that:
  - 76 (a) is suitable for human consumption; and
  - 77 (b) contains .5% or more alcohol by volume.
- 78 (6) "Area agency on aging" is as defined in Section 62A-3-101.
- 79 (7) "Authorized carrier" means:
  - 80 (a) in the case of vehicles operated over public highways, the holder of credentials
  - 81 indicating that the vehicle is or will be operated pursuant to both the International Registration
  - 82 Plan and the International Fuel Tax Agreement;
  - 83 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
  - 84 certificate or air carrier's operating certificate; or
  - 85 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
  - 86 stock, the holder of a certificate issued by the United States Surface Transportation Board.
- 87 (8) "Certified automated system" means software certified by the governing board of
- 88 the agreement in accordance with Section 59-12-102.1 that:
  - 89 (a) calculates the agreement sales and use tax imposed within a local taxing

90 jurisdiction:

91 (i) on a transaction; and

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

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

94 member of the agreement; and

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

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

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

98 and

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

100 use tax.

101 (10) (a) Subject to Subsection (10)(b), "clothing" means all human wearing apparel

102 suitable for general use.

103 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

104 commission shall make rules:

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

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

107 agreement.

108 (11) (a) For purposes of Subsection 59-12-104(42), "coin-operated amusement device"

109 means:

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

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

112 (iii) includes a music machine, pinball machine, billiard machine, video game machine,

113 arcade machine, and a mechanical or electronic skill game or ride.

114 (b) For purposes of Subsection 59-12-104(42), "coin-operated amusement device" does

115 not mean a coin-operated amusement device possessing a coinage mechanism that:

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

117 (ii) allows the seller to collect the sales and use tax at the time an amusement device is

118 activated and operated by a person inserting coins into the device.

119 (12) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other

120 fuels that does not constitute industrial use under Subsection (30) or residential use under

121 Subsection [~~(54)~~] (53).

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

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

127 (ii) For purposes of Subsection (13)(b)(i), in accordance with Title 63, Chapter 46a,  
128 Utah Administrative Rulemaking Act, the commission may make rules defining what  
129 constitutes a person's place of employment.

130 (14) "Component part" includes:

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

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

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

136 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

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

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

149 (i) by a seller of:

150 (A) tangible personal property; or

151 (B) services; and

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

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

155 (i) transportation;

156 (ii) shipping;

157 (iii) postage;

158 (iv) handling;

159 (v) crating; or

160 (vi) packing.

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

162 (a) is intended to supplement the diet;

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

164 (i) a vitamin;

165 (ii) a mineral;

166 (iii) an herb or other botanical;

167 (iv) an amino acid;

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

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

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

173 (A) tablet form;

174 (B) capsule form;

175 (C) powder form;

176 (D) softgel form;

177 (E) gelcap form; or

178 (F) liquid form; or

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

181 (A) as conventional food; and

182 (B) for use as a sole item of:

- 183 (I) a meal; or
- 184 (II) the diet; and
- 185 (d) is required to be labeled as a dietary supplement:
- 186 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 187 (ii) as required by 21 C.F.R. Sec. 101.36.
- 188 (21) (a) "Direct mail" means printed material delivered or distributed by United States
- 189 mail or other delivery service:
- 190 (i) to:
- 191 (A) a mass audience; or
- 192 (B) addressees on a mailing list provided by a purchaser of the mailing list; and
- 193 (ii) if the cost of the printed material is not billed directly to the recipients.
- 194 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 195 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 196 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 197 single address.
- 198 (22) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 199 compound, substance, or preparation that is:
- 200 (i) recognized in:
- 201 (A) the official United States Pharmacopoeia;
- 202 (B) the official Homeopathic Pharmacopoeia of the United States;
- 203 (C) the official National Formulary; or
- 204 (D) a supplement to a publication listed in Subsections (22)(a)(i)(A) through (C);
- 205 (ii) intended for use in the:
- 206 (A) diagnosis of disease;
- 207 (B) cure of disease;
- 208 (C) mitigation of disease;
- 209 (D) treatment of disease; or
- 210 (E) prevention of disease; or
- 211 (iii) intended to affect:
- 212 (A) the structure of the body; or
- 213 (B) any function of the body.

214 (b) "Drug" does not include:

215 (i) food and food ingredients;

216 (ii) a dietary supplement;

217 (iii) an alcoholic beverage; or

218 (iv) a prosthetic device.

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

221 (i) can withstand repeated use;

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

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

224 (iv) is not worn in or on the body; and

225 (v) is listed as eligible for payment under:

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

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

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

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

233 (24) "Electronic" means:

234 (a) relating to technology; and

235 (b) having:

236 (i) electrical capabilities;

237 (ii) digital capabilities;

238 (iii) magnetic capabilities;

239 (iv) wireless capabilities;

240 (v) optical capabilities;

241 (vi) electromagnetic capabilities; or

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

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

244 (i) regardless of whether the substances are in:

- 245 (A) liquid form;
- 246 (B) concentrated form;
- 247 (C) solid form;
- 248 (D) frozen form;
- 249 (E) dried form; or
- 250 (F) dehydrated form; and
- 251 (ii) that are:
- 252 (A) sold for:
- 253 (I) ingestion by humans; or
- 254 (II) chewing by humans; and
- 255 (B) consumed for the substance's:
- 256 (I) taste; or
- 257 (II) nutritional value.
- 258 (b) "Food and food ingredients" does not include:
- 259 (i) an alcoholic beverage;
- 260 (ii) tobacco; or
- 261 (iii) prepared food.
- 262 (26) (a) "Fundraising sales" means sales:
- 263 (i) (A) made by a school; or
- 264 (B) made by a school student;
- 265 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 266 materials, or provide transportation; and
- 267 (iii) that are part of an officially sanctioned school activity.
- 268 (b) For purposes of Subsection (26)(a)(iii), "officially sanctioned school activity"
- 269 means a school activity:
- 270 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 271 district governing the authorization and supervision of fundraising activities;
- 272 (ii) that does not directly or indirectly compensate an individual teacher or other
- 273 educational personnel by direct payment, commissions, or payment in kind; and
- 274 (iii) the net or gross revenues from which are deposited in a dedicated account
- 275 controlled by the school or school district.

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

- 278 (a) authorized to administer the agreement; and
- 279 (b) established in accordance with the agreement.

280 (28) (a) "Hearing aid" means:

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

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

283 (II) correct impaired human hearing; and

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

285 (II) affixed behind the human ear;

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

287 (iii) a telephone amplifying device.

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

289 (i) except as provided in Subsection (28)(a)(i)(B) or (28)(a)(ii), an instrument or device  
290 having an electronic component that is designed to be worn on the body;

291 (ii) except as provided in Subsection (28)(a)(iii), an assistive listening device or system  
292 designed to be used by one individual, including:

293 (A) a personal amplifying system;

294 (B) a personal FM system;

295 (C) a television listening system; or

296 (D) a device or system similar to a device or system described in Subsections

297 (28)(b)(ii)(A) through (C); or

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

300 (A) a device or system installed in:

301 (I) an auditorium;

302 (II) a church;

303 (III) a conference room;

304 (IV) a synagogue; or

305 (V) a theater; or

306 (B) a device or system similar to a device or system described in Subsections

307 (28)(b)(iii)(A)(I) through (V).

308 (29) (a) "Hearing aid accessory" means a hearing aid:

309 (i) component;

310 (ii) attachment; or

311 (iii) accessory.

312 (b) "Hearing aid accessory" includes:

313 (i) a hearing aid neck loop;

314 (ii) a hearing aid cord;

315 (iii) a hearing aid ear mold;

316 (iv) hearing aid tubing;

317 (v) a hearing aid ear hook; or

318 (vi) a hearing aid remote control.

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

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

321 (A) instrument or device described in Subsection (28)(b)(i); or

322 (B) assistive listening device or system described in Subsection (28)(b)(ii) or (iii); or

323 (ii) a hearing aid battery.

324 (30) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or  
325 other fuels:

326 (a) in mining or extraction of minerals;

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

329 (i) commercial greenhouses;

330 (ii) irrigation pumps;

331 (iii) farm machinery;

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

334 (v) other farming activities;

335 (c) in manufacturing tangible personal property at an establishment described in SIC  
336 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal  
337 Executive Office of the President, Office of Management and Budget; or

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

- 342 (A) iron;
- 343 (B) steel;
- 344 (C) nonferrous metal;
- 345 (D) paper;
- 346 (E) glass;
- 347 (F) plastic;
- 348 (G) textile; or
- 349 (H) rubber; and

350 (ii) the new products under Subsection (30)(d)(i) would otherwise be made with  
351 nonrecycled materials.

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

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

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

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

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

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

- 366 (A) that requires the transfer of title upon completion of required payments; and
- 367 (B) in which the payment of an option price does not exceed the greater of:  
368 (I) \$100; or

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

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

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

378 (32) "Local taxing jurisdiction" means a:

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

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

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

- 385 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard  
386 Industrial Classification Manual of the federal Executive Office of the President, Office of  
387 Management and Budget; or
- 388 (b) a scrap recycler if:  
389 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
390 one or more of the following items into prepared grades of processed materials for use in new  
391 products:

- 392 (A) iron;
- 393 (B) steel;
- 394 (C) nonferrous metal;
- 395 (D) paper;
- 396 (E) glass;
- 397 (F) plastic;
- 398 (G) textile; or
- 399 (H) rubber; and

400 (ii) the new products under Subsection (34)(b)(i) would otherwise be made with  
401 nonrecycled materials.

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

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

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

408 (ii) appropriate for use in a:

409 (A) home; or

410 (B) motor vehicle;

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

412 (iv) listed as eligible for payment under:

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

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

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

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

420 (i) a motor vehicle;

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

423 (iii) durable medical equipment; or

424 (iv) a prosthetic device.

