

1 **TAXES, FEES, OR CHARGES AMENDMENTS**

2 2004 THIRD SPECIAL SESSION

3 STATE OF UTAH

4 **Sponsor: Curtis S. Bramble**

5

LONG TITLE

6 **General Description:**

7 This bill amends the Revenue and Taxation title.

8 **Highlighted Provisions:**

9 This bill:

10 ▶ provides legislative intent regarding the implementation of certain provisions
11 enacted during the 2003 General Session and 2004 General Session relating to
12 taxes, fees, and charges;

13 ▶ addresses the collection of sales and use taxes by sellers that lack certain contacts
14 with the state and provides for the distribution of those revenues to the General
15 Fund, the Remote Sales Restricted Account, and counties, cities, and towns;

16 ▶ addresses amnesty for sellers relating to certain taxes, fees, or charges;

17 ▶ addresses the reporting and determination of the location of where a transaction is
18 consummated for sales and use tax purposes;

19 ▶ provides a repeal date for the legislative intent language; and

20 ▶ makes technical changes.

21 **Monies Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 This bill takes effect on July 1, 2004.

25 **Utah Code Sections Affected:**

26 **AMENDS:**



59 interpreted to be reinstated:

60 (i) "home medical equipment and supplies";

61 (ii) "medicine"; and

62 (iii) "purchase price";

63 (2) (a) the amendments made by Section 9, Chapter 312, Laws of Utah 2003, and
64 Section 11, Chapter 255, Laws of Utah 2004, to Section 59-12-103 take effect on July 1, 2005;

65 and

66 (b) beginning on July 1, 2004, through June 30, 2005, Section 59-12-103 shall read as
67 provided in Section 2 of this bill;

68 (3) the following amendments take effect on July 1, 2005:

69 (a) the amendments made by Section 12, Chapter 312, Laws of Utah 2003, to:

70 (i) Subsection 59-12-104(38) relating to sales or rentals of durable medical equipment
71 or supplies;

72 (ii) Subsection 59-12-104(55) relating to sales or rentals of mobility enhancing
73 equipment; and

74 (iii) Subsection 59-12-104(60) relating to sales of a prosthetic device; and

75 (b) the amendments made by Section 12, Chapter 312, Laws of Utah 2003, and Section
76 13, Chapter 255, Laws of Utah 2004, to Subsection 59-12-104(10) relating to:

77 (i) the deletion of the exemption for sales of medicine; and

78 (ii) the enactment of the exemption for amounts paid for a drug, syringe, or stoma
79 supply;

80 (4) the amendments made by Section 14, Chapter 255, Laws of Utah 2004, to the
81 following take effect on July 1, 2005:

82 (a) Subsection 59-12-105(2) relating to reporting requirements for a seller that files a
83 simplified electronic return;

84 (b) Subsection 59-12-105(3)(b) relating to a requirement that a seller that files a
85 simplified electronic return file the report required by Subsection 59-12-105(2) electronically;
86 and

87 (c) Subsection 59-12-105(5) relating to a penalty imposed on a seller that files a
88 simplified electronic return if the seller fails to report the amounts required by Subsection
89 59-12-105(2);

90 (5) (a) the amendments made by Section 15, Chapter 255, Laws of Utah 2004, to
91 Subsection 59-12-107(5) relating to a tax collected by a seller that files a simplified electronic
92 return take effect on July 1, 2005; and

93 (b) (i) the amendments made by Section 17, Chapter 312, Laws of Utah 2003, to
94 Subsection 59-12-107(8) relating to bad debt take effect on July 1, 2005; and

95 (ii) beginning on July 1, 2004, through June 30, 2005, Subsection 59-12-107(7)
96 relating to bad debt, which was deleted by Section 17, Chapter 312, Laws of Utah 2003, shall
97 be interpreted to be reinstated;

98 (6) the enactment of Section 59-12-107.1 relating to direct payment permits made by
99 Section 18, Chapter 312, Laws of Utah 2003, and the amendments to Section 59-12-107.1
100 relating to direct payment permits made by Section 16, Chapter 255, Laws of Utah 2004, take
101 effect on July 1, 2005;

102 (7) the enactment of Section 59-12-107.2 relating to certain goods or services
103 concurrently available for use in more than one location made by Section 19, Chapter 312,
104 Laws of Utah 2003, and the amendments to Section 59-12-107.2 relating to certain goods or
105 services concurrently available for use in more than one location made by Section 17, Chapter
106 255, Laws of Utah 2004, take effect on July 1, 2005;

107 (8) the enactment of Section 59-12-107.3 relating to the collection, remittance, and
108 payment of taxes on direct mail made by Section 20, Chapter 312, Laws of Utah 2003, takes
109 effect on July 1, 2005;

110 (9) (a) the amendments made by Section 28, Chapter 312, Laws of Utah 2003, to
111 Section 59-12-204 take effect on July 1, 2005; and

112 (b) beginning on July 1, 2004, through June 30, 2005, Section 59-12-204 shall read as
113 provided in Section 4 of this bill;

114 (10) (a) the amendments made by Section 24, Chapter 255, Laws of Utah 2004, to
115 Section 59-12-205 take effect on July 1, 2005; and

116 (b) beginning on July 1, 2004, through June 30, 2005, Section 59-12-205 shall read as
117 provided in Section 5 of this bill;

118 (11) (a) the repeal of Section 59-12-207 relating to the reporting and determination of
119 the location of where a transaction is consummated made by Section 68, Chapter 312, Laws of
120 Utah 2003, takes effect on July 1, 2005; and

121 (b) beginning on July 1, 2004, through June 30, 2005, Section 59-12-207 shall read as
122 provided in Section 6 of this bill;

