

Senator Curtis S. Bramble proposes the following substitute bill:

SALES AND USE TAX REVISIONS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends the Sales and Use Tax Act and provisions relating to sales and use taxation.

Highlighted Provisions:

This bill:

- ▶ amends, enacts, and repeals provisions relating to determining the location of a transaction for sales and use tax purposes;
- ▶ amends, enacts, and repeals definitions;
- ▶ requires the appointment of delegates to enter into multistate discussions relating to the Streamlined Sales and Use Tax Agreement and report to the Legislature;
- ▶ addresses the collection and remittance of sales and use taxes by a seller that does not have sufficient contacts with the state to be required to collect and remit sales and use taxes to the state;
- ▶ addresses the effective date of certain tax rate increases, repeals, or tax rate changes;
- ▶ establishes which state sales and use taxes shall be deposited into the General Fund;
- ▶ modifies provisions allowing the State Tax Commission to issue a direct pay permit to a seller;
- ▶ addresses the distribution of certain sales and use taxes to counties, cities, and



- 26 towns;
- 27 ▶ addresses the deposit of revenues into the Remote Sales Restricted Account;
- 28 ▶ modifies provisions relating to a credit for a repossessed motor vehicle that is
- 29 resold;
- 30 ▶ modifies reporting requirements to the State Tax Commission and related penalty
- 31 provisions;
- 32 ▶ repeals requirements that certain returns be filed electronically;
- 33 ▶ repeals tax collection, remittance, and reporting requirements for certain sellers;
- 34 ▶ repeals provisions relating to a deduction for bad debt;
- 35 ▶ repeals provisions establishing what constitutes a reasonable business practice for
- 36 purposes of a seller collecting sales and use taxes that exceed the amount the seller
- 37 is required to collect;
- 38 ▶ repeals obsolete language; and
- 39 ▶ makes technical changes.

40 **Monies Appropriated in this Bill:**

41 None

42 **Other Special Clauses:**

43 This bill takes effect on July 1, 2006.

44 This bill provides revisor instructions.

45 **Utah Code Sections Affected:**

46 AMENDS:

47 **10-1-307**, as last amended by Chapter 255, Laws of Utah 2004

48 **10-1-405**, as last amended by Chapter 158, Laws of Utah 2005

49 **59-12-102**, as last amended by Chapters 158 and 246, Laws of Utah 2005

50 **59-12-103 (Effective 07/01/06)**, as last amended by Chapter 1, Laws of Utah 2005,

51 First Special Session

52 **59-12-103.1**, as last amended by Chapter 312, Laws of Utah 2003

53 **59-12-104.3 (Effective 07/01/06)**, as enacted by Chapter 158, Laws of Utah 2005

54 **59-12-105 (Portions Eff 07/01/06 See 59-1-1201)**, as last amended by Chapters 156

55 and 255, Laws of Utah 2004

56 **59-12-107 (Portions Eff 07/01/06 See 59-1-1201)**, as last amended by Chapter 198,

57 Laws of Utah 2005
58 **59-12-107.1 (Effective 07/01/06)**, as last amended by Chapter 255, Laws of Utah 2004
59 **59-12-108**, as last amended by Chapter 255, Laws of Utah 2004
60 **59-12-110**, as last amended by Chapter 255, Laws of Utah 2004
61 **59-12-110.1**, as last amended by Chapter 255, Laws of Utah 2004
62 **59-12-204 (Effective 07/01/06)**, as last amended by Chapters 312 and 337, Laws of
63 Utah 2003
64 **59-12-205 (Effective 07/01/06)**, as last amended by Chapter 158, Laws of Utah 2005
65 **59-12-207.4**, as enacted by Chapter 312, Laws of Utah 2003
66 **59-12-210**, as last amended by Chapter 312, Laws of Utah 2003
67 **59-12-302**, as last amended by Chapter 255, Laws of Utah 2004
68 **59-12-354**, as last amended by Chapter 255, Laws of Utah 2004
69 **59-12-401 (See 59-1-1201 re: Eff)**, as last amended by Chapter 224, Laws of Utah
70 2004
71 **59-12-402 (See 59-1-1201 re: Eff)**, as last amended by Chapters 224 and 255, Laws of
72 Utah 2004
73 **59-12-403**, as last amended by Chapter 255, Laws of Utah 2004
74 **59-12-501 (See 59-1-1201 re: Eff)**, as last amended by Chapters 255 and 336, Laws of
75 Utah 2004
76 **59-12-502 (See 59-1-1201 re: Eff)**, as last amended by Chapter 255, Laws of Utah
77 2004
78 **59-12-504**, as last amended by Chapter 255, Laws of Utah 2004
79 **59-12-603**, as last amended by Chapters 105 and 269, Laws of Utah 2005
80 **59-12-703 (See 59-1-1201 re: Eff)**, as last amended by Chapter 105, Laws of Utah
81 2005
82 **59-12-802 (See 59-1-1201 re: Eff)**, as last amended by Chapter 105, Laws of Utah
83 2005
84 **59-12-804 (See 59-1-1201 re: Eff)**, as last amended by Chapter 105, Laws of Utah
85 2005
86 **59-12-1001 (See 59-1-1201 re: Eff)**, as last amended by Chapter 255, Laws of Utah
87 2004

- 88 **59-12-1002**, as last amended by Chapter 255, Laws of Utah 2004
- 89 **59-12-1102 (See 59-1-1201 re: Eff)**, as last amended by Chapter 255, Laws of Utah
- 90 2004
- 91 **59-12-1201**, as last amended by Chapter 158, Laws of Utah 2005
- 92 **59-12-1302 (See 59-1-1201 re: Eff)**, as last amended by Chapter 255, Laws of Utah
- 93 2004
- 94 **59-12-1402 (See 59-1-1201 re: Eff)**, as last amended by Chapter 105, Laws of Utah
- 95 2005
- 96 **59-12-1503 (See 59-1-1201 re: Eff)**, as last amended by Chapter 105, Laws of Utah
- 97 2005
- 98 **59-12-1604**, as enacted by Chapter 296, Laws of Utah 2005
- 99 **63-51-4**, as last amended by Chapter 5, Laws of Utah 1987
- 100 **69-2-5**, as last amended by Chapters 255 and 313, Laws of Utah 2004
- 101 ENACTS:
- 102 **59-12-102.2**, Utah Code Annotated 1953
- 103 REPEALS:
- 104 **17A-2-1064**, as last amended by Chapter 312, Laws of Utah 2003
- 105 **59-12-102.1**, as enacted by Chapter 312, Laws of Utah 2003
- 106 **59-12-107.2 (Effective 07/01/06)**, as last amended by Chapter 255, Laws of Utah 2004
- 107 **59-12-107.3 (Effective 07/01/06)**, as enacted by Chapter 312, Laws of Utah 2003
- 108 **59-12-107.4**, as enacted by Chapter 255, Laws of Utah 2004
- 109 **59-12-107.5**, as enacted by Chapter 255, Laws of Utah 2004
- 110 **59-12-119**, as renumbered and amended by Chapter 5, Laws of Utah 1987
- 111 **59-12-121**, as last amended by Chapters 158 and 232, Laws of Utah 2005
- 112 **59-12-122 (Effective 07/01/06)**, as last amended by Chapter 158, Laws of Utah 2005
- 113 **59-12-207.1 (Effective 07/01/06)**, as last amended by Chapter 255, Laws of Utah 2004
- 114 **59-12-207.2 (Effective 07/01/06)**, as enacted by Chapter 312, Laws of Utah 2003
- 115 **59-12-207.3 (Effective 07/01/06)**, as last amended by Chapter 255, Laws of Utah 2004
- 116 **59-12-207.5**, as last amended by Chapter 255, Laws of Utah 2004
- 117 **59-12-303**, as enacted by Chapter 255, Laws of Utah 2004
- 118 **59-12-356**, as last amended by Chapter 255, Laws of Utah 2004

- 119 **59-12-404**, as last amended by Chapter 255, Laws of Utah 2004
- 120 **59-12-505**, as last amended by Chapter 255, Laws of Utah 2004
- 121 **59-12-604**, as last amended by Chapter 255, Laws of Utah 2004
- 122 **59-12-706**, as last amended by Chapter 255, Laws of Utah 2004
- 123 **59-12-807**, as last amended by Chapter 255, Laws of Utah 2004
- 124 **59-12-1003**, as last amended by Chapter 255, Laws of Utah 2004
- 125 **59-12-1103**, as last amended by Chapter 255, Laws of Utah 2004
- 126 **59-12-1303**, as last amended by Chapter 255, Laws of Utah 2004
- 127 **59-12-1404**, as last amended by Chapter 255, Laws of Utah 2004
- 128 **59-12-1504**, as enacted by Chapter 255, Laws of Utah 2004

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

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

132 **10-1-307. Collection of taxes by commission -- Distribution of revenues -- Charge**
 133 **for services -- Collection of taxes by municipality.**

134 (1) Except for the direct payment provisions provided in Subsection (3), the
 135 commission shall collect, enforce, and administer the municipal energy sales and use tax from
 136 energy suppliers according to the procedures established in Title 59, Chapter 12, Part 1, Tax
 137 Collection, except for [~~Sections~~] Section 59-12-107.1 [~~through 59-12-107.3~~].

138 (2) (a) Except as provided in Subsections 10-1-203(3)(d), 10-1-305(5), and
 139 10-1-310(2), the commission shall pay a municipality the difference between:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

171 Section 2. Section **10-1-405** is amended to read:

172 **10-1-405. Collection of taxes by commission -- Uniform interlocal agreement --**
173 **Rulemaking authority -- Charge for services.**

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

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

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

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

- 181 (A) except for:
- 182 (I) Subsection 59-12-103(2)(e);
- 183 (II) Section 59-12-104;
- 184 (III) Section 59-12-104.1;
- 185 (IV) Section 59-12-104.2; and
- 186 (V) ~~[Sections]~~ Section 59-12-107.1 ~~[through 59-12-107.3]~~; and
- 187 (B) except that for purposes of Section 59-12-110, the term "taxpayer" may include a
- 188 customer from whom a municipal telecommunications license tax is recovered in accordance
- 189 with Subsection 10-1-403(2); and
- 190 (b) a uniform interlocal agreement:
- 191 (i) between:
- 192 (A) the municipality that imposes the municipal telecommunications license tax; and
- 193 (B) the commission;
- 194 (ii) that is executed under Title 11, Chapter 13, Interlocal Cooperation Act;
- 195 (iii) that complies with Subsection (2)(a); and
- 196 (iv) that is developed by rule in accordance with Subsection (2)(b).
- 197 (2) (a) The uniform interlocal agreement described in Subsection (1) shall provide that
- 198 the commission shall:
- 199 (i) transmit monies collected under this part:
- 200 (A) monthly; and
- 201 (B) by electronic funds transfer by the commission to the municipality;
- 202 (ii) conduct audits of the municipal telecommunications license tax;
- 203 (iii) charge the municipality for the commission's services under this section in an
- 204 amount:
- 205 (A) sufficient to reimburse the commission for the cost to the commission in rendering
- 206 the services; and
- 207 (B) that may not exceed an amount equal to 1.5% of the municipal telecommunications
- 208 license tax imposed by the ordinance of the municipality; and
- 209 (iv) collect, enforce, and administer the municipal telecommunications license tax
- 210 authorized under this part pursuant to the same procedures used in the administration,
- 211 collection, and enforcement of the state sales and use tax as provided in Subsection (1)(a).

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

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

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

217 (b) used for administration of municipal telecommunications license taxes under this
218 part.

219 Section 3. Section **59-12-102** is amended to read:

220 **59-12-102. Definitions.**

221 As used in this chapter:

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

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

225 [~~(2) "Agreement" means the Streamlined Sales and Use Tax Agreement described in~~
226 ~~Section 59-12-102.1.~~]

227 [~~(3) "Agreement combined tax rate" means the sum of the tax rates:]~~

228 [~~(a) listed under Subsection (4); and]~~

229 [~~(b) that are imposed within a local taxing jurisdiction.]~~

230 [~~(4) "Agreement sales and use tax" means a tax imposed under:]~~

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

232 [~~(b) Section 59-12-204;~~]

233 [~~(c) Section 59-12-401;~~]

234 [~~(d) Section 59-12-402;~~]

235 [~~(e) Section 59-12-501;~~]

236 [~~(f) Section 59-12-502;~~]

237 [~~(g) Section 59-12-703;~~]

238 [~~(h) Section 59-12-802;~~]

239 [~~(i) Section 59-12-804;~~]

240 [~~(j) Section 59-12-1001;~~]

241 [~~(k) Section 59-12-1102;~~]

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

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

244 [~~(n)~~ Section 59-12-1503.]

245 [~~(5)~~] (2) "Aircraft" is as defined in Section 72-10-102.

246 [~~(6)~~] (3) "Alcoholic beverage" means a beverage that:

247 (a) is suitable for human consumption; and

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

249 [~~(7)~~] (4) "Area agency on aging" is as defined in Section 62A-3-101.

250 [~~(8)~~] (5) "Authorized carrier" means:

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

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

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

258 [~~(9)~~] (6) (a) Except as provided in Subsection [~~(9)~~] (6)(b), "biomass energy" means any
259 of the following that is used as the primary source of energy to produce fuel or electricity:

260 (i) material from a plant or tree; or

261 (ii) other organic matter that is available on a renewable basis, including:

262 (A) slash and brush from forests and woodlands;

263 (B) animal waste;

264 (C) methane produced:

265 (I) at landfills; or

266 (II) as a byproduct of the treatment of wastewater residuals;

267 (D) aquatic plants; and

268 (E) agricultural products.

269 (b) "Biomass energy" does not include:

270 (i) black liquor;

271 (ii) treated woods; or

272 (iii) biomass from municipal solid waste other than methane produced:

273 (A) at landfills; or

274 (B) as a byproduct of the treatment of wastewater residuals.
275 [~~(10) "Certified automated system" means software certified by the governing board of~~
276 ~~the agreement in accordance with Section 59-12-102.1 that:~~]
277 [~~(a) calculates the agreement sales and use tax imposed within a local taxing~~
278 ~~jurisdiction;~~]
279 [~~(i) on a transaction; and~~]
280 [~~(ii) in the states that are members of the agreement;~~]
281 [~~(b) determines the amount of agreement sales and use tax to remit to a state that is a~~
282 ~~member of the agreement; and~~]
283 [~~(c) maintains a record of the transaction described in Subsection (10)(a)(i).]~~
284 [~~(11) "Certified service provider" means an agent certified:~~]
285 [~~(a) by the governing board of the agreement in accordance with Section 59-12-102.1;~~
286 ~~and~~]
287 [~~(b) to perform all of a seller's sales and use tax functions for an agreement sales and~~
288 ~~use tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's~~
289 ~~own purchases.;~~]
290 [~~(12)~~] (7) (a) Subject to Subsection [~~(12)~~] (7)(b), "clothing" means all human wearing
291 apparel suitable for general use.
292 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
293 commission shall make rules[~~:(i)~~] listing the items that constitute "clothing."~~;~~ and]
294 [~~(ii) that are consistent with the list of items that constitute "clothing" under the~~
295 ~~agreement.;~~]
296 (8) "Combined sales and use tax" means a tax imposed under:
297 (a) Subsection 59-12-103(2)(a)(i);
298 (b) Section 59-12-204;
299 (c) Section 59-12-401;
300 (d) Section 59-12-402;
301 (e) Section 59-12-501;
302 (f) Section 59-12-502;
303 (g) Section 59-12-703;
304 (h) Section 59-12-802;

305 (i) Section 59-12-804;

306 (j) Section 59-12-1001;

307 (k) Section 59-12-1102;

308 (l) Section 59-12-1302;

309 (m) Section 59-12-1402; or

310 (n) Section 59-12-1503.

311 ~~[(13)]~~ (9) (a) For purposes of Subsection 59-12-104(42), "coin-operated amusement
312 device" means:

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

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

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

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

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

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

322 ~~[(14)]~~ (10) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or
323 other fuels that does not constitute industrial use under Subsection ~~[(34)]~~ (29) or residential use
324 under Subsection ~~[(68)]~~ (59).

325 ~~[(15)]~~ (11) (a) "Common carrier" means a person engaged in or transacting the
326 business of transporting passengers, freight, merchandise, or other property for hire within this
327 state.

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

331 (ii) For purposes of Subsection ~~[(15)]~~ (11)(b)(i), in accordance with Title 63, Chapter
332 46a, Utah Administrative Rulemaking Act, the commission may make rules defining what
333 constitutes a person's place of employment.

334 ~~[(16)]~~ (12) "Component part" includes:

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

- 336 (b) baling ties and twine used in the baling of hay and straw;
- 337 (c) fuel used for providing temperature control of orchards and commercial
- 338 greenhouses doing a majority of their business in wholesale sales, and for providing power for
- 339 off-highway type farm machinery; and
- 340 (d) feed, seeds, and seedlings.
- 341 [~~(17)~~] (13) "Computer" means an electronic device that accepts information:
- 342 (a) (i) in digital form; or
- 343 (ii) in a form similar to digital form; and
- 344 (b) manipulates that information for a result based on a sequence of instructions.
- 345 [~~(18)~~] (14) "Computer software" means a set of coded instructions designed to cause:
- 346 (a) a computer to perform a task; or
- 347 (b) automatic data processing equipment to perform a task.
- 348 [~~(19)~~] (15) "Construction materials" means any tangible personal property that will be
- 349 converted into real property.
- 350 [~~(20)~~] (16) "Delivered electronically" means delivered to a purchaser by means other
- 351 than tangible storage media.
- 352 [~~(21)~~] (17) (a) "Delivery charge" means a charge:
- 353 (i) by a seller of:
- 354 (A) tangible personal property; or
- 355 (B) services; and
- 356 (ii) for preparation and delivery of the tangible personal property or services described
- 357 in Subsection [~~(21)~~] (17)(a)(i) to a location designated by the purchaser.
- 358 (b) "Delivery charge" includes a charge for the following:
- 359 (i) transportation;
- 360 (ii) shipping;
- 361 (iii) postage;
- 362 (iv) handling;
- 363 (v) crating; or
- 364 (vi) packing.
- 365 [~~(22)~~] (18) "Dietary supplement" means a product, other than tobacco, that:
- 366 (a) is intended to supplement the diet;

- 367 (b) contains one or more of the following dietary ingredients:
- 368 (i) a vitamin;
- 369 (ii) a mineral;
- 370 (iii) an herb or other botanical;
- 371 (iv) an amino acid;
- 372 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 373 dietary intake; or
- 374 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 375 described in Subsections [~~(22)~~] (18)(b)(i) through (v);
- 376 (c) (i) except as provided in Subsection [~~(22)~~] (18)(c)(ii), is intended for ingestion in:
- 377 (A) tablet form;
- 378 (B) capsule form;
- 379 (C) powder form;
- 380 (D) softgel form;
- 381 (E) gelcap form; or
- 382 (F) liquid form; or
- 383 (ii) notwithstanding Subsection [~~(22)~~] (18)(c)(i), if the product is not intended for
- 384 ingestion in a form described in Subsections [~~(22)~~] (18)(c)(i)(A) through (F), is not
- 385 represented:
- 386 (A) as conventional food; and
- 387 (B) for use as a sole item of:
- 388 (I) a meal; or
- 389 (II) the diet; and
- 390 (d) is required to be labeled as a dietary supplement:
- 391 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 392 (ii) as required by 21 C.F.R. Sec. 101.36.
- 393 [~~(23)~~] (19) (a) "Direct mail" means printed material delivered or distributed by United
- 394 States mail or other delivery service:
- 395 (i) to:
- 396 (A) a mass audience; or
- 397 (B) addressees on a mailing list provided by a purchaser of the mailing list; and

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

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

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

403 [~~24~~] (20) (a) "Drug" means a compound, substance, or preparation, or a component of
404 a compound, substance, or preparation that is:

405 (i) recognized in:

406 (A) the official United States Pharmacopoeia;

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

408 (C) the official National Formulary; or

409 (D) a supplement to a publication listed in Subsections [~~24~~] (20)(a)(i)(A) through

410 (C);

411 (ii) intended for use in the:

412 (A) diagnosis of disease;

413 (B) cure of disease;

414 (C) mitigation of disease;

415 (D) treatment of disease; or

416 (E) prevention of disease; or

417 (iii) intended to affect:

418 (A) the structure of the body; or

419 (B) any function of the body.

420 (b) "Drug" does not include:

421 (i) food and food ingredients;

422 (ii) a dietary supplement;

423 (iii) an alcoholic beverage; or

424 (iv) a prosthetic device.

425 [~~25~~] (21) (a) Except as provided in Subsection [~~25~~] (21)(c), "durable medical
426 equipment" means equipment that:

427 (i) can withstand repeated use;

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

- 429 (iii) generally is not useful to a person in the absence of illness or injury; and
- 430 (iv) is not worn in or on the body.
- 431 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 432 equipment described in Subsection [~~(25)~~] (21)(a).
- 433 (c) Notwithstanding Subsection [~~(25)~~] (21)(a), "durable medical equipment" does not
- 434 include mobility enhancing equipment.
- 435 [~~(26)~~] (22) "Electronic" means:
- 436 (a) relating to technology; and
- 437 (b) having:
- 438 (i) electrical capabilities;
- 439 (ii) digital capabilities;
- 440 (iii) magnetic capabilities;
- 441 (iv) wireless capabilities;
- 442 (v) optical capabilities;
- 443 (vi) electromagnetic capabilities; or
- 444 (vii) capabilities similar to Subsections [~~(26)~~] (22)(b)(i) through (vi).
- 445 [~~(27)~~] (23) (a) "Food and food ingredients" means substances:
- 446 (i) regardless of whether the substances are in:
- 447 (A) liquid form;
- 448 (B) concentrated form;
- 449 (C) solid form;
- 450 (D) frozen form;
- 451 (E) dried form; or
- 452 (F) dehydrated form; and
- 453 (ii) that are:
- 454 (A) sold for:
- 455 (I) ingestion by humans; or
- 456 (II) chewing by humans; and
- 457 (B) consumed for the substance's:
- 458 (I) taste; or
- 459 (II) nutritional value.

- 460 (b) "Food and food ingredients" does not include:
- 461 (i) an alcoholic beverage;
- 462 (ii) tobacco; or
- 463 (iii) prepared food.
- 464 ~~[(28)]~~ (24) (a) "Fundraising sales" means sales:
- 465 (i) (A) made by a school; or
- 466 (B) made by a school student;
- 467 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 468 materials, or provide transportation; and
- 469 (iii) that are part of an officially sanctioned school activity.
- 470 (b) For purposes of Subsection ~~[(28)]~~ (24)(a)(iii), "officially sanctioned school activity"
- 471 means a school activity:
- 472 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 473 district governing the authorization and supervision of fundraising activities;
- 474 (ii) that does not directly or indirectly compensate an individual teacher or other
- 475 educational personnel by direct payment, commissions, or payment in kind; and
- 476 (iii) the net or gross revenues from which are deposited in a dedicated account
- 477 controlled by the school or school district.
- 478 ~~[(29)]~~ (25) "Geothermal energy" means energy contained in heat that continuously
- 479 flows outward from the earth that is used as the sole source of energy to produce electricity.
- 480 ~~[(30) "Governing board of the agreement" means the governing board of the agreement~~
- 481 ~~that is:]~~
- 482 ~~[(a) authorized to administer the agreement; and]~~
- 483 ~~[(b) established in accordance with the agreement.]~~
- 484 ~~[(31)]~~ (26) (a) "Hearing aid" means:
- 485 (i) an instrument or device having an electronic component that is designed to:
- 486 (A) (I) improve impaired human hearing; or
- 487 (II) correct impaired human hearing; and
- 488 (B) (I) be worn in the human ear; or
- 489 (II) affixed behind the human ear;
- 490 (ii) an instrument or device that is surgically implanted into the cochlea; or

- 491 (iii) a telephone amplifying device.
- 492 (b) "Hearing aid" does not include:
- 493 (i) except as provided in Subsection [~~(31)~~] (26)(a)(i)(B) or [~~(31)~~] (26)(a)(ii), an
- 494 instrument or device having an electronic component that is designed to be worn on the body;
- 495 (ii) except as provided in Subsection [~~(31)~~] (26)(a)(iii), an assistive listening device or
- 496 system designed to be used by one individual, including:
- 497 (A) a personal amplifying system;
- 498 (B) a personal FM system;
- 499 (C) a television listening system; or
- 500 (D) a device or system similar to a device or system described in Subsections [~~(31)~~]
- 501 (26)(b)(ii)(A) through (C); or
- 502 (iii) an assistive listening device or system designed to be used by more than one
- 503 individual, including:
- 504 (A) a device or system installed in:
- 505 (I) an auditorium;
- 506 (II) a church;
- 507 (III) a conference room;
- 508 (IV) a synagogue; or
- 509 (V) a theater; or
- 510 (B) a device or system similar to a device or system described in Subsections [~~(31)~~]
- 511 (26)(b)(iii)(A)(I) through (V).
- 512 [~~(32)~~] (27) (a) "Hearing aid accessory" means a hearing aid:
- 513 (i) component;
- 514 (ii) attachment; or
- 515 (iii) accessory.
- 516 (b) "Hearing aid accessory" includes:
- 517 (i) a hearing aid neck loop;
- 518 (ii) a hearing aid cord;
- 519 (iii) a hearing aid ear mold;
- 520 (iv) hearing aid tubing;
- 521 (v) a hearing aid ear hook; or

- 522 (vi) a hearing aid remote control.
- 523 (c) "Hearing aid accessory" does not include:
- 524 (i) a component, attachment, or accessory designed to be used only with an:
- 525 (A) instrument or device described in Subsection [~~(31)~~] (26)(b)(i); or
- 526 (B) assistive listening device or system described in Subsection [~~(31)~~] (26)(b)(ii) or
- 527 (iii); or
- 528 (ii) a hearing aid battery.
- 529 [~~(33)~~] (28) "Hydroelectric energy" means water used as the sole source of energy to
- 530 produce electricity.
- 531 [~~(34)~~] (29) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
- 532 or other fuels:
- 533 (a) in mining or extraction of minerals;
- 534 (b) in agricultural operations to produce an agricultural product up to the time of
- 535 harvest or placing the agricultural product into a storage facility, including:
- 536 (i) commercial greenhouses;
- 537 (ii) irrigation pumps;
- 538 (iii) farm machinery;
- 539 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
- 540 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 541 (v) other farming activities;
- 542 (c) in manufacturing tangible personal property at an establishment described in SIC
- 543 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 544 Executive Office of the President, Office of Management and Budget; or
- 545 (d) by a scrap recycler if:
- 546 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 547 one or more of the following items into prepared grades of processed materials for use in new
- 548 products:
- 549 (A) iron;
- 550 (B) steel;
- 551 (C) nonferrous metal;
- 552 (D) paper;

553 (E) glass;
554 (F) plastic;
555 (G) textile; or
556 (H) rubber; and
557 (ii) the new products under Subsection [~~(34)~~] (29)(d)(i) would otherwise be made with
558 nonrecycled materials.

559 [~~(35)~~] (30) (a) Except as provided in Subsection [~~(35)~~] (30)(b), "installation charge"
560 means a charge for installing tangible personal property.

561 (b) Notwithstanding Subsection [~~(35)~~] (30)(a), "installation charge" does not include a
562 charge for repairs or renovations of tangible personal property.

563 [~~(36)~~] (31) (a) "Lease" or "rental" means a transfer of possession or control of tangible
564 personal property for:

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

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

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

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

576 (ii) a transfer of possession or control of property under an agreement that requires the
577 transfer of title:

- 578 (A) upon completion of required payments; and
- 579 (B) if the payment of an option price does not exceed the greater of:
 - 580 (I) \$100; or
 - 581 (II) 1% of the total required payments; or

582 (iii) providing tangible personal property along with an operator for a fixed period of
583 time or an indeterminate period of time if the operator is necessary for equipment to perform as

584 designed.

585 (d) For purposes of Subsection ~~[(36)]~~ (31)(c)(iii), an operator is necessary for
586 equipment to perform as designed if the operator's duties exceed the:

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

590 ~~[(37)]~~ (32) "Load and leave" means delivery to a purchaser by use of a tangible storage
591 media if the tangible storage media is not physically transferred to the purchaser.

592 ~~[(38) "Local taxing jurisdiction" means a:]~~

593 ~~[(a) county that is authorized to impose an agreement sales and use tax;]~~

594 ~~[(b) city that is authorized to impose an agreement sales and use tax; or]~~

595 ~~[(c) town that is authorized to impose an agreement sales and use tax.]~~

596 ~~[(39)]~~ (33) "Manufactured home" is as defined in Section 58-56-3.