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

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

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

430 (b) notwithstanding Subsection (38)(a), retains responsibility for remitting all of the

431 sales tax:

- 432 (i) collected by the seller; and  
 433 (ii) to the appropriate local taxing jurisdiction.

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

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

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

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

445 [~~(i) provides multi-channel video or audio service and directly or indirectly owns a~~  
 446 ~~significant interest in the multi-channel video or audio service; or]~~

447 [~~(ii) otherwise controls or is responsible through any arrangement, the management and~~  
 448 ~~operation of the multi-channel video or audio service.]~~

449 [~~(b) "Multi-channel video or audio service provider" includes the following except as~~  
 450 ~~specifically exempted by state or federal law:]~~

451 [~~(i) a cable operator;]~~

452 [~~(ii) a CATV provider;]~~

453 [~~(iii) a multi-point distribution provider;]~~

454 [~~(iv) a MMDS provider;]~~

455 [~~(v) a SMATV operator;]~~

456 [~~(vi) a direct-to-home satellite service provider; or]~~

457 [~~(vii) a DBS provider.]~~

458 [~~(41)~~ (40) "Olympic merchandise" means tangible personal property bearing an  
 459 Olympic designation, emblem, insignia, mark, logo, service mark, symbol, terminology,  
 460 trademark, or other copyrighted or protected material, including:

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

- 462 (i) "Olympic";  
463 (ii) "Olympiad"; or  
464 (iii) "Citius Altius Fortius";  
465 (b) the symbol of the International Olympic Committee, consisting of five interlocking  
466 rings;  
467 (c) the emblem of the International Olympic Committee Corporation;  
468 (d) a United States Olympic Committee designation, emblem, insignia, mark, logo,  
469 service mark, symbol, terminology, trademark, or other copyrighted or protected material;  
470 (e) any emblem of the Olympic Winter Games of 2002 that is officially designated by  
471 the Salt Lake Organizing Committee of the Olympic Winter Games of 2002; or  
472 (f) the mascot of the Olympic Winter Games of 2002.
- 473 [~~(42)~~] (41) (a) "Other fuels" means products that burn independently to produce heat or  
474 energy.  
475 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible  
476 personal property.
- 477 [~~(43)~~] (42) "Person" includes any individual, firm, partnership, joint venture,  
478 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,  
479 city, municipality, district, or other local governmental entity of the state, or any group or  
480 combination acting as a unit.
- 481 [~~(44)~~] (43) "Place of primary use":  
482 (a) for telephone service other than mobile telecommunications service, means the  
483 street address representative of where the purchaser's use of the telephone service primarily  
484 occurs, which shall be:  
485 (i) the residential street address of the purchaser; or  
486 (ii) the primary business street address of the purchaser; or  
487 (b) for mobile telecommunications service, is as defined in the Mobile  
488 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 489 [~~(45)~~] (44) (a) "Prepared food" means:  
490 (i) food:  
491 (A) sold in a heated state; or  
492 (B) heated by a seller;

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

495 (iii) except as provided in Subsection [~~(45)~~] (44)(c), food sold with an eating utensil  
496 provided by the seller, including a:

497 (A) plate;

498 (B) knife;

499 (C) fork;

500 (D) spoon;

501 (E) glass;

502 (F) cup;

503 (G) napkin; or

504 (H) straw.

505 (b) "Prepared food" does not include:

506 (i) food that a seller only:

507 (A) cuts;

508 (B) repackages; or

509 (C) pasteurizes; or

510 (ii) (A) the following:

511 (I) raw egg;

512 (II) raw fish;

513 (III) raw meat;

514 (IV) raw poultry; or

515 (V) a food containing an item described in Subsections [~~(45)~~] (44)(b)(ii)(A)(I) through  
516 (IV); and

517 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the  
518 Food and Drug Administration's Food Code that a consumer cook the items described in  
519 Subsection [~~(45)~~] (44)(b)(ii)(A) to prevent food borne illness.

520 (c) Notwithstanding Subsection [~~(45)~~] (44)(a)(iii), an eating utensil provided by the  
521 seller does not include the following used to transport the food:

522 (i) a container; or

523 (ii) packaging.

524            [~~(46)~~] (45) "Prescription" means an order, formula, or recipe that is issued:

525            (a) (i) orally;

526            (ii) in writing;

527            (iii) electronically; or

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

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

530            [~~(47)~~] (46) (a) Except as provided in Subsection [~~(47)~~] (46)(b)(ii) or (iii), "prewritten

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

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

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

534            (b) "Prewritten computer software" includes:

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

536 software is not designed and developed:

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

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

539            (ii) notwithstanding Subsection [~~(47)~~] (46)(a), computer software designed and

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

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

542            (iii) notwithstanding Subsection [~~(47)~~] (46)(a) and except as provided in Subsection

543 [~~(47)~~] (46)(c), prewritten computer software or a prewritten portion of prewritten computer

544 software:

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

546            (B) if the modification or enhancement described in Subsection [~~(47)~~] (46)(b)(iii)(A) is

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

548            (c) Notwithstanding Subsection [~~(47)~~] (46)(b)(iii), "prewritten computer software"

549 does not include a modification or enhancement described in Subsection [~~(47)~~] (46)(b)(iii) if

550 the charges for the modification or enhancement are:

551            (i) reasonable; and

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

553 purchaser.

554            [~~(48)~~] (47) (a) "Prosthetic device" means a device that is:

- 555 (i) worn on or in the body to:
- 556 (A) artificially replace a missing portion of the body;
- 557 (B) prevent or correct a physical deformity or physical malfunction; or
- 558 (C) support a weak or deformed portion of the body; and
- 559 (ii) listed as eligible for payment under:
- 560 (A) Title XVIII of the federal Social Security Act; or
- 561 (B) the state plan for medical assistance under Title XIX of the federal Social Security
- 562 Act.
- 563 (b) "Prosthetic device" includes:
- 564 (i) parts used in the repairs or renovation of a prosthetic device; or
- 565 (ii) replacement parts for a prosthetic device.
- 566 (c) "Prosthetic device" does not include:
- 567 (i) corrective eyeglasses;
- 568 (ii) contact lenses;
- 569 (iii) hearing aids; or
- 570 (iv) dental prostheses.
- 571 ~~[(49)]~~ (48) (a) "Protective equipment" means an item:
- 572 (i) for human wear; and
- 573 (ii) that is:
- 574 (A) designed as protection:
- 575 (I) to the wearer against injury or disease; or
- 576 (II) against damage or injury of other persons or property; and
- 577 (B) not suitable for general use.
- 578 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 579 commission shall make rules:
- 580 (i) listing the items that constitute "protective equipment"; and
- 581 (ii) that are consistent with the list of items that constitute "protective equipment"
- 582 under the agreement.
- 583 ~~[(50)]~~ (49) (a) "Purchase price" and "sales price" mean the total amount of
- 584 consideration:
- 585 (i) valued in money; and

- 586 (ii) for which tangible personal property or services are:
- 587 (A) sold;
- 588 (B) leased; or
- 589 (C) rented.
- 590 (b) "Purchase price" and "sales price" include:
- 591 (i) the seller's cost of the tangible personal property or services sold;
- 592 (ii) expenses of the seller, including:
- 593 (A) the cost of materials used;
- 594 (B) a labor cost;
- 595 (C) a service cost;
- 596 (D) interest;
- 597 (E) a loss;
- 598 (F) the cost of transportation to the seller; or
- 599 (G) a tax imposed on the seller;
- 600 (iii) a charge by the seller for any service necessary to complete the sale;
- 601 (iv) a delivery charge; or
- 602 (v) an installation charge.
- 603 (c) "Purchase price" and "sales price" do not include:
- 604 (i) a discount:
- 605 (A) in a form including:
- 606 (I) cash;
- 607 (II) term; or
- 608 (III) coupon;
- 609 (B) that is allowed by a seller;
- 610 (C) taken by a purchaser on a sale; and
- 611 (D) that is not reimbursed by a third party; or
- 612 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 613 provided to the purchaser:
- 614 (A) the amount of a trade-in;
- 615 (B) the following from credit extended on the sale of tangible personal property or
- 616 services:

- 617 (I) interest charges;
- 618 (II) financing charges; or
- 619 (III) carrying charges; or
- 620 (C) a tax or fee legally imposed directly on the consumer.
- 621 [~~51~~] (50) "Purchaser" means a person to whom:
- 622 (a) a sale of tangible personal property is made; or
- 623 (b) a service is furnished.
- 624 [~~52~~] (51) "Regularly rented" means:
- 625 (a) rented to a guest for value three or more times during a calendar year; or
- 626 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 627 value.
- 628 [~~53~~] (52) "Rental" is as defined in Subsection (31).
- 629 [~~54~~] (53) "Residential use" means the use in or around a home, apartment building,
- 630 sleeping quarters, and similar facilities or accommodations.
- 631 [~~55~~] (54) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
- 632 other than:
- 633 (a) resale;
- 634 (b) sublease; or
- 635 (c) subrent.
- 636 [~~56~~] (55) (a) "Retailer" means any person engaged in a regularly organized business
- 637 in tangible personal property or any other taxable transaction under Subsection 59-12-103(1),
- 638 and who is selling to the user or consumer and not for resale.
- 639 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
- 640 engaged in the business of selling to users or consumers within the state.
- 641 [~~57~~] (56) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
- 642 otherwise, in any manner, of tangible personal property or any other taxable transaction under
- 643 Subsection 59-12-103(1), for consideration.
- 644 (b) "Sale" includes:
- 645 (i) installment and credit sales;
- 646 (ii) any closed transaction constituting a sale;
- 647 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this

648 chapter;

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

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

654 [~~(58)~~] (57) "Sale at retail" is as defined in Subsection [~~(55)~~] (54).