123 (12) the enactment of Section 59-12-207.1 relating to determining the location of
124 certain transactions, apportioning certain transactions, and making reports to the State Tax
125 Commission on those transactions made by Section 30, Chapter 312, Laws of Utah 2003, and
126 the amendments to Section 59-12-207.1 relating to determining the location of certain
127 transactions made by Section 25, Chapter 255, Laws of Utah 2004, take effect on July 1, 2005;

128 (13) the enactment of Section 59-12-207.2 relating to determining the location of a
129 transaction involving the sale of a motor vehicle, aircraft, watercraft, modular home,
130 manufactured home, or mobile home made by Section 31, Chapter 312, Laws of Utah 2003,
131 takes effect on July 1, 2005;

132 (14) the enactment of Section 59-12-207.3 relating to determining the location of a
133 transaction involving the lease or rental of certain tangible personal property made by Section
134 32, Chapter 312, Laws of Utah 2003, and the amendments to Section 59-12-207.3 relating to
135 determining the location of a transaction involving the lease or rental of certain tangible
136 personal property made by Section 26, Chapter 255, Laws of Utah 2004, take effect on July 1,
137 2005; and

138 (15) (a) beginning on July 1, 2004, through June 30, 2005, the following subsections
139 relating to prohibiting a sales and use tax from being imposed on any amounts paid or charged
140 by a vendor lacking certain contacts with the state, which were deleted by Chapter 312, Laws
141 of Utah 2003 or Chapter 255, Laws of Utah 2004, shall be interpreted to be reinstated, except
142 that the term "vendor" shall be interpreted to be changed to "seller" in those subsections:

143 (i) Subsection 59-12-401(1)(b)(iv);

144 (ii) Subsection 59-12-402(1)(b)(iv);

145 (iii) Subsection 59-12-501(1)(a)(ii)(B);

146 (iv) Subsection 59-12-502(1)(a)(ii)(B);

147 (v) Subsection 59-12-703(1)(a)(ii)(B);

148 (vi) Subsection 59-12-802(1)(b)(ii);

149 (vii) Subsection 59-12-804(1)(b)(ii);

150 (viii) Subsection 59-12-1001(1)(b)(ii);

151 (ix) Subsection 59-12-1302(4)(b);

152 (x) Subsection 59-12-1402(1)(a)(ii)(C); and
153 (xi) Subsection 59-12-1503(1)(b)(ii);
154 (b) beginning on July 1, 2004, through June 30, 2005, Subsection
155 59-12-1102(1)(a)(ii)(B) relating to prohibiting a sales and use tax from being imposed on any
156 amounts paid or charged by a vendor lacking certain contacts with the state unless all of the
157 counties in the state impose a tax under Section 59-12-1102, which was deleted by Section 62,
158 Chapter 312, Laws of Utah 2003, shall be interpreted to be reinstated, except that the term
159 "vendor" shall be interpreted to be changed to "seller" in that subsection;

160 (c) the following subsections relating to determining the location of a transaction,
161 which were enacted by Chapter 312, Laws of Utah 2003 or Chapter 255, Laws of Utah 2004,
162 shall take effect on July 1, 2005:

163 (i) Subsection 59-12-401(1)(c);
164 (ii) Subsection 59-12-402(1)(c);
165 (iii) Subsection 59-12-501(1)(b);
166 (iv) Subsection 59-12-502(1)(b);
167 (v) Subsection 59-12-703(1)(b);
168 (vi) Subsection 59-12-802(1)(c);
169 (vii) Subsection 59-12-804(1)(c);
170 (viii) Subsection 59-12-1001(1)(c);
171 (ix) Subsection 59-12-1102(1)(b);
172 (x) Subsection 59-12-1302(4)(b);
173 (xi) Subsection 59-12-1402(1)(b); and
174 (xii) Subsection 59-12-1503(1)(c); and

175 (d) beginning on July 1, 2004, through June 30, 2005, the following language shall be
176 interpreted to be added as Subsection 59-12-1102(3)(e): "(e) Notwithstanding Subsections
177 (3)(a) and (b), if a county imposes a tax under this section on any amounts paid or charged by a
178 seller that collects a tax in accordance with Subsection 59-12-107(1)(b), the revenues generated
179 by the tax shall be distributed as provided in Subsection 59-12-103(3)(c)."

180 Section 2. Section **59-12-103 (Effective 07/01/04 through 06/30/05)** is amended to
181 read:

182 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**

183 **tax revenues.**

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

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

187 (b) amounts paid:

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

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

190 (I) telephone service provider; or

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

192 (ii) for:

193 (A) all transportation;

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

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

199 (D) telegraph service;

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

201 (i) gas;

202 (ii) electricity;

203 (iii) heat;

204 (iv) coal;

205 (v) fuel oil; or

206 (vi) other fuels;

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

208 (i) gas;

209 (ii) electricity;

210 (iii) heat;

211 (iv) coal;

212 (v) fuel oil; or

213 (vi) other fuels;

- 214 (e) sales of prepared food;
- 215 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 216 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 217 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 218 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 219 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 220 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 221 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 222 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 223 exhibition, cultural, or athletic activity;
- 224 (g) amounts paid or charged for services:
- 225 (i) for repairs or renovations of tangible personal property, unless Section 59-12-104
- 226 provides for an exemption from sales and use tax for:
- 227 (A) the tangible personal property; and
- 228 (B) parts used in the repairs or renovations of the tangible personal property described
- 229 in Subsection (1)(g)(i)(A), whether or not any parts are actually used in the repairs or
- 230 renovations of that tangible personal property; or
- 231 (ii) to install tangible personal property in connection with other tangible personal
- 232 property, unless the tangible personal property being installed is exempt from sales and use tax
- 233 under Section 59-12-104;
- 234 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 235 cleaning or washing of tangible personal property;
- 236 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 237 accommodations and services that are regularly rented for less than 30 consecutive days;
- 238 (j) amounts paid or charged for laundry or dry cleaning services;
- 239 (k) amounts paid or charged for leases or rentals of tangible personal property if:
- 240 (i) the tangible personal property's situs is in this state;
- 241 (ii) the lessee took possession of the tangible personal property in this state; or
- 242 (iii) within this state the tangible personal property is:
- 243 (A) stored;
- 244 (B) used; or