597 ~~[(40)]~~ (34) For purposes of Subsection 59-12-104(14), "manufacturing facility" means:

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

599 Industrial Classification Manual of the federal Executive Office of the President, Office of
600 Management and Budget; or

601 (b) a scrap recycler if:

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

- 605 (A) iron;
- 606 (B) steel;
- 607 (C) nonferrous metal;
- 608 (D) paper;
- 609 (E) glass;
- 610 (F) plastic;
- 611 (G) textile; or
- 612 (H) rubber; and

613 (ii) the new products under Subsection ~~[(40)]~~ (34)(b)(i) would otherwise be made with
614 nonrecycled materials.

615 ~~[(41)]~~ (35) "Mobile home" is as defined in Section 58-56-3.

616 ~~[(42)]~~ (36) "Mobile telecommunications service" is as defined in the Mobile

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

618 ~~[(43)]~~ (37) (a) Except as provided in Subsection ~~[(43)]~~ (37)(c), "mobility enhancing
619 equipment" means equipment that is:

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

622 (ii) appropriate for use in a:

623 (A) home; or

624 (B) motor vehicle; and

625 (iii) not generally used by persons with normal mobility.

626 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
627 the equipment described in Subsection ~~[(43)]~~ (37)(a).

628 (c) Notwithstanding Subsection ~~[(43)]~~ (37)(a), "mobility enhancing equipment" does
629 not include:

630 (i) a motor vehicle;

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

633 (iii) durable medical equipment; or

634 (iv) a prosthetic device.

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

639 ~~[(45)] "Model 2 seller" means a seller that:~~

640 ~~[(a)] except as provided in Subsection (45)(b), has selected a certified automated system
641 to perform the seller's sales tax functions for agreement sales and use taxes; and]~~

642 ~~[(b)] notwithstanding Subsection (45)(a), retains responsibility for remitting all of the
643 sales tax.;~~

644 ~~[(i)] collected by the seller; and]~~

645 ~~[(ii)] to the appropriate local taxing jurisdiction.;~~

646 [~~(46) (a) Subject to Subsection (46)(b), "model 3 seller" means a seller that has:~~
647 [~~(i) sales in at least five states that are members of the agreement;~~
648 [~~(ii) total annual sales revenues of at least \$500,000,000;~~
649 [~~(iii) a proprietary system that calculates the amount of tax;~~
650 [~~(A) for an agreement sales and use tax; and~~
651 [~~(B) due to each local taxing jurisdiction; and~~
652 [~~(iv) entered into a performance agreement with the governing board of the agreement.]~~
653 [~~(b) For purposes of Subsection (46)(a), "model 3 seller" includes an affiliated group of~~
654 ~~sellers using the same proprietary system.]~~
655 [~~(47)~~ (38) "Modular home" means a modular unit as defined in Section 58-56-3.
656 [~~(48)~~ (39) "Motor vehicle" is as defined in Section 41-1a-102.
657 [~~(49)~~ (40) (a) "Other fuels" means products that burn independently to produce heat or
658 energy.
659 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
660 personal property.
661 [~~(50)~~ (41) "Pawnbroker" is as defined in Section 13-32a-102.
662 [~~(51)~~ (42) "Pawn transaction" is as defined in Section 13-32a-102.
663 [~~(52)~~ (43) (a) "Permanently attached to real property" means that for tangible personal
664 property attached to real property:
665 (i) the attachment of the tangible personal property to the real property:
666 (A) is essential to the use of the tangible personal property; and
667 (B) suggests that the tangible personal property will remain attached to the real
668 property in the same place over the useful life of the tangible personal property; or
669 (ii) if the tangible personal property is detached from the real property, the detachment
670 would:
671 (A) cause substantial damage to the tangible personal property; or
672 (B) require substantial alteration or repair of the real property to which the tangible
673 personal property is attached.
674 (b) "Permanently attached to real property" includes:
675 (i) the attachment of an accessory to the tangible personal property if the accessory is:
676 (A) essential to the operation of the tangible personal property; and

677 (B) attached only to facilitate the operation of the tangible personal property; or
678 (ii) a temporary detachment of tangible personal property from real property for a
679 repair or renovation if the repair or renovation is performed where the tangible personal
680 property and real property are located.

681 (c) "Permanently attached to real property" does not include:

682 (i) the attachment of portable or movable tangible personal property to real property if
683 that portable or movable tangible personal property is attached to real property only for:

684 (A) convenience;

685 (B) stability; or

686 (C) for an obvious temporary purpose; or

687 (ii) the detachment of tangible personal property from real property other than the
688 detachment described in Subsection ~~[(52)]~~ (43)(b)(ii).

689 ~~[(53)]~~ (44) "Person" includes any individual, firm, partnership, joint venture,
690 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
691 city, municipality, district, or other local governmental entity of the state, or any group or
692 combination acting as a unit.

693 ~~[(54)]~~ (45) "Place of primary use":

694 (a) for telephone service other than mobile telecommunications service, means the
695 street address representative of where the purchaser's use of the telephone service primarily
696 occurs, which shall be:

697 (i) the residential street address of the purchaser; or

698 (ii) the primary business street address of the purchaser; or

699 (b) for mobile telecommunications service, is as defined in the Mobile
700 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

701 ~~[(55)]~~ (46) "Postproduction" means an activity related to the finishing or duplication of
702 a medium described in Subsection 59-12-104(60)(a).

703 ~~[(56)]~~ (47) (a) "Prepared food" means:

704 (i) food:

705 (A) sold in a heated state; or

706 (B) heated by a seller;

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

708 item; or

709 (iii) except as provided in Subsection [~~56~~] (47)(c), food sold with an eating utensil

710 provided by the seller, including a:

711 (A) plate;

712 (B) knife;

713 (C) fork;

714 (D) spoon;

715 (E) glass;

716 (F) cup;

717 (G) napkin; or

718 (H) straw.

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

720 (i) food that a seller only:

721 (A) cuts;

722 (B) repackages; or

723 (C) pasteurizes; or

724 (ii) (A) the following:

725 (I) raw egg;

726 (II) raw fish;

727 (III) raw meat;

728 (IV) raw poultry; or

729 (V) a food containing an item described in Subsections [~~56~~] (47)(b)(ii)(A)(I) through

730 (IV); and

731 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the

732 Food and Drug Administration's Food Code that a consumer cook the items described in

733 Subsection [~~56~~] (47)(b)(ii)(A) to prevent food borne illness.

734 (c) Notwithstanding Subsection [~~56~~] (47)(a)(iii), an eating utensil provided by the

735 seller does not include the following used to transport the food:

736 (i) a container; or

737 (ii) packaging.

738 [~~57~~] (48) "Prescription" means an order, formula, or recipe that is issued:

739 (a) (i) orally;
740 (ii) in writing;
741 (iii) electronically; or
742 (iv) by any other manner of transmission; and
743 (b) by a licensed practitioner authorized by the laws of a state.
744 [~~58~~] (49) (a) Except as provided in Subsection [~~58~~] (49)(b)(ii) or (iii), "prewritten
745 computer software" means computer software that is not designed and developed:
746 (i) by the author or other creator of the computer software; and
747 (ii) to the specifications of a specific purchaser.
748 (b) "Prewritten computer software" includes:
749 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
750 software is not designed and developed:
751 (A) by the author or other creator of the computer software; and
752 (B) to the specifications of a specific purchaser;
753 (ii) notwithstanding Subsection [~~58~~] (49)(a), computer software designed and
754 developed by the author or other creator of the computer software to the specifications of a
755 specific purchaser if the computer software is sold to a person other than the purchaser; or
756 (iii) notwithstanding Subsection [~~58~~] (49)(a) and except as provided in Subsection
757 [~~58~~] (49)(c), prewritten computer software or a prewritten portion of prewritten computer
758 software:
759 (A) that is modified or enhanced to any degree; and
760 (B) if the modification or enhancement described in Subsection [~~58~~] (49)(b)(iii)(A) is
761 designed and developed to the specifications of a specific purchaser.
762 (c) Notwithstanding Subsection [~~58~~] (49)(b)(iii), "prewritten computer software"
763 does not include a modification or enhancement described in Subsection [~~58~~] (49)(b)(iii) if
764 the charges for the modification or enhancement are:
765 (i) reasonable; and
766 (ii) separately stated on the invoice or other statement of price provided to the
767 purchaser.
768 [~~59~~] (50) (a) "Prosthetic device" means a device that is worn on or in the body to:
769 (i) artificially replace a missing portion of the body;

- 770 (ii) prevent or correct a physical deformity or physical malfunction; or
771 (iii) support a weak or deformed portion of the body.
772 (b) "Prosthetic device" includes:
773 (i) parts used in the repairs or renovation of a prosthetic device; or
774 (ii) replacement parts for a prosthetic device.
775 (c) "Prosthetic device" does not include:
776 (i) corrective eyeglasses;
777 (ii) contact lenses;
778 (iii) hearing aids; or
779 (iv) dental prostheses.
780 ~~[(60)]~~ (51) (a) "Protective equipment" means an item:
781 (i) for human wear; and
782 (ii) that is:
783 (A) designed as protection:
784 (I) to the wearer against injury or disease; or
785 (II) against damage or injury of other persons or property; and
786 (B) not suitable for general use.
787 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
788 commission shall make rules~~[-(i)]~~ listing the items that constitute "protective equipment."~~[";~~
789 ~~and]~~
790 ~~[(ii) that are consistent with the list of items that constitute "protective equipment"~~
791 ~~under the agreement.]~~
792 ~~[(61)]~~ (52) (a) "Purchase price" and "sales price" mean the total amount of
793 consideration:
794 (i) valued in money; and
795 (ii) for which tangible personal property or services are:
796 (A) sold;
797 (B) leased; or
798 (C) rented.
799 (b) "Purchase price" and "sales price" include:
800 (i) the seller's cost of the tangible personal property or services sold;

- 801 (ii) expenses of the seller, including:
- 802 (A) the cost of materials used;
- 803 (B) a labor cost;
- 804 (C) a service cost;
- 805 (D) interest;
- 806 (E) a loss;
- 807 (F) the cost of transportation to the seller; or
- 808 (G) a tax imposed on the seller; or
- 809 (iii) a charge by the seller for any service necessary to complete the sale.
- 810 (c) "Purchase price" and "sales price" do not include:
- 811 (i) a discount:
- 812 (A) in a form including:
- 813 (I) cash;
- 814 (II) term; or
- 815 (III) coupon;
- 816 (B) that is allowed by a seller;
- 817 (C) taken by a purchaser on a sale; and
- 818 (D) that is not reimbursed by a third party; or
- 819 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 820 provided to the purchaser:
- 821 (A) the amount of a trade-in;
- 822 (B) the following from credit extended on the sale of tangible personal property or
- 823 services:
- 824 (I) interest charges;
- 825 (II) financing charges; or
- 826 (III) carrying charges;
- 827 (C) a tax or fee legally imposed directly on the consumer;
- 828 (D) a delivery charge; or
- 829 (E) an installation charge.
- 830 [~~(62)~~] (53) "Purchaser" means a person to whom:
- 831 (a) a sale of tangible personal property is made; or

832 (b) a service is furnished.

833 [~~(63)~~] (54) "Regularly rented" means:

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

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

837 [~~(64)~~] (55) "Renewable energy" means:

838 (a) biomass energy;

839 (b) hydroelectric energy;

840 (c) geothermal energy;

841 (d) solar energy; or

842 (e) wind energy.

843 [~~(65)~~] (56) (a) "Renewable energy production facility" means a facility that:

844 (i) uses renewable energy to produce electricity; and

845 (ii) has a production capacity of 20 kilowatts or greater.

846 (b) A facility is a renewable energy production facility regardless of whether the
847 facility is:

848 (i) connected to an electric grid; or

849 (ii) located on the premises of an electricity consumer.

850 [~~(66)~~] (57) "Rental" is as defined in Subsection [~~(36)~~] (31).

851 [~~(67)~~] (58) "Repairs or renovations of tangible personal property" means:

852 (a) a repair or renovation of tangible personal property that is not permanently attached
853 to real property; or

854 (b) attaching tangible personal property to other tangible personal property if the other
855 tangible personal property to which the tangible personal property is attached is not
856 permanently attached to real property.

857 [~~(68)~~] (59) "Residential use" means the use in or around a home, apartment building,
858 sleeping quarters, and similar facilities or accommodations.

859 [~~(69)~~] (60) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
860 other than:

861 (a) resale;

862 (b) sublease; or

863 (c) subrent.

864 [~~(70)~~] (61) (a) "Retailer" means any person engaged in a regularly organized business
865 in tangible personal property or any other taxable transaction under Subsection 59-12-103(1),
866 and who is selling to the user or consumer and not for resale.

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

869 [~~(71)~~] (62) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
870 otherwise, in any manner, of tangible personal property or any other taxable transaction under
871 Subsection 59-12-103(1), for consideration.

872 (b) "Sale" includes:

873 (i) installment and credit sales;

874 (ii) any closed transaction constituting a sale;

875 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
876 chapter;

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

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

882 [~~(72)~~] (63) "Sale at retail" is as defined in Subsection [~~(69)~~] (60).

883 [~~(73)~~] (64) "Sale-leaseback transaction" means a transaction by which title to tangible
884 personal property that is subject to a tax under this chapter is transferred:

885 (a) by a purchaser-lessee;

886 (b) to a lessor;

887 (c) for consideration; and

888 (d) if:

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

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

893 (A) for the property; and

894 (B) to the purchaser-lessee; and
895 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
896 is required to:

897 (A) capitalize the property for financial reporting purposes; and
898 (B) account for the lease payments as payments made under a financing arrangement.
899 [~~(74)~~] (65) "Sales price" is as defined in Subsection [~~(61)~~] (52).

900 [~~(75)~~] (66) (a) "Sales relating to schools" means the following sales by, amounts paid
901 to, or amounts charged by a school:

902 (i) sales that are directly related to the school's educational functions or activities
903 including:

904 (A) the sale of:

- 905 (I) textbooks;
- 906 (II) textbook fees;
- 907 (III) laboratory fees;
- 908 (IV) laboratory supplies; or
- 909 (V) safety equipment;

910 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
911 that:

- 912 (I) a student is specifically required to wear as a condition of participation in a
913 school-related event or school-related activity; and
- 914 (II) is not readily adaptable to general or continued usage to the extent that it takes the
915 place of ordinary clothing;

916 (C) sales of the following if the net or gross revenues generated by the sales are
917 deposited into a school district fund or school fund dedicated to school meals:

- 918 (I) food and food ingredients; or
- 919 (II) prepared food; or
- 920 (D) transportation charges for official school activities; or

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

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

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

- 925 (ii) except as provided in Subsection [~~(75)~~] (66)(a)(i)(B):
- 926 (A) clothing;
- 927 (B) clothing accessories or equipment;
- 928 (C) protective equipment; or
- 929 (D) sports or recreational equipment; or
- 930 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 931 event or school-related activity if the amounts paid or charged are passed through to a person:
- 932 (A) other than a:
- 933 (I) school;
- 934 (II) nonprofit organization authorized by a school board or a governing body of a
- 935 private school to organize and direct a competitive secondary school activity; or
- 936 (III) nonprofit association authorized by a school board or a governing body of a
- 937 private school to organize and direct a competitive secondary school activity; and
- 938 (B) that is required to collect sales and use taxes under this chapter.
- 939 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 940 commission may make rules defining the term "passed through."
- 941 [~~(76)~~] (67) For purposes of this section and Section 59-12-104, "school" means:
- 942 (a) an elementary school or a secondary school that:
- 943 (i) is a:
- 944 (A) public school; or
- 945 (B) private school; and
- 946 (ii) provides instruction for one or more grades kindergarten through 12; or
- 947 (b) a public school district.
- 948 [~~(77)~~] (68) "Seller" means a person that makes a sale, lease, or rental of:
- 949 (a) tangible personal property; or
- 950 (b) a service.
- 951 [~~(78)~~] (69) (a) "Semiconductor fabricating or processing materials" means tangible
- 952 personal property:
- 953 (i) used primarily in the process of:
- 954 (A) (I) manufacturing a semiconductor; or
- 955 (II) fabricating a semiconductor; or

956 (B) maintaining an environment suitable for a semiconductor; or
957 (ii) consumed primarily in the process of:
958 (A) (I) manufacturing a semiconductor; or
959 (II) fabricating a semiconductor; or
960 (B) maintaining an environment suitable for a semiconductor.
961 (b) "Semiconductor fabricating or processing materials" includes:
962 (i) parts used in the repairs or renovations of tangible personal property described in
963 Subsection ~~[(78)]~~ (69)(a); or
964 (ii) a chemical, catalyst, or other material used to:
965 (A) produce or induce in a semiconductor a:
966 (I) chemical change; or
967 (II) physical change;
968 (B) remove impurities from a semiconductor; or
969 (C) improve the marketable condition of a semiconductor.
970 ~~[(79)]~~ (70) "Senior citizen center" means a facility having the primary purpose of
971 providing services to the aged as defined in Section 62A-3-101.
972 ~~[(80) "Simplified electronic return" means the electronic return:]~~
973 ~~[(a) described in Section 318(C) of the agreement; and]~~
974 ~~[(b) approved by the governing board of the agreement.]~~
975 ~~[(81)]~~ (71) "Solar energy" means the sun used as the sole source of energy for
976 producing electricity.
977 ~~[(82)]~~ (72) (a) "Sports or recreational equipment" means an item:
978 (i) designed for human use; and
979 (ii) that is:
980 (A) worn in conjunction with:
981 (I) an athletic activity; or
982 (II) a recreational activity; and
983 (B) not suitable for general use.
984 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
985 commission shall make rules~~[-(†)]~~ listing the items that constitute "sports or recreational
986 equipment."~~[-and]~~

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

989 [~~(83)~~] (73) "State" means the state of Utah, its departments, and agencies.

990 [~~(84)~~] (74) "Storage" means any keeping or retention of tangible personal property or
991 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
992 except sale in the regular course of business.

993 [~~(85)~~] (75) (a) "Tangible personal property" means personal property that:

994 (i) may be:

995 (A) seen;

996 (B) weighed;

997 (C) measured;

998 (D) felt; or

999 (E) touched; or

1000 (ii) is in any manner perceptible to the senses.

1001 (b) "Tangible personal property" includes:

1002 (i) electricity;

1003 (ii) water;

1004 (iii) gas;

1005 (iv) steam; or

1006 (v) prewritten computer software.

1007 [~~(86)~~] (76) (a) "Telephone service" means a two-way transmission:

1008 (i) by:

1009 (A) wire;

1010 (B) radio;

1011 (C) lightwave; or

1012 (D) other electromagnetic means; and

1013 (ii) of one or more of the following:

1014 (A) a sign;

1015 (B) a signal;

1016 (C) writing;

1017 (D) an image;

- 1018 (E) sound;
- 1019 (F) a message;
- 1020 (G) data; or
- 1021 (H) other information of any nature.
- 1022 (b) "Telephone service" includes:
- 1023 (i) mobile telecommunications service;
- 1024 (ii) private communications service; or
- 1025 (iii) automated digital telephone answering service.
- 1026 (c) "Telephone service" does not include a service or a transaction that a state or a
- 1027 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
- 1028 Tax Freedom Act, Pub. L. No. 105-277.
- 1029 ~~[(87)]~~ (77) Notwithstanding where a call is billed or paid, "telephone service address"
- 1030 means:
- 1031 (a) if the location described in this Subsection ~~[(87)]~~ (77)(a) is known, the location of
- 1032 the telephone service equipment:
- 1033 (i) to which a call is charged; and
- 1034 (ii) from which the call originates or terminates;
- 1035 (b) if the location described in Subsection ~~[(87)]~~ (77)(a) is not known but the location
- 1036 described in this Subsection ~~[(87)]~~ (77)(b) is known, the location of the origination point of the
- 1037 signal of the telephone service first identified by:
- 1038 (i) the telecommunications system of the seller; or
- 1039 (ii) if the system used to transport the signal is not that of the seller, information
- 1040 received by the seller from its service provider; or
- 1041 (c) if the locations described in Subsection ~~[(87)]~~ (77)(a) or (b) are not known, the
- 1042 location of a purchaser's primary place of use.
- 1043 ~~[(88)]~~ (78) (a) "Telephone service provider" means a person that:
- 1044 (i) owns, controls, operates, or manages a telephone service; and
- 1045 (ii) engages in an activity described in Subsection ~~[(88)]~~ (78)(a)(i) for the shared use
- 1046 with or resale to any person of the telephone service.
- 1047 (b) A person described in Subsection ~~[(88)]~~ (78)(a) is a telephone service provider
- 1048 whether or not the Public Service Commission of Utah regulates:

- 1049 (i) that person; or
- 1050 (ii) the telephone service that the person owns, controls, operates, or manages.
- 1051 ~~[(89)]~~ (79) "Tobacco" means:
- 1052 (a) a cigarette;
- 1053 (b) a cigar;
- 1054 (c) chewing tobacco;
- 1055 (d) pipe tobacco; or
- 1056 (e) any other item that contains tobacco.
- 1057 ~~[(90)]~~ (80) (a) "Use" means the exercise of any right or power over tangible personal
- 1058 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that
- 1059 property, item, or service.
- 1060 (b) "Use" does not include the sale, display, demonstration, or trial of that property in
- 1061 the regular course of business and held for resale.
- 1062 ~~[(91)]~~ (81) (a) Subject to Subsection ~~[(91)]~~ (81)(b), "vehicle" means the following that
- 1063 are required to be titled, registered, or titled and registered:
- 1064 (i) an aircraft as defined in Section 72-10-102;
- 1065 (ii) a vehicle as defined in Section 41-1a-102;
- 1066 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1067 (iv) a vessel as defined in Section 41-1a-102.
- 1068 (b) For purposes of Subsection 59-12-104(35) only, "vehicle" includes:
- 1069 (i) a vehicle described in Subsection ~~[(91)]~~ (81)(a); or
- 1070 (ii) (A) a locomotive;
- 1071 (B) a freight car;
- 1072 (C) railroad work equipment; or
- 1073 (D) other railroad rolling stock.
- 1074 ~~[(92)]~~ (82) "Vehicle dealer" means a person engaged in the business of buying, selling,
- 1075 or exchanging a vehicle as defined in Subsection ~~[(91)]~~ (81).
- 1076 ~~[(93)]~~ (83) (a) Except as provided in Subsection ~~[(93)]~~ (83)(b), "waste energy facility"
- 1077 means a facility that generates electricity:
- 1078 (i) using as the primary source of energy waste materials that would be placed in a
- 1079 landfill or refuse pit if it were not used to generate electricity, including:

1080 (A) tires;

1081 (B) waste coal; or

1082 (C) oil shale; and

1083 (ii) in amounts greater than actually required for the operation of the facility.

1084 (b) "Waste energy facility" does not include a facility that incinerates:

1085 (i) municipal solid waste;

1086 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or

1087 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1088 [~~94~~] (84) "Watercraft" means a vessel as defined in Section 73-18-2.

1089 [~~95~~] (85) "Wind energy" means wind used as the sole source of energy to produce

1090 electricity.

1091 [~~96~~] "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic

1092 location by the United States Postal Service.];

1093 Section 4. Section **59-12-102.2** is enacted to read:

1094 **59-12-102.2. Participation in multistate discussions.**

1095 (1) As provided in this section, delegates appointed in accordance with Subsection (2)

1096 shall enter into multistate discussions to consider whether:

1097 (a) the state should enter into the Streamlined Sales and Use Tax Agreement with one

1098 or more states, including whether to:

1099 (i) simplify and modernize sales and use tax administration in order to substantially

1100 reduce the burden of tax compliance for all sellers and for all types of commerce;

1101 (ii) establish standards for certification of a:

1102 (A) certified service provider; and

1103 (B) certified automated system; and

1104 (iii) establish performance standards for multistate sellers; and

1105 (b) to amend the Streamlined Sales and Use Tax Agreement.

1106 (2) For purposes of Subsection (1), delegates shall be appointed as follows:

1107 (a) one delegate shall be a member of the House of Representatives appointed by the

1108 speaker of the House of Representatives;

1109 (b) one delegate shall be a member of the Senate appointed by the president of the

1110 Senate; and

1111 (c) two delegates shall be appointed by the governor, at least one of whom shall be
1112 from the Utah State Tax Commission.

1113 (3) The delegates described in Subsection (2) shall:

1114 (a) report to the Revenue and Taxation Interim Committee as requested by the Revenue
1115 and Taxation Interim Committee; and

1116 (b) make recommendations to the Revenue and Taxation Interim Committee regarding:

1117 (i) the issues the delegates consider in accordance with Subsection (1); and

1118 (ii) any other issue the Revenue and Taxation Interim Committee requests the delegates
1119 to consider.

1120 (4) If the Revenue and Taxation Interim Committee determines that the state should
1121 enter into the Streamlined Sales and Use Tax Agreement with one or more states, the Revenue
1122 and Taxation Interim Committee shall request that legislation be prepared:

1123 (a) to bring the state into substantial compliance with:

1124 (i) the Streamlined Sales and Use Tax Agreement; and

1125 (ii) any amendments made to the Streamlined Sales and Use Tax Agreement as a result
1126 of multistate discussions required by this section; and

1127 (b) for consideration by the:

1128 (i) Revenue and Taxation Interim Committee; and

1129 (ii) Legislature.

1130 Section 5. Section **59-12-103 (Effective 07/01/06)** is amended to read:

1131 **59-12-103 (Effective 07/01/06). Sales and use tax base -- Rates -- Effective dates --**
1132 **Use of sales and use tax revenues.**

1133 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
1134 charged for the following transactions:

1135 (a) retail sales of tangible personal property made within the state;

1136 (b) amounts paid:

1137 (i) (A) to a common carrier; or

1138 (B) whether the following are municipally or privately owned, to a:

1139 (I) telephone service provider; or

1140 (II) telegraph corporation as defined in Section 54-2-1; and

1141 (ii) for:

- 1142 (A) all transportation;
- 1143 (B) telephone service, other than mobile telecommunications service, that originates
- 1144 and terminates within the boundaries of this state;
- 1145 (C) mobile telecommunications service that originates and terminates within the
- 1146 boundaries of one state only to the extent permitted by the Mobile Telecommunications
- 1147 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
- 1148 (D) telegraph service;
- 1149 (c) sales of the following for commercial use:
- 1150 (i) gas;
- 1151 (ii) electricity;
- 1152 (iii) heat;
- 1153 (iv) coal;
- 1154 (v) fuel oil; or
- 1155 (vi) other fuels;
- 1156 (d) sales of the following for residential use:
- 1157 (i) gas;
- 1158 (ii) electricity;
- 1159 (iii) heat;
- 1160 (iv) coal;
- 1161 (v) fuel oil; or
- 1162 (vi) other fuels;
- 1163 (e) sales of prepared food;
- 1164 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 1165 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 1166 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 1167 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 1168 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 1169 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 1170 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 1171 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 1172 exhibition, cultural, or athletic activity;

1173 (g) amounts paid or charged for services for repairs or renovations of tangible personal
1174 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

1175 (i) the tangible personal property; and

1176 (ii) parts used in the repairs or renovations of the tangible personal property described
1177 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
1178 of that tangible personal property;

1179 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
1180 cleaning or washing of tangible personal property;

1181 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
1182 accommodations and services that are regularly rented for less than 30 consecutive days;

1183 (j) amounts paid or charged for laundry or dry cleaning services;

1184 (k) amounts paid or charged for leases or rentals of tangible personal property if within
1185 this state the tangible personal property is:

1186 (i) stored;

1187 (ii) used; or

1188 (iii) otherwise consumed;

1189 (l) amounts paid or charged for tangible personal property if within this state the
1190 tangible personal property is:

1191 (i) stored;

1192 (ii) used; or

1193 (iii) consumed; and

1194 (m) amounts paid or charged for prepaid telephone calling cards.

1195 (2) (a) Except as provided in Subsection (2)(b), beginning on July 1, 2001, a state tax
1196 and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

1197 (i) a state tax imposed on the transaction at a rate of 4.75%; and

1198 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1199 transaction under this chapter other than this part.

1200 (b) Notwithstanding Subsection (2)(a), beginning on July 1, 2001~~[-]~~:

1201 (i) a state tax and a local tax is imposed on a transaction described in Subsection (1)(d)
1202 equal to the sum of:

1203 ~~[(i)]~~ (A) a state tax imposed on the transaction at a rate of 2%; and

1204 [(†)] (B) a local tax equal to the sum of the tax rates a county, city, or town imposes on
1205 the transaction under this chapter other than this part[-]; or

1206 (ii) if a seller collects a tax in accordance with Subsection 59-12-107(1)(b) on a
1207 transaction described in Subsection (1), a state tax and a local tax is imposed on the transaction
1208 equal to the sum of:

1209 (A) a state tax imposed on the transaction at a rate of:

1210 (I) 4.75% for a transaction other than a transaction described in Subsection (1)(d); or

1211 (II) 2% for a transaction described in Subsection (1)(d); and

1212 (B) a local tax imposed on the transaction at a rate equal to the sum of the following
1213 rates:

1214 (I) the tax rate authorized by Section 59-12-204, but only if all of the counties, cities,
1215 and towns in the state impose the tax under Section 59-12-204; and

1216 (II) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the
1217 state impose the tax under Section 59-12-1102.