655 [~~(59)~~] (58) "Sale-leaseback transaction" means a transaction by which title to tangible  
656 personal property that is subject to a tax under this chapter is transferred:

657 (a) by a purchaser-lessee;

658 (b) to a lessor;

659 (c) for consideration; and

660 (d) if:

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

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

665 (A) for the property; and

666 (B) to the purchaser-lessee; and

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

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

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

671 [~~(60)~~] (59) "Sales price" is as defined in Subsection [~~(50)~~] (49).

672 [~~(61)~~] (60) (a) "Sales relating to schools" means the following sales by, amounts paid  
673 to, or amounts charged by a school:

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

675 including:

676 (A) the sale of:

677 (I) textbooks;

678 (II) textbook fees;

- 679 (III) laboratory fees;
- 680 (IV) laboratory supplies; or
- 681 (V) safety equipment;
- 682 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 683 that:
- 684 (I) a student is specifically required to wear as a condition of participation in a
- 685 school-related event or school-related activity; and
- 686 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 687 place of ordinary clothing;
- 688 (C) sales of the following if the net or gross revenues generated by the sales are
- 689 deposited into a school district fund or school fund dedicated to school meals:
- 690 (I) food and food ingredients; or
- 691 (II) prepared food; or
- 692 (D) transportation charges for official school activities; or
- 693 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 694 event or school-related activity.
- 695 (b) "Sales relating to schools" does not include:
- 696 (i) bookstore sales of items that are not educational materials or supplies;
- 697 (ii) except as provided in Subsection [~~(61)~~] (60)(a)(i)(B):
- 698 (A) clothing;
- 699 (B) clothing accessories or equipment;
- 700 (C) protective equipment; or
- 701 (D) sports or recreational equipment; or
- 702 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 703 event or school-related activity if the amounts paid or charged are passed through to a person:
- 704 (A) other than a:
- 705 (I) school;
- 706 (II) nonprofit organization authorized by a school board or a governing body of a
- 707 private school to organize and direct a competitive secondary school activity; or
- 708 (III) nonprofit association authorized by a school board or a governing body of a
- 709 private school to organize and direct a competitive secondary school activity; and

- 710 (B) that is required to collect sales and use taxes under this chapter.
- 711 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 712 commission may make rules defining the term "passed through."
- 713 [~~62~~] (61) For purposes of this section and Section 59-12-104, "school" means:
- 714 (a) an elementary school or a secondary school that:
- 715 (i) is a:
- 716 (A) public school; or
- 717 (B) private school; and
- 718 (ii) provides instruction for one or more grades kindergarten through 12; or
- 719 (b) a public school district.
- 720 [~~63~~] (62) "Seller" means a person that makes a sale, lease, or rental of:
- 721 (a) tangible personal property; or
- 722 (b) a service.
- 723 [~~64~~] (63) (a) "Semiconductor fabricating or processing materials" means tangible
- 724 personal property:
- 725 (i) used primarily in the process of:
- 726 (A) (I) manufacturing a semiconductor; or
- 727 (II) fabricating a semiconductor; or
- 728 (B) maintaining an environment suitable for a semiconductor; or
- 729 (ii) consumed primarily in the process of:
- 730 (A) (I) manufacturing a semiconductor; or
- 731 (II) fabricating a semiconductor; or
- 732 (B) maintaining an environment suitable for a semiconductor.
- 733 (b) "Semiconductor fabricating or processing materials" includes:
- 734 (i) parts used in the repairs or renovations of tangible personal property described in
- 735 Subsection [~~64~~] (63)(a); or
- 736 (ii) a chemical, catalyst, or other material used to:
- 737 (A) produce or induce in a semiconductor a:
- 738 (I) chemical change; or
- 739 (II) physical change;
- 740 (B) remove impurities from a semiconductor; or

- 741 (C) improve the marketable condition of a semiconductor.
- 742 [~~(65)~~] (64) "Senior citizen center" means a facility having the primary purpose of  
743 providing services to the aged as defined in Section 62A-3-101.
- 744 [~~(66)~~] (65) (a) "Sports or recreational equipment" means an item:
- 745 (i) designed for human use; and
- 746 (ii) that is:
- 747 (A) worn in conjunction with:
- 748 (I) an athletic activity; or
- 749 (II) a recreational activity; and
- 750 (B) not suitable for general use.
- 751 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
752 commission shall make rules:
- 753 (i) listing the items that constitute "sports or recreational equipment"; and
- 754 (ii) that are consistent with the list of items that constitute "sports or recreational  
755 equipment" under the agreement.
- 756 [~~(67)~~] (66) "State" means the state of Utah, its departments, and agencies.
- 757 [~~(68)~~] (67) "Storage" means any keeping or retention of tangible personal property or  
758 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose  
759 except sale in the regular course of business.
- 760 [~~(69)~~] (68) (a) "Tangible personal property" means personal property that:
- 761 (i) may be:
- 762 (A) seen;
- 763 (B) weighed;
- 764 (C) measured;
- 765 (D) felt; or
- 766 (E) touched; or
- 767 (ii) is in any manner perceptible to the senses.
- 768 (b) "Tangible personal property" includes:
- 769 (i) electricity;
- 770 (ii) water;
- 771 (iii) gas;

- 772 (iv) steam; or
- 773 (v) prewritten computer software.
- 774 [~~(70)~~] (69) (a) "Telephone service" means a two-way transmission:
- 775 (i) by:
- 776 (A) wire;
- 777 (B) radio;
- 778 (C) lightwave; or
- 779 (D) other electromagnetic means; and
- 780 (ii) of one or more of the following:
- 781 (A) a sign;
- 782 (B) a signal;
- 783 (C) writing;
- 784 (D) an image;
- 785 (E) sound;
- 786 (F) a message;
- 787 (G) data; or
- 788 (H) other information of any nature.
- 789 (b) "Telephone service" includes:
- 790 (i) mobile telecommunications service;
- 791 (ii) private communications service; or
- 792 (iii) automated digital telephone answering service.
- 793 (c) "Telephone service" does not include a service or a transaction that a state or a
- 794 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
- 795 Tax Freedom Act, Pub. L. No. 105-277.
- 796 [~~(71)~~] (70) Notwithstanding where a call is billed or paid, "telephone service address"
- 797 means:
- 798 (a) if the location described in this Subsection [~~(71)~~] (70)(a) is known, the location of
- 799 the telephone service equipment:
- 800 (i) to which a call is charged; and
- 801 (ii) from which the call originates or terminates;
- 802 (b) if the location described in Subsection [~~(71)~~] (70)(a) is not known but the location

803 described in this Subsection [~~(71)~~] (70)(b) is known, the location of the origination point of the  
804 signal of the telephone service first identified by:

805 (i) the telecommunications system of the seller; or

806 (ii) if the system used to transport the signal is not that of the seller, information  
807 received by the seller from its service provider; or

808 (c) if the locations described in Subsection [~~(71)~~] (70)(a) or (b) are not known, the  
809 location of a purchaser's primary place of use.

810 [~~(72)~~] (71) (a) "Telephone service provider" means a person that:

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

812 (ii) engages in an activity described in Subsection [~~(72)~~] (71)(a)(i) for the shared use  
813 with or resale to any person of the telephone service.

814 (b) A person described in Subsection [~~(72)~~] (71)(a) is a telephone service provider  
815 whether or not the Public Service Commission of Utah regulates:

816 (i) that person; or

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

818 [~~(73)~~] (72) "Tobacco" means:

819 (a) a cigarette;

820 (b) a cigar;

821 (c) chewing tobacco;

822 (d) pipe tobacco; or

823 (e) any other item that contains tobacco.

824 [~~(74)~~] (73) (a) "Use" means the exercise of any right or power over tangible personal  
825 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that  
826 property, item, or service.

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

829 [~~(75)~~] (74) "Vehicle" means any aircraft, as defined in Section 72-10-102; any vehicle,

830 as defined in Section 41-1a-102; any off-highway vehicle, as defined in Section 41-22-2; and

831 any vessel, as defined in Section 41-1a-102; that is required to be titled, registered, or both.

832 "Vehicle," for purposes of Subsection 59-12-104(35) only, also includes any locomotive,

833 freight car, railroad work equipment, or other railroad rolling stock.

834            [~~(76)~~] (75) "Vehicle dealer" means a person engaged in the business of buying, selling,  
835 or exchanging vehicles as defined in Subsection [~~(75)~~] (74).