- 245 (C) otherwise consumed;
- 246 (1) amounts paid or charged for tangible personal property if within this state the
- 247 tangible personal property is:
- 248 (i) stored;
- 249 (ii) used; or
- 250 (iii) consumed; and
- 251 (m) amounts paid or charged for prepaid telephone calling cards.
- 252 (2) (a) Except as provided in Subsection (2)(b), beginning on July 1, 2001, a state tax
- 253 and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:
- 254 (i) a state tax imposed on the transaction at a rate of 4.75%; and
- 255 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
- 256 transaction under this chapter other than this part.
- 257 (b) Notwithstanding Subsection (2)(a), beginning on July 1, 2001~~[-];~~:
- 258 ~~(i)~~ (i) a state tax and a local tax is imposed on a transaction described in Subsection (1)(d)
- 259 equal to the sum of:
- 260 ~~[(+)]~~ (A) a state tax imposed on the transaction at a rate of 2%; and
- 261 ~~[(+)]~~ (B) a local tax equal to the sum of the tax rates a county, city, or town imposes on
- 262 the transaction under this chapter other than this part~~[-];~~ or
- 263 (ii) if a seller collects a tax in accordance with Subsection 59-12-107(1)(b) on a
- 264 transaction described in Subsection (1), a state tax and a local tax is imposed on the transaction
- 265 equal to the sum of:
- 266 (A) a state tax imposed on the transaction at a rate of:
- 267 (I) 4.75% for a transaction other than a transaction described in Subsection (1)(d); or
- 268 (II) 2% for a transaction described in Subsection (1)(d); and
- 269 (B) a local tax imposed on the transaction at a rate equal to the sum of the following
- 270 rates:
- 271 (I) the tax rate authorized by Section 59-12-204, but only if all of the counties, cities,
- 272 and towns in the state impose the tax under Section 59-12-204; and
- 273 (II) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the
- 274 state impose the tax under Section 59-12-1102.
- 275 (c) Subject to Subsections (2)(d) and (e), a tax rate repeal or tax rate change for a tax

276 rate imposed under the following shall take effect on the first day of a calendar quarter:

277 (i) Subsection (2)(a)(i); [~~or~~]

278 (ii) Subsection (2)(b)(i)(A)[~~;~~]; or

279 (iii) Subsection (2)(b)(ii)(A).

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

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

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

285 (I) Subsection (2)(a)(i); [~~or~~]

286 (II) Subsection (2)(b)(i)(A)[~~;~~]; or

287 (III) Subsection (2)(b)(ii)(A).

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

290 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
291 and

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

294 (I) Subsection (2)(a)(i); [~~or~~]

295 (II) Subsection (2)(b)(i)(A)[~~;~~]; or

296 (III) Subsection (2)(b)(ii)(A).

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

298 (A) Subsection (1)(b);

299 (B) Subsection (1)(c);

300 (C) Subsection (1)(d);

301 (D) Subsection (1)(e);

302 (E) Subsection (1)(f);

303 (F) Subsection (1)(g);

304 (G) Subsection (1)(h);

305 (H) Subsection (1)(i);

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

307 (J) Subsection (1)(k).

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

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

312 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change
313 under Subsection (2)(a)(i) or (2)(b)(ii)(A).

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

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

318 (i) the tax imposed by Subsection (2)(a)(i); ~~[or]~~

319 (ii) the tax imposed by Subsection (2)(b)(i)(A)~~[-]; or~~

320 (iii) the tax imposed by Subsection (2)(b)(ii)(A).

321 (b) The local taxes described in Subsections (2)(a)(ii) and (2)(b)~~[(ii)]~~ (i)(B) shall be
322 distributed to a county, city, or town as provided in this chapter.

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

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

328 (A) calculating an amount equal to the population of the county, city, or town divided
329 by the total population of the state; and

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

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

336 (B) Notwithstanding Subsection (3)(c)(iii)(A), if a needed population estimate is not
337 available from the United States Census Bureau, population figures shall be derived from the

338 estimate from the Utah Population Estimates Committee created by executive order of the
339 governor.

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

342 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
343 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
344 through (g):

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

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

347 (B) for the fiscal year; or

348 (ii) \$17,500,000.

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

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

354 (B) award grants, up to the amount authorized by the Legislature in an appropriations
355 act, to political subdivisions of the state to implement the measures described in Subsections
356 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

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

361 (iii) At the end of each fiscal year:

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

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

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

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

369 Subsection (4)(b)(i) shall be deposited each year in the Agriculture Resource Development
370 Fund created in Section 4-18-6.

371 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
372 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
373 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
374 water rights.

375 (ii) At the end of each fiscal year:

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

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

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

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

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

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

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

396 (C) fund state required dam safety improvements; and

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

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

400 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
401 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

402 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
403 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
404 created in Section 73-10c-5 for use by the Division of Drinking Water to:

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

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

408 (iii) develop surface water sources.

409 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
410 2003, the lesser of the following amounts shall be used as provided in Subsections (5)(b)
411 through (d):

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

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

414 (B) for the fiscal year; or

415 (ii) \$18,743,000.

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

419 (ii) At least 50% of the money deposited in the Transportation Corridor Preservation
420 Revolving Loan Fund under Subsection (5)(b)(i) shall be used to fund loan applications made
421 by the Department of Transportation at the request of local governments.