1218 (c) Subject to Subsections (2)(d) and (e), a tax rate repeal or tax rate change for a tax
1219 rate imposed under the following shall take effect on the first day of a calendar quarter:

1220 (i) Subsection (2)(a)(i); [~~or~~]

1221 (ii) Subsection (2)(b)(i)(A); or

1222 (iii) Subsection (2)(b)(ii)(A).

1223 (d) (i) For a transaction described in Subsection (2)(d)(iii), a tax rate increase shall take
1224 effect on the first day of the first billing period:

1225 (A) that begins after the effective date of the tax rate increase; and

1226 (B) if the billing period for the transaction begins before the effective date of a tax rate
1227 increase imposed under:

1228 (I) Subsection (2)(a)(i); [~~or~~]

1229 (II) Subsection (2)(b)(i)(A); or

1230 (III) Subsection (2)(b)(ii)(A).

1231 (ii) For a transaction described in Subsection (2)(d)(iii), the repeal of a tax or a tax rate
1232 decrease shall take effect on the first day of the last billing period:

1233 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;

1234 and

1235 (B) if the billing period for the transaction begins before the effective date of the repeal
 1236 of the tax or the tax rate decrease imposed under:

1237 (I) Subsection (2)(a)(i); [~~or~~]

1238 (II) Subsection (2)(b)(i)(A); or

1239 (III) Subsection (2)(b)(ii)(A).

1240 (iii) Subsections (2)(d)(i) and (ii) apply to transactions subject to a tax under:

1241 (A) Subsection (1)(b);

1242 (B) Subsection (1)(c);

1243 (C) Subsection (1)(d);

1244 (D) Subsection (1)(e);

1245 (E) Subsection (1)(f);

1246 (F) Subsection (1)(g);

1247 (G) Subsection (1)(h);

1248 (H) Subsection (1)(i);

1249 (I) Subsection (1)(j); or

1250 (J) Subsection (1)(k).

1251 (e) (i) If a tax due under Subsection (2)(a)(i) or (2)(b)(ii)(A) on a catalogue sale is
 1252 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
 1253 change in a tax rate imposed under Subsection (2)(a)(i) or (2)(b)(ii)(A) takes effect:

1254 (A) on the first day of a calendar quarter; and

1255 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change
 1256 under Subsection (2)(a)(i) or (2)(b)(ii)(A).

1257 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
 1258 the commission may by rule define the term "catalogue sale."

1259 (3) (a) Except as provided in Subsections (4) through (7), the following state taxes
 1260 shall be deposited into the General Fund:

1261 (i) the tax imposed by Subsection (2)(a)(i); [~~or~~]

1262 (ii) the tax imposed by Subsection (2)(b)(i)(A); or

1263 (iii) the tax imposed by Subsection (2)(b)(ii)(A).

1264 (b) The local taxes described in Subsections (2)(a)(ii) and (2)(b)[~~(ii)~~] (i)(B) shall be
 1265 distributed to a county, city, or town as provided in this chapter.

1266 (c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the
1267 state shall receive the county's, city's, or town's proportionate share of the revenues generated
1268 by the local tax described in Subsection (2)(b)(ii)(B) as provided in Subsection (3)(c)(ii).

1269 (ii) The commission shall determine a county's, city's, or town's proportionate share of
1270 the revenues under Subsection (3)(c)(i) by:

1271 (A) calculating an amount equal to the population of the unincorporated area of the
1272 county, city, or town divided by the total population of the state; and

1273 (B) multiplying the amount determined under Subsection (3)(c)(ii)(A) by the total
1274 amount of revenues generated by the local tax under Subsection (2)(b)(ii)(B) for all counties,
1275 cities, and towns.

1276 (iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for
1277 purposes of this section shall be derived from the most recent official census or census estimate
1278 of the United States Census Bureau.

1279 (B) If a needed population estimate is not available from the United States Census
1280 Bureau, population figures shall be derived from the estimate from the Utah Population
1281 Estimates Committee created by executive order of the governor.

1282 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1283 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
1284 through (g):

1285 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1286 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

1287 (B) for the fiscal year; or

1288 (ii) \$17,500,000.

1289 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
1290 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
1291 Department of Natural Resources to:

1292 (A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to
1293 protect sensitive plant and animal species; or

1294 (B) award grants, up to the amount authorized by the Legislature in an appropriations
1295 act, to political subdivisions of the state to implement the measures described in Subsections
1296 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

1297 (ii) Money transferred to the Department of Natural Resources under Subsection
1298 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
1299 person to list or attempt to have listed a species as threatened or endangered under the
1300 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

1301 (iii) At the end of each fiscal year:

1302 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1303 Conservation and Development Fund created in Section 73-10-24;

1304 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1305 Program Subaccount created in Section 73-10c-5; and

1306 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1307 Program Subaccount created in Section 73-10c-5.

1308 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
1309 Subsection (4)(b)(i) shall be deposited each year in the Agriculture Resource Development
1310 Fund created in Section 4-18-6.

1311 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
1312 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
1313 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
1314 water rights.

1315 (ii) At the end of each fiscal year:

1316 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1317 Conservation and Development Fund created in Section 73-10-24;

1318 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1319 Program Subaccount created in Section 73-10c-5; and

1320 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1321 Program Subaccount created in Section 73-10c-5.

1322 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
1323 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
1324 Fund created in Section 73-10-24 for use by the Division of Water Resources.

1325 (ii) In addition to the uses allowed of the Water Resources Conservation and
1326 Development Fund under Section 73-10-24, the Water Resources Conservation and
1327 Development Fund may also be used to:

1328 (A) provide a portion of the local cost share, not to exceed in any fiscal year 50% of the
1329 funds made available to the Division of Water Resources under this section, of potential project
1330 features of the Central Utah Project;

1331 (B) conduct hydrologic and geotechnical investigations by the Department of Natural
1332 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
1333 quantifying surface and ground water resources and describing the hydrologic systems of an
1334 area in sufficient detail so as to enable local and state resource managers to plan for and
1335 accommodate growth in water use without jeopardizing the resource;

1336 (C) fund state required dam safety improvements; and

1337 (D) protect the state's interest in interstate water compact allocations, including the
1338 hiring of technical and legal staff.

1339 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1340 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
1341 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1342 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1343 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
1344 created in Section 73-10c-5 for use by the Division of Drinking Water to:

1345 (i) provide for the installation and repair of collection, treatment, storage, and
1346 distribution facilities for any public water system, as defined in Section 19-4-102;

1347 (ii) develop underground sources of water, including springs and wells; and

1348 (iii) develop surface water sources.

1349 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1350 2003, the lesser of the following amounts shall be used as provided in Subsections (5)(b)
1351 through (d):

1352 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1353 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

1354 (B) for the fiscal year; or

1355 (ii) \$18,743,000.

1356 (b) (i) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described
1357 in Subsection (5)(a) shall be deposited each year in the Transportation Corridor Preservation
1358 Revolving Loan Fund created in Section 72-2-117.

1359 (ii) At least 50% of the money deposited in the Transportation Corridor Preservation
1360 Revolving Loan Fund under Subsection (5)(b)(i) shall be used to fund loan applications made
1361 by the Department of Transportation at the request of local governments.

1362 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
1363 Subsection (5)(a) shall be transferred each year as nonlapsing dedicated credits to the
1364 Department of Transportation for the State Park Access Highways Improvement Program
1365 created in Section 72-3-207.

1366 (d) For a fiscal year beginning on or after July 1, 2003, 94% of the amount described in
1367 Subsection (5)(a) shall be deposited in the class B and class C roads account to be expended as
1368 provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class B and C
1369 roads.

1370 (6) (a) Notwithstanding Subsection (3)(a) and until Subsection (6)(b) applies,
1371 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial
1372 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed
1373 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable
1374 transactions under Subsection (1).

1375 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds
1376 have been paid off and the highway projects completed that are intended to be paid from
1377 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the
1378 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of
1379 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section
1380 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
1381 by a 1/64% tax rate on the taxable transactions under Subsection (1).

1382 (7) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal
1383 year 2004-05, the commission shall each year on or before the September 30 immediately
1384 following the last day of the fiscal year deposit the difference described in Subsection (7)(b)
1385 into the Remote Sales Restricted Account created in Section 59-12-103.2 if that difference is
1386 greater than \$0.

1387 (b) The difference described in Subsection (7)(a) is equal to the difference between:

1388 (i) the total amount of the ~~following~~ revenues under Subsection (2)(b)(ii)(A) the
1389 commission received from sellers collecting a tax in accordance with Subsection

1390 59-12-107(1)(b) for the fiscal year immediately preceding the September 30 described in
1391 Subsection (7)(a)[~~:~~]; and

1392 [~~(A) revenues under Subsection (2)(a)(i); and~~]

1393 [~~(B) revenues under Subsection (2)(b)(i); and~~]

1394 (ii) \$7,279,673.

1395 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in
1396 Subsection (6)(a), and until Subsection (8)(b) applies, for a fiscal year beginning on or after
1397 July 1, 2005, the Division of Finance shall deposit \$59,594,700 of the revenues generated by
1398 the taxes described in Subsections (2)(a)(i) and (2)(b)(i) into the Centennial Highway Fund
1399 Restricted Account created by Section 72-2-118.

1400 (b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under
1401 Subsection (6)(b), when the highway general obligation bonds have been paid off and the
1402 highway projects completed that are intended to be paid from revenues deposited in the
1403 Centennial Highway Fund Restricted Account as determined by the Executive Appropriations
1404 Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit
1405 \$59,594,700 of the revenues generated by the taxes described in Subsections (2)(a)(i) and
1406 (2)(b)(i) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

1407 Section 6. Section **59-12-103.1** is amended to read:

1408 **59-12-103.1. Action by Supreme Court of the United States authorizing or action**
1409 **by Congress permitting a state to require certain sellers to collect a sales or use tax --**
1410 **Collection of tax by commission -- Commission report to Utah Tax Review Commission --**
1411 **Utah Tax Review Commission study.**

1412 (1) Except as provided in [~~Sections~~] Section 59-12-107.1 [~~through 59-12-107.3~~], a
1413 seller shall remit a tax to the commission [~~a tax~~] as provided in Section 59-12-107 if:

1414 (a) the Supreme Court of the United States issues a decision authorizing a state to
1415 require a seller that does not meet one or more of the criteria described in Subsection
1416 59-12-107(1)(a) to collect a sales or use tax; or

1417 (b) Congress permits the state to require a seller that does not meet one or more of the
1418 criteria described in Subsection 59-12-107(1)(a) to collect a sales or use tax.

1419 (2) The commission shall:

1420 (a) collect the tax described in Subsection (1) from the seller:

- 1421 (i) to the extent:
- 1422 (A) authorized by the Supreme Court of the United States; or
- 1423 (B) permitted by Congress; and
- 1424 (ii) beginning on the first day of a calendar quarter as prescribed by the Utah Tax
- 1425 Review Commission; and
- 1426 (b) make a report to the Utah Tax Review Commission:
- 1427 (i) regarding the actions taken by:
- 1428 (A) the Supreme Court of the United States; or
- 1429 (B) Congress; and
- 1430 (ii) at the Utah Tax Review Commission meeting immediately following the day on
- 1431 which the Supreme Court of the United States' or Congress' actions become effective.
- 1432 (3) The Utah Tax Review Commission shall after hearing the commission's report
- 1433 under Subsection (2)(b):
- 1434 (a) review the actions taken by:
- 1435 (i) the Supreme Court of the United States; or
- 1436 (ii) Congress;
- 1437 (b) direct the commission regarding the day on which the commission is required to
- 1438 collect the tax described in Subsection (1); and
- 1439 (c) make recommendations to the Revenue and Taxation Interim Committee:
- 1440 (i) regarding whether as a result of the Supreme Court of the United States' or
- 1441 Congress' actions any provisions of this chapter should be amended or repealed; and
- 1442 (ii) within a one-year period after the day on which the commission makes a report
- 1443 under Subsection (2)(b).

Section 7. Section **59-12-104.3 (Effective 07/01/06)** is amended to read:

59-12-104.3 (Effective 07/01/06). Credit for certain repossessions of a motor vehicle.

- 1447 (1) (a) Subject to [~~Subsection~~] Subsections (2) and (3), a seller that collects a tax under
- 1448 this chapter on the sale of a motor vehicle may claim a credit for a tax under this chapter~~[-(a)-~~
- 1449 ~~that the seller collected; and (b) on]~~ for a motor vehicle that:
- 1450 (i) has been repossessed; and
- 1451 (ii) that the seller resells.

1452 (b) A seller of a motor vehicle other than the seller that collects a tax under this chapter
1453 on the sale of that motor vehicle may claim a credit for a tax under this chapter:

1454 (i) for a motor vehicle that the seller:

1455 (A) repossessed; and

1456 (B) resells; and

1457 (ii) if the seller that collected the tax under this chapter on that motor vehicle:

1458 (A) is no longer doing business in this state; and

1459 (B) does not owe a tax under this chapter.

1460 (2) The amount of the credit allowed by Subsection (1) is equal to the product of:

1461 (a) the portion of the motor vehicle's purchase price that:

1462 (i) was subject to a tax under this chapter; and

1463 (ii) remains unpaid [~~at the time of the repossession of~~] after the motor vehicle is resold;

1464 and

1465 (b) the tax rate [~~imposed by~~];

1466 (i) (A) for a seller that collects a tax in accordance with Subsection 59-12-107(1)(b),
1467 described in Subsection 59-12-103(2)(b)(ii); or

1468 (B) for a seller other than a seller described in Subsection (2)(b)(i)(A), described in
1469 Subsection 59-12-103(2)(a):

1470 [(†)] (ii) imposed on the motor vehicle's purchase price; and

1471 [(††)] (iii) imposed on the date the motor vehicle was purchased by the person that owns
1472 the motor vehicle at the time of the repossession.

1473 (3) If a seller recovers any portion of a motor vehicle's unpaid purchase price that is
1474 used to calculate a credit allowed by Subsection (1)(b), the seller shall report and remit a tax
1475 under this chapter to the commission:

1476 (a) on the portion of the motor vehicle's unpaid purchase price that:

1477 (i) the seller recovers; and

1478 (ii) is used to calculate the credit allowed by Subsection (1)(b); and

1479 (b) on a return filed for the time period for which the portion of the motor vehicle's
1480 unpaid purchase price is recovered.

1481 Section 8. Section **59-12-105 (Portions Eff 07/01/06 See 59-1-1201)** is amended to
1482 read:

1483 **59-12-105 (Portions Eff 07/01/06 See 59-1-1201). Certain exempt sales to be**
 1484 **reported -- Penalties.**

1485 (1) An owner or purchaser shall report to the commission the amount of sales or uses
 1486 exempt under Subsection 59-12-104(14) or (50).

1487 ~~[(2)(a) A seller that files a simplified electronic return with the commission shall file a~~
 1488 ~~report containing the information described in Subsection (2)(b).]~~

1489 ~~[(b) The report required by Subsection (2)(a) shall contain the following amounts:]~~

1490 ~~[(i) for each store location that the seller has within the state:]~~

1491 ~~[(A) the total amount of sales;]~~

1492 ~~[(B) the total amount of sales that are exempt from a tax imposed by this chapter; and]~~

1493 ~~[(C) the difference between the amount described in Subsection (2)(b)(i)(A) and the~~
 1494 ~~amount described in Subsection (2)(b)(i)(B).]~~

1495 ~~[(ii) for the total amount of sales that the seller makes from a location in the state other~~
 1496 ~~than a fixed place of business in the state:]~~

1497 ~~[(A) the total amount of sales;]~~

1498 ~~[(B) the total amount of sales that are exempt from a tax imposed by this chapter; and]~~

1499 ~~[(C) the difference between the amount described in Subsection (2)(b)(ii)(A) and the~~
 1500 ~~amount described in Subsection (2)(b)(ii)(B); and]~~

1501 ~~[(iii) for the total amount of sales that the seller makes where inventory is shipped from~~
 1502 ~~a location outside the state:]~~

1503 ~~[(A) the total amount of sales;]~~

1504 ~~[(B) the total amount of sales that are exempt from a tax imposed by this chapter; and]~~

1505 ~~[(C) the difference between the amount described in Subsection (2)(b)(iii)(A) and the~~
 1506 ~~amount described in Subsection (2)(b)(iii)(B).]~~

1507 ~~[(3)(a)]~~ (2) A report required by Subsection (1) ~~[or (2)]~~ shall be filed:

1508 ~~[(i)]~~ (a) with the commission; and

1509 ~~[(ii)]~~ (b) on a form prescribed by the commission.

1510 ~~[(b) A report required by Subsection (2) shall be filed electronically.]~~

1511 ~~[(c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~
 1512 ~~the commission shall make rules providing:]~~

1513 ~~[(i) the information required to be included in the reports described in Subsections (1)~~

1514 and (2); and]

1515 [(ii) one or more due dates for filing the reports described in:]

1516 [(A) Subsection (1); and]

1517 [(B) Subsection (2).]

1518 [(4)] (3) (a) Notwithstanding Section 59-1-401, and except as provided in Subsections

1519 [(4)] (3)(b) and [(6)] (4), if the owner or purchaser fails to report the full amount of the

1520 exemptions granted under Subsection 59-12-104(14) or (50) on the report required by

1521 Subsection (1), the commission shall impose a penalty equal to the lesser of:

1522 (i) 10% of the sales and use tax that would have been imposed if the exemption had not
1523 applied; or

1524 (ii) \$1,000.

1525 (b) Notwithstanding Subsection [(4)] (3)(a)(i), the commission may not impose a

1526 penalty under Subsection [(4)] (3)(a)(i) if the owner or purchaser files an amended report:

1527 (i) containing the amount of the exemption; and

1528 (ii) before the owner or purchaser receives a notice of audit from the commission.

1529 [(5) Notwithstanding Section 59-1-401, and except as provided in Subsection (6), if a

1530 seller fails to report the amounts required by Subsection (2), the commission shall impose a

1531 penalty of \$1,000.]

1532 [(6)] (4) (a) [~~Notwithstanding Subsection (4)(a) or (5), the~~] The commission may

1533 waive, reduce, or compromise a penalty imposed under this section if the commission finds

1534 there are reasonable grounds for the waiver, reduction, or compromise.

1535 (b) If the commission waives, reduces, or compromises a penalty under Subsection

1536 [(6)] (4)(a), the commission shall make a record of the grounds for waiving, reducing, or

1537 compromising the penalty.

1538 Section 9. Section **59-12-107 (Portions Eff 07/01/06 See 59-1-1201)** is amended to

1539 read:

1540 **59-12-107 (Portions Eff 07/01/06 See 59-1-1201). Collection, remittance, and**

1541 **payment of tax by sellers or other persons -- Returns -- Direct payment by purchaser of**

1542 **vehicle -- Other liability for collection -- Rulemaking authority -- Credits -- Treatment of**

1543 **bad debt -- Penalties.**

1544 (1) (a) Except as provided in Subsection (1)[(e)] (d) or [~~Sections-~~] Section 59-12-107.1

1545 [~~through 59-12-107.4~~] and subject to Subsection (1)[~~(f)~~] (e), each seller shall pay or collect and
1546 remit the sales and use taxes imposed by this chapter if within this state the seller:

1547 (i) has or utilizes:

1548 (A) an office;

1549 (B) a distribution house;

1550 (C) a sales house;

1551 (D) a warehouse;

1552 (E) a service enterprise; or

1553 (F) a place of business similar to Subsections (1)(a)(i)(A) through (E);

1554 (ii) maintains a stock of goods;

1555 (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the
1556 state, unless the seller's only activity in the state is:

1557 (A) advertising; or

1558 (B) solicitation by:

1559 (I) direct mail;

1560 (II) electronic mail;

1561 (III) the Internet;

1562 (IV) telephone; or

1563 (V) a means similar to Subsection (1)(a)(iii)(A) or (B);

1564 (iv) regularly engages in the delivery of property in the state other than by:

1565 (A) common carrier; or

1566 (B) United States mail; or

1567 (v) regularly engages in an activity directly related to the leasing or servicing of
1568 property located within the state.

1569 (b) A seller that does not meet one or more of the criteria provided for in Subsection

1570 (1)(a):

1571 (i) except as provided in Subsection (1)(b)(ii), may voluntarily:

1572 (A) collect a tax on a transaction described in Subsection 59-12-103(1); and

1573 (B) remit the tax to the commission as provided in this part; or

1574 (ii) notwithstanding Subsection (1)(b)(i), shall collect a tax on a transaction described
1575 in Subsection 59-12-103(1) if Section 59-12-103.1 requires the seller to collect the tax.

1576 ~~[(e) The collection and remittance of a tax under this chapter by a seller that is~~
 1577 ~~registered under the agreement may not be used as a factor in determining whether that seller is~~
 1578 ~~required by Subsection (1)(a) to:]~~

1579 ~~[(i) pay a tax, fee, or charge under:]~~

1580 ~~[(A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;]~~

1581 ~~[(B) Section 19-6-716;]~~

1582 ~~[(C) Section 19-6-805;]~~

1583 ~~[(D) Section 69-2-5.5; or]~~

1584 ~~[(E) this title; or]~~

1585 ~~[(ii) collect and remit a tax, fee, or charge under:]~~

1586 ~~[(A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;]~~

1587 ~~[(B) Section 19-6-716;]~~

1588 ~~[(C) Section 19-6-805;]~~

1589 ~~[(D) Section 69-2-5.5; or]~~

1590 ~~[(E) this title:]~~

1591 ~~[(d)]~~ (c) A person shall pay a use tax imposed by this chapter on a transaction

1592 described in Subsection 59-12-103(1) if:

1593 (i) the seller did not collect a tax imposed by this chapter on the transaction; and

1594 (ii) the person:

1595 (A) stores the tangible personal property in the state;

1596 (B) uses the tangible personal property in the state; or

1597 (C) consumes the tangible personal property in the state.

1598 ~~[(e)]~~ (d) ~~[Notwithstanding Subsection (1)(a), the]~~ The ownership of property that is

1599 located at the premises of a printer's facility with which the retailer has contracted for printing

1600 and that consists of the final printed product, property that becomes a part of the final printed

1601 product, or copy from which the printed product is produced, shall not result in the retailer

1602 being considered to have or maintain an office, distribution house, sales house, warehouse,

1603 service enterprise, or other place of business, or to maintain a stock of goods, within this state.

1604 ~~[(f)]~~ (e) (i) As used in this Subsection (1)~~[(f)]~~ (e):

1605 (A) "affiliated group" is as defined in Section 59-7-101, except that "affiliated group"

1606 includes a corporation that is qualified to do business but is not otherwise doing business in

1607 this state;

1608 (B) "common ownership" is as defined in Section 59-7-101;

1609 (C) "related seller" means a seller that:

1610 (I) is not required to pay or collect and remit sales and use taxes under Subsection

1611 (1)(a) or Section 59-12-103.1;

1612 (II) is:

1613 (Aa) related to a seller that is required to pay or collect and remit sales and use taxes

1614 under Subsection (1)(a) as part of an affiliated group or because of common ownership; or

1615 (Bb) a limited liability company owned by the parent corporation of an affiliated group

1616 if that parent corporation of the affiliated group is required to pay or collect and remit sales and

1617 use taxes under Subsection (1)(a); and

1618 (III) does not voluntarily collect and remit a tax under Subsection (1)(b)(i).

1619 (ii) A seller is not required to pay or collect and remit sales and use taxes under

1620 Subsection (1)(a):

1621 (A) if the seller is a related seller;

1622 (B) if the seller to which the related seller is related does not engage in any of the

1623 following activities on behalf of the related seller:

1624 (I) advertising;

1625 (II) marketing;

1626 (III) sales; or

1627 (IV) other services; and

1628 (C) if the seller to which the related seller is related accepts the return of an item sold

1629 by the related seller, the seller to which the related seller is related accepts the return of that

1630 item:

1631 (I) sold by a seller that is not a related seller; and

1632 (II) on the same terms as the return of an item sold by that seller to which the related

1633 seller is related.

1634 (2) (a) Except as provided in ~~Sections~~ Section 59-12-107.1 ~~through 59-12-107.4~~, a

1635 tax under this chapter shall be collected from a purchaser.

1636 (b) A seller may not collect as tax an amount, without regard to fractional parts of one

1637 cent, in excess of the tax computed at the rates prescribed by this chapter.

1638 (c) (i) Each seller shall:

1639 (A) give the purchaser a receipt for the tax collected; or

1640 (B) bill the tax as a separate item and declare the name of this state and the seller's
1641 sales and use tax license number on the invoice for the sale.

1642 (ii) The receipt or invoice is prima facie evidence that the seller has collected the tax
1643 and relieves the purchaser of the liability for reporting the tax to the commission as a
1644 consumer.

1645 (d) A seller is not required to maintain a separate account for the tax collected, but is
1646 considered to be a person charged with receipt, safekeeping, and transfer of public moneys.

1647 (e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the
1648 benefit of the state and for payment to the commission in the manner and at the time provided
1649 for in this chapter.

1650 (f) If any seller, during any reporting period, collects as a tax an amount in excess of
1651 the lawful state and local percentage of total taxable sales allowed under this chapter, the seller
1652 shall remit to the commission the full amount of the tax imposed under this chapter, plus any
1653 excess.

1654 (g) If the accounting methods regularly employed by the seller in the transaction of the
1655 seller's business are such that reports of sales made during a calendar month or quarterly period
1656 will impose unnecessary hardships, the commission may accept reports at intervals that will, in
1657 the commission's opinion, better suit the convenience of the taxpayer or seller and will not
1658 jeopardize collection of the tax.

1659 (3) (a) Except as provided in [~~Subsections~~] Subsection (4) [~~through (6)~~] and [~~in~~]
1660 Section 59-12-108, the sales or use tax imposed by this chapter is due and payable to the
1661 commission quarterly on or before the last day of the month next succeeding each calendar
1662 quarterly period.

1663 (b) (i) Each seller shall, on or before the last day of the month next succeeding each
1664 calendar quarterly period, file with the commission a return for the preceding quarterly period.

1665 (ii) The seller shall remit with the return under Subsection (3)(b)(i) the amount of the
1666 tax required under this chapter to be collected or paid for the period covered by the return.

1667 (c) [~~(i) Except as provided in Subsections (3)(c)(ii) and (4)(b)(i)(C), each~~] Each return
1668 shall contain information and be in a form the commission prescribes by rule.

1669 ~~[(ii) Notwithstanding Subsection (3)(c)(i), a seller described in Subsection (1)(b) that is~~
1670 ~~registered under the agreement shall file a return required by this section electronically.]~~

1671 (d) The sales tax as computed in the return shall be based upon the total nonexempt
1672 sales made during the period, including both cash and charge sales.

1673 (e) The use tax as computed in the return shall be based upon the total amount of sales
1674 and purchases for storage, use, or other consumption in this state made during the period,
1675 including both by cash and by charge.

1676 (f) (i) Subject to Subsection (3)(f)(ii) and in accordance with Title 63, Chapter 46a,
1677 Utah Administrative Rulemaking Act, the commission may by rule extend the time for making
1678 returns and paying the taxes.

1679 (ii) An extension under Subsection (3)(f)(i) may not be for more than 90 days.

1680 (g) The commission may require returns and payment of the tax to be made for other
1681 than quarterly periods if the commission considers it necessary in order to ensure the payment
1682 of the tax imposed by this chapter.