836            Section 2. Section **59-12-103 (Superseded 07/01/04)** is amended to read:

837            **59-12-103 (Superseded 07/01/04). Sales and use tax base -- Rate -- Use of sales**  
838 **and use tax revenues.**

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

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

842            (b) amounts paid:

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

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

845            (I) telephone service provider; or

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

847            (ii) for:

848            (A) all transportation;

849            (B) telephone service, other than mobile telecommunications service, that originates  
850 and terminates within the boundaries of this state;

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

854            (D) telegraph service;

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

856            (i) gas;

857            (ii) electricity;

858            (iii) heat;

859            (iv) coal;

860            (v) fuel oil; or

861            (vi) other fuels;

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

863            (i) gas;

864            (ii) electricity;

- 865 (iii) heat;
- 866 (iv) coal;
- 867 (v) fuel oil; or
- 868 (vi) other fuels;
- 869 (e) sales of meals;
- 870 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 871 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 872 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 873 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 874 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 875 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 876 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 877 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 878 exhibition, cultural, or athletic activity;
- 879 (g) amounts paid or charged for services:
- 880 (i) for repairs or renovations of tangible personal property, unless Section 59-12-104
- 881 provides for an exemption from sales and use tax for:
- 882 (A) the tangible personal property; and
- 883 (B) parts used in the repairs or renovations of the tangible personal property described
- 884 in Subsection (1)(g)(i)(A), whether or not any parts are actually used in the repairs or
- 885 renovations of that tangible personal property; or
- 886 (ii) to install tangible personal property in connection with other tangible personal
- 887 property, unless the tangible personal property being installed is exempt from sales and use tax
- 888 under Section 59-12-104;
- 889 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 890 cleaning or washing of tangible personal property;
- 891 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 892 accommodations and services that are regularly rented for less than 30 consecutive days;
- 893 (j) amounts paid or charged for laundry or dry cleaning services;
- 894 (k) amounts paid or charged for leases or rentals of tangible personal property if:
- 895 (i) the tangible personal property's situs is in this state;

- 896 (ii) the lessee took possession of the tangible personal property in this state; or  
 897 (iii) within this state the tangible personal property is:  
 898 (A) stored;  
 899 (B) used; or  
 900 (C) otherwise consumed;  
 901 (l) amounts paid or charged for tangible personal property if within this state the  
 902 tangible personal property is:  
 903 (i) stored;  
 904 (ii) used; or  
 905 (iii) consumed; ~~H~~ **[and]** ~~h~~  
 906 (m) amounts paid or charged for prepaid telephone calling cards[;] ~~H~~ **[;]** ~~AND~~ ~~h~~  
 907 (n) through June 30, 2004, amounts paid or charged for multi-channel video or audio  
 908 service provided by a multi-channel video or audio service provider:  
 909 (i) within the state; and  
 910 (ii) to the extent permitted by federal law.  
 911 (2) (a) Except as provided in Subsections (2)(b) and (c), beginning on July 1, 2001, a  
 912 state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the  
 913 sum of:  
 914 (i) a state tax imposed on the transaction at a rate of 4.75%; and  
 915 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
 916 transaction under this chapter other than this part.  
 917 (b) Notwithstanding Subsection (2)(a), beginning on July 1, 2001, a state tax and a  
 918 local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:  
 919 (i) a state tax imposed on the transaction at a rate of 2%; and  
 920 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
 921 transaction under this chapter other than this part.  
 922 (c) Notwithstanding Subsections (2)(a) and (b), beginning on July 1, 2001, if a vendor  
 923 collects a tax under Subsection 59-12-107(1)(b) on a transaction described in Subsection (1), a  
 924 state tax and a local tax is imposed on the transaction equal to the sum of:  
 925 (i) a state tax imposed on the transaction at a rate of:  
 926 (A) 4.75% for a transaction other than a transaction described in Subsection (1)(d); or

927 (B) 2% for a transaction described in Subsection (1)(d); and  
928 (ii) except as provided in Subsection (2)(d), a local tax imposed on the transaction at a  
929 rate equal to the sum of the following tax rates:

930 (A) (I) the lowest tax rate imposed by a county, city, or town under Section 59-12-204,  
931 but only if all of the counties, cities, and towns in the state impose the tax under Section  
932 59-12-204; or

933 (II) the lowest tax rate imposed by a county, city, or town under Section 59-12-205, but  
934 only if all of the counties, cities, and towns in the state impose the tax under Section  
935 59-12-205; and

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

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

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

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

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

942 (iv) Section 59-12-301;

943 (v) Section 59-12-352;

944 (vi) Section 59-12-353;

945 (vii) Section 59-12-401;

946 (viii) Section 59-12-402;

947 (ix) Section 59-12-501;

948 (x) Section 59-12-502;

949 (xi) Section 59-12-603;

950 (xii) Section 59-12-703;

951 (xiii) Section 59-12-802;

952 (xiv) Section 59-12-804;

953 (xv) Section 59-12-1001;

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

955 (xvii) Section 59-12-1302.

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

- 958 (i) the tax imposed by Subsection (2)(a)(i);
- 959 (ii) the tax imposed by Subsection (2)(b)(i); and
- 960 (iii) the tax imposed by Subsection (2)(c)(i).

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

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

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

968 (A) calculating an amount equal to:

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

970 (II) the total population of the state; and

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

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

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

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

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

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

989 (ii) from January 1, 1990, through June 30, 1999, the amount of revenue generated by a  
990 1/64% tax rate under Section 59-12-204 or Section 59-12-205 on the taxable transactions under  
991 Subsection (1); and

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

993 (b) These funds shall be used:

994 (i) by the Utah Sports Authority as follows:

995 (A) to the extent funds are available, to transfer directly to a debt service fund or to  
996 otherwise reimburse to the state any amount expended on debt service or any other cost of any  
997 bonds issued by the state to construct any public sports facility as defined in Section  
998 63A-7-103;

999 (B) to pay for the actual and necessary operating, administrative, legal, and other  
1000 expenses of the Utah Sports Authority, but not including protocol expenses for seeking and  
1001 obtaining the right to host the Winter Olympic Games;

1002 (C) as otherwise appropriated by the Legislature; and

1003 (D) unless the Legislature appropriates additional funds from the Olympics Special  
1004 Revenue Fund to the Utah Sports Authority, the Utah Sports Authority may not expend, loan,  
1005 or pledge in the aggregate more than:

1006 (I) \$59,000,000 of sales and use tax deposited into the Olympics Special Revenue Fund  
1007 under Subsection (4)(a);

1008 (II) the interest earned on the amount described in Subsection (4)(b)(i)(D)(I); and

1009 (III) the revenues deposited into the Olympics Special Revenue Fund that are not sales  
1010 and use taxes deposited under Subsection (4)(a) or interest on the sales and use taxes; and

1011 (ii) to pay salary, benefits, or administrative costs associated with the State Olympic  
1012 Officer under Subsection 63A-10-103(3), except that the salary, benefits, or administrative  
1013 costs may not be paid from the sales and use tax revenues generated by municipalities or  
1014 counties and deposited under Subsection (4)(a)(ii).

1015 (c) A payment of salary, benefits, or administrative costs under Subsection  
1016 63A-10-103(3) is not considered an expenditure of the Utah Sports Authority.

1017 (d) If the Legislature appropriates additional funds under Subsection (4)(b)(i)(D), the  
1018 authority may not expend, loan, pledge, or enter into any agreement to expend, loan, or pledge  
1019 the appropriated funds unless the authority:

1020 (i) contracts in writing for the full reimbursement of the monies to the Olympics  
1021 Special Revenue Fund by a public sports entity or other person benefitting from the  
1022 expenditure; and

1023 (ii) obtains a security interest that secures payment or performance of the obligation to  
1024 reimburse.

1025 (e) A contract or agreement entered into in violation of Subsection (4)(d) is void.

1026 (5) (a) (i) Notwithstanding Subsection (3)(a) and except as provided in Subsection  
1027 (11), for fiscal year 2002-03 only, the lesser of the following amounts shall be transferred or  
1028 deposited as provided in Subsections (5)(a)(ii) through (vii):

1029 (A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1030 (I) by a 1/16% tax rate on the transactions described in Subsection (1); and  
1031 (II) for fiscal year 2002-03; or  
1032 (B) \$18,743,000.

1033 (ii) (A) For fiscal year 2002-03 only, \$2,300,000 of the amount described in Subsection  
1034 (5)(a)(i) shall be transferred as dedicated credits to the Department of Natural Resources to:

1035 (I) implement the measures described in Subsections 63-34-14(4)(a) through (d) to  
1036 protect sensitive plant and animal species; or  
1037 (II) award grants, up to the amount authorized by the Legislature in an appropriations  
1038 act, to political subdivisions of the state to implement the measures described in Subsections  
1039 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

1040 (B) Money transferred to the Department of Natural Resources under Subsection  
1041 (5)(a)(ii)(A) may not be used to assist the United States Fish and Wildlife Service or any other  
1042 person to list or attempt to have listed a species as threatened or endangered under the  
1043 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

1044 (C) At the end of fiscal year 2002-03:

1045 (I) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
1046 Conservation and Development Fund created in Section 73-10-24;

1047 (II) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
1048 Program Subaccount created in Section 73-10c-5; and  
1049 (III) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
1050 Program Subaccount created in Section 73-10c-5.

1051 (iii) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection  
1052 (5)(a)(i) shall be deposited in the Agriculture Resource Development Fund created in Section  
1053 4-18-6.

1054 (iv) (A) For fiscal year 2002-03 only, \$100,000 of the amount described in Subsection  
1055 (5)(a)(i) shall be transferred as dedicated credits to the Division of Water Rights to cover the  
1056 costs incurred in hiring legal and technical staff for the adjudication of water rights.

1057 (B) At the end of fiscal year 2002-03:

1058 (I) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
1059 Conservation and Development Fund created in Section 73-10-24;

1060 (II) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
1061 Program Subaccount created in Section 73-10c-5; and

1062 (III) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
1063 Program Subaccount created in Section 73-10c-5.

1064 (v) (A) For fiscal year 2002-03 only, 50% of the amount described in Subsection  
1065 (5)(a)(i) that remains after making the transfers and deposits required by Subsections (5)(a)(ii)  
1066 through (iv) shall be deposited in the Water Resources Conservation and Development Fund  
1067 created in Section 73-10-24 for use by the Division of Water Resources.

1068 (B) In addition to the uses allowed of the Water Resources Conservation and  
1069 Development Fund under Section 73-10-24, the Water Resources Conservation and  
1070 Development Fund may also be used to:

1071 (I) provide a portion of the local cost share, not to exceed in fiscal year 2002-03 50%  
1072 of the funds made available to the Division of Water Resources under this section, of potential  
1073 project features of the Central Utah Project;

1074 (II) conduct hydrologic and geotechnical investigations by the Department of Natural  
1075 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
1076 quantifying surface and ground water resources and describing the hydrologic systems of an  
1077 area in sufficient detail so as to enable local and state resource managers to plan for and  
1078 accommodate growth in water use without jeopardizing the resource;

1079 (III) fund state required dam safety improvements; and

1080 (IV) protect the state's interest in interstate water compact allocations, including the  
1081 hiring of technical and legal staff.