422 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
423 Subsection (5)(a) shall be transferred each year as nonlapsing dedicated credits to the
424 Department of Transportation for the State Park Access Highways Improvement Program
425 created in Section 72-3-207.

426 (d) For a fiscal year beginning on or after July 1, 2003, 94% of the amount described in
427 Subsection (5)(a) shall be deposited in the class B and class C roads account to be expended as
428 provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class B and C
429 roads.

430 (6) Notwithstanding Subsection (3)(a), beginning on January 1, 2000, the Division of

431 Finance shall deposit into the Centennial Highway Fund created in Section 72-2-118 a portion
 432 of the taxes listed under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate
 433 on the taxable transactions under Subsection (1).

434 (7) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal
 435 year 2004-05, the commission shall each year on or before the September 30 immediately
 436 following the last day of the fiscal year deposit the difference described in Subsection (7)(b)
 437 into the Remote Sales Restricted Account created in Section 59-12-103.2 if that difference is
 438 greater than \$0.

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

440 (i) the total amount of the ~~following~~ revenues under Subsection (2)(b)(ii)(A) the
 441 commission received from sellers collecting a tax in accordance with Subsection
 442 59-12-107(1)(b) for the fiscal year immediately preceding the September 30 described in
 443 Subsection (7)(a)~~[:]; and~~

444 ~~[(A) revenues under Subsection (2)(a)(i); and]~~

445 ~~[(B) revenues under Subsection (2)(b)(i); and]~~

446 (ii) \$8,779,673.

447 Section 3. Section **59-12-121 (Effective 07/01/04)** is amended to read:

448 **59-12-121. Amnesty.**

449 (1) As used in this section, "amnesty" means that a seller is not required to pay the
 450 following amounts that the seller would otherwise be required to pay:

451 (a) a tax, fee, or charge under:

452 (i) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

453 (ii) Section 19-6-714;

454 (iii) Section 19-6-805;

455 (iv) Section 69-2-5.5; or

456 (v) this chapter;

457 (b) a penalty on a tax, fee, or charge described in Subsection (1)(a); or

458 (c) interest on a tax, fee, or charge described in Subsection (1)(a).

459 (2) The commission shall grant a seller amnesty under this section if:

460 (a) the seller was not licensed under Section 59-12-106 at any time during the

461 12-month period prior to July 1, ~~[2004]~~ 2005;

462 (b) the seller obtains a license under Section 59-12-106 within a 12-month period
463 beginning on July 1, [~~2004~~] 2005; and

464 (c) the seller is registered under the agreement within a 12-month period beginning on
465 July 1, 2005.

466 (3) A seller may not receive amnesty under this section for a tax, fee, or charge:

467 (a) collected by the seller;

468 (b) remitted to the commission by the seller;

469 (c) that the seller is required to remit to the commission on the seller's purchases; or

470 (d) arising from a transaction that occurred within a time period that is under audit by
471 the commission if:

472 (i) the seller has received notice of the commencement of an audit prior to obtaining a
473 license under Section 59-12-106; and

474 (ii) (A) the audit described in Subsection (3)(d)(i) has not been completed; or

475 (B) the seller has not exhausted all administrative and judicial remedies in connection
476 with the audit described in Subsection (3)(d)(i).

477 (4) (a) Except as provided in Subsection (4)(b), amnesty granted to a seller by the
478 commission under this section:

479 (i) applies to the time period during which a seller was not licensed under Section
480 59-12-106; and

481 (ii) remains in effect if, for a period of three years, the seller:

482 (A) remains registered under the agreement;

483 (B) collects a tax, fee, or charge on a transaction subject to a tax, fee, or charge
484 described in Subsection (1)(a); and

485 (C) remits to the commission all taxes, fees, or charges described in Subsection
486 (4)(a)(ii).

487 (b) Notwithstanding Subsection (4)(a), a seller may not be granted amnesty under this
488 section if with respect to a tax, fee, or charge for which the seller would otherwise be granted
489 amnesty under this section, the seller commits:

490 (i) fraud; or

491 (ii) an intentional misrepresentation of a material fact.

492 (5) (a) If a seller does not meet the requirements of Subsection (4)(a)(ii), the

493 commission shall require the seller to pay the amounts described in Subsection (1) that the
494 seller would have otherwise been required to pay.

495 (b) Notwithstanding Section 59-12-110, and for purposes of requiring a seller to pay an
496 amount described in Subsection (5)(a), the time period for the commission to make an
497 assessment under Section 59-12-110 shall be extended for an additional three years.

498 Section 4. Section **59-12-204 (Effective 07/01/04 through 06/30/05)** is amended to
499 read:

500 **59-12-204. Sales and use tax ordinance provisions -- Tax rate -- Distribution of**
501 **tax revenues.**

502 (1) The tax ordinance adopted pursuant to this part shall impose a tax upon those
503 transactions listed in Subsection 59-12-103(1).

504 (2) (a) Except as provided in Subsections (2)(b) and 59-12-207.1(7)(c), the tax
505 ordinance under Subsection (1) shall include a provision imposing a tax upon every transaction
506 listed in Subsection 59-12-103(1) made within a county, including areas contained within the
507 cities and towns located in the county:

508 (i) at the rate of 1% of the purchase price paid or charged; and

509 (ii) if the transaction is consummated within the county in accordance with Section
510 59-12-205.

511 (b) Notwithstanding Subsection (2)(a), a tax ordinance under this Subsection (2) shall
512 include a provision prohibiting a county, city, or town from imposing a tax under this section
513 on:

514 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
515 are exempt from taxation under Section 59-12-104[-]; and

516 (ii) any amounts paid or charged by a seller that collects a tax in accordance with
517 Subsection 59-12-107(1)(b) unless all of the counties, cities, and towns in the state impose the
518 tax under this section.