1683 ~~[(4)(a)(i) Notwithstanding Subsection (3) and except as provided in Subsection~~
1684 ~~(4)(a)(ii), a tax collected in accordance with Subsection (1)(b) by a seller described in~~
1685 ~~Subsection (4)(d) shall be due and payable:]~~

1686 ~~[(A) to the commission;]~~

1687 ~~[(B) annually; and]~~

1688 ~~[(C) on or before the last day of the month immediately following the last day of each~~
1689 ~~calendar year.]~~

1690 ~~[(ii) Notwithstanding Subsection (4)(a)(i), the commission may require that a tax~~
1691 ~~collected in accordance with Subsection (1)(b) by a seller described in Subsection (4)(d) be due~~
1692 ~~and payable:]~~

1693 ~~[(A) to the commission; and]~~

1694 ~~[(B) on the last day of the month immediately following any month in which the seller~~
1695 ~~has accumulated a total of at least \$1,000 in agreement sales and use tax.]~~

1696 ~~[(b)(i) A tax remitted to the commission under Subsection (4)(a) shall be accompanied~~
1697 ~~by a return that:]~~

1698 ~~[(A) contains information prescribed by the commission;]~~

1699 ~~[(B) is in a form prescribed by the commission; and]~~

1700 ~~[(C) notwithstanding Subsection (3)(c)(i), is filed electronically as required by~~
1701 ~~Subsection (3)(c)(ii).]~~

1702 ~~[(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~
1703 ~~the commission shall make rules prescribing:]~~

1704 ~~[(A) the information required to be contained in a return described in Subsection~~
1705 ~~(4)(b)(i); and]~~

1706 ~~[(B) the form of the return described in Subsection (4)(b)(i).]~~

1707 ~~[(c) The tax collected in accordance with this Subsection (4) calculated in the return~~
1708 ~~described in Subsection (4)(b) shall be calculated on the basis of the total amount of taxable~~
1709 ~~transactions described in Subsection 59-12-103(1) conducted by a seller described in~~
1710 ~~Subsection (4)(d), including:]~~

1711 ~~[(i) a cash transaction; and]~~

1712 ~~[(ii) a charge transaction.]~~

1713 ~~[(d) This Subsection (4) applies to a seller that is:]~~

1714 ~~[(i) registered under the agreement;]~~

1715 ~~[(ii) described in Subsection (1)(b); and]~~

1716 ~~[(iii) not a:]~~

1717 ~~[(A) model 1 seller;]~~

1718 ~~[(B) model 2 seller; or]~~

1719 ~~[(C) model 3 seller.]~~

1720 ~~[(5) (a) Notwithstanding Subsection (3) and except as provided in Subsection (5)(b), a~~
1721 ~~tax collected in accordance with this chapter by a seller that files a simplified electronic return~~
1722 ~~shall be due and payable:]~~

1723 ~~[(i) monthly on or before the last day of the month immediately following the month~~
1724 ~~for which the seller collects a tax under this chapter; and]~~

1725 ~~[(ii) for the month for which the seller collects a tax under this chapter.]~~

1726 ~~[(b) Notwithstanding Subsection (5)(a), a tax collected in accordance with Subsection~~
1727 ~~(1)(b) by a seller described in Subsection (4)(d) that files a simplified electronic return, shall be~~
1728 ~~due and payable as provided in Subsection (4)(a).]~~

1729 ~~[(6)]~~ (4) (a) ~~[Notwithstanding Subsection (3), on]~~ On each vehicle sale made by other
1730 than a regular licensed vehicle dealer, the purchaser shall pay the sales or use tax directly to the

1731 commission if the vehicle is subject to titling or registration under the laws of this state.

1732 (b) The commission shall collect the tax described in Subsection ~~[(6)]~~ (4)(a) when the
1733 vehicle is titled or registered.

1734 ~~[(7)]~~ (5) If any sale of tangible personal property or any other taxable transaction under
1735 Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not
1736 responsible for the collection or payment of the tax imposed on the sale and the retailer is
1737 responsible for the collection or payment of the tax imposed on the sale if:

1738 (a) the retailer represents that the personal property is purchased by the retailer for
1739 resale; and

1740 (b) the personal property is not subsequently resold.

1741 ~~[(8)]~~ (6) If any sale of property or service subject to the tax is made to a person
1742 prepaying sales or use tax in accordance with Title 63, Chapter 51, Resource Development, or
1743 to a contractor or subcontractor of that person, the person to whom such payment or
1744 consideration is payable is not responsible for the collection or payment of the sales or use tax
1745 and the person prepaying the sales or use tax is responsible for the collection or payment of the
1746 sales or use tax if the person prepaying the sales or use tax represents that the amount prepaid
1747 as sales or use tax has not been fully credited against sales or use tax due and payable under the
1748 rules promulgated by the commission.

1749 ~~[(9)]~~ (7) (a) For purposes of this Subsection ~~[(9)]~~ (7):

1750 (i) Except as provided in Subsection ~~[(9)]~~ (7)(a)(ii), "bad debt" is as defined in Section
1751 166, Internal Revenue Code.

1752 (ii) Notwithstanding Subsection ~~[(9)]~~ (7)(a)(i), "bad debt" does not include:

1753 (A) an amount included in the purchase price of tangible personal property or a service
1754 that is:

1755 (I) not a transaction described in Subsection 59-12-103(1); or

1756 (II) exempt under Section 59-12-104;

1757 (B) a financing charge;

1758 (C) interest;

1759 (D) a tax imposed under this chapter on the purchase price of tangible personal
1760 property or a service;

1761 (E) an uncollectible amount on tangible personal property that:

- 1762 (I) is subject to a tax under this chapter; and
- 1763 (II) remains in the possession of a seller until the full purchase price is paid;
- 1764 (F) an expense incurred in attempting to collect any debt; or
- 1765 (G) an amount that a seller does not collect on repossessed property.
- 1766 (b) A seller may deduct bad debt from the total amount from which a tax under this
- 1767 chapter is calculated on a return.
- 1768 (c) A seller may file a refund claim with the commission if:
- 1769 (i) the amount of bad debt for the time period described in Subsection [~~(9)~~] (7)(e)
- 1770 exceeds the amount of the seller's sales that are subject to a tax under this chapter for that same
- 1771 time period; and
- 1772 (ii) as provided in Section 59-12-110.
- 1773 (d) A bad debt deduction under this section may not include interest.
- 1774 (e) A bad debt may be deducted under this Subsection [~~(9)~~] (7) on a return for the time
- 1775 period during which the bad debt:
- 1776 (i) is written off as uncollectible in the seller's books and records; and
- 1777 (ii) would be eligible for a bad debt deduction:
- 1778 (A) for federal income tax purposes; and
- 1779 (B) if the seller were required to file a federal income tax return.
- 1780 (f) If a seller recovers any portion of bad debt for which the seller makes a deduction or
- 1781 claims a refund under this Subsection [~~(9)~~] (7), the seller shall report and remit a tax under this
- 1782 chapter:
- 1783 (i) on the portion of the bad debt the seller recovers; and
- 1784 (ii) on a return filed for the time period for which the portion of the bad debt is
- 1785 recovered.
- 1786 (g) For purposes of reporting a recovery of a portion of bad debt under Subsection [~~(9)~~]
- 1787 (7)(f), a seller shall apply amounts received on the bad debt in the following order:
- 1788 (i) in a proportional amount:
- 1789 (A) to the purchase price of the tangible personal property or service; and
- 1790 (B) to the tax due under this chapter on the tangible personal property or service; and
- 1791 (ii) to:
- 1792 (A) interest charges;

1793 (B) service charges; and

1794 (C) other charges.

1795 ~~[(h) A seller's certified service provider may make a deduction or claim a refund for~~
1796 ~~bad debt on behalf of the seller.]~~

1797 ~~[(i) in accordance with this Subsection (9); and]~~

1798 ~~[(ii) if the certified service provider credits or refunds the full amount of the bad debt~~
1799 ~~deduction or refund to the seller.]~~

1800 ~~[(i) A bad debt may be allocated among the states that are members of the agreement if~~
1801 ~~a seller's books and records support that allocation.]~~

1802 ~~[(10)]~~ (8) (a) A seller may not, with intent to evade any tax, fail to timely remit the full
1803 amount of tax required by this chapter.

1804 (b) A violation of this section is punishable as provided in Section 59-1-401.

1805 (c) Each person who fails to pay any tax to the state or any amount of tax required to be
1806 paid to the state, except amounts determined to be due by the commission under Sections
1807 59-12-110 and 59-12-111, within the time required by this chapter, or who fails to file any
1808 return as required by this chapter, shall pay, in addition to the tax, penalties and interest as
1809 provided in Section 59-12-110.

1810 (d) For purposes of prosecution under this section, each quarterly tax period in which a
1811 seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the
1812 tax required to be remitted, constitutes a separate offense.

1813 Section 10. Section **59-12-107.1 (Effective 07/01/06)** is amended to read:

1814 **59-12-107.1 (Effective 07/01/06). Direct payment permit.**

1815 (1) The commission may issue a direct payment permit to a seller that:

1816 (a) obtains a license under Section 59-12-106;

1817 (b) is required to remit taxes under this chapter by electronic funds transfer in
1818 accordance with Subsection 59-12-108(1);

1819 (c) has a record of timely payment of taxes under this chapter as determined by the
1820 commission; and

1821 (d) demonstrates to the commission that the seller has the ability to determine the
1822 appropriate location of a transaction~~[: (i) under: (A) Section 59-12-205; (B) Section~~
1823 ~~59-12-207.1; and (C) Section 59-12-207.3; and (ii)]~~ under Section 59-12-207 for each

1824 transaction for which the seller makes a purchase using the direct payment permit.
1825 (2) A direct payment permit may not be used in connection with the following
1826 transactions:
1827 (a) a purchase of the following purchased in the same transaction:
1828 (i) prepared food; and
1829 (ii) food and food ingredients;
1830 (b) amounts paid or charged for accommodations and services described in Subsection
1831 59-12-103(1)(i);
1832 (c) amounts paid or charged for admission or user fees under Subsection
1833 59-12-103(1)(f);
1834 (d) a purchase of:
1835 (i) a motor vehicle;
1836 (ii) an aircraft;
1837 (iii) a watercraft;
1838 (iv) a modular home;
1839 (v) a manufactured home; or
1840 (vi) a mobile home;
1841 (e) amounts paid under Subsection 59-12-103(1)(b); or
1842 (f) sales under Subsection 59-12-103(1)(c).
1843 (3) The holder of a direct payment permit shall:
1844 (a) present evidence of the direct payment permit to a seller at the time the holder of
1845 the direct payment permit makes a purchase using the direct payment permit;
1846 (b) determine the appropriate location of a transaction[~~:(i) under: (A) Section~~
1847 ~~59-12-205; (B) Section 59-12-207.1; or (C) Section 59-12-207.3; and (ii)] under Section
1848 59-12-207 for each transaction for which the holder of the direct payment permit makes a
1849 purchase using the direct payment permit;
1850 (c) notwithstanding Section 59-12-107 [~~and subject to Subsection 59-12-107.2(4)~~],
1851 determine the amount of any [~~agreement~~] sales and use tax due on each transaction for which
1852 the holder of the direct payment permit uses the direct payment permit;
1853 (d) report and remit to the commission the [~~agreement~~] sales and use tax described in
1854 Subsection (3)(c) at the same time and in the same manner as the holder of the direct payment~~

1855 permit reports and remits a tax under this chapter; and

1856 (e) maintain records:

1857 (i) that indicate the appropriate location of a transaction[~~:(A) under: (I) Section~~
1858 ~~59-12-205; (H) Section 59-12-207.1; or (III) Section 59-12-207.3; and (B)] under Section
1859 59-12-207 for each transaction for which a purchase is made using the direct payment permit;
1860 and~~

1861 (ii) necessary to determine the amount described in Subsection (3)(c) for each
1862 transaction for which the holder of the direct payment permit uses the direct payment permit.

1863 (4) A seller that is presented evidence of a direct payment permit at the time of a
1864 transaction:

1865 (a) notwithstanding Section 59-12-107, may not collect [~~agreement~~] sales and use tax
1866 on the transaction;

1867 (b) shall, for a period of three years from the date the seller files a return with the
1868 commission reporting the transaction, retain records to verify that the transaction was made
1869 using a direct payment permit; and

1870 (c) notwithstanding Section 59-12-107, is not liable for [~~agreement~~] sales and use tax
1871 on the transaction.

1872 (5) The holder of a direct payment permit may calculate the amount the holder of the
1873 direct payment permit may retain under Section 59-12-108 on the amount described in
1874 Subsection (3)(c):

1875 (a) for each transaction for which the holder of the direct payment permit uses the
1876 direct payment permit; and

1877 (b) that the holder of the direct payment permit remits to the commission under this
1878 section.

1879 (6) The commission may revoke a direct payment permit issued under this section at
1880 any time if the holder of the direct payment permit fails to comply with any provision of this
1881 chapter.

1882 (7) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1883 commission may make rules to administer this section.

1884 Section 11. Section **59-12-108** is amended to read:

1885 **59-12-108. Monthly payment -- Penalty -- Amount of tax a seller may retain --**

1886 **Certain amounts allocated to local taxing jurisdictions.**

1887 (1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this
1888 chapter of \$50,000 or more for the previous calendar year shall:

1889 (i) file a return with the commission:

1890 (A) monthly on or before the last day of the month immediately following the month
1891 for which the seller collects a tax under this chapter; and

1892 (B) for the month for which the seller collects a tax under this chapter; and

1893 (ii) ~~[(A) except as provided in Subsection (1)(a)(ii)(B) or (1)(c);]~~ remit with the return
1894 required by Subsection (1)(a)(i) the amount the person is required to remit to the commission
1895 for each tax, fee, or charge described in Subsection (1)(b):

1896 ~~[(F)]~~ (A) if that seller's tax liability under this chapter for the previous calendar year is
1897 less than \$96,000, by any method permitted by the commission; or

1898 ~~[(H)]~~ (B) if that seller's tax liability under this chapter for the previous calendar year is
1899 \$96,000 or more, by electronic funds transfer~~[-or]~~.

1900 ~~[(B) notwithstanding Subsection (1)(a)(ii)(A), a seller shall remit electronically with~~
1901 ~~the return required by Subsection (1)(a)(i) the amount the person is required to remit to the~~
1902 ~~commission for each tax, fee, or charge described in Subsection (1)(b) if that seller:]~~

1903 ~~[(F) is required by Section 59-12-107 to file the return electronically; or]~~

1904 ~~[(H) (Aa) is required to collect and remit a tax under Subsection 59-12-107(1)(a); and]~~

1905 ~~[(Bb) files a simplified electronic return:]~~

1906 (b) Subsections (1)(a)(i) and (ii) apply to the following taxes, fees, or charges:

1907 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

1908 (ii) a fee under Section 19-6-716;

1909 (iii) a fee under Section 19-6-805;

1910 (iv) a charge under Section 69-2-5.5; or

1911 (v) a tax under this chapter.

1912 (c) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63, Chapter 46a,
1913 Utah Administrative Rulemaking Act, the commission shall make rules providing for a method
1914 for making same-day payments other than by electronic funds transfer if making payments by
1915 electronic funds transfer fails.

1916 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1917 commission shall establish by rule procedures and requirements for determining the amount a
1918 seller is required to remit to the commission under this Subsection (1).

1919 (2) (a) Except as provided in Subsection (2)(b), a seller subject to Subsection (1) or a
1920 seller described in Subsection (3) may retain each month an amount not to exceed:

1921 (i) 1.31% of any amounts the seller is required to remit to the commission for:

1922 (A) the month for which the seller is filing a return in accordance with Subsection (1);

1923 and

1924 (B) [~~an agreement~~] a combined sales and use tax; and

1925 (ii) 1% of any amounts the seller is required to remit to the commission:

1926 (A) for the month for which the seller is filing a return in accordance with Subsection

1927 (1); and

1928 (B) under:

1929 (I) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

1930 (II) Subsection 59-12-603(1)(a)(i); or

1931 (III) Subsection 59-12-603(1)(a)(ii).

1932 (b) Notwithstanding Subsection (2)(a), a state government entity that is required to
1933 remit taxes monthly in accordance with Subsection (1) may not retain any amount under
1934 Subsection (2)(a).

1935 (3) A seller that has a tax liability under this chapter for the previous calendar year of
1936 less than \$50,000 may:

1937 (a) voluntarily meet the requirements of Subsection (1); and

1938 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the
1939 amounts allowed by Subsection (2)(a).

1940 (4) Penalties for late payment shall be as provided in Section 59-1-401.

1941 (5) (a) For any amounts required to be remitted to the commission under this part, the
1942 commission shall each month calculate an amount equal to the difference between:

1943 (i) the total amount retained for that month by all sellers had the percentage listed
1944 under Subsection (2)(a)(i) been 1.5%; and

1945 (ii) the total amount retained for that month by all sellers at the percentage listed under
1946 Subsection (2)(a)(i).

1947 (b) The commission shall each month allocate the amount calculated under Subsection

1948 (5)(a) to each [~~local taxing jurisdiction~~] county, city, and town on the basis of the proportion of
1949 [~~agreement~~] combined sales and use tax that the commission distributes to each [~~local taxing~~
1950 jurisdiction] county, city, and town for that month compared to the total [~~agreement~~] combined
1951 sales and use tax that the commission distributes for that month to all [~~local taxing~~
1952 jurisdictions] counties, cities, and towns.

1953 Section 12. Section **59-12-110** is amended to read:

1954 **59-12-110. Overpayments, deficiencies, and refunds procedures.**

1955 (1) (a) As soon as practicable after a return is filed, the commission shall examine the
1956 return.

1957 (b) If the commission determines that the correct amount of tax to be remitted is
1958 greater or less than the amount shown to be due on the return, the commission shall recompute
1959 the tax.

1960 (c) If the amount paid exceeds the amount due, the excess, plus interest as provided in
1961 Section 59-1-402, shall be credited or refunded to the taxpayer as provided in Subsection (2).

1962 (d) The commission may not credit or refund to the taxpayer interest on an
1963 overpayment under Subsection (1)(c) if the commission determines that the overpayment was
1964 made for the purpose of investment.

1965 (2) (a) If a taxpayer pays a tax, penalty, or interest more than once or the commission
1966 erroneously receives, collects, or computes any tax, penalty, or interest, including an
1967 overpayment described in Subsection (1)(c), the commission shall:

1968 (i) credit the amount of tax, penalty, or interest paid by the taxpayer against any
1969 amounts of tax, penalties, or interest the taxpayer owes; and

1970 (ii) refund any balance to the taxpayer or the taxpayer's successors, administrators,
1971 executors, or assigns.

1972 (b) Except as provided in Subsections (2)(c) and (d) or Section 19-2-124, a taxpayer
1973 shall file a claim with the commission to obtain a refund or credit under this Subsection (2)
1974 within three years from the day on which the taxpayer overpaid the tax, penalty, or interest.

1975 (c) Notwithstanding Subsection (2)(b), beginning on July 1, 1998, the commission
1976 shall extend the period for a taxpayer to file a claim under Subsection (2)(b) if:

1977 (i) the three-year period under Subsection (2)(b) has not expired; and

1978 (ii) the commission and the taxpayer sign a written agreement:

- 1979 (A) authorizing the extension; and
- 1980 (B) providing for the length of the extension.
- 1981 (d) Notwithstanding Subsection (2)(b), a seller that files a claim for a refund under
- 1982 Subsection 59-12-107~~(9)~~ (7)(c) for bad debt shall file the claim with the commission within
- 1983 three years from the date on which the seller could first claim the refund for the bad debt.
- 1984 (e) A taxpayer may file a claim to obtain a refund or credit under this Subsection (2)
- 1985 regardless of whether the taxpayer received or objected to a notice of deficiency or a notice of
- 1986 assessment as provided in Subsection 59-12-114(1).
- 1987 (f) A taxpayer may obtain a refund under this Subsection (2) of a tax paid under this
- 1988 chapter on a transaction that is taxable under Section 59-12-103 if:
- 1989 (i) the sale or use was exempt from sales and use taxes under Section 59-12-104 on the
- 1990 date of purchase; and
- 1991 (ii) except as provided in Subsection (2)(c), the taxpayer files a claim for a refund with
- 1992 the commission as provided in Subsections (2)(b) through (e).
- 1993 (g) If the commission denies a claim for a refund or credit under this Subsection (2),
- 1994 the taxpayer may request a redetermination of the denial by filing a petition or request for
- 1995 agency action with the commission as provided in Title 63, Chapter 46b, Administrative
- 1996 Procedures Act.
- 1997 (3) If the commission erroneously determines an amount to be due from a taxpayer, the
- 1998 commission shall authorize the amounts to be cancelled upon its records.
- 1999 (4) (a) Subject to the provisions of Subsection (4)(b), the commission may impose on a
- 2000 deficiency under this section:
- 2001 (i) a penalty as provided in Section 59-1-401; and
- 2002 (ii) interest as provided in Section 59-1-402.
- 2003 (b) The commission may impose a penalty and interest on the entire deficiency if any
- 2004 part of the deficiency is due to:
- 2005 (i) negligence;
- 2006 (ii) intentional disregard of law or rule; or
- 2007 (iii) fraud with intent to evade the tax.
- 2008 (5) (a) Except as provided in Subsection (5)(b), a taxpayer shall pay a tax deficiency,
- 2009 including penalties or interest under this section, within ten days after the commission provides

2010 the taxpayer notice and demand of the deficiency, penalty, or interest.

2011 (b) Notwithstanding Subsection (5)(a), a taxpayer may pay a tax deficiency, penalty, or
2012 interest within 30 days after the commission provides the taxpayer notice and demand of the
2013 deficiency, penalty, or interest if the commission determines:

- 2014 (i) that a greater amount was due than was shown on the return; and
- 2015 (ii) the tax is not in jeopardy.

2016 (6) (a) Except as provided in Subsections (6)(c) through (f), the commission shall
2017 assess the amount of taxes imposed by this chapter, and any penalties and interest, within three
2018 years after a taxpayer files a return.

2019 (b) Except as provided in Subsections (6)(c) through (f), if the commission does not
2020 make an assessment under Subsection (6)(a) within three years, the commission may not
2021 commence a proceeding for the collection of the taxes after the expiration of the three-year
2022 period.

2023 (c) Notwithstanding Subsections (6)(a) and (b), the commission may make an
2024 assessment or commence a proceeding to collect a tax at any time if a deficiency is due to:

- 2025 (i) fraud; or
- 2026 (ii) failure to file a return.

2027 (d) Notwithstanding Subsections (6)(a) and (b), beginning on July 1, 1998, the
2028 commission may extend the period to make an assessment or to commence a proceeding to
2029 collect the tax under this chapter if:

- 2030 (i) the three-year period under this Subsection (6) has not expired; and
- 2031 (ii) the commission and the taxpayer sign a written agreement:
 - 2032 (A) authorizing the extension; and
 - 2033 (B) providing for the length of the extension.

2034 (e) If the commission delays an audit at the request of a taxpayer, the commission may
2035 make an assessment as provided in Subsection (6)(f) if:

- 2036 (i) the taxpayer subsequently refuses to agree to an extension request by the
2037 commission; and
- 2038 (ii) the three-year period under this Subsection (6) expires before the commission
2039 completes the audit.

2040 (f) An assessment under Subsection (6)(e) shall be:

2041 (i) for the time period for which the commission could not make an assessment
2042 because of the expiration of the three-year period; and

2043 (ii) in an amount equal to the difference between:

2044 (A) the commission's estimate of the amount of taxes the taxpayer would have been
2045 assessed for the time period described in Subsection (6)(f)(i); and

2046 (B) the amount of taxes the taxpayer actually paid for the time period described in
2047 Subsection (6)(f)(i).

2048 Section 13. Section **59-12-110.1** is amended to read:

2049 **59-12-110.1. Refund or credit for taxes overpaid by a purchaser.**

2050 (1) Subject to the other provisions of this section, a purchaser may request from a seller
2051 a refund or credit of any amount that:

2052 (a) the purchaser overpaid in taxes under this chapter; and

2053 (b) was collected by the seller.

2054 (2) (a) Except as provided in Subsection (2)(b), the procedure described in Subsection
2055 (1) is in addition to the process for a taxpayer to file a claim for a refund or credit with the
2056 commission under Section 59-12-110.

2057 (b) Notwithstanding Subsection (2)(a):

2058 (i) the commission is not required to make a refund or credit of an amount for which as
2059 of the date the refund or credit is to be given the purchaser has requested or received a refund
2060 or credit from the seller; and

2061 (ii) a seller is not required to refund or credit an amount for which as of the date the
2062 refund is to be given the purchaser has requested or received a refund or credit from the
2063 commission.

2064 (3) A purchaser may not bring a cause of action against a seller for a refund or credit
2065 described in Subsection (1):

2066 (a) unless the purchaser provided the seller written notice that:

2067 (i) the purchaser requests the refund or credit described in Subsection (1); and

2068 (ii) contains the information necessary for the seller to determine the validity of the
2069 request; and

2070 (b) sooner than 60 days after the day on which the seller receives the written notice
2071 described in Subsection (3)(a).

2072 ~~[(4) A seller that has collected a tax under this chapter that exceeds the amount the~~
2073 ~~seller is required to collect under this chapter is presumed to have a reasonable business~~
2074 ~~practice if the seller:]~~

2075 ~~[(a) collected a tax under this chapter that exceeds the amount the seller is required to~~
2076 ~~collect under this chapter through the use of:]~~

2077 ~~[(i) a provider certified by the state; or]~~

2078 ~~[(ii) a system certified by the state, including a proprietary system certified by the state;~~
2079 ~~and]~~

2080 ~~[(b) has remitted to the commission all taxes that the seller is required to remit to the~~
2081 ~~commission under this chapter.]~~

2082 Section 14. Section **59-12-204 (Effective 07/01/06)** is amended to read:

2083 **59-12-204 (Effective 07/01/06). Sales and use tax ordinance provisions -- Tax rate**
2084 **-- Distribution of tax revenues.**

2085 (1) The tax ordinance adopted pursuant to this part shall impose a tax upon those
2086 transactions listed in Subsection 59-12-103(1).

2087 (2) (a) ~~[Except as provided in Subsections (2)(b) and 59-12-207.1(7)(c), the]~~ The tax
2088 ordinance under Subsection (1) shall include a provision imposing a tax upon every transaction
2089 listed in Subsection 59-12-103(1) made within a county, including areas contained within the
2090 cities and towns located in the county:

2091 (i) at the rate of 1% of the purchase price paid or charged; and

2092 (ii) if the transaction is consummated within the county in accordance with Section
2093 59-12-205.

2094 (b) Notwithstanding Subsection (2)(a), a tax ordinance under this Subsection (2) shall
2095 include a provision prohibiting a county, city, or town from imposing a tax under this section
2096 on;

2097 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
2098 are exempt from taxation under Section 59-12-104[-]; and

2099 (ii) any amounts paid or charged by a seller that collects a tax in accordance with
2100 Subsection 59-12-107(1)(b) unless all of the counties, cities, and towns in the state impose the
2101 tax under this section.

2102 (3) Such tax ordinance shall include provisions substantially the same as those

2103 contained in Part 1, Tax Collection, insofar as they relate to sales or use tax, except that the
2104 name of the county as the taxing agency shall be substituted for that of the state where
2105 necessary for the purpose of this part and that an additional license is not required if one has
2106 been or is issued under Section 59-12-106.

2107 (4) Such tax ordinance shall include a provision that the county shall contract, prior to
2108 the effective date of the ordinance, with the commission to perform all functions incident to the
2109 administration or operation of the ordinance.

2110 (5) Such tax ordinance shall include a provision that the sale, storage, use, or other
2111 consumption of tangible personal property, the purchase price or the cost of which has been
2112 subject to sales or use tax under a sales and use tax ordinance enacted in accordance with this
2113 part by any county, city, or town in any other county in this state, shall be exempt from the tax
2114 due under this ordinance.

2115 (6) Such tax ordinance shall include a provision that any person subject to the
2116 provisions of a city or town sales and use tax shall be exempt from the county sales and use tax
2117 if the city or town sales and use tax is levied under an ordinance including provisions in
2118 substance as follows:

2119 (a) a provision imposing a tax upon every transaction listed in Section 59-12-103 made
2120 within the city or town at the rate imposed by the county in which it is situated pursuant to
2121 Subsection (2);

2122 (b) notwithstanding Subsection (2)(a), a provision prohibiting the city or town from
2123 imposing a tax under this section on any amounts paid or charged by a seller that collects a tax
2124 in accordance with Subsection 59-12-107(1)(b) unless all of the counties, cities, and towns in
2125 the state impose a tax under this section;

2126 [~~(b)~~] (c) provisions substantially the same as those contained in Part 1, Tax Collection,
2127 insofar as they relate to sales and use taxes, except that the name of the city or town as the
2128 taxing agency shall be substituted for that of the state where necessary for the purposes of this
2129 part;

2130 [~~(c)~~] (d) a provision that the city or town shall contract prior to the effective date of the
2131 city or town sales and use tax ordinance with the commission to perform all functions incident
2132 to the administration or operation of the sales and use tax ordinance of the city or town;

2133 [~~(d)~~] (e) a provision that the sale, storage, use, or other consumption of tangible

2134 personal property, the gross receipts from the sale of or the cost of which has been subject to
2135 sales or use tax under a sales and use tax ordinance enacted in accordance with this part by any
2136 county other than the county in which the city or town is located, or city or town in this state,
2137 shall be exempt from the tax; and

2138 ~~[(e)]~~ (f) a provision that the amount of any tax paid under Part 1, Tax Collection, shall
2139 not be included as a part of the purchase price paid or charged for a taxable item.