1082 (vi) For fiscal year 2002-03 only, 25% of the amount described in Subsection (5)(a)(i)  
1083 that remains after making the transfers and deposits required by Subsections (5)(a)(ii) through  
1084 (iv) shall be deposited in the Utah Wastewater Loan Program Subaccount created in Section  
1085 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1086 (vii) For fiscal year 2002-03 only, 25% of the amount described in Subsection (5)(a)(i)  
1087 that remains after making the transfers and deposits required by Subsections (5)(a)(ii) through  
1088 (iv) shall be deposited in the Drinking Water Loan Program Subaccount created in Section  
1089 73-10c-5 for use by the Division of Drinking Water to:

1090 (A) provide for the installation and repair of collection, treatment, storage, and  
1091 distribution facilities for any public water system, as defined in Section 19-4-102;

1092 (B) develop underground sources of water, including springs and wells; and

1093 (C) develop surface water sources.

1094 (b) (i) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
1095 2003, the lesser of the following amounts shall be used as provided in Subsections (5)(b)(ii)  
1096 through (vii):

1097 (A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1098 (I) by a 1/16% tax rate on the transactions described in Subsection (1); and

1099 (II) for the fiscal year; or

1100 (B) \$17,500,000.

1101 (ii) (A) For a fiscal year beginning on or after July 1, 2003, 14% of the amount  
1102 described in Subsection (5)(b)(i) shall be transferred each year as dedicated credits to the  
1103 Department of Natural Resources to:

1104 (I) implement the measures described in Subsections 63-34-14(4)(a) through (d) to  
1105 protect sensitive plant and animal species; or

1106 (II) award grants, up to the amount authorized by the Legislature in an appropriations  
1107 act, to political subdivisions of the state to implement the measures described in Subsections  
1108 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

1109 (B) Money transferred to the Department of Natural Resources under Subsection  
1110 (5)(b)(ii)(A) may not be used to assist the United States Fish and Wildlife Service or any other  
1111 person to list or attempt to have listed a species as threatened or endangered under the  
1112 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

- 1113 (C) At the end of each fiscal year:
- 1114 (I) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
1115 Conservation and Development Fund created in Section 73-10-24;
- 1116 (II) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
1117 Program Subaccount created in Section 73-10c-5; and
- 1118 (III) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
1119 Program Subaccount created in Section 73-10c-5.
- 1120 (iii) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in  
1121 Subsection (5)(b)(i) shall be deposited each year in the Agriculture Resource Development  
1122 Fund created in Section 4-18-6.
- 1123 (iv) (A) For a fiscal year beginning on or after July 1, 2003, 1% of the amount  
1124 described in Subsection (5)(b)(i) shall be transferred each year as dedicated credits to the  
1125 Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the  
1126 adjudication of water rights.
- 1127 (B) At the end of each fiscal year:
- 1128 (I) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
1129 Conservation and Development Fund created in Section 73-10-24;
- 1130 (II) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
1131 Program Subaccount created in Section 73-10c-5; and
- 1132 (III) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
1133 Program Subaccount created in Section 73-10c-5.
- 1134 (v) (A) For a fiscal year beginning on or after July 1, 2003, 41% of the amount  
1135 described in Subsection (5)(b)(i) shall be deposited in the Water Resources Conservation and  
1136 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.
- 1137 (B) In addition to the uses allowed of the Water Resources Conservation and  
1138 Development Fund under Section 73-10-24, the Water Resources Conservation and  
1139 Development Fund may also be used to:
- 1140 (I) provide a portion of the local cost share, not to exceed in any fiscal year 50% of the  
1141 funds made available to the Division of Water Resources under this section, of potential project  
1142 features of the Central Utah Project;
- 1143 (II) conduct hydrologic and geotechnical investigations by the Department of Natural

1144 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
1145 quantifying surface and ground water resources and describing the hydrologic systems of an  
1146 area in sufficient detail so as to enable local and state resource managers to plan for and  
1147 accommodate growth in water use without jeopardizing the resource;

1148 (III) fund state required dam safety improvements; and

1149 (IV) protect the state's interest in interstate water compact allocations, including the  
1150 hiring of technical and legal staff.

1151 (vi) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
1152 in Subsection (5)(b)(i) shall be deposited in the Utah Wastewater Loan Program Subaccount  
1153 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1154 (vii) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount  
1155 described in Subsection (5)(b)(i) shall be deposited in the Drinking Water Loan Program  
1156 Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

1157 (A) provide for the installation and repair of collection, treatment, storage, and  
1158 distribution facilities for any public water system, as defined in Section 19-4-102;

1159 (B) develop underground sources of water, including springs and wells; and

1160 (C) develop surface water sources.

1161 (6) (a) (i) Notwithstanding Subsection (3)(a), for fiscal year 2002-03 only, the lesser of  
1162 the following amounts shall be transferred or deposited as provided in Subsections (6)(a)(ii)  
1163 through (iv):

1164 (A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1165 (I) by a 1/16% tax rate on the transactions described in Subsection (1); and

1166 (II) for the fiscal year; or

1167 (B) \$18,743,000.

1168 (ii) (A) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection  
1169 (6)(a)(i) shall be deposited in the Transportation Corridor Preservation Revolving Loan Fund  
1170 created in Section 72-2-117.

1171 (B) At least 50% of the money deposited in the Transportation Corridor Preservation  
1172 Revolving Loan Fund under Subsection (6)(a)(ii)(A) shall be used to fund loan applications  
1173 made by the Department of Transportation at the request of local governments.

1174 (iii) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection

1175 (6)(a)(i) shall be transferred as nonlapsing dedicated credits to the Department of  
1176 Transportation for the State Park Access Highways Improvement Program created in Section  
1177 72-3-207.

1178 (iv) For fiscal year 2002-03 only, the amount described in Subsection (6)(a)(i) that  
1179 remains after making the transfers and deposits required by Subsections (6)(a)(ii) and (iii) shall  
1180 be deposited in the class B and class C roads account to be expended as provided in Title 72,  
1181 Chapter 2, Transportation Finances Act, for the use of class B and C roads.

1182 (b) (i) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
1183 2003, the lesser of the following amounts shall be used as provided in Subsections (6)(b)(ii)  
1184 through (iv):

1185 (A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1186 (I) by a 1/16% tax rate on the transactions described in Subsection (1); and

1187 (II) for the fiscal year; or

1188 (B) \$18,743,000.

1189 (ii) (A) For a fiscal year beginning on or after July 1, 2003, 3% of the amount  
1190 described in Subsection (6)(b)(i) shall be deposited each year in the Transportation Corridor  
1191 Preservation Revolving Loan Fund created in Section 72-2-117.

1192 (B) At least 50% of the money deposited in the Transportation Corridor Preservation  
1193 Revolving Loan Fund under Subsection (6)(b)(ii)(A) shall be used to fund loan applications  
1194 made by the Department of Transportation at the request of local governments.

1195 (iii) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in  
1196 Subsection (6)(b)(i) shall be transferred each year as nonlapsing dedicated credits to the  
1197 Department of Transportation for the State Park Access Highways Improvement Program  
1198 created in Section 72-3-207.

1199 (iv) For a fiscal year beginning on or after July 1, 2003, 94% of the amount described  
1200 in Subsection (6)(b)(i) shall be deposited in the class B and class C roads account to be  
1201 expended as provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class  
1202 B and C roads.

1203 (7) (a) Notwithstanding Subsection (3)(a), beginning on January 1, 2000, the Division  
1204 of Finance shall deposit into the Centennial Highway Fund created in Section 72-2-118 a  
1205 portion of the taxes listed under Subsection (3)(a) equal to the revenues generated by a 1/64%

1206 tax rate on the taxable transactions under Subsection (1).

1207 (b) Except for sales and use taxes deposited under Subsection (8), beginning on July 1,  
1208 1999, the revenues generated by the 1/64% tax rate:

1209 (i) retained under Subsection 59-12-204(7)(a) shall be retained by the counties, cities,  
1210 or towns as provided in Section 59-12-204; and

1211 (ii) retained under Subsection 59-12-205(4)(a) shall be distributed to each county, city,  
1212 and town as provided in Section 59-12-205.

1213 (8) Notwithstanding Subsection (3)(a), beginning on July 1, 1999, the commission  
1214 shall deposit into the Airport to University of Utah Light Rail Restricted Account created in  
1215 Section 17A-2-1064 the portion of the sales and use tax under Sections 59-12-204 and  
1216 59-12-205 that is:

1217 (a) generated by a city or town that will have constructed within its boundaries the  
1218 Airport to University of Utah Light Rail described in the Transportation Equity Act for the 21st  
1219 Century, Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

1220 (b) equal to the revenues generated by a 1/64% tax rate on the taxable items and  
1221 services under Subsection (1).

1222 (9) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal  
1223 year 2002-03, the commission shall on or before September 30 of each year deposit the  
1224 difference described in Subsection (9)(b) into the Remote Sales Restricted Account created in  
1225 Section 59-12-103.2 if that difference is greater than \$0.

1226 (b) The difference described in Subsection (9)(a) is equal to the difference between:

1227 (i) the total amount of revenues under Subsection (2)(c)(i) the commission received  
1228 from vendors collecting a tax under Subsection 59-12-107(1)(b) for the fiscal year immediately  
1229 preceding the September 30 described in Subsection (9)(a); and

1230 (ii) the total amount of revenues under Subsection (2)(c)(i) the commission estimates  
1231 that the commission received from vendors described in Subsection 59-12-107(1)(b) for fiscal  
1232 year 2000-01.