519 (3) Such tax ordinance shall include provisions substantially the same as those
520 contained in Part 1, Tax Collection, insofar as they relate to sales or use tax, except that the
521 name of the county as the taxing agency shall be substituted for that of the state where
522 necessary for the purpose of this part and that an additional license is not required if one has
523 been or is issued under Section 59-12-106.

524 (4) Such tax ordinance shall include a provision that the county shall contract, prior to
525 the effective date of the ordinance, with the commission to perform all functions incident to the
526 administration or operation of the ordinance.

527 (5) Such tax ordinance shall include a provision that the sale, storage, use, or other
528 consumption of tangible personal property, the purchase price or the cost of which has been
529 subject to sales or use tax under a sales and use tax ordinance enacted in accordance with this
530 part by any county, city, or town in any other county in this state, shall be exempt from the tax
531 due under this ordinance.

532 (6) Such tax ordinance shall include a provision that any person subject to the
533 provisions of a city or town sales and use tax shall be exempt from the county sales and use tax
534 if the city or town sales and use tax is levied under an ordinance including provisions in
535 substance as follows:

536 (a) a provision imposing a tax upon every transaction listed in Section 59-12-103 made
537 within the city or town at the rate imposed by the county in which it is situated pursuant to
538 Subsection (2);

539 (b) notwithstanding Subsection (2)(a), a provision prohibiting the city or town from
540 imposing a tax under this section on any amounts paid or charged by a seller that collects a tax
541 in accordance with Subsection 59-12-107(1)(b) unless all of the counties, cities, and towns in
542 the state impose the tax under this section;

543 [~~(b)~~] (c) provisions substantially the same as those contained in Part 1, Tax Collection,
544 insofar as they relate to sales and use taxes, except that the name of the city or town as the
545 taxing agency shall be substituted for that of the state where necessary for the purposes of this
546 part;

547 [~~(c)~~] (d) a provision that the city or town shall contract prior to the effective date of the
548 city or town sales and use tax ordinance with the commission to perform all functions incident
549 to the administration or operation of the sales and use tax ordinance of the city or town;

550 [~~(d)~~] (e) a provision that the sale, storage, use, or other consumption of tangible
551 personal property, the gross receipts from the sale of or the cost of which has been subject to
552 sales or use tax under a sales and use tax ordinance enacted in accordance with this part by any
553 county other than the county in which the city or town is located, or city or town in this state,
554 shall be exempt from the tax; and

555 [~~(e)~~] (f) a provision that the amount of any tax paid under Part 1, Tax Collection, shall
556 not be included as a part of the purchase price paid or charged for a taxable item.

557 (7) (a) Notwithstanding any other provision of this section, beginning on July 1, 1999,
558 through May 5, 2003, the commission shall:

559 (i) determine and retain the portion of the sales and use tax imposed under this section:

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

563 (B) that is equal to the revenues generated by a 1/64% tax rate; and

564 (ii) deposit the revenues described in Subsection (7)(a)(i) in the Airport to University
565 of Utah Light Rail Restricted Account created in Section 17A-2-1064 for the purposes
566 described in Section 17A-2-1064.

567 (b) Notwithstanding any other provision of this section, beginning July 1, 2000, the
568 commission shall:

569 (i) determine and retain the portion of sales and use tax imposed under this section:

570 (A) by each county and by each city and town within that county whose legislative
571 body consents by resolution to the commission's retaining and depositing sales and use tax
572 revenues as provided in this Subsection (7)(b); and

573 (B) that is equal to the revenues generated by a 1/64% tax rate;

574 (ii) deposit the revenues described in Subsection (7)(b)(i) into a special fund of the
575 county, or a city, town, or other political subdivision of the state located within that county, that
576 has issued bonds to finance sports or recreational facilities or that is leasing sports or
577 recreational facilities, in order to repay those bonds or to pay the lease payments; and

578 (iii) continue to deposit those revenues into the special fund only as long as the bonds
579 or leases are outstanding.

580 Section 5. Section **59-12-205 (Effective 07/01/04 through 06/30/05)** is amended to
581 read:

582 **59-12-205. Ordinances to conform with statutory amendments -- Distribution of**
583 **tax revenues -- Rulemaking authority -- Determination of population.**

584 (1) Each county, city, and town, in order to maintain in effect sales and use tax
585 ordinances adopted pursuant to Section 59-12-204, shall, within 30 days of any amendment of

586 any applicable provisions of Part 1, Tax Collection, adopt amendments of their respective sales
587 and use tax ordinances to conform with the amendments to Part 1, Tax Collection, insofar as
588 they relate to sales and use taxes.

589 (2) Except as provided in Subsection ~~[(7)]~~ (3) or (4):

590 (a) 50% of each dollar collected from the sales and use tax authorized by this part shall
591 be paid to each county, city, and town on the basis of the percentage that the population of the
592 county, city, or town bears to the total population of all counties, cities, and towns in the state;
593 and

594 (b) ~~[notwithstanding Sections 59-12-207.1 through 59-12-207.4,]~~ 50% of each dollar
595 collected from the sales and use tax authorized by this part shall be paid to each county, city,
596 and town on the basis of the location where the transaction is consummated as determined
597 under ~~[this section]~~ Section 59-12-207.