2140 ~~[(7) (a) Notwithstanding any other provision of this section, beginning on July 1, 1999,
2141 through May 5, 2003, the commission shall:]~~

2142 ~~[(i) determine and retain the portion of the sales and use tax imposed under this
2143 section:]~~

2144 ~~[(A) by a city or town that will have constructed within its boundaries the Airport to
2145 University of Utah Light Rail described in the Transportation Equity Act for the 21st Century,
2146 Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and]~~

2147 ~~[(B) that is equal to the revenues generated by a 1/64% tax rate; and]~~

2148 ~~[(ii) deposit the revenues described in Subsection (7) (a)(i) in the Airport to University
2149 of Utah Light Rail Restricted Account created in Section 17A-2-1064 for the purposes
2150 described in Section 17A-2-1064.]~~

2151 ~~[(b)]~~ (7) Notwithstanding any other provision of this section, beginning July 1, 2000,
2152 the commission shall:

2153 ~~[(i)]~~ (a) determine and retain the portion of sales and use tax imposed under this
2154 section:

2155 ~~[(A)]~~ (i) by each county and by each city and town within that county whose legislative
2156 body consents by resolution to the commission's retaining and depositing sales and use tax
2157 revenues as provided in this Subsection (7) ~~[(b)]~~; and

2158 ~~[(B)]~~ (ii) that is equal to the revenues generated by a 1/64% tax rate;

2159 ~~[(ii)]~~ (b) deposit the revenues described in Subsection (7) ~~[(b)(i)]~~ (a) into a special fund
2160 of the county, or a city, town, or other political subdivision of the state located within that
2161 county, that has issued bonds to finance sports or recreational facilities or that is leasing sports
2162 or recreational facilities, in order to repay those bonds or to pay the lease payments; and

2163 ~~[(iii)]~~ (c) continue to deposit those revenues into the special fund only as long as the
2164 bonds or leases are outstanding.

2165 Section 15. Section **59-12-205 (Effective 07/01/06)** is amended to read:

2166 **59-12-205 (Effective 07/01/06). Ordinances to conform with statutory**
 2167 **amendments -- Distribution of tax revenues -- Determination of population.**

2168 (1) Each county, city, and town, in order to maintain in effect sales and use tax
 2169 ordinances adopted pursuant to Section 59-12-204, shall, within 30 days of any amendment of
 2170 any applicable provisions of Part 1, Tax Collection, adopt amendments of their respective sales
 2171 and use tax ordinances to conform with the amendments to Part 1, Tax Collection, insofar as
 2172 they relate to sales and use taxes.

2173 (2) Except as provided in Subsection ~~[(7)]~~ (3) or (4):

2174 (a) 50% of each dollar collected from the sales and use tax authorized by this part shall
 2175 be paid to each county, city, and town on the basis of the percentage that the population of the
 2176 county, city, or town bears to the total population of all counties, cities, and towns in the state;
 2177 and

2178 (b) ~~[notwithstanding Sections 59-12-207.1 through 59-12-207.3,]~~ 50% of each dollar
 2179 collected from the sales and use tax authorized by this part shall be paid to each county, city,
 2180 and town on the basis of the location where the transaction is consummated as determined
 2181 under ~~[this section]~~ Section 59-12-207.

2182 ~~[(3) For purposes of Subsection (2)(b), the location where a transaction is~~
 2183 ~~consummated is determined in accordance with Subsections (4) through (6).]~~

2184 ~~[(4) (a) For a transaction that is reported to the commission on a return other than a~~
 2185 ~~simplified electronic return, the location where the transaction is consummated is determined~~
 2186 ~~in accordance with Subsections (4)(b) through (h).]~~

2187 ~~[(b) (i) Except as provided in Subsections (4)(c) through (h), for a transaction~~
 2188 ~~described in Subsection (4)(b)(ii), the location where the transaction is consummated is the~~
 2189 ~~place of business of the seller.]~~

2190 ~~[(ii) Subsection (4)(b)(i) applies to a transaction other than a transaction described in:]~~

2191 ~~[(A) Subsection (4)(c)(ii);]~~

2192 ~~[(B) Subsection (4)(d)(ii);]~~

2193 ~~[(C) Subsection (4)(e)(ii);]~~

2194 ~~[(D) Subsection (4)(f)(ii);]~~

2195 ~~[(E) Subsection (4)(g)(ii); or]~~

2196 ~~[(F) Subsection (4)(h):]~~
2197 ~~[(e) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection~~
2198 ~~(4)(c)(ii), the location where the transaction is consummated is determined by allocating the~~
2199 ~~total revenues remitted to the commission each month that are generated by the tax imposed~~
2200 ~~under this section on the transactions described in Subsection (4)(c)(ii):]~~
2201 ~~[(A) to each local taxing jurisdiction; and]~~
2202 ~~[(B) on the basis of the population of each local taxing jurisdiction as compared to the~~
2203 ~~population of the state:]~~
2204 ~~[(ii) Subsection (4)(c)(i) applies to a transaction:]~~
2205 ~~[(A) made by a seller described in Subsection 59-12-107(1)(b); and]~~
2206 ~~[(B) involving tangible personal property that is shipped from outside the state.]~~
2207 ~~[(d) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection~~
2208 ~~(4)(d)(ii), the location where the transaction is consummated is determined by allocating the~~
2209 ~~total revenues reported to the commission each month that are generated by the tax imposed~~
2210 ~~under this section on the transactions described in Subsection (4)(d)(ii):]~~
2211 ~~[(A) to local taxing jurisdictions within a county; and]~~
2212 ~~[(B) on the basis of the proportion of total revenues generated by the transactions~~
2213 ~~described in Subsection (4)(b)(ii) that are reported to the commission for that month within a~~
2214 ~~local taxing jurisdiction within that county as compared to the total revenues generated by the~~
2215 ~~transactions described in Subsection (4)(b)(ii) that are reported to the commission for that~~
2216 ~~month within all local taxing jurisdictions within that county:]~~
2217 ~~[(ii) Subsection (4)(d)(i) applies to a transaction:]~~
2218 ~~[(A) made from a location in the state other than a fixed place of business in the state;~~
2219 ~~or]~~
2220 ~~[(B) (I) made by a seller described in Subsection 59-12-107(1)(a); and]~~
2221 ~~[(II) involving tangible personal property that is shipped from outside the state.]~~
2222 ~~[(e) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection~~
2223 ~~(4)(c)(ii), the location where the transaction is consummated is determined by allocating the~~
2224 ~~total revenues reported to the commission each month that are generated by the tax imposed~~
2225 ~~under this section on the transactions described in Subsection (4)(c)(ii):]~~
2226 ~~[(A) to local taxing jurisdictions; and]~~

2227 ~~[(B) on the basis of the proportion of the total revenues generated by the transactions~~
2228 ~~described in Subsection (4)(b)(ii) that are reported to the commission for that month within~~
2229 ~~each local taxing jurisdiction as compared to the total revenues generated by the transactions~~
2230 ~~described in Subsection (4)(b)(ii) that are reported to the commission for that month within the~~
2231 ~~state.]~~

2232 ~~[(ii) Subsection (4)(e)(i) applies to a transaction involving tangible personal property~~
2233 ~~purchased with a direct payment permit in accordance with Section 59-12-107.1.]~~

2234 ~~[(f) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection~~
2235 ~~(4)(f)(ii), the location where the transaction is consummated is each location where the good or~~
2236 ~~service described in Subsection 59-12-107.2(1)(b) is used.]~~

2237 ~~[(ii) Subsection (4)(f)(i) applies to a transaction involving a good or service:]~~

2238 ~~[(A) described in Subsection 59-12-107.2(1)(b);]~~

2239 ~~[(B) that is concurrently available for use in more than one location; and]~~

2240 ~~[(C) is purchased using the form described in Section 59-12-107.2.]~~

2241 ~~[(g) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection~~
2242 ~~(4)(g)(ii), the location where the transaction is consummated is determined by allocating the~~
2243 ~~total revenues reported to the commission each month that are generated by the tax imposed~~
2244 ~~under this section on the transactions described in Subsection (4)(g)(ii):]~~

2245 ~~[(A) to local taxing jurisdictions; and]~~

2246 ~~[(B) on the basis of the proportion of the total revenues generated by the transactions~~
2247 ~~described in Subsection (4)(b)(ii) that are reported to the commission for that month within~~
2248 ~~each local taxing jurisdiction as compared to the total revenues generated by the transactions~~
2249 ~~described in Subsection (4)(b)(ii) that are reported to the commission for that month within the~~
2250 ~~state:]~~

2251 ~~[(ii) Subsection (4)(g)(i) applies to a transaction involving a purchase of direct mail if~~
2252 ~~the purchaser of the direct mail provides to the seller the form described in Subsection~~
2253 ~~59-12-107.3(1)(a) at the time of the purchase of the direct mail.]~~

2254 ~~[(h) Notwithstanding Subsection (4)(b), for a transaction involving the sale of a service~~
2255 ~~described in Section 59-12-207.4, the location where the transaction is consummated is the~~
2256 ~~same as the location of the transaction determined under Section 59-12-207.4.]~~

2257 ~~[(5) (a) For a transaction that is reported to the commission on a simplified electronic~~

2258 ~~return, the location where the transaction is consummated is determined in accordance with~~
2259 ~~Subsections (5)(b) through (c).]~~

2260 ~~[(b) (i) Except as provided in Subsections (5)(c) through (e), the location where a~~
2261 ~~transaction is consummated is determined by allocating the total revenues reported to the~~
2262 ~~commission each month on the simplified electronic return:]~~

2263 ~~[(A) to local taxing jurisdictions; and]~~

2264 ~~[(B) on the basis of the proportion of the total revenues generated by the transactions~~
2265 ~~described in Subsection (4)(b)(ii) that are reported to the commission in accordance with~~
2266 ~~Subsection (5)(b)(ii) for that month within each local taxing jurisdiction as compared to the~~
2267 ~~total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported~~
2268 ~~to the commission in accordance with Subsection (5)(b)(ii) for that month within the state.]~~

2269 ~~[(ii) In making the allocations required by Subsection (5)(b)(i), the commission shall~~
2270 ~~use the total revenues generated by the transactions described in Subsection (4)(b)(ii) reported~~
2271 ~~to the commission:]~~

2272 ~~[(A) in the report required by Subsection 59-12-105(2); and]~~

2273 ~~[(B) if a local taxing jurisdiction reports revenues to the commission in accordance~~
2274 ~~with Subsection (5)(b)(iii), in the report made in accordance with Subsection (5)(b)(iii).]~~

2275 ~~[(iii) (A) For purposes of this Subsection (5)(b), a local taxing jurisdiction may report~~
2276 ~~to the commission the revenues generated by a tax imposed by this chapter within the local~~
2277 ~~taxing jurisdiction if a seller:]~~

2278 ~~[(F) opens an additional place of business within the local taxing jurisdiction after the~~
2279 ~~seller makes an initial application for a license under Section 59-12-106; and]~~

2280 ~~[(H) estimates that the additional place of business will increase by 5% or more the~~
2281 ~~revenues generated by a tax imposed by this chapter within the local taxing jurisdiction.]~~

2282 ~~[(B) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~
2283 ~~the commission may make rules providing procedures and requirements for making the report~~
2284 ~~described in this Subsection (5)(b).]~~

2285 ~~[(c) (i) Notwithstanding Subsection (5)(b), for a transaction described in Subsection~~
2286 ~~(5)(c)(ii), the location where the transaction is consummated is determined by allocating the~~
2287 ~~total revenues reported to the commission each month that are generated by the tax imposed~~
2288 ~~under this section on the transactions described in Subsection (5)(c)(ii):]~~

2289 ~~[(A) to local taxing jurisdictions within a county; and]~~
2290 ~~[(B) on the basis of the proportion of the total revenues generated by the transactions~~
2291 ~~described in Subsection (4)(b)(ii) that are reported to the commission for that month within a~~
2292 ~~local taxing jurisdiction within that county as compared to the total revenues generated by the~~
2293 ~~transactions described in Subsection (4)(b)(ii) that are reported to the commission for that~~
2294 ~~month within all local taxing jurisdictions within that county.]~~
2295 ~~[(ii) Subsection (5)(c)(i) applies to a transaction:]~~
2296 ~~[(A) made from a location in the state other than a fixed place of business in the state;~~
2297 ~~or]~~
2298 ~~[(B) (I) made by a seller described in Subsection 59-12-107(1)(a); and]~~
2299 ~~[(H) involving tangible personal property that is shipped from outside the state.]~~
2300 ~~[(d) Notwithstanding Subsection (5)(b), for a transaction made by a seller described in~~
2301 ~~Subsection 59-12-107(1)(b), the location where the transaction is consummated is determined~~
2302 ~~by allocating the total revenues remitted to the commission each month that are generated by~~
2303 ~~the tax imposed under this section on the transactions made by a seller described in Subsection~~
2304 ~~59-12-107(1)(b):]~~
2305 ~~[(i) to each local taxing jurisdiction; and]~~
2306 ~~[(ii) on the basis of the population of each local taxing jurisdiction as compared to the~~
2307 ~~population of the state:]~~
2308 ~~[(e) (i) Notwithstanding Subsection (5)(b), for a transaction described in Subsection~~
2309 ~~(5)(e)(ii), the location where the transaction is consummated is determined by allocating the~~
2310 ~~total revenues reported to the commission each month that are generated by the tax imposed~~
2311 ~~under this section on the transactions described in Subsection (5)(e)(ii):]~~
2312 ~~[(A) to local taxing jurisdictions; and]~~
2313 ~~[(B) on the basis of the proportion of the total revenues generated by the transactions~~
2314 ~~described in Subsection (4)(b)(ii) that are reported to the commission for that month within~~
2315 ~~each local taxing jurisdiction as compared to the total revenues generated by the transactions~~
2316 ~~described in Subsection (4)(b)(ii) that are reported to the commission for that month within the~~
2317 ~~state:]~~
2318 ~~[(ii) Subsection (5)(c)(i) applies to a transaction involving tangible personal property~~
2319 ~~purchased with a direct payment permit in accordance with Section 59-12-107.1.]~~

2320 [~~(6)~~ For purposes of Subsections (4) and (5) and in accordance with Title 63, Chapter
2321 ~~46a, Utah Administrative Rulemaking Act, the commission may make rules defining what~~
2322 ~~constitutes a fixed place of business in the state.]~~

2323 [~~(7)~~] (3) (a) [~~Notwithstanding Subsection (2), a~~] A county, city, or town may not
2324 receive a tax revenue distribution less than .75% of the taxable sales within the boundaries of
2325 the county, city, or town.

2326 (b) The commission shall proportionally reduce [~~quarterly~~] monthly distributions to
2327 any county, city, or town that, but for the reduction, would receive a distribution in excess of
2328 1% of the sales and use tax revenue collected within the boundaries of the county, city, or
2329 town.

2330 (4) Notwithstanding Subsection (2), if a county, city, or town imposes a tax authorized
2331 by this part on any amounts paid or charged by a seller that collects a tax in accordance with
2332 Subsection 59-12-107(1)(b), the revenues generated by the tax shall be distributed as provided
2333 in Subsection 59-12-103(3)(c).

2334 [~~(8)~~] (5) (a) Population figures for purposes of this section shall be based on the most
2335 recent official census or census estimate of the United States Census Bureau.

2336 (b) If a needed population estimate is not available from the United States Census
2337 Bureau, population figures shall be derived from the estimate from the Utah Population
2338 Estimates Committee created by executive order of the governor.

2339 [~~(9)~~] (6) The population of a county for purposes of this section shall be determined
2340 solely from the unincorporated area of the county.

2341 Section 16. Section **59-12-207.4** is amended to read:

2342 **59-12-207.4. Location of transaction involving telephone service or other**
2343 **communication service.**

2344 (1) As used in this section:

2345 (a) "Air-to-ground radiotelephone service" means a radio service:

2346 (i) as defined in 47 C.F.R. Sec. 22.99; and

2347 (ii) for which a common carrier is authorized to offer and provide radio
2348 telecommunications service:

2349 (A) for hire; and

2350 (B) to a subscriber in an aircraft.

2351 (b) "Call-by-call basis" means a method of charging for telephone service that is
2352 measured by individual calls.

2353 (c) "Communications channel" means a physical or virtual path of communications
2354 over which a signal is transmitted between or among customer channel termination points.

2355 (d) (i) Subject to Subsection (1)(d)(ii), "customer" means:

2356 (A) a person that is obligated under a contract with a telephone service provider to pay
2357 for telephone service received under the contract; or

2358 (B) if the end user is not the person described in Subsection (1)(d)(i)(A), the end user
2359 of telephone service.

2360 (ii) "Customer" does not include a reseller:

2361 (A) of telephone service; or

2362 (B) for mobile telecommunications service, of a serving carrier under an agreement to
2363 serve a customer outside the home service provider's licensed service area.

2364 (e) "Customer channel termination point" means the location where a customer:

2365 (i) inputs communications; or

2366 (ii) receives communications.

2367 (f) "End user" means:

2368 (i) an individual who uses a telephone service; or

2369 (ii) for telephone service provided to a person who is not an individual, an individual
2370 who uses a telephone service on behalf of the person who is provided the telephone service.

2371 (g) "Home service provider" is as defined in the Mobile Telecommunications Sourcing
2372 Act, 4 U.S.C. Sec. 124.

2373 (h) "Place of primary use":

2374 (i) for telephone service other than mobile telecommunications service, means the
2375 street address representative of where a customer's use of the telephone service primarily
2376 occurs, which shall be:

2377 (A) the residential street address of the customer; or

2378 (B) the primary business street address of the customer; or

2379 (ii) for mobile telecommunications service, is as defined in the Mobile
2380 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2381 (i) (i) "Postpaid calling service" means a telephone service obtained by making a

2382 payment on a call-by-call basis:

2383 (A) through the use of a:

2384 (I) credit card;

2385 (II) bank card;

2386 (III) travel card; or

2387 (IV) debit card; or

2388 (B) by a charge made to a telephone number that is not associated with the origination
2389 or termination of the telephone service.

2390 (ii) "Postpaid calling service" includes a telephone service that would be a prepaid
2391 calling service if the service were exclusively a telephone service.

2392 (j) "Prepaid calling service" means a telephone service:

2393 (i) that allows a purchaser access to exclusively telephone service;

2394 (ii) that:

2395 (A) must be paid for in advance; and

2396 (B) enables the origination of calls using an:

2397 (I) access number; or

2398 (II) authorization code;

2399 (iii) dialed:

2400 (A) manually; or

2401 (B) electronically; and

2402 (iv) sold in predetermined units or dollars that decline:

2403 (A) by a known amount; and

2404 (B) with use.

2405 (k) (i) (A) Subject to Subsection (1)(k)(i)(B), "private communication service" means a
2406 telephone service that entitles a customer to exclusive or priority use of a communications
2407 channel or group of communications channels between or among termination points.

2408 (B) The determination of whether a telephone service is a private communication
2409 service may not be based on the manner in which the communications channels or group of
2410 communications channels are connected.

2411 (ii) "Private communication service" includes the following services provided in
2412 connection with the use of a communications channel or group of communications channels:

- 2413 (A) switching capacity;
- 2414 (B) an extension line; or
- 2415 (C) a station.
- 2416 (1) Notwithstanding where a call is billed or paid, "service address" means:
- 2417 (i) if the location of where a call is billed or paid is known, the location of the
- 2418 telecommunications equipment:
- 2419 (A) to which a customer's call is charged; and
- 2420 (B) from which the call:
- 2421 (I) originates; or
- 2422 (II) terminates;
- 2423 (ii) if the location of where a call is billed or paid is not known but the location of the
- 2424 origination point of the signal of the telephone service is known, the location of the origination
- 2425 point of the signal of the telephone service first identified by:
- 2426 (A) the telecommunications system of the telephone service provider; or
- 2427 (B) if the system used to transport the signal of the telephone service is not a system of
- 2428 the telephone service provider, information received by the telephone service provider from the
- 2429 telephone service provider's telephone service provider; or
- 2430 (iii) if the following are not known, the location of a customer's place of primary use:
- 2431 (A) the location of where a call is billed or paid; and
- 2432 (B) the location of the origination point of the signal of the telephone service.
- 2433 (2) Except as provided in Subsection (4) [~~and subject to Subsection 59-12-207.1(7)~~],
- 2434 the location of a sale of a telephone service sold on a call-by-call basis is:
- 2435 (a) the location at which the call originates and terminates; or
- 2436 (b) the location at which:
- 2437 (i) the call:
- 2438 (A) originates; or
- 2439 (B) terminates; and
- 2440 (ii) the service address is located.
- 2441 (3) Except as provided in Subsection (4), [~~and subject to Subsection 59-12-207.1(7)~~],
- 2442 the location of a sale of a telephone service sold on a basis other than a call-by-call basis is the
- 2443 customer's place of primary use.

2444 (4) Notwithstanding Subsection (2) or (3)[, and subject to Subsection 59-12-207.1(7)]:

2445 (a) the location of a sale of a mobile telecommunications service, other than an
2446 air-to-ground radiotelephone service or a prepaid calling service, is the location required by the
2447 Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; and

2448 (b) the location of a sale of a postpaid calling service is the origination point of the
2449 telecommunications signal as first identified by:

2450 (i) the seller's telecommunications system; or

2451 (ii) if the system used to transport the telecommunications signal is not that of the
2452 seller, information received by the seller from the seller's telephone service provider[; and],

2453 [~~(c) (i) except as provided in Subsection (4)(c)(ii), the location of a sale of a prepaid
2454 calling service is the location determined under Section 59-12-207.1; and]~~

2455 [~~(ii) notwithstanding Subsection (4)(c)(i), for purposes of Subsection 59-12-207.1(5),
2456 the location of a sale of a prepaid calling service that is a mobile telecommunications service
2457 shall include the location of the mobile telephone number.]~~

2458 (5) [~~Subject to Subsection 59-12-207.1(7), the~~] The location of a sale of a private
2459 communication service is:

2460 (a) if all of the customer channel termination points are located entirely within one
2461 [~~local taxing jurisdiction~~] county, city, or town, the location of the sale is the [~~local taxing
2462 jurisdiction~~] county, city, or town in which all of the customer channel termination points are
2463 located;

2464 (b) if a charge for a service related to a customer channel termination point is
2465 separately stated, the location of the sale is the location in which the customer channel
2466 termination point is located;

2467 (c) if a charge for service for a segment of a channel between two customer channel
2468 termination points located in different [~~local taxing jurisdictions~~] counties, cities, or towns is
2469 separately stated, the location of the sale is each [~~local taxing jurisdiction~~] county, city, or
2470 town:

2471 (i) in which the customer channel termination points are located; and

2472 (ii) in equal proportions; and

2473 (d) if a charge for service for a segment of a channel located in more than one [~~taxing
2474 jurisdiction~~] county, city, or town is not separately stated, the location of the sale is:

2475 (i) each [~~local taxing jurisdiction~~] county, city, or town in which a segment of the
2476 channel is located; and

2477 (ii) in proportion to the percentage of customer channel termination points in each
2478 [~~local taxing jurisdiction~~] county, city, or town compared to the total customer channel
2479 termination points in all [~~local taxing jurisdictions~~] counties, cities, and towns.

2480 Section 17. Section **59-12-210** is amended to read:

2481 **59-12-210. Commission to provide data to counties.**

2482 (1) (a) The commission shall provide to each county the sales and use tax collection
2483 data necessary to verify that the local sales and use tax revenues collected by the commission
2484 are distributed to each county, city, and town in accordance with Sections 59-12-205,
2485 59-12-206, 59-12-207, and [~~59-12-207.1 through~~] 59-12-207.4.

2486 (b) The data described in Subsection (1)(a) shall include the commission's reports of
2487 seller sales, sales and use tax distribution reports, and a breakdown of local revenues.

2488 (2) (a) In addition to the access to information provided in Subsection (1) and Section
2489 59-12-109, the commission shall provide a county, city, or town with copies of returns and
2490 other information required by this chapter relating to a tax under this chapter.

2491 (b) The information described in Subsection (2)(a) is available only in official matters
2492 and must be requested in writing by the chief executive officer or the chief executive officer's
2493 designee.

2494 (c) The request described in Subsection (2)(b) shall specifically indicate the
2495 information being sought and how the information will be used.

2496 (d) Information received pursuant to the request described in Subsection (2)(b) shall
2497 be:

2498 (i) classified as private or protected under Section 63-2-302 or 63-2-304; and

2499 (ii) subject to the confidentiality provisions of Section 59-1-403.

2500 Section 18. Section **59-12-302** is amended to read:

2501 **59-12-302. Collection of tax -- Administrative fee -- Penalties -- Commission to**
2502 **interpret, audit, and adjudicate transient room tax.**

2503 (1) (a) Except as provided in Subsection (1)(b) or (c), the tax authorized under this part
2504 shall be administered, collected, and enforced in accordance with:

2505 (i) the same procedures used to administer, collect, and enforce the tax under:

2506 (A) Part 1, Tax Collection; or
2507 (B) Part 2, Local Sales and Use Tax Act; and
2508 (ii) Chapter 1, General Taxation Policies.

2509 (b) (i) Notwithstanding Section 59-12-206, each county may collect the tax imposed by
2510 the county and need not transmit the tax to the commission or contract with the commission to
2511 collect the tax.

2512 (ii) The amount of tax collected shall be reported to the commission as provided in
2513 [~~Subsection 59-12-207.1(13)~~] Section 59-12-207.

2514 (c) [~~Notwithstanding Subsection (1)(a), a~~] A tax under this part is not subject to [~~(i)~~
2515 ~~Sections~~] Section 59-12-107.1 [~~through 59-12-107.3; (ii) Sections 59-12-207.1 through~~
2516 ~~59-12-207.4;~~] or [~~(iii)~~] Subsections 59-12-205(2) through [~~(9)~~] (6).

2517 (d) (i) If the commission collects a tax under this part, the commission:
2518 (A) except as provided in Subsection (1)(d)(i)(B), shall distribute the revenues
2519 generated by the tax to the county within which the revenues were generated; and
2520 (B) notwithstanding Subsection (1)(d)(i)(A), may retain an amount of tax collected
2521 under this part of not to exceed the lesser of:
2522 (I) 1.5%; or
2523 (II) an amount equal to the cost to the commission of administering this part.

2524 (ii) Any amount the commission retains under Subsection (1)(d)(i)(B) shall be:
2525 (A) placed in the Sales and Use Tax Administrative Fees Account; and
2526 (B) used as provided in Subsection 59-12-206(2).

2527 (2) (a) The tax ordinance adopted by a county pursuant to Section 59-12-301 may
2528 include provisions for the imposition of penalties and interest if a person or entity required to
2529 pay a tax under this part fails to timely remit the tax to the collecting agent.

2530 (b) A county legislative body may not establish penalties and interest by ordinance that
2531 exceed the penalties and interest rates authorized for the commission in Sections 59-1-401 and
2532 59-1-402.

2533 (3) A county may adopt an ordinance imposing penalties and interest under Subsection
2534 (2) only if the county does not contract with the commission to collect the tax.

2535 (4) If a county elects to collect the tax as provided in Subsection (1), the commission
2536 shall interpret, audit, and adjudicate the tax imposed under this part.

2537 Section 19. Section **59-12-354** is amended to read:

2538 **59-12-354. Collection of tax -- Administrative fee -- Penalties -- Commission to**
 2539 **interpret, audit, and adjudicate transient room tax.**

2540 (1) Except as provided in Subsections (2) and (3), the tax authorized under this part
 2541 shall be administered, collected, and enforced in accordance with:

2542 (a) the same procedures used to administer, collect, and enforce the tax under:

2543 (i) Part 1, Tax Collection; or

2544 (ii) Part 2, Local Sales and Use Tax Act; and

2545 (b) Chapter 1, General Taxation Policies.

2546 (2) Notwithstanding Section 59-12-206, a municipality imposing a tax under this part:

2547 (a) may collect the tax and is not required to:

2548 (i) transmit revenues generated by the tax to the commission; or

2549 (ii) contract with the commission to collect the tax;

2550 (b) shall report the revenues it collects to the commission as provided in [~~Subsection~~

2551 ~~59-12-207.1(13)] Section 59-12-207; and~~

2552 (c) subject to the limitations of Subsections (4) and (5), may adopt an ordinance
 2553 imposing penalties and interest on a person who:

2554 (i) is required to pay the tax under this part; and

2555 (ii) does not remit the tax to the collecting agent in a timely manner.