1233 (10) (a) For purposes of amounts paid or charged as admission or user fees relating to  
1234 the Olympic Winter Games of 2002, the amounts are considered to be paid or charged on the  
1235 day on which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 or a  
1236 person designated by the Salt Lake Organizing Committee for the Olympic Winter Games of

1237 2002 sends a purchaser confirmation of the purchase of an admission or user fee described in  
1238 Subsection (1)(f).

1239 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1240 commission shall make rules defining what constitutes sending a purchaser confirmation under  
1241 Subsection (10)(a).

1242 (11) (a) For fiscal year 2002-03 only, the following amounts shall be subtracted from  
1243 the total amount required to be deposited or transferred in accordance with Subsection (5):

1244 (i) \$25,000 shall be subtracted from the total amount required to be transferred to the  
1245 Division of Water Rights in accordance with Subsection (5)(a)(iv);

1246 (ii) \$385,000 shall be subtracted from the total amount required to be deposited into the  
1247 Agriculture Resource Development Fund in accordance with Subsection (5)(a)(iii);

1248 (iii) \$350,000 shall be subtracted from the total amount required to be transferred to the  
1249 Department of Natural Resources in accordance with Subsection (5)(a)(ii);

1250 (iv) \$3,012,500 shall be subtracted from the total amount required to be deposited into  
1251 the Drinking Water Loan Program Subaccount in accordance with Subsection (5)(a)(vii);

1252 (v) \$3,012,500 shall be subtracted from the total amount required to be deposited into  
1253 the Utah Wastewater Loan Program Subaccount in accordance with Subsection (5)(a)(vi); and

1254 (vi) \$5,715,000 shall be subtracted from the total amount required to be deposited into  
1255 the Water Resources Conservation and Development Fund in accordance with Subsection  
1256 (5)(a)(v).

1257 (b) The amounts subtracted under Subsection (11)(a) shall be deposited into the  
1258 General Fund.

1259 Section 3. Section **59-12-103 (Effective 07/01/04)** is amended to read:

1260 **59-12-103 (Effective 07/01/04). Sales and use tax base -- Rates -- Effective dates --**  
1261 **Use of sales and use tax revenues.**

1262 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or  
1263 charged for the following transactions:

1264 (a) retail sales of tangible personal property made within the state;

1265 (b) amounts paid:

1266 (i) (A) to a common carrier; or

1267 (B) whether the following are municipally or privately owned, to a:

- 1268 (I) telephone service provider; or
- 1269 (II) telegraph corporation as defined in Section 54-2-1; and
- 1270 (ii) for:
- 1271 (A) all transportation;
- 1272 (B) telephone service, other than mobile telecommunications service, that originates
- 1273 and terminates within the boundaries of this state;
- 1274 (C) mobile telecommunications service that originates and terminates within the
- 1275 boundaries of one state only to the extent permitted by the Mobile Telecommunications
- 1276 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
- 1277 (D) telegraph service;
- 1278 (c) sales of the following for commercial use:
- 1279 (i) gas;
- 1280 (ii) electricity;
- 1281 (iii) heat;
- 1282 (iv) coal;
- 1283 (v) fuel oil; or
- 1284 (vi) other fuels;
- 1285 (d) sales of the following for residential use:
- 1286 (i) gas;
- 1287 (ii) electricity;
- 1288 (iii) heat;
- 1289 (iv) coal;
- 1290 (v) fuel oil; or
- 1291 (vi) other fuels;
- 1292 (e) sales of prepared food;
- 1293 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 1294 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 1295 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 1296 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 1297 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 1298 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,

1299 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,  
1300 horseback rides, sports activities, or any other amusement, entertainment, recreation,  
1301 exhibition, cultural, or athletic activity;

1302 (g) amounts paid or charged for services:

1303 (i) for repairs or renovations of tangible personal property, unless Section 59-12-104  
1304 provides for an exemption from sales and use tax for:

1305 (A) the tangible personal property; and

1306 (B) parts used in the repairs or renovations of the tangible personal property described  
1307 in Subsection (1)(g)(i)(A), whether or not any parts are actually used in the repairs or  
1308 renovations of that tangible personal property; or

1309 (ii) to install tangible personal property in connection with other tangible personal  
1310 property, unless the tangible personal property being installed is exempt from sales and use tax  
1311 under Section 59-12-104;

1312 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for  
1313 cleaning or washing of tangible personal property;

1314 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court  
1315 accommodations and services that are regularly rented for less than 30 consecutive days;

1316 (j) amounts paid or charged for laundry or dry cleaning services;

1317 (k) amounts paid or charged for leases or rentals of tangible personal property if:

1318 (i) the tangible personal property's situs is in this state;

1319 (ii) the lessee took possession of the tangible personal property in this state; or

1320 (iii) within this state the tangible personal property is:

1321 (A) stored;

1322 (B) used; or

1323 (C) otherwise consumed;

1324 (l) amounts paid or charged for tangible personal property if within this state the  
1325 tangible personal property is:

1326 (i) stored;

1327 (ii) used; or

1328 (iii) consumed; and

1329 (m) amounts paid or charged for prepaid telephone calling cards[†].

1330 ~~[(n) amounts paid or charged for multi-channel video or audio service provided by a~~  
1331 ~~multi-channel video or audio service provider.]~~

1332 ~~[(i) within the state; and]~~

1333 ~~[(ii) to the extent permitted by federal law.]~~

1334 (2) (a) Except as provided in Subsection (2)(b), beginning on July 1, 2001, a state tax  
1335 and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

1336 (i) a state tax imposed on the transaction at a rate of 4.75%; and

1337 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
1338 transaction under this chapter other than this part.

1339 (b) Notwithstanding Subsection (2)(a), beginning on July 1, 2001, a state tax and a  
1340 local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

1341 (i) a state tax imposed on the transaction at a rate of 2%; and

1342 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
1343 transaction under this chapter other than this part.

1344 (c) Subject to Subsections (2)(d) and (e), a tax rate change for a tax rate imposed under  
1345 the following shall take effect on the first day of a calendar quarter:

1346 (i) Subsection (2)(a)(i); or

1347 (ii) Subsection (2)(b)(i).

1348 (d) (i) For a transaction described in Subsection (2)(d)(iii), a tax rate increase shall take  
1349 effect on the first day of the first billing period:

1350 (A) that begins after the effective date of the tax rate increase; and

1351 (B) if the billing period for the transaction begins before the effective date of a tax rate  
1352 increase imposed under:

1353 (I) Subsection (2)(a)(i); or

1354 (II) Subsection (2)(b)(i).

1355 (ii) For a transaction described in Subsection (2)(d)(iii), a tax rate decrease shall take  
1356 effect on the first day of the last billing period:

1357 (A) that began before the effective date of the tax rate decrease; and

1358 (B) if the billing period for the transaction begins before the effective date of a tax rate  
1359 decrease imposed under:

1360 (I) Subsection (2)(a)(i); or

- 1361 (II) Subsection (2)(b)(i).
- 1362 (iii) Subsections (2)(d)(i) and (ii) apply to transactions subject to a tax under:
- 1363 (A) Subsection (1)(b);
- 1364 (B) Subsection (1)(c);
- 1365 (C) Subsection (1)(d);
- 1366 (D) Subsection (1)(e);
- 1367 (E) Subsection (1)(f);
- 1368 (F) Subsection (1)(g);
- 1369 (G) Subsection (1)(h);
- 1370 (H) Subsection (1)(i);
- 1371 (I) Subsection (1)(j); or
- 1372 (J) Subsection (1)(k).
- 1373 (e) (i) If a tax due under Subsection (2)(a)(i) on a catalogue sale is computed on the
- 1374 basis of sales and use tax rates published in the catalogue, a change in a tax rate imposed under
- 1375 Subsection (2)(a)(i) takes effect:
- 1376 (A) on the first day of a calendar quarter; and
- 1377 (B) beginning 60 days after the effective date of the tax rate change under Subsection
- 1378 (2)(a)(i).
- 1379 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 1380 the commission may by rule define the term "catalogue sale."
- 1381 (3) (a) Except as provided in Subsections (4) through (7) and (9), the following state
- 1382 taxes shall be deposited into the General Fund:
- 1383 (i) the tax imposed by Subsection (2)(a)(i); or
- 1384 (ii) the tax imposed by Subsection (2)(b)(i).
- 1385 (b) The local taxes described in Subsections (2)(a)(ii) and (2)(b)(ii) shall be distributed
- 1386 to a county, city, or town as provided in this chapter.
- 1387 (4) (a) (i) Notwithstanding Subsection (3)(a) and except as provided in Subsection (9),
- 1388 for fiscal year 2002-03 only, the lesser of the following amounts shall be transferred or
- 1389 deposited as provided in Subsections (4)(a)(ii) through (vii):
- 1390 (A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
- 1391 (I) by a 1/16% tax rate on the transactions described in Subsection (1); and

1392 (II) for fiscal year 2002-03; or  
1393 (B) \$18,743,000.

1394 (ii) (A) For fiscal year 2002-03 only, \$2,300,000 of the amount described in Subsection  
1395 (4)(a)(i) shall be transferred as dedicated credits to the Department of Natural Resources to:  
1396 (I) implement the measures described in Subsections 63-34-14(4)(a) through (d) to  
1397 protect sensitive plant and animal species; or  
1398 (II) award grants, up to the amount authorized by the Legislature in an appropriations  
1399 act, to political subdivisions of the state to implement the measures described in Subsections  
1400 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

1401 (B) Money transferred to the Department of Natural Resources under Subsection  
1402 (4)(a)(ii)(A) may not be used to assist the United States Fish and Wildlife Service or any other  
1403 person to list or attempt to have listed a species as threatened or endangered under the  
1404 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

1405 (C) At the end of fiscal year 2002-03:  
1406 (I) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
1407 Conservation and Development Fund created in Section 73-10-24;  
1408 (II) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
1409 Program Subaccount created in Section 73-10c-5; and  
1410 (III) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
1411 Program Subaccount created in Section 73-10c-5.