598 ~~[(3) For purposes of Subsection (2)(b), the location where a transaction is~~
599 ~~consummated is determined in accordance with Subsections (4) through (6).]~~

600 ~~[(4)(a) For a transaction that is reported to the commission on a return other than a~~
601 ~~simplified electronic return, the location where the transaction is consummated is determined~~
602 ~~in accordance with Subsections (4)(b) through (h).]~~

603 ~~[(b)(i) Except as provided in Subsections (4)(c) through (h), for a transaction described~~
604 ~~in Subsection (4)(b)(ii), the location where the transaction is consummated is the place of~~
605 ~~business of the seller.]~~

606 ~~[(ii) Subsection (4)(b)(i) applies to a transaction other than a transaction described in:]~~

607 ~~[(A) Subsection (4)(c)(ii);]~~

608 ~~[(B) Subsection (4)(d)(ii);]~~

609 ~~[(C) Subsection (4)(e)(ii);]~~

610 ~~[(D) Subsection (4)(f)(ii);]~~

611 ~~[(E) Subsection (4)(g)(ii); or]~~

612 ~~[(F) Subsection (4)(h).]~~

613 ~~[(c)(i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection~~
614 ~~(4)(c)(ii), the location where the transaction is consummated is determined by allocating the~~
615 ~~total revenues remitted to the commission each month that are generated by the tax imposed~~
616 ~~under this section on the transactions described in Subsection (4)(c)(ii):]~~

617 ~~[(A) to each local taxing jurisdiction; and]~~
618 ~~[(B) on the basis of the population of each local taxing jurisdiction as compared to the~~
619 ~~population of the state.]~~
620 ~~[(ii) Subsection (4)(c)(i) applies to a transaction:]~~
621 ~~[(A) made by a seller described in Subsection 59-12-107(1)(b); and]~~
622 ~~[(B) involving tangible personal property that is shipped from outside the state.]~~
623 ~~[(d) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection~~
624 ~~(4)(d)(ii), the location where the transaction is consummated is determined by allocating the~~
625 ~~total revenues reported to the commission each month that are generated by the tax imposed~~
626 ~~under this section on the transactions described in Subsection (4)(d)(ii):]~~
627 ~~[(A) to local taxing jurisdictions within a county; and]~~
628 ~~[(B) on the basis of the proportion of total revenues generated by the transactions~~
629 ~~described in Subsection (4)(b)(ii) that are reported to the commission for that month within a~~
630 ~~local taxing jurisdiction within that county as compared to the total revenues generated by the~~
631 ~~transactions described in Subsection (4)(b)(ii) that are reported to the commission for that~~
632 ~~month within all local taxing jurisdictions within that county:]~~
633 ~~[(ii) Subsection (4)(d)(i) applies to a transaction:]~~
634 ~~[(A) made from a location in the state other than a fixed place of business in the state;~~
635 ~~or]~~
636 ~~[(B) (I) made by a seller described in Subsection 59-12-107(1)(a); and]~~
637 ~~[(H) involving tangible personal property that is shipped from outside the state.]~~
638 ~~[(e) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection~~
639 ~~(4)(e)(ii), the location where the transaction is consummated is determined by allocating the~~
640 ~~total revenues reported to the commission each month that are generated by the tax imposed~~
641 ~~under this section on the transactions described in Subsection (4)(e)(ii):]~~
642 ~~[(A) to local taxing jurisdictions; and]~~
643 ~~[(B) on the basis of the proportion of the total revenues generated by the transactions~~
644 ~~described in Subsection (4)(b)(ii) that are reported to the commission for that month within~~
645 ~~each local taxing jurisdiction as compared to the total revenues generated by the transactions~~
646 ~~described in Subsection (4)(b)(ii) that are reported to the commission for that month within the~~
647 ~~state:]~~

648 ~~[(ii) Subsection (4)(e)(i) applies to a transaction involving tangible personal property~~
649 ~~purchased with a direct payment permit in accordance with Section 59-12-107.1.]~~

650 ~~[(f) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection~~
651 ~~(4)(f)(ii), the location where the transaction is consummated is each location where the good or~~
652 ~~service described in Subsection 59-12-107.2(1)(b) is used.]~~

653 ~~[(ii) Subsection (4)(f)(i) applies to a transaction involving a good or service:]~~

654 ~~[(A) described in Subsection 59-12-107.2(1)(b);]~~

655 ~~[(B) that is concurrently available for use in more than one location; and]~~

656 ~~[(C) is purchased using the form described in Section 59-12-107.2.]~~

657 ~~[(g) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection~~
658 ~~(4)(g)(ii), the location where the transaction is consummated is determined by allocating the~~
659 ~~total revenues reported to the commission each month that are generated by the tax imposed~~
660 ~~under this section on the transactions described in Subsection (4)(g)(ii):]~~

661 ~~[(A) to local taxing jurisdictions; and]~~

662 ~~[(B) on the basis of the proportion of the total revenues generated by the transactions~~
663 ~~described in Subsection (4)(b)(ii) that are reported to the commission for that month within~~
664 ~~each local taxing jurisdiction as compared to the total revenues generated by the transactions~~
665 ~~described in Subsection (4)(b)(ii) that are reported to the commission for that month within the~~
666 ~~state:]~~

667 ~~[(ii) Subsection (4)(g)(i) applies to a transaction involving a purchase of direct mail if~~
668 ~~the purchaser of the direct mail provides to the seller the form described in Subsection~~
669 ~~59-12-107.3(1)(a) at the time of the purchase of the direct mail.]~~

670 ~~[(h) Notwithstanding Subsection (4)(b), for a transaction involving the sale of a~~
671 ~~telephone service, the location where the transaction is consummated is the same as the~~
672 ~~location of the transaction determined under Section 59-12-207.4.]~~

673 ~~[(5) (a) For a transaction that is reported to the commission on a simplified electronic~~
674 ~~return, the location where the transaction is consummated is determined in accordance with~~
675 ~~Subsections (5)(b) through (e).]~~

676 ~~[(b) (i) Except as provided in Subsections (5)(c) through (e), the location where a~~
677 ~~transaction is consummated is determined by allocating the total revenues reported to the~~
678 ~~commission each month on the simplified electronic return:]~~