2556 (d) (i) If the commission collects a tax under this part, the commission:

2557 (A) except as provided in Subsection (2)(d)(i)(B), shall distribute the revenues
 2558 generated by the tax to the municipality within which the revenues were generated; and

2559 (B) notwithstanding Subsection (2)(d)(i)(A), may retain an amount of tax collected
 2560 under this part of not to exceed the lesser of:

2561 (I) 1.5%; or

2562 (II) an amount equal to the cost to the commission of administering this part.

2563 (ii) Any amount the commission retains under Subsection (2)(d)(i)(B) shall be:

2564 (A) placed in the Sales and Use Tax Administrative Fees Account; and

2565 (B) used as provided in Subsection 59-12-206(2).

2566 (3) [~~Notwithstanding Subsection (1)(a), the~~] A tax under this part is not subject to[~~-(a)-~~

2567 ~~Sections] Section 59-12-107.1 [~~through 59-12-107.3; (b)~~] or Subsections 59-12-205(2) through~~

2568 [~~(9); or (c) Sections 59-12-207.1 through 59-12-207.4~~] (6).

2569 (4) A governing body of a municipality adopting an ordinance imposing penalties and
2570 interest under Subsection (2)(c) may impose penalties and interest in amounts that are less than
2571 or equal to the penalties and interest rates authorized for the commission under Sections
2572 59-1-401 and 59-1-402.

2573 (5) A municipality may adopt an ordinance imposing penalties and interest under
2574 Subsection (2)(c) only if the municipality does not contract with the commission to collect the
2575 tax.

2576 (6) If a municipality elects to collect the tax as provided in Subsection (2), the
2577 commission shall interpret, audit, and adjudicate the tax imposed under this part.

2578 Section 20. Section **59-12-401 (See 59-1-1201 re: Eff)** is amended to read:

2579 **59-12-401 (See 59-1-1201 re: Eff). Resort communities tax -- Base -- Rate --**

2580 **Collection fees.**

2581 (1) (a) [~~Except as provided in Subsections (1)(b) and 59-12-207.1(7)(c), and in~~] In
2582 addition to other sales and use taxes, a city or town in which the transient room capacity as
2583 defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent
2584 census population may impose a sales and use tax of up to 1% on the transactions described in
2585 Subsection 59-12-103(1) located within the city or town.

2586 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
2587 section on:

2588 (i) the sale of:

2589 (A) a motor vehicle;

2590 (B) an aircraft;

2591 (C) a watercraft;

2592 (D) a modular home;

2593 (E) a manufactured home; or

2594 (F) a mobile home; [~~or~~]

2595 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
2596 are exempt from taxation under Section 59-12-104[-]; and

2597 (iii) any amounts paid or charged by a seller that collects a tax under Subsection

2598 59-12-107(1)(b).

2599 (c) For purposes of this Subsection (1), the location of a transaction shall be
2600 determined in accordance with [~~Sections 59-12-207.1 through 59-12-207.4~~] Section 59-12-207.

2601 (2) (a) An amount equal to the total of any costs incurred by the state in connection
2602 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
2603 the state from its collection fees received in connection with the implementation of Subsection
2604 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
2605 provided for in Subsection (1).

2606 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
2607 those cities and towns according to the amount of revenue the respective cities and towns
2608 generate in that year through imposition of that tax.

2609 Section 21. Section **59-12-402 (See 59-1-1201 re: Eff)** is amended to read:

2610 **59-12-402 (See 59-1-1201 re: Eff). Additional resort communities sales tax -- Base**
2611 **-- Rate -- Collection fees -- Resolution and voter approval requirements -- Election**
2612 **requirements -- Notice requirements -- Ordinance requirements.**

2613 (1) (a) [~~Except as provided in Subsections (1)(b) and 59-12-207.1(7)(c), and subject to~~
2614 ~~the limitations of~~] Subject to Subsections (2) through (6), the governing body of a municipality
2615 in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to
2616 66% of the municipality's permanent census population may, in addition to the sales tax
2617 authorized under Section 59-12-401, impose an additional resort communities sales tax in an
2618 amount that is less than or equal to .5% on the transactions described in Subsection
2619 59-12-103(1) located within the municipality.

2620 (b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not
2621 impose a tax under this section on:

2622 (i) the sale of:

2623 (A) a motor vehicle;

2624 (B) an aircraft;

2625 (C) a watercraft;

2626 (D) a modular home;

2627 (E) a manufactured home; or

2628 (F) a mobile home; [~~or~~]

2629 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses

2630 are exempt from taxation under Section 59-12-104[-]; and

2631 (iii) any amounts paid or charged by a seller that collects a tax under Subsection
2632 59-12-107(1)(b).

2633 (c) For purposes of this Subsection (1), the location of a transaction shall be
2634 determined in accordance with [~~Sections 59-12-207.1 through 59-12-207.4~~] Section 59-12-207.

2635 (2) (a) An amount equal to the total of any costs incurred by the state in connection
2636 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
2637 the state from its collection fees received in connection with the implementation of Subsection
2638 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
2639 provided for in Subsection (1).

2640 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
2641 those cities and towns according to the amount of revenue the respective cities and towns
2642 generate in that year through imposition of that tax.

2643 (3) To impose an additional resort communities sales tax under this section, the
2644 governing body of the municipality shall:

2645 (a) pass a resolution approving the tax; and

2646 (b) except as provided in Subsection (6), obtain voter approval for the tax as provided
2647 in Subsection (4).

2648 (4) To obtain voter approval for an additional resort communities sales tax under
2649 Subsection (3)(b), a municipality shall:

2650 (a) hold the additional resort communities sales tax election during:

2651 (i) a regular general election; or

2652 (ii) a municipal general election; and

2653 (b) publish notice of the election:

2654 (i) 15 days or more before the day on which the election is held; and

2655 (ii) in a newspaper of general circulation in the municipality.

2656 (5) An ordinance approving an additional resort communities sales tax under this
2657 section shall provide an effective date for the tax as provided in Section 59-12-403.

2658 (6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the
2659 voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the
2660 municipality imposed a license fee or tax on businesses based on gross receipts pursuant to

2661 Section 10-1-203.

2662 (b) The exception from the voter approval requirements in Subsection (6)(a) does not
2663 apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only
2664 one class of businesses based on gross receipts pursuant to Section 10-1-203.

2665 Section 22. Section **59-12-403** is amended to read:

2666 **59-12-403. Enactment or repeal of tax -- Tax rate change -- Effective date --**
2667 **Notice requirements -- Administration, collection, and enforcement of tax.**

2668 (1) For purposes of this section:

2669 (a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
2670 4, Annexation.

2671 (b) "Annexing area" means an area that is annexed into a city or town.

2672 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after July 1, 2004, a city
2673 or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment,
2674 repeal, or change shall take effect:

2675 (i) on the first day of a calendar quarter; and

2676 (ii) after a 90-day period beginning on the date the commission receives notice meeting
2677 the requirements of Subsection (2)(b) from the city or town.

2678 (b) The notice described in Subsection (2)(a)(ii) shall state:

2679 (i) that the city or town will enact or repeal a tax or change the rate of a tax under this
2680 part;

2681 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

2682 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

2683 (iv) if the city or town enacts the tax or changes the rate of the tax described in
2684 Subsection (2)(b)(i), the rate of the tax.

2685 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
2686 (2)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
2687 first billing period:

2688 (A) that begins after the effective date of the enactment of the tax or the tax rate
2689 increase; and

2690 (B) if the billing period for the transaction begins before the effective date of the
2691 enactment of the tax or the tax rate increase imposed under:

2692 (I) Section 59-12-401; or
2693 (II) Section 59-12-402.
2694 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
2695 (2)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
2696 billing period:
2697 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
2698 and
2699 (B) if the billing period for the transaction begins before the effective date of the repeal
2700 of the tax or the tax rate decrease imposed under:
2701 (I) Section 59-12-401; or
2702 (II) Section 59-12-402.
2703 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:
2704 (A) Subsection 59-12-103(1)(b);
2705 (B) Subsection 59-12-103(1)(c);
2706 (C) Subsection 59-12-103(1)(d);
2707 (D) Subsection 59-12-103(1)(e);
2708 (E) Subsection 59-12-103(1)(f);
2709 (F) Subsection 59-12-103(1)(g);
2710 (G) Subsection 59-12-103(1)(h);
2711 (H) Subsection 59-12-103(1)(i);
2712 (I) Subsection 59-12-103(1)(j); or
2713 (J) Subsection 59-12-103(1)(k).
2714 (d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue
2715 sale is computed on the basis of sales and use tax rates published in the catalogue, an
2716 enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:
2717 (A) on the first day of a calendar quarter; and
2718 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
2719 rate of the tax under Subsection (2)(a).
2720 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
2721 the commission may by rule define the term "catalogue sale."
2722 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs

2723 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
2724 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
2725 effect:

2726 (i) on the first day of a calendar quarter; and

2727 (ii) after a 90-day period beginning on the date the commission receives notice meeting
2728 the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.

2729 (b) The notice described in Subsection (3)(a)(ii) shall state:

2730 (i) that the annexation described in Subsection (3)(a) will result in an enactment,
2731 repeal, or change in the rate of a tax under this part for the annexing area;

2732 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);

2733 (iii) the effective date of the tax described in Subsection (3)(b)(i); and

2734 (iv) if the city or town enacts the tax or changes the rate of the tax described in
2735 Subsection (3)(b)(i), the rate of the tax.

2736 (c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
2737 (3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
2738 first billing period:

2739 (A) that begins after the effective date of the enactment of the tax or the tax rate
2740 increase; and

2741 (B) if the billing period for the transaction begins before the effective date of the
2742 enactment of the tax or the tax rate increase imposed under:

2743 (I) Section 59-12-401; or

2744 (II) Section 59-12-402.

2745 (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
2746 (3)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
2747 billing period:

2748 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
2749 and

2750 (B) if the billing period for the transaction begins before the effective date of the repeal
2751 of the tax or the tax rate decrease imposed under:

2752 (I) Section 59-12-401; or

2753 (II) Section 59-12-402.

- 2754 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:
- 2755 (A) Subsection 59-12-103(1)(b);
- 2756 (B) Subsection 59-12-103(1)(c);
- 2757 (C) Subsection 59-12-103(1)(d);
- 2758 (D) Subsection 59-12-103(1)(e);
- 2759 (E) Subsection 59-12-103(1)(f);
- 2760 (F) Subsection 59-12-103(1)(g);
- 2761 (G) Subsection 59-12-103(1)(h);
- 2762 (H) Subsection 59-12-103(1)(i);
- 2763 (I) Subsection 59-12-103(1)(j); or
- 2764 (J) Subsection 59-12-103(1)(k).

2765 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue
 2766 sale is computed on the basis of sales and use tax rates published in the catalogue, an
 2767 enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:

- 2768 (A) on the first day of a calendar quarter; and
- 2769 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
 2770 rate of the tax under Subsection (3)(a).

2771 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
 2772 the commission may by rule define the term "catalogue sale."

2773 (4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be
 2774 administered, collected, and enforced in accordance with:

- 2775 (i) the same procedures used to administer, collect, and enforce the tax under:
- 2776 (A) Part 1, Tax Collection; or
- 2777 (B) Part 2, Local Sales and Use Tax Act; and
- 2778 (ii) Chapter 1, General Taxation Policies.

2779 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to
 2780 Subsections 59-12-205(2) through [~~5~~] (6).

2781 Section 23. Section **59-12-501 (See 59-1-1201 re: Eff)** is amended to read:

2782 **59-12-501 (See 59-1-1201 re: Eff). Public transit tax -- Base -- Rate -- Voter**
 2783 **approval.**

2784 (1) (a) (i) [~~Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), in~~] In

2785 addition to other sales and use taxes, any county, city, or town within a transit district
2786 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act, may impose a
2787 sales and use tax of up to .25% on the transactions described in Subsection 59-12-103(1)
2788 located within the county, city, or town, to fund a public transportation system.

2789 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax
2790 under this section on:

2791 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses
2792 are exempt from taxation under Section 59-12-104[-]; and

2793 (B) any amounts paid or charged by a seller that collects a tax under Subsection
2794 59-12-107(1)(b).

2795 (b) For purposes of this Subsection (1), the location of a transaction shall be
2796 determined in accordance with [~~Sections 59-12-207.1 through 59-12-207.4~~] Section 59-12-207.

2797 (c) (i) A county, city, or town may impose a tax under this section only if the governing
2798 body of the county, city, or town, by resolution, submits the proposal to all the qualified voters
2799 within the county, city, or town for approval at a general or special election conducted in the
2800 manner provided by statute.

2801 (ii) An election under Subsection 17B-2-512(3)(a)(ii) approving the annexation of an
2802 area to a public transit district or local district and approving for that annexed area the sales and
2803 use tax authorized by this section satisfies the election requirement of Subsection (1)(c)(i) for
2804 the area to be annexed to the public transit district or local district.

2805 (2) (a) If only a portion of a county is included within a public transit district, the
2806 proposal may be submitted only to the qualified voters residing within the boundaries of the
2807 proposed or existing public transit district.

2808 (b) Notice of any such election shall be given by the county, city, or town governing
2809 body 15 days in advance in the manner prescribed by statute.

2810 (c) If a majority of the voters voting in such election approve the proposal, it shall
2811 become effective on the date provided by the county, city, or town governing body.

2812 (3) This section may not be construed to require an election in jurisdictions where
2813 voters have previously approved a public transit sales or use tax.

2814 Section 24. Section **59-12-502** (See **59-1-1201 re: Eff**) is amended to read:

2815 **59-12-502** (See **59-1-1201 re: Eff**). **Additional public transit tax for expanded**

2816 **system and fixed guideway and interstate improvements -- Base -- Rate -- Voter approval.**

2817 (1) (a) (i) [~~Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), and in~~
2818 In addition to other sales and use taxes, including the public transit district tax authorized by
2819 Section 59-12-501, a county, city, or town within a transit district organized under Title 17A,
2820 Chapter 2, Part 10, Utah Public Transit District Act, may impose a sales and use tax of .25% on
2821 the transactions described in Subsection 59-12-103(1) located within the county, city, or town,
2822 to fund a fixed guideway and expanded public transportation system.

2823 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax
2824 under this section on:

2825 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses
2826 are exempt from taxation under Section 59-12-104[-]; and

2827 (B) any amounts paid or charged by a seller that collects a tax under Subsection
2828 59-12-107(1)(b).

2829 (b) For purposes of this Subsection (1), the location of a transaction shall be
2830 determined in accordance with [~~Sections 59-12-207.1 through 59-12-207.4~~] Section 59-12-207.

2831 (c) (i) A county, city, or town may impose the tax under this section only if the
2832 governing body of the county, city, or town submits, by resolution, the proposal to all the
2833 qualified voters within the county, city, or town for approval at a general or special election
2834 conducted in the manner provided by statute.

2835 (ii) Notice of the election under Subsection (1)(c)(i) shall be given by the county, city,
2836 or town governing body 15 days in advance in the manner prescribed by statute.

2837 (2) If the majority of the voters voting in this election approve the proposal, it shall
2838 become effective on the date provided by the county, city, or town governing body.

2839 (3) (a) This section may not be construed to require an election in jurisdictions where
2840 voters have previously approved a public transit sales or use tax.

2841 (b) This section shall be construed to require an election to impose the sales and use
2842 tax authorized by this section, including jurisdictions where the voters have previously
2843 approved the sales and use tax authorized by Section 59-12-501, but this section may not be
2844 construed to affect the sales and use tax authorized by Section 59-12-501.

2845 (4) No public funds shall be spent to promote the required election.

2846 (5) Notwithstanding the designated use of revenues in Subsection (1), of the revenues

2847 generated by the tax imposed under this section by any county of the first class:

2848 (a) 75% shall be allocated to fund a fixed guideway and expanded public transportation
2849 system; and

2850 (b) 25% shall be allocated to fund new construction, major renovations, and
2851 improvements to Interstate 15 and state highways within the county and to pay any debt service
2852 and bond issuance costs related to those projects.

2853 (6) A county of the first class may, through an interlocal agreement, authorize the
2854 deposit or transfer of the portion of the revenues described in Subsection (5)(b) to the Public
2855 Transportation System Tax Highway Fund created in Section 72-2-121.

2856 Section 25. Section **59-12-504** is amended to read:

2857 **59-12-504. Enactment or repeal of tax -- Effective date -- Notice requirements --**
2858 **Administration, collection, and enforcement of tax.**

2859 (1) For purposes of this section:

2860 (a) "Annexation" means an annexation to:

2861 (i) a county under Title 17, Chapter 2, Annexation to County; or

2862 (ii) a city or town under Title 10, Chapter 2, Part 4, Annexation.

2863 (b) "Annexing area" means an area that is annexed into a county, city, or town.

2864 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after July 1, 2004, a
2865 county, city, or town enacts or repeals a tax under this part, the enactment or repeal shall take
2866 effect:

2867 (i) on the first day of a calendar quarter; and

2868 (ii) after a 90-day period beginning on the date the commission receives notice meeting
2869 the requirements of Subsection (2)(b) from the county, city, or town.

2870 (b) The notice described in Subsection (2)(a)(ii) shall state:

2871 (i) that the county, city, or town will enact or repeal a tax under this part;

2872 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

2873 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

2874 (iv) if the county, city, or town enacts the tax described in Subsection (2)(b)(i), the rate
2875 of the tax.

2876 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
2877 (2)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

- 2878 (A) that begins after the effective date of the enactment of the tax; and
- 2879 (B) if the billing period for the transaction begins before the effective date of the
- 2880 enactment of the tax under:
- 2881 (I) Section 59-12-501; or
- 2882 (II) Section 59-12-502.
- 2883 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
- 2884 (2)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 2885 (A) that began before the effective date of the repeal of the tax; and
- 2886 (B) if the billing period for the transaction begins before the effective date of the repeal
- 2887 of the tax imposed under:
- 2888 (I) Section 59-12-501; or
- 2889 (II) Section 59-12-502.
- 2890 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:
- 2891 (A) Subsection 59-12-103(1)(b);
- 2892 (B) Subsection 59-12-103(1)(c);
- 2893 (C) Subsection 59-12-103(1)(d);
- 2894 (D) Subsection 59-12-103(1)(e);
- 2895 (E) Subsection 59-12-103(1)(f);
- 2896 (F) Subsection 59-12-103(1)(g);
- 2897 (G) Subsection 59-12-103(1)(h);
- 2898 (H) Subsection 59-12-103(1)(i);
- 2899 (I) Subsection 59-12-103(1)(j); or
- 2900 (J) Subsection 59-12-103(1)(k).
- 2901 (d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue
- 2902 sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 2903 enactment or repeal of a tax described in Subsection (2)(a) takes effect:
- 2904 (A) on the first day of a calendar quarter; and
- 2905 (B) beginning 60 days after the effective date of the enactment or repeal under
- 2906 Subsection (2)(a).
- 2907 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 2908 the commission may by rule define the term "catalogue sale."

2909 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs
2910 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
2911 part for an annexing area, the enactment or repeal shall take effect:

2912 (i) on the first day of a calendar quarter; and

2913 (ii) after a 90-day period beginning on the date the commission receives notice meeting
2914 the requirements of Subsection (3)(b) from the county, city, or town that annexes the annexing
2915 area.

2916 (b) The notice described in Subsection (3)(a)(ii) shall state:

2917 (i) that the annexation described in Subsection (3)(a) will result in an enactment or
2918 repeal of a tax under this part for the annexing area;

2919 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);

2920 (iii) the effective date of the tax described in Subsection (3)(b)(i); and

2921 (iv) the rate of the tax described in Subsection (3)(b)(i).

2922 (c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
2923 (3)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

2924 (A) that begins after the effective date of the enactment of the tax; and

2925 (B) if the billing period for the transaction begins before the effective date of the
2926 enactment of the tax under:

2927 (I) Section 59-12-501; or

2928 (II) Section 59-12-502.

2929 (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
2930 (3)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

2931 (A) that began before the effective date of the repeal of the tax; and

2932 (B) if the billing period for the transaction begins before the effective date of the repeal
2933 of the tax imposed under:

2934 (I) Section 59-12-501; or

2935 (II) Section 59-12-502.

2936 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:

2937 (A) Subsection 59-12-103(1)(b);

2938 (B) Subsection 59-12-103(1)(c);

2939 (C) Subsection 59-12-103(1)(d);

- 2940 (D) Subsection 59-12-103(1)(e);
- 2941 (E) Subsection 59-12-103(1)(f);
- 2942 (F) Subsection 59-12-103(1)(g);
- 2943 (G) Subsection 59-12-103(1)(h);
- 2944 (H) Subsection 59-12-103(1)(i);
- 2945 (I) Subsection 59-12-103(1)(j); or
- 2946 (J) Subsection 59-12-103(1)(k).

2947 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue
2948 sale is computed on the basis of sales and use tax rates published in the catalogue, an
2949 enactment or repeal of a tax described in Subsection (3)(a) takes effect:

- 2950 (A) on the first day of a calendar quarter; and
- 2951 (B) beginning 60 days after the effective date of the enactment or repeal under
2952 Subsection (3)(a).

2953 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
2954 the commission may by rule define the term "catalogue sale."

2955 (4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be
2956 administered, collected, and enforced in accordance with:

- 2957 (i) the same procedures used to administer, collect, and enforce the tax under:
 - 2958 (A) Part 1, Tax Collection; or
 - 2959 (B) Part 2, Local Sales and Use Tax Act; and
- 2960 (ii) Chapter 1, General Taxation Policies.

2961 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to
2962 Subsections 59-12-205(2) through [~~5~~] (6).

2963 Section 26. Section **59-12-603** is amended to read:

2964 **59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Collection --**
2965 **Adoption of ordinance required -- Administration -- Distribution -- Enactment or repeal**
2966 **of tax or tax rate change -- Effective date -- Notice requirements.**

2967 (1) In addition to any other taxes, a county legislative body may, as provided in this
2968 part, impose a tax as follows:

2969 (a) (i) a county legislative body of any county may impose a tax of not to exceed 3% on
2970 all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and

2971 rentals of motor vehicles made for the purpose of temporarily replacing a person's motor
2972 vehicle that is being repaired pursuant to a repair or an insurance agreement; and

2973 (ii) beginning on or after January 1, 1999, a county legislative body of any county
2974 imposing a tax under Subsection (1)(a)(i) may, in addition to imposing the tax under
2975 Subsection (1)(a)(i), impose a tax of not to exceed 4% on all short-term leases and rentals of
2976 motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for
2977 the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to
2978 a repair or an insurance agreement;

2979 (b) a county legislative body of any county may impose a tax of not to exceed 1% of all
2980 sales of prepared foods and beverages that are sold by restaurants; and

2981 (c) a county legislative body of any county may impose a tax of not to exceed .5% on
2982 charges for the accommodations and services described in Subsection 59-12-103(1)(i).

2983 (2) (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided
2984 for in Subsections (1)(a) through (c) may be used for the purposes of:

2985 (i) financing tourism promotion; and

2986 (ii) the development, operation, and maintenance of tourist, recreation, cultural, and
2987 convention facilities as defined in Section 59-12-602.

2988 (b) A county of the first class shall expend at least \$450,000 each year of the revenues
2989 from the imposition of a tax authorized by Subsection (1)(c) within the county to fund a
2990 marketing and ticketing system designed to:

2991 (i) promote tourism in ski areas within the county by persons that do not reside within
2992 the state; and

2993 (ii) combine the sale of:

2994 (A) ski lift tickets; and

2995 (B) accommodations and services described in Subsection 59-12-103(1)(i).

2996 (3) The tax imposed under Subsection (1)(c) shall be in addition to the tax imposed
2997 under Part 3, Transient Room Tax, and may be imposed only by a county of the first class.

2998 (4) A tax imposed under this part may be pledged as security for bonds, notes, or other
2999 evidences of indebtedness incurred by a county under Title 11, Chapter 14, Local Government
3000 Bonding Act, to finance tourism, recreation, cultural, and convention facilities.

3001 (5) (a) In order to impose the tax under Subsection (1), each county legislative body

3002 shall annually adopt an ordinance imposing the tax.

3003 (b) The ordinance under Subsection (5)(a) shall include provisions substantially the
3004 same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on
3005 those items and sales described in Subsection (1).

3006 (c) The name of the county as the taxing agency shall be substituted for that of the state
3007 where necessary, and an additional license is not required if one has been or is issued under
3008 Section 59-12-106.

3009 (6) In order to maintain in effect its tax ordinance adopted under this part, each county
3010 legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1,
3011 Tax Collection, adopt amendments to its tax ordinance to conform with the applicable
3012 amendments to Part 1, Tax Collection.

3013 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part
3014 shall be administered, collected, and enforced in accordance with:

3015 (A) the same procedures used to administer, collect, and enforce the tax under:

3016 (I) Part 1, Tax Collection; or

3017 (II) Part 2, Local Sales and Use Tax Act; and

3018 (B) Chapter 1, General Taxation Policies.

3019 (ii) [~~Notwithstanding Subsection (7)(a)(i), a~~] A tax under this part is not subject to[
3020 ~~(A) Sections~~] Section 59-12-107.1 [~~through 59-12-107.3; (B)~~] or Subsections 59-12-205(2)
3021 through [~~(9); or (C) Sections 59-12-207.1 through 59-12-207.4~~] (6).

3022 (b) Except as provided in Subsection (7)(c):

3023 (i) for a tax under this part other than the tax under Subsection (1)(a)(ii), the
3024 commission shall distribute the revenues to the county imposing the tax; and

3025 (ii) for a tax under Subsection (1)(a)(ii), the commission shall distribute the revenues
3026 according to the distribution formula provided in Subsection (8).

3027 (c) Notwithstanding Subsection (7)(b), the commission shall deduct from the
3028 distributions under Subsection (7)(b) an administrative charge for collecting the tax as provided
3029 in Section 59-12-206.

3030 (8) The commission shall distribute the revenues generated by the tax under Subsection
3031 (1)(a)(ii) to each county collecting a tax under Subsection (1)(a)(ii) according to the following
3032 formula:

3033 (a) the commission shall distribute 70% of the revenues based on the percentages
3034 generated by dividing the revenues collected by each county under Subsection (1)(a)(ii) by the
3035 total revenues collected by all counties under Subsection (1)(a)(ii); and

3036 (b) the commission shall distribute 30% of the revenues based on the percentages
3037 generated by dividing the population of each county collecting a tax under Subsection (1)(a)(ii)
3038 by the total population of all counties collecting a tax under Subsection (1)(a)(ii).

3039 (9) (a) For purposes of this Subsection (9):

3040 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
3041 Annexation to County.

3042 (ii) "Annexing area" means an area that is annexed into a county.

3043 (b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county
3044 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or
3045 change shall take effect:

3046 (A) on the first day of a calendar quarter; and

3047 (B) after a 90-day period beginning on the date the commission receives notice meeting
3048 the requirements of Subsection (9)(b)(ii) from the county.

3049 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:

3050 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

3051 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

3052 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

3053 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
3054 (9)(b)(ii)(A), the rate of the tax.

3055 (c) (i) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection
3056 (9)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
3057 first billing period:

3058 (A) that begins after the effective date of the enactment of the tax or the tax rate
3059 increase; and

3060 (B) if the billing period for the transaction begins before the effective date of the
3061 enactment of the tax or the tax rate increase imposed under Subsection (1).

3062 (ii) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection
3063 (9)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last

3064 billing period:

3065 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;

3066 and

3067 (B) if the billing period for the transaction begins before the effective date of the repeal

3068 of the tax or the tax rate decrease imposed under Subsection (1).

3069 (iii) Subsections (9)(c)(i) and (ii) apply to transactions subject to a tax under:

3070 (A) Subsection 59-12-103(1)(e);

3071 (B) Subsection 59-12-103(1)(i); or

3072 (C) Subsection 59-12-103(1)(k).

3073 (d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or

3074 after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a

3075 tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

3076 (A) on the first day of a calendar quarter; and

3077 (B) after a 90-day period beginning on the date the commission receives notice meeting

3078 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

3079 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

3080 (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,

3081 repeal, or change in the rate of a tax under this part for the annexing area;

3082 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

3083 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

3084 (D) if the county enacts the tax or changes the rate of the tax described in Subsection

3085 (9)(d)(ii)(A), the rate of the tax.

3086 (e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection

3087 (9)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the

3088 first billing period:

3089 (A) that begins after the effective date of the enactment of the tax or the tax rate

3090 increase; and

3091 (B) if the billing period for the transaction begins before the effective date of the

3092 enactment of the tax or the tax rate increase imposed under Subsection (1).

3093 (ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection

3094 (9)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last

3095 billing period:

3096 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;

3097 and

3098 (B) if the billing period for the transaction begins before the effective date of the repeal

3099 of the tax or the tax rate decrease imposed under Subsection (1).