1412 (iii) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection  
1413 (4)(a)(i) shall be deposited in the Agriculture Resource Development Fund created in Section  
1414 4-18-6.

1415 (iv) (A) For fiscal year 2002-03 only, \$100,000 of the amount described in Subsection  
1416 (4)(a)(i) shall be transferred as dedicated credits to the Division of Water Rights to cover the  
1417 costs incurred in hiring legal and technical staff for the adjudication of water rights.

1418 (B) At the end of fiscal year 2002-03:  
1419 (I) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
1420 Conservation and Development Fund created in Section 73-10-24;  
1421 (II) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
1422 Program Subaccount created in Section 73-10c-5; and

1423 (III) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
1424 Program Subaccount created in Section 73-10c-5.

1425 (v) (A) For fiscal year 2002-03 only, 50% of the amount described in Subsection  
1426 (4)(a)(i) that remains after making the transfers and deposits required by Subsections (4)(a)(ii)  
1427 through (iv) shall be deposited in the Water Resources Conservation and Development Fund  
1428 created in Section 73-10-24 for use by the Division of Water Resources.

1429 (B) In addition to the uses allowed of the Water Resources Conservation and  
1430 Development Fund under Section 73-10-24, the Water Resources Conservation and  
1431 Development Fund may also be used to:

1432 (I) provide a portion of the local cost share, not to exceed in fiscal year 2002-03 50%  
1433 of the funds made available to the Division of Water Resources under this section, of potential  
1434 project features of the Central Utah Project;

1435 (II) conduct hydrologic and geotechnical investigations by the Department of Natural  
1436 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
1437 quantifying surface and ground water resources and describing the hydrologic systems of an  
1438 area in sufficient detail so as to enable local and state resource managers to plan for and  
1439 accommodate growth in water use without jeopardizing the resource;

1440 (III) fund state required dam safety improvements; and

1441 (IV) protect the state's interest in interstate water compact allocations, including the  
1442 hiring of technical and legal staff.

1443 (vi) For fiscal year 2002-03 only, 25% of the amount described in Subsection (4)(a)(i)  
1444 that remains after making the transfers and deposits required by Subsections (4)(a)(ii) through  
1445 (iv) shall be deposited in the Utah Wastewater Loan Program Subaccount created in Section  
1446 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1447 (vii) For fiscal year 2002-03 only, 25% of the amount described in Subsection (4)(a)(i)  
1448 that remains after making the transfers and deposits required by Subsections (4)(a)(ii) through  
1449 (iv) shall be deposited in the Drinking Water Loan Program Subaccount created in Section  
1450 73-10c-5 for use by the Division of Drinking Water to:

1451 (A) provide for the installation and repair of collection, treatment, storage, and  
1452 distribution facilities for any public water system, as defined in Section 19-4-102;

1453 (B) develop underground sources of water, including springs and wells; and

1454 (C) develop surface water sources.

1455 (b) (i) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
1456 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)(ii)  
1457 through (vii):

1458 (A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1459 (I) by a 1/16% tax rate on the transactions described in Subsection (1); and  
1460 (II) for the fiscal year; or  
1461 (B) \$17,500,000.

1462 (ii) (A) For a fiscal year beginning on or after July 1, 2003, 14% of the amount  
1463 described in Subsection (4)(b)(i) shall be transferred each year as dedicated credits to the  
1464 Department of Natural Resources to:

1465 (I) implement the measures described in Subsections 63-34-14(4)(a) through (d) to  
1466 protect sensitive plant and animal species; or  
1467 (II) award grants, up to the amount authorized by the Legislature in an appropriations  
1468 act, to political subdivisions of the state to implement the measures described in Subsections  
1469 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

1470 (B) Money transferred to the Department of Natural Resources under Subsection  
1471 (4)(b)(ii)(A) may not be used to assist the United States Fish and Wildlife Service or any other  
1472 person to list or attempt to have listed a species as threatened or endangered under the  
1473 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

1474 (C) At the end of each fiscal year:

1475 (I) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
1476 Conservation and Development Fund created in Section 73-10-24;

1477 (II) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
1478 Program Subaccount created in Section 73-10c-5; and  
1479 (III) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
1480 Program Subaccount created in Section 73-10c-5.

1481 (iii) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in  
1482 Subsection (4)(b)(i) shall be deposited each year in the Agriculture Resource Development  
1483 Fund created in Section 4-18-6.

1484 (iv) (A) For a fiscal year beginning on or after July 1, 2003, 1% of the amount

1485 described in Subsection (4)(b)(i) shall be transferred each year as dedicated credits to the  
1486 Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the  
1487 adjudication of water rights.

1488 (B) At the end of each fiscal year:

1489 (I) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
1490 Conservation and Development Fund created in Section 73-10-24;

1491 (II) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
1492 Program Subaccount created in Section 73-10c-5; and

1493 (III) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
1494 Program Subaccount created in Section 73-10c-5.

1495 (v) (A) For a fiscal year beginning on or after July 1, 2003, 41% of the amount  
1496 described in Subsection (4)(b)(i) shall be deposited in the Water Resources Conservation and  
1497 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

1498 (B) In addition to the uses allowed of the Water Resources Conservation and  
1499 Development Fund under Section 73-10-24, the Water Resources Conservation and  
1500 Development Fund may also be used to:

1501 (I) provide a portion of the local cost share, not to exceed in any fiscal year 50% of the  
1502 funds made available to the Division of Water Resources under this section, of potential project  
1503 features of the Central Utah Project;

1504 (II) conduct hydrologic and geotechnical investigations by the Department of Natural  
1505 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
1506 quantifying surface and ground water resources and describing the hydrologic systems of an  
1507 area in sufficient detail so as to enable local and state resource managers to plan for and  
1508 accommodate growth in water use without jeopardizing the resource;

1509 (III) fund state required dam safety improvements; and

1510 (IV) protect the state's interest in interstate water compact allocations, including the  
1511 hiring of technical and legal staff.

1512 (vi) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
1513 in Subsection (4)(b)(i) shall be deposited in the Utah Wastewater Loan Program Subaccount  
1514 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1515 (vii) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount

1516 described in Subsection (4)(b)(i) shall be deposited in the Drinking Water Loan Program  
1517 Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

1518 (A) provide for the installation and repair of collection, treatment, storage, and  
1519 distribution facilities for any public water system, as defined in Section 19-4-102;

1520 (B) develop underground sources of water, including springs and wells; and

1521 (C) develop surface water sources.

1522 (5) (a) (i) Notwithstanding Subsection (3)(a), for fiscal year 2002-03 only, the lesser of  
1523 the following amounts shall be transferred or deposited as provided in Subsections (5)(a)(ii)  
1524 through (iv):

1525 (A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1526 (I) by a 1/16% tax rate on the transactions described in Subsection (1); and

1527 (II) for the fiscal year; or

1528 (B) \$18,743,000.

1529 (ii) (A) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection  
1530 (5)(a)(i) shall be deposited in the Transportation Corridor Preservation Revolving Loan Fund  
1531 created in Section 72-2-117.

1532 (B) At least 50% of the money deposited in the Transportation Corridor Preservation  
1533 Revolving Loan Fund under Subsection (5)(a)(ii)(A) shall be used to fund loan applications  
1534 made by the Department of Transportation at the request of local governments.

1535 (iii) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection  
1536 (5)(a)(i) shall be transferred as nonlapsing dedicated credits to the Department of  
1537 Transportation for the State Park Access Highways Improvement Program created in Section  
1538 72-3-207.

1539 (iv) For fiscal year 2002-03 only, the amount described in Subsection (5)(a)(i) that  
1540 remains after making the transfers and deposits required by Subsections (5)(a)(ii) and (iii) shall  
1541 be deposited in the class B and class C roads account to be expended as provided in Title 72,  
1542 Chapter 2, Transportation Finances Act, for the use of class B and C roads.

1543 (b) (i) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
1544 2003, the lesser of the following amounts shall be used as provided in Subsections (5)(b)(ii)  
1545 through (iv):

1546 (A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

- 1547 (I) by a 1/16% tax rate on the transactions described in Subsection (1); and  
1548 (II) for the fiscal year; or  
1549 (B) \$18,743,000.
- 1550 (ii) (A) For a fiscal year beginning on or after July 1, 2003, 3% of the amount  
1551 described in Subsection (5)(b)(i) shall be deposited each year in the Transportation Corridor  
1552 Preservation Revolving Loan Fund created in Section 72-2-117.
- 1553 (B) At least 50% of the money deposited in the Transportation Corridor Preservation  
1554 Revolving Loan Fund under Subsection (5)(b)(ii)(A) shall be used to fund loan applications  
1555 made by the Department of Transportation at the request of local governments.
- 1556 (iii) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in  
1557 Subsection (5)(b)(i) shall be transferred each year as nonlapsing dedicated credits to the  
1558 Department of Transportation for the State Park Access Highways Improvement Program  
1559 created in Section 72-3-207.
- 1560 (iv) For a fiscal year beginning on or after July 1, 2003, 94% of the amount described  
1561 in Subsection (5)(b)(i) shall be deposited in the class B and class C roads account to be  
1562 expended as provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class  
1563 B and C roads.
- 1564 (6) Notwithstanding Subsection (3)(a), beginning on January 1, 2000, the Division of  
1565 Finance shall deposit into the Centennial Highway Fund created in Section 72-2-118 a portion  
1566 of the taxes listed under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate  
1567 on the taxable transactions under Subsection (1).
- 1568 (7) Notwithstanding Subsection (3)(a), beginning on July 1, 1999, the commission  
1569 shall deposit into the Airport to University of Utah Light Rail Restricted Account created in  
1570 Section 17A-2-1064 the portion of the sales and use tax under Section 59-12-204 that is:
- 1571 (a) generated by a city or town that will have constructed within its boundaries the  
1572 Airport to University of Utah Light Rail described in the Transportation Equity Act for the 21st  
1573 Century, Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and
- 1574 (b) equal to the revenues generated by a 1/64% tax rate on the taxable items and  
1575 services under Subsection (1).
- 1576 (8) (a) For purposes of amounts paid or charged as admission or user fees relating to  
1577 the Olympic Winter Games of 2002, the amounts are considered to be paid or charged on the

1578 day on which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 or a  
1579 person designated by the Salt Lake Organizing Committee for the Olympic Winter Games of  
1580 2002 sends a purchaser confirmation of the purchase of an admission or user fee described in  
1581 Subsection (1)(f).