679 ~~[(A) to local taxing jurisdictions; and]~~

680 ~~[(B) on the basis of the proportion of the total revenues generated by the transactions~~

681 ~~described in Subsection (4)(b)(ii) that are reported to the commission in accordance with~~

682 ~~Subsection (5)(b)(ii) for that month within each local taxing jurisdiction as compared to the~~

683 ~~total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported~~

684 ~~to the commission in accordance with Subsection (5)(b)(ii) for that month within the state.]~~

685 ~~[(ii) In making the allocations required by Subsection (5)(b)(i), the commission shall~~

686 ~~use the total revenues generated by the transactions described in Subsection (4)(b)(ii) reported~~

687 ~~to the commission.]~~

688 ~~[(A) in the report required by Subsection 59-12-105(2); and]~~

689 ~~[(B) if a local taxing jurisdiction reports revenues to the commission in accordance~~

690 ~~with Subsection (5)(b)(iii), in the report made in accordance with Subsection (5)(b)(iii):]~~

691 ~~[(iii) (A) For purposes of this Subsection (5)(b), a local taxing jurisdiction may report~~

692 ~~to the commission the revenues generated by a tax imposed by this chapter within the local~~

693 ~~taxing jurisdiction if a seller:]~~

694 ~~[(f) opens an additional place of business within the local taxing jurisdiction after the~~

695 ~~seller makes an initial application for a license under Section 59-12-106; and]~~

696 ~~[(H) estimates that the additional place of business will increase by 5% or more the~~

697 ~~revenues generated by a tax imposed by this chapter within the local taxing jurisdiction:]~~

698 ~~[(B) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~

699 ~~the commission may make rules providing procedures and requirements for making the report~~

700 ~~described in this Subsection (5)(b):]~~

701 ~~[(c) (i) Notwithstanding Subsection (5)(b), for a transaction described in Subsection~~

702 ~~(5)(c)(ii), the location where the transaction is consummated is determined by allocating the~~

703 ~~total revenues reported to the commission each month that are generated by the tax imposed~~

704 ~~under this section on the transactions described in Subsection (5)(c)(ii):]~~

705 ~~[(A) to local taxing jurisdictions within a county; and]~~

706 ~~[(B) on the basis of the proportion of the total revenues generated by the transactions~~

707 ~~described in Subsection (4)(b)(ii) that are reported to the commission for that month within a~~

708 ~~local taxing jurisdiction within that county as compared to the total revenues generated by the~~

709 ~~transactions described in Subsection (4)(b)(ii) that are reported to the commission for that~~

710 ~~month within all local taxing jurisdictions within that county.]~~
711 ~~[(ii) Subsection (5)(c)(i) applies to a transaction:]~~
712 ~~[(A) made from a location in the state other than a fixed place of business in the state;~~
713 ~~or]~~
714 ~~[(B) (I) made by a seller described in Subsection 59-12-107(1)(a); and]~~
715 ~~[(H) involving tangible personal property that is shipped from outside the state.]~~
716 ~~[(d) Notwithstanding Subsection (5)(b), for a transaction made by a seller described in~~
717 ~~Subsection 59-12-107(1)(b), the location where the transaction is consummated is determined~~
718 ~~by allocating the total revenues remitted to the commission each month that are generated by~~
719 ~~the tax imposed under this section on the transactions made by a seller described in Subsection~~
720 ~~59-12-107(1)(b):]~~
721 ~~[(i) to each local taxing jurisdiction; and]~~
722 ~~[(ii) on the basis of the population of each local taxing jurisdiction as compared to the~~
723 ~~population of the state:]~~
724 ~~[(e) (i) Notwithstanding Subsection (5)(b), for a transaction described in Subsection~~
725 ~~(5)(c)(ii), the location where the transaction is consummated is determined by allocating the~~
726 ~~total revenues reported to the commission each month that are generated by the tax imposed~~
727 ~~under this section on the transactions described in Subsection (5)(c)(ii):]~~
728 ~~[(A) to local taxing jurisdictions; and]~~
729 ~~[(B) on the basis of the proportion of the total revenues generated by the transactions~~
730 ~~described in Subsection (4)(b)(ii) that are reported to the commission for that month within~~
731 ~~each local taxing jurisdiction as compared to the total revenues generated by the transactions~~
732 ~~described in Subsection (4)(b)(ii) that are reported to the commission for that month within the~~
733 ~~state:]~~
734 ~~[(ii) Subsection (5)(c)(i) applies to a transaction involving tangible personal property~~
735 ~~purchased with a direct payment permit in accordance with Section 59-12-107.1.]~~
736 ~~[(6) For purposes of Subsections (4) and (5) and in accordance with Title 63, Chapter~~
737 ~~46a, Utah Administrative Rulemaking Act, the commission may make rules defining what~~
738 ~~constitutes a fixed place of business in the state:]~~
739 ~~[(7) (3) (a) Notwithstanding Subsection (2), a county, city, or town may not receive a~~
740 ~~tax revenue distribution less than .75% of the taxable sales within the boundaries of the county,~~

741 city, or town.

742 (b) The commission shall proportionally reduce quarterly distributions to any county,
743 city, or town that, but for the reduction, would receive a distribution in excess of 1% of the
744 sales and use tax revenue collected within the boundaries of the county, city, or town.

745 (4) Notwithstanding Subsection (2), if a county, city, or town imposes a tax authorized
746 by this part on any amounts paid or charged by a seller that collects a tax in accordance with
747 Subsection 59-12-107(1)(b), the revenues generated by the tax shall be distributed as provided
748 in Subsection 59-12-103(3)(c).