3100 (iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:

3101 (A) Subsection 59-12-103(1)(e);

3102 (B) Subsection 59-12-103(1)(i); or

3103 (C) Subsection 59-12-103(1)(k).

3104 Section 27. Section **59-12-703 (See 59-1-1201 re: Eff)** is amended to read:

3105 **59-12-703 (See 59-1-1201 re: Eff). Opinion question election -- Imposition of tax**

3106 **-- Uses of tax monies -- Enactment or repeal of tax -- Effective date -- Notice**

3107 **requirements.**

3108 (1) (a) (i) [~~Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), a~~] A

3109 county legislative body may submit an opinion question to the residents of that county, by

3110 majority vote of all members of the legislative body, so that each resident of the county, except

3111 residents in municipalities that have already imposed a sales and use tax under Part 14, City or

3112 Town Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or

3113 Facilities, has an opportunity to express the resident's opinion on the imposition of a local sales

3114 and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the

3115 county, to fund recreational and zoological facilities, botanical, cultural, and zoological

3116 organizations, and rural radio stations, in that county.

3117 (ii) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a

3118 tax under this section on:

3119 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses

3120 are exempt from taxation under Section 59-12-104; [~~and~~]

3121 (B) sales and uses within municipalities that have already imposed a sales and use tax

3122 under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and

3123 Zoological Organizations or Facilities[~~;~~]; and

3124 (C) any amounts paid or charged by a seller that collects a tax under Subsection

3125 59-12-107(1)(b).

3126 (b) For purposes of this Subsection (1), the location of a transaction shall be
3127 determined in accordance with [~~Sections 59-12-207.1 through 59-12-207.4~~] Section 59-12-207.

3128 (c) The election shall follow the procedures outlined in Title 11, Chapter 14, Local
3129 Government Bonding Act.

3130 (2) (a) If the county legislative body determines that a majority of the county's
3131 registered voters voting on the imposition of the tax have voted in favor of the imposition of
3132 the tax as prescribed in Subsection (1)(a), the county legislative body may impose the tax by a
3133 majority vote of all members of the legislative body on the transactions:

3134 (i) described in Subsection (1); and

3135 (ii) within the county, including the cities and towns located in the county, except those
3136 cities and towns that have already imposed a sales and use tax under Part 14, City or Town
3137 Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or
3138 Facilities.

3139 (b) A county legislative body may revise county ordinances to reflect statutory changes
3140 to the distribution formula or eligible recipients of revenues generated from a tax imposed
3141 under Subsection (2)(a):

3142 (i) after the county legislative body submits an opinion question to residents of the
3143 county in accordance with Subsection (1) giving them the opportunity to express their opinion
3144 on the proposed revisions to county ordinances; and

3145 (ii) if the county legislative body determines that a majority of those voting on the
3146 opinion question have voted in favor of the revisions.

3147 (3) The monies generated from any tax imposed under Subsection (2) shall be used for
3148 funding:

3149 (a) recreational and zoological facilities located within the county or a city or town
3150 located in the county, except a city or town that has already imposed a sales and use tax under
3151 Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological
3152 Organizations or Facilities; and

3153 (b) ongoing operating expenses of:

3154 (i) recreational facilities described in Subsection (3)(a);

3155 (ii) botanical, cultural, and zoological organizations within the county; and

3156 (iii) rural radio stations within the county.

- 3157 (4) (a) A tax authorized under this part shall be:
- 3158 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
- 3159 accordance with:
- 3160 (A) the same procedures used to administer, collect, and enforce the tax under:
- 3161 (I) Part 1, Tax Collection; or
- 3162 (II) Part 2, Local Sales and Use Tax Act; and
- 3163 (B) Chapter 1, General Taxation Policies; and
- 3164 (ii) levied for a period of ten years and may be reauthorized at the end of the ten-year
- 3165 period in accordance with this section.
- 3166 (b) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to
- 3167 Subsections 59-12-205(2) through [~~6~~] (6).
- 3168 (5) (a) For purposes of this Subsection (5):
- 3169 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
- 3170 Annexation to County.
- 3171 (ii) "Annexing area" means an area that is annexed into a county.
- 3172 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
- 3173 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:
- 3174 (A) on the first day of a calendar quarter; and
- 3175 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 3176 the requirements of Subsection (5)(b)(ii) from the county.
- 3177 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:
- 3178 (A) that the county will enact or repeal a tax under this part;
- 3179 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
- 3180 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
- 3181 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the
- 3182 tax.
- 3183 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
- 3184 (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 3185 (A) that begins after the effective date of the enactment of the tax; and
- 3186 (B) if the billing period for the transaction begins before the effective date of the
- 3187 enactment of the tax under this section.

3188 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
3189 (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

3190 (A) that began before the effective date of the repeal of the tax; and

3191 (B) if the billing period for the transaction begins before the effective date of the repeal
3192 of the tax imposed under this section.

3193 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

3194 (A) Subsection 59-12-103(1)(b);

3195 (B) Subsection 59-12-103(1)(c);

3196 (C) Subsection 59-12-103(1)(d);

3197 (D) Subsection 59-12-103(1)(e);

3198 (E) Subsection 59-12-103(1)(f);

3199 (F) Subsection 59-12-103(1)(g);

3200 (G) Subsection 59-12-103(1)(h);

3201 (H) Subsection 59-12-103(1)(i);

3202 (I) Subsection 59-12-103(1)(j); or

3203 (J) Subsection 59-12-103(1)(k).

3204 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a
3205 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
3206 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

3207 (A) on the first day of a calendar quarter; and

3208 (B) beginning 60 days after the effective date of the enactment or repeal under
3209 Subsection (5)(b)(i).

3210 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
3211 the commission may by rule define the term "catalogue sale."

3212 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
3213 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
3214 part for an annexing area, the enactment or repeal shall take effect:

3215 (A) on the first day of a calendar quarter; and

3216 (B) after a 90-day period beginning on the date the commission receives notice meeting
3217 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

3218 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

3219 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
3220 repeal of a tax under this part for the annexing area;

3221 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

3222 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

3223 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

3224 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
3225 (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

3226 (A) that begins after the effective date of the enactment of the tax; and

3227 (B) if the billing period for the transaction begins before the effective date of the
3228 enactment of the tax under this section.

3229 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
3230 (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

3231 (A) that began before the effective date of the repeal of the tax; and

3232 (B) if the billing period for the transaction begins before the effective date of the repeal
3233 of the tax imposed under this section.

3234 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

3235 (A) Subsection 59-12-103(1)(b);

3236 (B) Subsection 59-12-103(1)(c);

3237 (C) Subsection 59-12-103(1)(d);

3238 (D) Subsection 59-12-103(1)(e);

3239 (E) Subsection 59-12-103(1)(f);

3240 (F) Subsection 59-12-103(1)(g);

3241 (G) Subsection 59-12-103(1)(h);

3242 (H) Subsection 59-12-103(1)(i);

3243 (I) Subsection 59-12-103(1)(j); or

3244 (J) Subsection 59-12-103(1)(k).

3245 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a
3246 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
3247 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

3248 (A) on the first day of a calendar quarter; and

3249 (B) beginning 60 days after the effective date of the enactment or repeal under

3250 Subsection (5)(e)(i).

3251 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
3252 the commission may by rule define the term "catalogue sale."

3253 Section 28. Section **59-12-802 (See 59-1-1201 re: Eff)** is amended to read:

3254 **59-12-802 (See 59-1-1201 re: Eff). Imposition of rural county health care facilities**
3255 **tax -- Base -- Rate -- Administration, collection, and enforcement of tax.**

3256 (1) (a) A county legislative body may impose a sales and use tax of up to 1%:

3257 (i) [~~except as provided in Subsections (1)(b) and 59-12-207.1(7)(c),~~] on the

3258 transactions described in Subsection 59-12-103(1) located within the county; and

3259 (ii) to fund rural county health care facilities in that county.

3260 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
3261 tax under this section on:

3262 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3263 are exempt from taxation under Section 59-12-104; [~~or~~]

3264 (ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in
3265 a city that imposes a tax under Section 59-12-804[-]; and

3266 (iii) any amounts paid or charged by a seller that collects a tax under Subsection
3267 59-12-107(1)(b).

3268 (c) For purposes of this Subsection (1), the location of a transaction shall be
3269 determined in accordance with [~~Sections 59-12-207.1 through 59-12-207.4~~] Section 59-12-207.

3270 (2) (a) Before imposing a tax under Subsection (1)(a), a county legislative body shall
3271 obtain approval to impose the tax from a majority of the:

3272 (i) members of the county's legislative body; and

3273 (ii) county's registered voters voting on the imposition of the tax.

3274 (b) The county legislative body shall conduct the election according to the procedures
3275 and requirements of Title 11, Chapter 14, Local Government Bonding Act.

3276 (3) The monies generated by a tax imposed under Subsection (1) may only be used for
3277 the financing of:

3278 (a) ongoing operating expenses of a rural county health care facility;

3279 (b) the acquisition of land for a rural county health care facility; or

3280 (c) the design, construction, equipping, or furnishing of a rural county health care

3281 facility.

3282 (4) (a) A tax under this section shall be:

3283 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
3284 accordance with:

3285 (A) the same procedures used to administer, collect, and enforce the tax under:

3286 (I) Part 1, Tax Collection; or

3287 (II) Part 2, Local Sales and Use Tax Act; and

3288 (B) Chapter 1, General Taxation Policies; and

3289 (ii) levied for a period of ten years and may be reauthorized at the end of the ten-year
3290 period by the county legislative body as provided in Subsection (1).

3291 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
3292 Subsections 59-12-205(2) through ~~(9)~~ (6).

3293 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected
3294 under this section for the cost of administering this tax.

3295 Section 29. Section **59-12-804 (See 59-1-1201 re: Eff)** is amended to read:

3296 **59-12-804 (See 59-1-1201 re: Eff). Imposition of rural city hospital tax -- Base --**
3297 **Rate -- Administration, collection, and enforcement of tax.**

3298 (1) (a) A city legislative body may impose a sales and use tax of up to 1%:

3299 (i) ~~[except as provided in Subsections (1)(b) and 59-12-207.1(7)(c);]~~ on the
3300 transactions described in Subsection 59-12-103(1) located within the city; and

3301 (ii) to fund rural city hospitals in that city.

3302 (b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax
3303 under this section on:

3304 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3305 are exempt from taxation under Section 59-12-104[-]; and

3306 (ii) any amounts paid or charged by a seller that collects a tax under Subsection
3307 59-12-107(1)(b).

3308 (c) For purposes of this Subsection (1), the location of a transaction shall be
3309 determined in accordance with ~~[Sections 59-12-207.1 through 59-12-207.4]~~ Section 59-12-207.

3310 (2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall
3311 obtain approval to impose the tax from a majority of the:

3312 (i) members of the city legislative body; and
3313 (ii) city's registered voters voting on the imposition of the tax.
3314 (b) The city legislative body shall conduct the election according to the procedures and
3315 requirements of Title 11, Chapter 14, Local Government Bonding Act.
3316 (3) The monies generated by a tax imposed under Subsection (1) may only be used for
3317 the financing of:
3318 (a) ongoing operating expenses of a rural city hospital;
3319 (b) the acquisition of land for a rural city hospital; or
3320 (c) the design, construction, equipping, or furnishing of a rural city hospital.
3321 (4) (a) A tax under this section shall be:
3322 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
3323 accordance with:
3324 (A) the same procedures used to administer, collect, and enforce the tax under:
3325 (I) Part 1, Tax Collection; or
3326 (II) Part 2, Local Sales and Use Tax Act; and
3327 (B) Chapter 1, General Taxation Policies; and
3328 (ii) levied for a period of ten years and may be reauthorized at the end of the ten-year
3329 period by the city legislative body as provided in Subsection (1).
3330 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
3331 Subsections 59-12-205(2) through ~~[(9)]~~ (6).
3332 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected
3333 under this section for the cost of administering the tax.
3334 Section 30. Section **59-12-1001 (See 59-1-1201 re: Eff)** is amended to read:
3335 **59-12-1001 (See 59-1-1201 re: Eff). Authority to impose tax for highways or to**
3336 **fund a system for public transit -- Ordinance requirements -- Voter approval**
3337 **requirements -- Election requirements -- Notice of election requirements -- Exceptions to**
3338 **voter approval requirements -- Enactment or repeal of tax -- Effective date -- Notice**
3339 **requirements.**
3340 (1) (a) [~~Except as provided in Subsections (1)(b) and 59-12-207.1(7)(c), a~~] A city or
3341 town in which the transactions described in Subsection 59-12-103(1) are not subject to a sales
3342 and use tax under Section 59-12-501 may as provided in this part impose a sales and use tax of

3343 .25% on the transactions described in Subsection 59-12-103(1) located within the city or town.

3344 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
3345 section on:

3346 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3347 are exempt from taxation under Section 59-12-104[-]; and

3348 (ii) any amounts paid or charged by a seller that collects a tax under Subsection
3349 59-12-107(1)(b).

3350 (c) For purposes of this Subsection (1), the location of a transaction shall be
3351 determined in accordance with [~~Sections 59-12-207.1 through 59-12-207.4~~] Section 59-12-207.

3352 (2) (a) A city or town imposing a tax under this part may use the revenues generated by
3353 the tax:

3354 (i) for the construction and maintenance of highways under the jurisdiction of the city
3355 or town imposing the tax;

3356 (ii) subject to Subsection (2)(b), to fund a system for public transit; or

3357 (iii) for a combination of the purposes described in Subsections (2)(a)(i) and (ii).

3358 (b) (i) For purposes of Subsection (2)(a)(ii) and except as provided in Subsection
3359 (2)(b)(ii), "public transit" is as defined in Section 17A-2-1004.

3360 (ii) Notwithstanding Subsection (2)(b)(i), "public transit" does not include a fixed
3361 guideway system.

3362 (3) To impose a tax under this part, the governing body of the city or town shall:

3363 (a) pass an ordinance approving the tax; and

3364 (b) except as provided in Subsection (7), obtain voter approval for the tax as provided
3365 in Subsection (4).

3366 (4) To obtain voter approval for a tax under Subsection (3)(b), a city or town shall:

3367 (a) hold an election during:

3368 (i) a regular general election; or

3369 (ii) a municipal general election; and

3370 (b) publish notice of the election:

3371 (i) 15 days or more before the day on which the election is held; and

3372 (ii) in a newspaper of general circulation in the city or town.

3373 (5) An ordinance approving a tax under this part shall provide an effective date for the

3374 tax as provided in Subsection (6).

3375 (6) (a) For purposes of this Subsection (6):

3376 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
3377 4, Annexation.

3378 (ii) "Annexing area" means an area that is annexed into a city or town.

3379 (b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after July 1, 2004, a city
3380 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

3381 (A) on the first day of a calendar quarter; and

3382 (B) after a 90-day period beginning on the date the commission receives notice meeting
3383 the requirements of Subsection (6)(b)(ii) from the city or town.

3384 (ii) The notice described in Subsection (6)(b)(i)(B) shall state:

3385 (A) that the city or town will enact or repeal a tax under this part;

3386 (B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);

3387 (C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and

3388 (D) if the city or town enacts the tax described in Subsection (6)(b)(ii)(A), the rate of
3389 the tax.

3390 (c) (i) Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection
3391 (6)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

3392 (A) that begins after the effective date of the enactment of the tax; and

3393 (B) if the billing period for the transaction begins before the effective date of the
3394 enactment of the tax under Subsection (1).

3395 (ii) Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection
3396 (6)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

3397 (A) that began before the effective date of the repeal of the tax; and

3398 (B) if the billing period for the transaction begins before the effective date of the repeal
3399 of the tax imposed under Subsection (1).

3400 (iii) Subsections (6)(c)(i) and (ii) apply to transactions subject to a tax under:

3401 (A) Subsection 59-12-103(1)(b);

3402 (B) Subsection 59-12-103(1)(c);

3403 (C) Subsection 59-12-103(1)(d);

3404 (D) Subsection 59-12-103(1)(e);

- 3405 (E) Subsection 59-12-103(1)(f);
- 3406 (F) Subsection 59-12-103(1)(g);
- 3407 (G) Subsection 59-12-103(1)(h);
- 3408 (H) Subsection 59-12-103(1)(i);
- 3409 (I) Subsection 59-12-103(1)(j); or
- 3410 (J) Subsection 59-12-103(1)(k).

3411 (d) (i) Notwithstanding Subsection (6)(b)(i), if a tax due under this chapter on a
3412 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
3413 enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:

3414 (A) on the first day of a calendar quarter; and

3415 (B) beginning 60 days after the effective date of the enactment or repeal under
3416 Subsection (6)(b)(i).

3417 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
3418 the commission may by rule define the term "catalogue sale."

3419 (e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs
3420 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
3421 part for an annexing area, the enactment or repeal shall take effect:

3422 (A) on the first day of a calendar quarter; and

3423 (B) after a 90-day period beginning on the date the commission receives notice meeting
3424 the requirements of Subsection (6)(e)(ii) from the city or town that annexes the annexing area.

3425 (ii) The notice described in Subsection (6)(e)(i)(B) shall state:

3426 (A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or
3427 repeal of a tax under this part for the annexing area;

3428 (B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);

3429 (C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and

3430 (D) the rate of the tax described in Subsection (6)(e)(ii)(A).

3431 (f) (i) Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection
3432 (6)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

3433 (A) that begins after the effective date of the enactment of the tax; and

3434 (B) if the billing period for the transaction begins before the effective date of the
3435 enactment of the tax under Subsection (1).

3436 (ii) Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection
3437 (6)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

3438 (A) that began before the effective date of the repeal of the tax; and

3439 (B) if the billing period for the transaction begins before the effective date of the repeal
3440 of the tax imposed under Subsection (1).

3441 (iii) Subsections (6)(f)(i) and (ii) apply to transactions subject to a tax under:

3442 (A) Subsection 59-12-103(1)(b);

3443 (B) Subsection 59-12-103(1)(c);

3444 (C) Subsection 59-12-103(1)(d);

3445 (D) Subsection 59-12-103(1)(e);

3446 (E) Subsection 59-12-103(1)(f);

3447 (F) Subsection 59-12-103(1)(g);

3448 (G) Subsection 59-12-103(1)(h);

3449 (H) Subsection 59-12-103(1)(i);

3450 (I) Subsection 59-12-103(1)(j); or

3451 (J) Subsection 59-12-103(1)(k).

3452 (g) (i) Notwithstanding Subsection (6)(e)(i), if a tax due under this chapter on a
3453 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
3454 enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:

3455 (A) on the first day of a calendar quarter; and

3456 (B) beginning 60 days after the effective date of the enactment or repeal under
3457 Subsection (6)(e)(i).

3458 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
3459 the commission may by rule define the term "catalogue sale."

3460 (7) (a) Except as provided in Subsection (7)(b), a city or town is not subject to the
3461 voter approval requirements of Subsection (3)(b) if:

3462 (i) on or before January 1, 1996, the city or town imposed a license fee or tax on
3463 businesses based on gross receipts pursuant to Section 10-1-203; or

3464 (ii) the city or town:

3465 (A) on or before June 30, 2002, obtained voter approval in accordance with Subsection
3466 (3)(b) to impose a tax under this part for a purpose described in Subsection (2)(a)(i); and

3467 (B) on or after July 1, 2002, uses the revenues generated by a tax under this part for a
3468 purpose described in Subsection (2)(a).

3469 (b) Notwithstanding Subsection (7)(a), the exception from the voter approval
3470 requirements in Subsection (7)(a)(i) does not apply to a city or town that, on or before January
3471 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts
3472 pursuant to Section 10-1-203.

3473 Section 31. Section **59-12-1002** is amended to read:

3474 **59-12-1002. Collection of taxes by commission -- Charge for service.**

3475 (1) The commission shall:

3476 (a) collect the tax imposed by a city or town under this part; and

3477 (b) subject to Subsection (3), transmit to the city or town monthly by electronic funds
3478 transfer the revenues generated by the tax imposed by the city or town.

3479 (2) (a) Except as provided in Subsection (2)(b), a tax authorized under this part shall be
3480 administered, collected, and enforced in accordance with:

3481 (i) the same procedures used to administer, collect, and enforce the tax under:

3482 (A) Part 1, Tax Collection; or

3483 (B) Part 2, Local Sales and Use Tax Act; and

3484 (ii) Chapter 1, General Taxation Policies.

3485 (b) Notwithstanding Subsection (2)(a), a tax under this part is not subject to
3486 Subsections 59-12-205(2) through [~~6~~] (6).

3487 (3) (a) The commission shall charge a city or town imposing a tax under this part a fee
3488 for administering the tax as provided in Subsections (3)(b) and (c).

3489 (b) The fee shall be in an amount equal to the costs of administering the tax under this
3490 part, except that the fee may not exceed 1-1/2% of the revenues generated in the city or town
3491 by the tax under this part.

3492 (c) Fees under this Subsection (3) shall be:

3493 (i) placed in the Sales and Use Tax Administrative Fees Account; and

3494 (ii) used for sales tax administration as provided in Subsection 59-12-206(2).

3495 Section 32. Section **59-12-1102 (See 59-1-1201 re: Eff)** is amended to read:

3496 **59-12-1102 (See 59-1-1201 re: Eff). Base -- Rate -- Imposition of tax --**

3497 **Distribution of revenue -- Administration -- Enactment or repeal of tax -- Effective date --**

3498 **Notice requirements.**

3499 (1) (a) (i) [~~Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), subject~~
3500 ~~to the provisions of]~~ Subject to Subsections (2) through (5), and in addition to any other tax
3501 authorized by this chapter, a county may impose by ordinance a county option sales and use tax
3502 of .25% upon the transactions described in Subsection 59-12-103(1).

3503 (ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this
3504 section on:

3505 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3506 are exempt from taxation under Section 59-12-104[-]; and

3507 (B) any amounts paid or charged by a seller that collects a tax under Subsection
3508 59-12-107(1)(b) unless all of the counties in the state impose a tax under this section.

3509 (b) For purposes of this Subsection (1), the location of a transaction shall be
3510 determined in accordance with [~~Sections 59-12-207.1 through 59-12-207.4]~~ Section 59-12-207.

3511 (c) The county option sales and use tax under this section shall be imposed:

3512 (i) upon transactions that are located within the county, including transactions that are
3513 located within municipalities in the county; and

3514 (ii) except as provided in Subsection (1)(d) or (5), beginning on the first day of
3515 January:

3516 (A) of the next calendar year after adoption of the ordinance imposing the tax if the
3517 ordinance is adopted on or before May 25; or

3518 (B) of the second calendar year after adoption of the ordinance imposing the tax if the
3519 ordinance is adopted after May 25.

3520 (d) Notwithstanding Subsection (1)(c)(ii), the county option sales and use tax under
3521 this section shall be imposed:

3522 (i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before
3523 September 4, 1997; or

3524 (ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997
3525 but after September 4, 1997.

3526 (2) (a) Before imposing a county option sales and use tax under Subsection (1), a
3527 county shall hold two public hearings on separate days in geographically diverse locations in
3528 the county.

3529 (b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting
3530 time of no earlier than 6 p.m.

3531 (ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven
3532 days after the day the first advertisement required by Subsection (2)(c) is published.

3533 (c) (i) Before holding the public hearings required by Subsection (2)(a), the county
3534 shall advertise in a newspaper of general circulation in the county:

3535 (A) its intent to adopt a county option sales and use tax;

3536 (B) the date, time, and location of each public hearing; and

3537 (C) a statement that the purpose of each public hearing is to obtain public comments
3538 regarding the proposed tax.

3539 (ii) The advertisement shall be published once each week for the two weeks preceding
3540 the earlier of the two public hearings.

3541 (iii) The advertisement shall be no less than 1/8 page in size, and the type used shall be
3542 no smaller than 18 point and surrounded by a 1/4-inch border.

3543 (iv) The advertisement may not be placed in that portion of the newspaper where legal
3544 notices and classified advertisements appear.

3545 (v) Whenever possible:

3546 (A) the advertisement shall appear in a newspaper that is published at least five days a
3547 week, unless the only newspaper in the county is published less than five days a week; and

3548 (B) the newspaper selected shall be one of general interest and readership in the
3549 community, and not one of limited subject matter.

3550 (d) The adoption of an ordinance imposing a county option sales and use tax is subject
3551 to a local referendum election as provided in Title 20A, Chapter 7, Part 6, Local Referenda -
3552 Procedures, except that:

3553 (i) notwithstanding Subsection 20A-7-609(2)(a), the county clerk shall hold a
3554 referendum election that qualifies for the ballot on the earlier of the next regular general
3555 election date or the next municipal general election date more than 155 days after adoption of
3556 an ordinance under this section;

3557 (ii) for 1997 only, the 120-day period in Subsection 20A-7-606(1) shall be 30 days; and

3558 (iii) the deadlines in Subsections 20A-7-606(2) and (3) do not apply, and the clerk shall
3559 take the actions required by those subsections before the referendum election.

3560 (3) (a) If the aggregate population of the counties imposing a county option sales and
3561 use tax under Subsection (1) is less than 75% of the state population, the tax levied under
3562 Subsection (1) shall be distributed to the county in which the tax was collected.

3563 (b) If the aggregate population of the counties imposing a county option sales and use
3564 tax under Subsection (1) is greater than or equal to 75% of the state population:

3565 (i) 50% of the tax collected under Subsection (1) in each county shall be distributed to
3566 the county in which the tax was collected; and

3567 (ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection
3568 (1) in each county shall be distributed proportionately among all counties imposing the tax,
3569 based on the total population of each county.

3570 (c) If the amount to be distributed annually to a county under Subsection (3)(b)(ii),
3571 when combined with the amount distributed to the county under Subsection (3)(b)(i), does not
3572 equal at least \$75,000, then:

3573 (i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall
3574 be increased so that, when combined with the amount distributed to the county under
3575 Subsection (3)(b)(i), the amount distributed annually to the county is \$75,000; and

3576 (ii) the amount to be distributed annually to all other counties under Subsection
3577 (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under
3578 Subsection (3)(c)(i).

3579 (d) The commission shall establish rules to implement the distribution of the tax under
3580 Subsections (3)(a), (b), and (c).

3581 (e) Notwithstanding Subsections (3)(a) and (b), if a county imposes a tax under this
3582 section on any amounts paid or charged by a seller that collects a tax in accordance with
3583 Subsection 59-12-107(1)(b), the revenues generated by the tax shall be distributed as provided
3584 in Subsection 59-12-103(3)(c).

3585 (4) (a) Except as provided in Subsection (4)(b) or (c), a tax authorized under this part
3586 shall be administered, collected, and enforced in accordance with:

3587 (i) the same procedures used to administer, collect, and enforce the tax under:

3588 (A) Part 1, Tax Collection; or

3589 (B) Part 2, Local Sales and Use Tax Act; and

3590 (ii) Chapter 1, General Taxation Policies.

3591 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to
3592 Subsections 59-12-205(2) through [~~6~~] (6).

3593 (c) Notwithstanding Subsection (4)(a), the fee charged by the commission under
3594 Section 59-12-206 shall be based on the distribution amounts resulting after all the applicable
3595 distribution calculations under Subsection (3) have been made.

3596 (5) (a) For purposes of this Subsection (5):

3597 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
3598 Annexation to County.

3599 (ii) "Annexing area" means an area that is annexed into a county.

3600 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
3601 county enacts or repeals a tax under this part:

3602 (A) (I) the enactment shall take effect as provided in Subsection (1)(c); or

3603 (II) the repeal shall take effect on the first day of a calendar quarter; and

3604 (B) after a 90-day period beginning on the date the commission receives notice meeting
3605 the requirements of Subsection (5)(b)(ii) from the county.

3606 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

3607 (A) that the county will enact or repeal a tax under this part;

3608 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

3609 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

3610 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the
3611 tax.

3612 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
3613 (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

3614 (A) that begins after the effective date of the enactment of the tax; and

3615 (B) if the billing period for the transaction begins before the effective date of the
3616 enactment of the tax under Subsection (1).

3617 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
3618 (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

3619 (A) that began before the effective date of the repeal of the tax; and

3620 (B) if the billing period for the transaction begins before the effective date of the repeal
3621 of the tax imposed under Subsection (1).