1582 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1583 commission shall make rules defining what constitutes sending a purchaser confirmation under  
1584 Subsection (8)(a).

1585 (9) (a) For fiscal year 2002-03 only, the following amounts shall be subtracted from the  
1586 total amount required to be deposited or transferred in accordance with Subsection (4):

1587 (i) \$25,000 shall be subtracted from the total amount required to be transferred to the  
1588 Division of Water Rights in accordance with Subsection (4)(a)(iv);

1589 (ii) \$385,000 shall be subtracted from the total amount required to be deposited into  
1590 the Agriculture Resource Development Fund in accordance with Subsection (4)(a)(iii);

1591 (iii) \$350,000 shall be subtracted from the total amount required to be transferred to the  
1592 Department of Natural Resources in accordance with Subsection (4)(a)(ii);

1593 (iv) \$3,012,500 shall be subtracted from the total amount required to be deposited into  
1594 the Drinking Water Loan Program Subaccount in accordance with Subsection (4)(a)(vii);

1595 (v) \$3,012,500 shall be subtracted from the total amount required to be deposited into  
1596 the Utah Wastewater Loan Program Subaccount in accordance with Subsection (4)(a)(vi); and

1597 (vi) \$5,715,000 shall be subtracted from the total amount required to be deposited into  
1598 the Water Resources Conservation and Development Fund in accordance with Subsection  
1599 (4)(a)(v).

1600 (b) The amounts subtracted under Subsection (9)(a) shall be deposited into the General  
1601 Fund.

1602 Section 4. Section **59-26-101** is enacted to read:

**CHAPTER 26. MULTI-CHANNEL VIDEO OR AUDIO**

**SERVICE TAX ACT**

**59-26-101. Title.**

This chapter is known as the "Multi-Channel Video or Audio Service Tax Act."

1607 Section 5. Section **59-26-102** is enacted to read:

**59-26-102. Definitions.**

1609 As used in this chapter:

1610 (1) "multi-channel video or audio service provider" means any person or group of  
 1611 persons that:

1612 (a) provides multi-channel video or audio service and directly or indirectly owns a  
 1613 significant interest in the multi-channel video or audio service; or

1614 (b) otherwise controls or is responsible through any arrangement, the management and  
 1615 operation of the multi-channel video or audio service; and

1616 (2) "multi-channel video or audio service provider" includes the following except as  
 1617 specifically exempted by state or federal law:

1618 (a) a cable operator;

1619 (b) a CATV provider;

1620 (c) a multi-point distribution provider;

1621 (d) a MMDS provider;

1622 (e) a SMATV operator;

1623 (f) a direct-to-home satellite service provider; or

1624 (g) a DBS provider.

1625 Section 6. Section **59-26-103** is enacted to read:

1626 **59-26-103. Imposition of tax -- Rate.**

1627 Beginning on July 1, 2004, there is imposed as provided in this part a tax on the  
 1628 purchaser equal to 6.25% of amounts paid or charged for multi-channel video or audio service  
 1629 provided by a multi-channel video or audio service provider:

1630 (1) within the state; and

1631 (2) to the extent permitted by federal law.

1632 Section 7. Section **59-26-104** is enacted to read:

1633 **59-26-104. Collection of tax.**

1634 A multi-channel video or audio service provider shall:

1635 (1) collect the tax imposed by Section 59-26-103 from the purchaser; ~~It~~ **AND** ~~it~~

1636 (2) remit the tax collected under Subsection (1) to the commission:

1637 (a) quarterly on or before the last day of the month immediately following the last day  
 1638 of each calendar quarter; and

1639 (b) on a return prescribed by the commission.

1640 Section 8. Section **59-26-105** is enacted to read:

1641 **59-26-105. Deposit of tax revenue.**

1642 The commission shall deposit revenues generated by the tax imposed by this chapter  
1643 into the General Fund.

1644 Section 9. Section **59-26-106** is enacted to read:

1645 **59-26-106. Records.**

1646 (1) A multi-channel video or audio service provider shall maintain records, statements,  
1647 books, or accounts necessary to determine the amount of tax that the multi-channel video or  
1648 audio service provider is required to remit to the commission under this chapter.

1649 (2) The commission may require a multi-channel video or audio service provider to  
1650 make or keep the records, statements, books, or accounts the commission considers sufficient  
1651 to show the amount of tax for which the multi-channel video or audio service provider is  
1652 required to remit to the commission under this chapter:

1653 (a) by notice served upon that multi-channel video or audio service provider; or

1654 (b) by administrative rule made in accordance with Title 63, Chapter 46a, Utah  
1655 Administrative Rulemaking Act.

1656 (3) After notice by the commission, a multi-channel video or audio service provider  
1657 shall open the records, statements, books, or accounts specified in Subsection (2) for  
1658 examination by the commission or a duly authorized agent of the commission.

1659 Section 10. Section **59-26-107** is enacted to read:

1660 **59-26-107. Action for collection of tax -- Action for refund or credit of tax.**

1661 (1) Except as provided in Subsections (2) through (5):

1662 (a) the commission shall assess a tax under this chapter within three years after a  
1663 multi-channel video or audio service provider files a return; and

1664 (b) if the commission does not assess a tax under this chapter within the three-year  
1665 period provided in Subsection (1)(a), the commission may not commence a proceeding to  
1666 collect the tax.

1667 (2) The commission may assess a tax at any time if a multi-channel video or audio  
1668 service provider:

1669 (a) files a false or fraudulent return with intent to evade; or

1670 (b) does not file a return.

1671 (3) The commission may extend the period to make an assessment or to commence a  
1672 proceeding to collect the tax under this chapter if:

1673 (a) the three-year period under Subsection (1) has not expired; and

1674 (b) the commission and the multi-channel video or audio service provider sign a  
1675 written agreement:

1676 (i) authorizing the extension; and

1677 (ii) providing for the length of the extension.

1678 (4) If the commission delays an audit at the request of a multi-channel video or audio  
1679 service provider, the commission may make an assessment as provided in Subsection (5) if:

1680 (a) the multi-channel video or audio service provider subsequently refuses to agree to  
1681 an extension request by the commission; and

1682 (b) the three-year period under Subsection (1) expires before the commission  
1683 completes the audit.

1684 (5) An assessment under Subsection (3) shall be:

1685 (a) for the time period for which the commission could not make an assessment  
1686 because of the expiration of the three-year period; and

1687 (b) in an amount equal to the difference between:

1688 (i) the commission's estimate of the amount of tax the multi-channel video or audio  
1689 service provider would have been assessed for the time period described in Subsection (5)(a);  
1690 and

1691 (ii) the amount of tax the multi-channel video or audio service provider actually paid  
1692 for the time period described in Subsection (5)(a).

1693 (6) (a) Except as provided in Subsection (6)(b), the commission may not make a credit  
1694 or refund unless the multi-channel video or audio service provider files a claim with the  
1695 commission within three years of the date of overpayment.

1696 (b) The commission shall extend the period for a multi-channel video or audio service  
1697 provider to file a claim under Subsection (6)(a) if:

1698 (i) the three-year period under Subsection (6)(a) has not expired; and

1699 (ii) the commission and the multi-channel video or audio service provider sign a  
1700 written agreement:

1701 (A) authorizing the extension; and

1702 (B) providing for the length of the extension.

1703 Section 11. Section **59-26-108** is enacted to read:

1704 **59-26-108. Rulemaking authority.**

1705 The commission may make rules in accordance with Title 63, Chapter 46a, Utah  
1706 Administrative Rulemaking Act, to implement and enforce this chapter.

1707 Section 12. Section **59-26-109** is enacted to read:

1708 **59-26-109. Penalties and interest.**

1709 A multi-channel video or audio service provider that fails to comply with any provision  
1710 of this chapter is subject to penalties and interest as provided in Sections 59-1-401 and  
1711 59-1-402.

1712 Section 13. Section **59-26-110** is enacted to read:

1713 **59-26-110. Revenue and Taxation Interim Committee study.**

1714 The Revenue and Taxation Interim Committee shall during the 2004 interim:

1715 (1) study the tax imposed by this chapter;

1716 (2) recommend whether legislation should be drafted to modify any provision of this  
1717 chapter; and

1718 (3) prepare any legislation that the Revenue and Taxation Interim Committee  
1719 recommends in accordance with Subsection (2) for consideration by the Legislature during the  
1720 2005 General Session.

1721 Section 14. **Effective date.**

1722 This bill takes effect on May 3, 2004, except that the amendments to Sections  
1723 59-12-102 (Effective 07/01/04) and 59-12-103 (Effective 07/01/04) take effect on July 1, 2004.

**Legislative Review Note**  
**as of 3-1-04 5:57 PM**

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

**Office of Legislative Research and General Counsel**

**State Impact**

Passage of this bill could increase the General Fund by \$4,421,100 annually.

	<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	\$4,421,100	\$4,421,100
<b>TOTAL</b>	<b>\$0</b>	<b>\$0</b>	<b>\$4,421,100</b>	<b>\$4,421,100</b>

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**Individual and Business Impact**

No significant fiscal impact.

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Office of the Legislative Fiscal Analyst