749 [~~8~~] (5) (a) Population figures for purposes of this section shall be based on the most
750 recent official census or census estimate of the United States Census Bureau.

751 (b) If a needed population estimate is not available from the United States Census
752 Bureau, population figures shall be derived from the estimate from the Utah Population
753 Estimates Committee created by executive order of the governor.

754 [~~9~~] (6) The population of a county for purposes of this section shall be determined
755 solely from the unincorporated area of the county.

756 Section 6. Section **59-12-207 (Effective 07/01/04 through 06/30/05)** is amended to
757 read:

758 **59-12-207. Report of tax collections -- Point of sale when retailer has no**
759 **permanent place of business or more than one place of business is determined by rule of**
760 **commission -- Public utilities -- Telephone telecommunications service.**

761 (1) Except as provided in Subsection (5), any sales and use taxes collected under this
762 part shall be reported to the commission on forms that accurately identify the location where
763 the transaction resulting in a tax under this chapter is consummated.

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

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

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

768 (ii) has more than one place of business; [~~and~~]

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

771 (i) gas; or

772 (ii) electricity[-]; and

773 (c) is as provided in Section 59-12-207.4 for a service described in Section
774 59-12-207.4.

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

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

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

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

782 [~~(5) Notwithstanding Subsections (1) and (2) and except as provided in Subsection (6),~~
783 ~~the location of a transaction for telephone service taxed under this part shall be the county, city,~~
784 ~~or town within which is located the nine-digit zip code that is assigned by the United States~~
785 ~~Postal Service:]~~

786 [~~(a) for telephone service other than mobile telecommunications service, to the~~
787 ~~telephone service address for the transaction; and]~~

788 [~~(b) for mobile telecommunications service, to the place of primary use for the~~
789 ~~transaction.:~~]

790 [~~(6) (a) For purposes of this Subsection (6):]~~

791 [~~(i) "Combined tax rate" means the sum of the tax rates imposed on a transaction~~
792 ~~described in Subsection 59-12-103(1) under:]~~

793 [~~(A) Subsection 59-12-103(2)(a)(i);]~~

794 [~~(B) Section 59-12-204;]~~

795 [~~(C) Section 59-12-205;]~~

796 [~~(D) Section 59-12-401;]~~

797 [~~(E) Section 59-12-402;]~~

798 [~~(F) Section 59-12-501;]~~

799 [~~(G) Section 59-12-502;]~~

800 [~~(H) Section 59-12-703;]~~

801 [~~(I) Section 59-12-802;]~~

802 [~~(J) Section 59-12-804;]~~

803 ~~[(K) Section 59-12-1001;]~~
804 ~~[(L) Section 59-12-1102;]~~
805 ~~[(M) Section 59-12-1302; and]~~
806 ~~[(N) Section 59-12-1402;]~~
807 ~~[(ii) "Lowest combined tax rate" for a shared zip code means the lowest combined tax~~
808 ~~rate of the counties, cities, or towns within which the shared zip code is located.]~~
809 ~~[(iii) "Shared zip code" means a nine-digit zip code assigned by the United States~~
810 ~~Postal Service that is located within two or more counties, cities, or towns.]~~
811 ~~[(b) Notwithstanding Subsection (5), if the nine-digit zip code that is assigned to a~~
812 ~~telephone service address or a place of primary use is a shared zip code, the location of a~~
813 ~~transaction for telephone service shall be:]~~
814 ~~[(i) if there is only one county, city, or town that imposes the lowest combined tax rate~~
815 ~~for the shared zip code, the county, city, or town that imposes the lowest combined tax rate; or]~~
816 ~~[(ii) if two or more counties, cities, or towns impose the lowest combined tax rate for~~
817 ~~the shared zip code, the county, city, or town that:]~~
818 ~~[(A) imposes the lowest combined tax rate for the shared zip code; and]~~
819 ~~[(B) of the counties, cities, or towns that impose the lowest combined tax rate, has~~
820 ~~located within the county, city, or town the largest number of street addresses within the shared~~
821 ~~zip code.]~~
822 ~~[(c) A telephone service provider shall collect sales and use taxes imposed under this~~
823 ~~chapter at the combined tax rate imposed within the county, city, or town in which the~~
824 ~~transaction for telephone service is located under Subsection (6)(b) notwithstanding the~~
825 ~~following:]~~
826 ~~[(i) Section 59-12-204;]~~
827 ~~[(ii) Section 59-12-205;]~~
828 ~~[(iii) Section 59-12-401;]~~
829 ~~[(iv) Section 59-12-402;]~~
830 ~~[(v) Section 59-12-501;]~~
831 ~~[(vi) Section 59-12-502;]~~
832 ~~[(vii) Section 59-12-703;]~~
833 ~~[(viii) Section 59-12-802;]~~

834 [~~(ix) Section 59-12-804;~~
835 [~~(x) Section 59-12-1001;~~
836 [~~(xi) Section 59-12-1102;~~
837 [~~(xii) Section 59-12-1302; and~~
838 [~~(xiii) Section 59-12-1402.~~
839 (5) Notwithstanding Subsections (1) and (2), mobile telecommunications service is
840 subject to the sourcing rules provided in the Mobile Telecommunications Sourcing Act, 4
841 U.S.C. Sec. 116 et seq.
842 Section 7. Section **63-55-259** is amended to read:
843 **63-55-259. Repeal dates, Title 59.**
844 (1) Title 59, Chapter 1, Part 12, Legislative Intent, is repealed July 1, 2005.
845 (2) Section 59-10-530.5, Homeless Trust Account, is repealed July 1, 2007.
846 Section 8. **Effective date.**
847 This bill takes effect on July 1, 2004.

Legislative Review Note
as of **6-24-04 4:58 PM**

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

Office of Legislative Research and General Counsel