- 3622 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:
- 3623 (A) Subsection 59-12-103(1)(b);
- 3624 (B) Subsection 59-12-103(1)(c);
- 3625 (C) Subsection 59-12-103(1)(d);
- 3626 (D) Subsection 59-12-103(1)(e);
- 3627 (E) Subsection 59-12-103(1)(f);
- 3628 (F) Subsection 59-12-103(1)(g);
- 3629 (G) Subsection 59-12-103(1)(h);
- 3630 (H) Subsection 59-12-103(1)(i);
- 3631 (I) Subsection 59-12-103(1)(j); or
- 3632 (J) Subsection 59-12-103(1)(k).
- 3633 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a
- 3634 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 3635 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:
- 3636 (A) on the first day of a calendar quarter; and
- 3637 (B) beginning 60 days after the effective date of the enactment or repeal under
- 3638 Subsection (5)(b)(i).
- 3639 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 3640 the commission may by rule define the term "catalogue sale."
- 3641 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
- 3642 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
- 3643 part for an annexing area, the enactment or repeal shall take effect:
- 3644 (A) on the first day of a calendar quarter; and
- 3645 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 3646 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.
- 3647 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:
- 3648 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
- 3649 repeal of a tax under this part for the annexing area;
- 3650 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);
- 3651 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and
- 3652 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

3653 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
3654 (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

3655 (A) that begins after the effective date of the enactment of the tax; and

3656 (B) if the billing period for the transaction begins before the effective date of the
3657 enactment of the tax under Subsection (1).

3658 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
3659 (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

3660 (A) that began before the effective date of the repeal of the tax; and

3661 (B) if the billing period for the transaction begins before the effective date of the repeal
3662 of the tax imposed under Subsection (1).

3663 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

3664 (A) Subsection 59-12-103(1)(b);

3665 (B) Subsection 59-12-103(1)(c);

3666 (C) Subsection 59-12-103(1)(d);

3667 (D) Subsection 59-12-103(1)(e);

3668 (E) Subsection 59-12-103(1)(f);

3669 (F) Subsection 59-12-103(1)(g);

3670 (G) Subsection 59-12-103(1)(h);

3671 (H) Subsection 59-12-103(1)(i);

3672 (I) Subsection 59-12-103(1)(j); or

3673 (J) Subsection 59-12-103(1)(k).

3674 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a
3675 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
3676 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

3677 (A) on the first day of a calendar quarter; and

3678 (B) beginning 60 days after the effective date of the enactment or repeal under
3679 Subsection (5)(e)(i).

3680 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
3681 the commission may by rule define the term "catalogue sale."

3682 Section 33. Section **59-12-1201** is amended to read:

3683 **59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration,**

3684 **collection, and enforcement of tax -- Administrative fee -- Deposits.**

3685 (1) (a) Except as provided in Subsection (3), there is imposed a tax of 2.5% on all
3686 short-term leases and rentals of motor vehicles not exceeding 30 days.

3687 (b) The tax imposed in this section is in addition to all other state, county, or municipal
3688 fees and taxes imposed on rentals of motor vehicles.

3689 (2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax
3690 imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

3691 (b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall
3692 take effect on the first day of the first billing period:

3693 (A) that begins after the effective date of the tax rate increase; and

3694 (B) if the billing period for the transaction begins before the effective date of a tax rate
3695 increase imposed under Subsection (1).

3696 (ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax
3697 rate decrease shall take effect on the first day of the last billing period:

3698 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
3699 and

3700 (B) if the billing period for the transaction begins before the effective date of the repeal
3701 of the tax or the tax rate decrease imposed under Subsection (1).

3702 (3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

3703 (a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

3704 (b) the motor vehicle is rented as a personal household goods moving van; or

3705 (c) the lease or rental of the motor vehicle is made for the purpose of temporarily
3706 replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an
3707 insurance agreement.

3708 (4) (a) (i) [~~Except as provided in Subsection (4)(a)(ii), the~~] The tax authorized under
3709 this section shall be administered, collected, and enforced in accordance with:

3710 (A) the same procedures used to administer, collect, and enforce the tax under Part 1,
3711 Tax Collection; and

3712 (B) Chapter 1, General Taxation Policies.

3713 (ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to[~~:(A)~~]
3714 Subsections 59-12-103(4) through [~~(7);~~] (8) or [~~(B) Sections~~] Section 59-12-107.1 [~~through~~

3715 59-12-107.3].

3716 (b) The commission may retain a maximum of 1-1/2% of the tax collected under this
3717 section for the costs of rendering its services under this section.

3718 (c) Except as provided under Subsection (4)(b), all revenue received by the
3719 commission under this section shall be deposited daily with the state treasurer and credited
3720 monthly to the Transportation Corridor Preservation Revolving Loan Fund under Section
3721 72-2-117.

3722 Section 34. Section **59-12-1302** (See **59-1-1201 re: Eff**) is amended to read:

3723 **59-12-1302** (See **59-1-1201 re: Eff**). **Authority to impose -- Base -- Rate --**
3724 **Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements.**

3725 (1) [~~Except as provided in Subsection 59-12-207.1(7)(c), beginning~~] Beginning on or
3726 after January 1, 1998, the governing body of a town may impose a tax as provided in this part
3727 in an amount that does not exceed 1%.

3728 (2) A town may impose a tax as provided in this part if the town imposed a license fee
3729 or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1,
3730 1996.

3731 (3) A town imposing a tax under this section shall:

3732 (a) except as provided in Subsection (4), impose the tax on the transactions described
3733 in Subsection 59-12-103(1) located within the town; and

3734 (b) provide an effective date for the tax as provided in Subsection (5).

3735 (4) (a) Notwithstanding Subsection (3)(a), a town may not impose a tax under this
3736 section on:

3737 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3738 are exempt from taxation under Section 59-12-104[-]; and

3739 (ii) any amounts paid or charged by a seller that collects a tax under Subsection
3740 59-12-107(1)(b).

3741 (b) For purposes of this Subsection (4), the location of a transaction shall be
3742 determined in accordance with [~~Sections 59-12-207.1 through 59-12-207.4~~] Section 59-12-207.

3743 (5) (a) For purposes of this Subsection (5):

3744 (i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4,
3745 Annexation.

3746 (ii) "Annexing area" means an area that is annexed into a town.

3747 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
3748 town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,
3749 or change shall take effect:

3750 (A) on the first day of a calendar quarter; and

3751 (B) after a 90-day period beginning on the date the commission receives notice meeting
3752 the requirements of Subsection (5)(b)(ii) from the town.

3753 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

3754 (A) that the town will enact or repeal a tax or change the rate of a tax under this part;

3755 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

3756 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

3757 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
3758 (5)(b)(ii)(A), the rate of the tax.

3759 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
3760 (5)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
3761 first billing period:

3762 (A) that begins after the effective date of the enactment of the tax or the tax rate
3763 increase; and

3764 (B) if the billing period for the transaction begins before the effective date of the
3765 enactment of the tax or the tax rate increase imposed under Subsection (1).

3766 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
3767 (5)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
3768 billing period:

3769 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
3770 and

3771 (B) if the billing period for the transaction begins before the effective date of the repeal
3772 of the tax or the tax rate decrease imposed under Subsection (1).

3773 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

3774 (A) Subsection 59-12-103(1)(b);

3775 (B) Subsection 59-12-103(1)(c);

3776 (C) Subsection 59-12-103(1)(d);

3777 (D) Subsection 59-12-103(1)(e);

3778 (E) Subsection 59-12-103(1)(f);

3779 (F) Subsection 59-12-103(1)(g);

3780 (G) Subsection 59-12-103(1)(h);

3781 (H) Subsection 59-12-103(1)(i);

3782 (I) Subsection 59-12-103(1)(j); or

3783 (J) Subsection 59-12-103(1)(k).

3784 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a
3785 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
3786 enactment, repeal, or change in the rate of a tax described in Subsection (5)(b)(i) takes effect:

3787 (A) on the first day of a calendar quarter; and

3788 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
3789 rate of the tax under Subsection (5)(b)(i).

3790 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
3791 the commission may by rule define the term "catalogue sale."

3792 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
3793 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
3794 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
3795 effect:

3796 (A) on the first day of a calendar quarter; and

3797 (B) after a 90-day period beginning on the date the commission receives notice meeting
3798 the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

3799 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

3800 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment,
3801 repeal, or change in the rate of a tax under this part for the annexing area;

3802 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

3803 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

3804 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
3805 (5)(e)(ii)(A), the rate of the tax.

3806 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
3807 (5)(f)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the

3808 first billing period:

3809 (A) that begins after the effective date of the enactment of the tax or the tax rate
3810 increase; and

3811 (B) if the billing period for the transaction begins before the effective date of the
3812 enactment of the tax or the tax rate increase imposed under Subsection (1).

3813 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
3814 (5)(f)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
3815 billing period:

3816 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
3817 and

3818 (B) if the billing period for the transaction begins before the effective date of the repeal
3819 of the tax or the tax rate decrease imposed under Subsection (1).

3820 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

3821 (A) Subsection 59-12-103(1)(b);

3822 (B) Subsection 59-12-103(1)(c);

3823 (C) Subsection 59-12-103(1)(d);

3824 (D) Subsection 59-12-103(1)(e);

3825 (E) Subsection 59-12-103(1)(f);

3826 (F) Subsection 59-12-103(1)(g);

3827 (G) Subsection 59-12-103(1)(h);

3828 (H) Subsection 59-12-103(1)(i);

3829 (I) Subsection 59-12-103(1)(j); or

3830 (J) Subsection 59-12-103(1)(k).

3831 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a
3832 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
3833 enactment, repeal, or change in the rate of a tax described in Subsection (5)(e)(i) takes effect:

3834 (A) on the first day of a calendar quarter; and

3835 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
3836 rate of the tax under Subsection (5)(e)(i).

3837 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
3838 the commission may by rule define the term "catalogue sale."

3839 (6) The commission shall:

3840 (a) except as provided in Subsection (6)(c), distribute the revenues generated by the tax
3841 under this section to the town imposing the tax;

3842 (b) except as provided in Subsection (7), administer, collect, and enforce the tax
3843 authorized under this section in accordance with:

3844 (i) the same procedures used to administer, collect, and enforce the tax under:

3845 (A) Part 1, Tax Collection; or

3846 (B) Part 2, Local Sales and Use Tax Act; and

3847 (ii) Chapter 1, General Taxation Policies; and

3848 (c) deduct from the distribution under Subsection (6)(a) an administrative charge for
3849 collecting the tax as provided in Section 59-12-206.

3850 (7) Notwithstanding Subsection (6)(b), a tax under this section is not subject to
3851 Subsections 59-12-205(2) through [(9)] (6).

3852 Section 35. Section **59-12-1402 (See 59-1-1201 re: Eff)** is amended to read:

3853 **59-12-1402 (See 59-1-1201 re: Eff). Opinion question election -- Imposition of tax**

3854 **-- Uses of tax monies -- Enactment or repeal of tax -- Effective date -- Notice**

3855 **requirements.**

3856 (1) (a) (i) [~~Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), and~~
3857 ~~subject~~] Subject to Subsection (6), beginning on January 1, 2003, a city or town legislative
3858 body subject to this part may submit an opinion question to the residents of that city or town,
3859 by majority vote of all members of the legislative body, so that each resident of the city or town
3860 has an opportunity to express the resident's opinion on the imposition of a local sales and use
3861 tax of .1% on the transactions described in Subsection 59-12-103(1) located within the city or
3862 town, to fund recreational and zoological facilities and botanical, cultural, and zoological
3863 organizations in that city or town.

3864 (ii) Notwithstanding Subsection (1)(a)(i), a city or town legislative body may not
3865 impose a tax under this section:

3866 (A) if the county in which the city or town is located imposes a tax under Part 7,
3867 County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or
3868 Facilities; [or]

3869 (B) on the sales and uses described in Section 59-12-104 to the extent the sales and

3870 uses are exempt from taxation under Section 59-12-104[-]; and

3871 (C) on any amounts paid or charged by a seller that collects a tax under Subsection
3872 59-12-107(1)(b).

3873 (b) For purposes of this Subsection (1), the location of a transaction shall be
3874 determined in accordance with [~~Sections 59-12-207.1 through 59-12-207.4~~] Section 59-12-207.

3875 (c) The election shall be held at a regular general election or a municipal general
3876 election, as those terms are defined in Section 20A-1-102, and shall follow the procedures
3877 outlined in Title 11, Chapter 14, Local Government Bonding Act, except as provided in
3878 Subsection (6).

3879 (2) If the city or town legislative body determines that a majority of the city's or town's
3880 registered voters voting on the imposition of the tax have voted in favor of the imposition of
3881 the tax as prescribed in Subsection (1)(a), the city or town legislative body may impose the tax
3882 by a majority vote of all members of the legislative body.

3883 (3) The monies generated from any tax imposed under Subsection (2) shall be used for
3884 financing:

3885 (a) recreational and zoological facilities within the city or town or within the
3886 geographic area of entities that are parties to an interlocal agreement, to which the city or town
3887 is a party, providing for recreational or zoological facilities; and

3888 (b) ongoing operating expenses of botanical, cultural, and zoological organizations
3889 within the city or town or within the geographic area of entities that are parties to an interlocal
3890 agreement, to which the city or town is a party, providing for the support of botanical, cultural,
3891 or zoological organizations.

3892 (4) (a) A tax authorized under this part shall be:

3893 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
3894 accordance with:

3895 (A) the same procedures used to administer, collect, and enforce the tax under:

3896 (I) Part 1, Tax Collection; or

3897 (II) Part 2, Local Sales and Use Tax Act; and

3898 (B) Chapter 1, General Taxation Policies; and

3899 (ii) (A) levied for a period of eight years; and

3900 (B) may be reauthorized at the end of the eight-year period in accordance with this

3901 section.

3902 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
3903 Subsections 59-12-205(2) through [~~(9)~~] (6).

3904 (5) (a) For purposes of this Subsection (5):

3905 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
3906 4, Annexation.

3907 (ii) "Annexing area" means an area that is annexed into a city or town.

3908 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city
3909 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

3910 (A) on the first day of a calendar quarter; and

3911 (B) after a 90-day period beginning on the date the commission receives notice meeting
3912 the requirements of Subsection (5)(b)(ii) from the city or town.

3913 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

3914 (A) that the city or town will enact or repeal a tax under this part;

3915 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

3916 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

3917 (D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of
3918 the tax.

3919 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
3920 (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

3921 (A) that begins after the effective date of the enactment of the tax; and

3922 (B) if the billing period for the transaction begins before the effective date of the
3923 enactment of the tax under this section.

3924 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
3925 (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

3926 (A) that began before the effective date of the repeal of the tax; and

3927 (B) if the billing period for the transaction begins before the effective date of the repeal
3928 of the tax imposed under this section.

3929 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

3930 (A) Subsection 59-12-103(1)(b);

3931 (B) Subsection 59-12-103(1)(c);

3932 (C) Subsection 59-12-103(1)(d);

3933 (D) Subsection 59-12-103(1)(e);

3934 (E) Subsection 59-12-103(1)(f);

3935 (F) Subsection 59-12-103(1)(g);

3936 (G) Subsection 59-12-103(1)(h);

3937 (H) Subsection 59-12-103(1)(i);

3938 (I) Subsection 59-12-103(1)(j); or

3939 (J) Subsection 59-12-103(1)(k).

3940 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a
3941 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
3942 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

3943 (A) on the first day of a calendar quarter; and

3944 (B) beginning 60 days after the effective date of the enactment or repeal under
3945 Subsection (5)(b)(i).

3946 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
3947 the commission may by rule define the term "catalogue sale."

3948 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
3949 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
3950 part for an annexing area, the enactment or repeal shall take effect:

3951 (A) on the first day of a calendar quarter; and

3952 (B) after a 90-day period beginning on the date the commission receives notice meeting
3953 the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.

3954 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

3955 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
3956 repeal a tax under this part for the annexing area;

3957 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

3958 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

3959 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

3960 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
3961 (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

3962 (A) that begins after the effective date of the enactment of the tax; and

3963 (B) if the billing period for the transaction begins before the effective date of the
3964 enactment of the tax under this section.

3965 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
3966 (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

3967 (A) that began before the effective date of the repeal of the tax; and

3968 (B) if the billing period for the transaction begins before the effective date of the repeal
3969 of the tax imposed under this section.

3970 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

3971 (A) Subsection 59-12-103(1)(b);

3972 (B) Subsection 59-12-103(1)(c);

3973 (C) Subsection 59-12-103(1)(d);

3974 (D) Subsection 59-12-103(1)(e);

3975 (E) Subsection 59-12-103(1)(f);

3976 (F) Subsection 59-12-103(1)(g);

3977 (G) Subsection 59-12-103(1)(h);

3978 (H) Subsection 59-12-103(1)(i);

3979 (I) Subsection 59-12-103(1)(j); or

3980 (J) Subsection 59-12-103(1)(k).

3981 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a
3982 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
3983 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

3984 (A) on the first day of a calendar quarter; and

3985 (B) beginning 60 days after the effective date of the enactment or repeal under
3986 Subsection (5)(e)(i).

3987 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
3988 the commission may by rule define the term "catalogue sale."

3989 (6) (a) Before a city or town legislative body submits an opinion question to the
3990 residents of the city or town under Subsection (1)(a)(i), the city or town legislative body shall:

3991 (i) submit to the county legislative body in which the city or town is located a written
3992 notice of the intent to submit the opinion question to the residents of the city or town; and

3993 (ii) receive from the county legislative body:

3994 (A) a written resolution passed by the county legislative body stating that the county
3995 legislative body is not seeking to impose a tax under Part 7, County Option Funding for
3996 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

3997 (B) a written statement that in accordance with Subsection (6)(b) the results of a county
3998 opinion question submitted to the residents of the county under Part 7, County Option Funding
3999 for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city
4000 or town legislative body to submit the opinion question to the residents of the city or town in
4001 accordance with this part.

4002 (b) (i) Within 60 days after the day the county legislative body receives from a city or
4003 town legislative body described in Subsection (6)(a) the notice of the intent to submit an
4004 opinion question to the residents of the city or town, the county legislative body shall provide
4005 the city or town legislative body:

4006 (A) the written resolution described in Subsection (6)(a)(ii)(A); or

4007 (B) written notice that the county legislative body will submit an opinion question to
4008 the residents of the county under Part 7, County Option Funding for Botanical, Cultural,
4009 Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under
4010 that part.

4011 (ii) If the county legislative body provides the city or town legislative body the written
4012 notice that the county legislative body will submit an opinion question as provided in
4013 Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no
4014 later than, from the date the county legislative body sends the written notice, the later of:

4015 (A) a 12-month period;

4016 (B) the next regular primary election; or

4017 (C) the next regular general election.

4018 (iii) Within 30 days of the date of the canvass of the election at which the opinion
4019 question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the
4020 city or town legislative body described in Subsection (6)(a) written results of the opinion
4021 question submitted by the county legislative body under Part 7, County Option Funding for
4022 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

4023 (A) (I) the city or town legislative body may not impose a tax under this part because a
4024 majority of the county's registered voters voted in favor of the county imposing the tax and the

4025 county legislative body by a majority vote approved the imposition of the tax; or

4026 (II) for at least 12 months from the date the written results are submitted to the city or
 4027 town legislative body, the city or town legislative body may not submit to the county legislative
 4028 body a written notice of the intent to submit an opinion question under this part because a
 4029 majority of the county's registered voters voted against the county imposing the tax and the
 4030 majority of the registered voters who are residents of the city or town described in Subsection
 4031 (6)(a) voted against the imposition of the county tax; or

4032 (B) the city or town legislative body may submit the opinion question to the residents
 4033 of the city or town in accordance with this part because although a majority of the county's
 4034 registered voters voted against the county imposing the tax, the majority of the registered voters
 4035 who are residents of the city or town voted for the imposition of the county tax.

4036 (c) Notwithstanding Subsection (6)(b), at any time a county legislative body may
 4037 provide a city or town legislative body described in Subsection (6)(a) a written resolution
 4038 passed by the county legislative body stating that the county legislative body is not seeking to
 4039 impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and
 4040 Zoological Organizations or Facilities, which permits the city or town legislative body to
 4041 submit under Subsection (1)(a)(i) an opinion question to the city's or town's residents.

4042 Section 36. Section **59-12-1503 (See 59-1-1201 re: Eff)** is amended to read:

4043 **59-12-1503 (See 59-1-1201 re: Eff). Opinion question election -- Imposition of tax**
 4044 **-- Use of tax revenues -- Administration, collection, and enforcement of tax by**
 4045 **commission -- Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**

4046 (1) (a) Beginning on or after April 1, 2004, and subject to the other provisions of this
 4047 part, the county legislative body of a qualifying county may impose a sales and use tax of .25%:

4048 (i) [~~except as provided in Subsections (1)(b) and 59-12-207.1(7)(c),~~] on the
 4049 transactions:

4050 (A) described in Subsection 59-12-103(1); and

4051 (B) within the county, including the cities and towns within the county;

4052 (ii) for the purposes determined by the county legislative body in accordance with
 4053 Subsection (2); and

4054 (iii) in addition to any other sales and use tax authorized under this chapter.

4055 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a

4056 tax under this section on:

4057 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
4058 are exempt from taxation under Section 59-12-104[-]; or

4059 (ii) any amounts paid or charged by a seller that collects a tax under Subsection
4060 59-12-107(1)(b).

4061 (c) For purposes of this Subsection (1), the location of a transaction shall be
4062 determined in accordance with [~~Sections 59-12-207.1 through 59-12-207.4~~] Section 59-12-207.

4063 (2) (a) Subject to Subsection (2)(b), before obtaining the approval required by
4064 Subsection (3), a county legislative body shall adopt a resolution specifying the percentage of
4065 revenues the county will receive from the tax under this part that will be allocated to fund one
4066 or more of the following:

4067 (i) a project or service relating to a fixed guideway system:

4068 (A) for the portion of the project or service that is performed within the county; and

4069 (B) if the fixed guideway system is owned and operated by a public transit district
4070 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;

4071 (ii) a project or service relating to a system for public transit:

4072 (A) for the portion of the project or service that is performed within the county; and

4073 (B) if the system for public transit is owned and operated by a public transit district
4074 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; or

4075 (iii) the following relating to a state highway within the county:

4076 (A) a project beginning on or after the day on which a county legislative body imposes
4077 a tax under this part only within the county involving:

4078 (I) new construction;

4079 (II) a renovation;

4080 (III) an improvement; or

4081 (IV) an environmental study;

4082 (B) debt service on a project described in Subsections (2)(a)(iii)(A)(I) through (IV); or

4083 (C) bond issuance costs relating to a project described in Subsections (2)(a)(iii)(A)(I)
4084 through (IV).

4085 (b) (i) A county legislative body shall in the resolution required by Subsection (2)(a)

4086 allocate as required by Subsection (2)(a) 100% of the revenues the county will receive from the

4087 tax under this part.

4088 (ii) For purposes of this Subsection (2)(b), the revenues a county will receive from the
4089 tax under this part do not include amounts retained by the commission in accordance with
4090 Subsection (8).

4091 (3) (a) Before imposing a tax under this part, a county legislative body shall:

4092 (i) obtain approval from a majority of the members of the county legislative body to:

4093 (A) impose the tax; and

4094 (B) allocate the revenues the county will receive from the tax in accordance with the

4095 resolution adopted in accordance with Subsection (2); and

4096 (ii) subject to Subsection (3)(b), submit an opinion question to the county's registered
4097 voters voting on the imposition of the tax so that each registered voter has the opportunity to
4098 express the registered voter's opinion on whether a tax should be imposed under this part.

4099 (b) The opinion question required by Subsection (3)(a)(ii) shall state the allocations
4100 specified in the resolution:

4101 (i) adopted in accordance with Subsection (2); and

4102 (ii) approved by the county legislative body in accordance with Subsection (3)(a).

4103 (c) The election required by this Subsection (3) shall be held:

4104 (i) (A) at a regular general election; and

4105 (B) in accordance with the procedures and requirements of Title 20A, Election Code,
4106 governing regular general elections; or

4107 (ii) (A) at a special election called by the county legislative body;

4108 (B) only on the date of a municipal general election provided in Subsection

4109 20A-1-202(1); and

4110 (C) in accordance with the procedures and requirements of Section 20A-1-203.

4111 (4) (a) Subject to Subsection (8), if a county legislative body determines that a majority
4112 of the county's registered voters voting on the imposition of the tax have voted in favor of the
4113 imposition of the tax in accordance with Subsection (3), the county legislative body may
4114 impose the tax by a majority vote of all of the members of the county legislative body.

4115 (b) If a county legislative body imposes a tax under Subsection (4)(a), the revenues
4116 generated by the tax shall be:

4117 (i) allocated in accordance with the allocations specified in the resolution under

4118 Subsection (2); and
4119 (ii) expended as provided in this part.
4120 (5) If a county legislative body allocates revenues generated by the tax for a project
4121 described in Subsection (2)(a)(iii)(A), before beginning the project the county legislative body
4122 shall:
4123 (a) obtain approval from the Transportation Commission to complete the project; and
4124 (b) enter into an interlocal agreement:
4125 (i) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;
4126 (ii) with the Department of Transportation; and
4127 (iii) to complete the project.
4128 (6) (a) If after a county legislative body imposes a tax under Subsection (4) the county
4129 legislative body seeks to change the allocation of the tax specified in the resolution under
4130 Subsection (2), the county legislative body may change the allocation of the tax by:
4131 (i) adopting a resolution in accordance with Subsection (2) specifying the percentage of
4132 revenues the county will receive from the tax under this part that will be allocated to fund one
4133 or more of the systems or projects described in Subsection (2);
4134 (ii) obtaining approval to change the allocation of the tax from a majority of the
4135 members of the county legislative body; and
4136 (iii) (A) submitting an opinion question to the county's registered voters voting on
4137 changing the allocation of the tax so that each registered voter has the opportunity to express
4138 the registered voter's opinion on whether the allocation of the tax should be changed; and
4139 (B) obtaining approval to change the allocation of the tax from a majority of the
4140 county's registered voters voting on changing the allocation of the tax.
4141 (b) (i) The opinion question required by Subsection (6)(a)(iii) shall state the allocations
4142 specified in the resolution:
4143 (A) adopted in accordance with Subsection (6)(a)(i); and
4144 (B) approved by the county legislative body in accordance with Subsection (6)(a)(ii).
4145 (ii) The election required by Subsection (6)(a)(iii) shall follow the procedures and
4146 requirements of Title 11, Chapter 14, Local Government Bonding Act.
4147 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), revenues generated by a tax
4148 under this part that are allocated for a purpose described in Subsection (2)(a)(i) or (ii) shall be

4149 transmitted:

4150 (A) by the commission;

4151 (B) to the county;

4152 (C) monthly; and

4153 (D) by electronic funds transfer.

4154 (ii) Notwithstanding Subsection (7)(a)(i), a county may request that the commission

4155 transfer the revenues described in Subsection (7)(a)(i):

4156 (A) directly to a public transit district:

4157 (I) organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; and

4158 (II) designated by the county; and

4159 (B) by providing written notice to the commission:

4160 (I) requesting the revenues to be transferred directly to a public transit district as

4161 provided in Subsection (7)(a)(ii)(A); and

4162 (II) designating the public transit district to which the revenues are requested to be

4163 transferred.

4164 (b) Revenues generated by a tax under this part that are allocated for a purpose

4165 described in Subsection (2)(a)(iii) shall be:

4166 (i) deposited into the State Highway Projects Within Counties Fund created by Section

4167 72-2-121.1; and

4168 (ii) expended as provided in Section 72-2-121.1.

4169 (8) (a) (i) Except as provided in Subsection (8)(a)(ii), the tax authorized under this part

4170 shall be administered, collected, and enforced in accordance with:

4171 (A) the same procedures used to administer, collect, and enforce the tax under:

4172 (I) Part 1, Tax Collection; or

4173 (II) Part 2, Local Sales and Use Tax Act; and

4174 (B) Chapter 1, General Taxation Policies.

4175 (ii) Notwithstanding Subsection (8)(a)(i), a tax under this part is not subject to

4176 Subsections 59-12-205(2) through [~~9~~] (6).

4177 (b) (i) The commission may retain an amount of tax collected under this part of not to

4178 exceed the lesser of:

4179 (A) 1.5%; or

- 4180 (B) an amount equal to the cost to the commission of administering this part.
- 4181 (ii) Any amount the commission retains under Subsection (8)(b)(i) shall be:
- 4182 (A) placed in the Sales and Use Tax Administrative Fees Account; and
- 4183 (B) used as provided in Subsection 59-12-206(2).
- 4184 (9) (a) (i) Except as provided in Subsection (9)(b) or (c), if, on or after July 1, 2004, a
- 4185 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:
- 4186 (A) on the first day of a calendar quarter; and
- 4187 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 4188 the requirements of Subsection (9)(a)(ii) from the county.
- 4189 (ii) The notice described in Subsection (9)(a)(i)(B) shall state:
- 4190 (A) that the county will enact or repeal a tax under this part;
- 4191 (B) the statutory authority for the tax described in Subsection (9)(a)(ii)(A);
- 4192 (C) the effective date of the tax described in Subsection (9)(a)(ii)(A); and
- 4193 (D) if the county enacts the tax described in Subsection (9)(a)(ii)(A), the rate of the tax.
- 4194 (b) (i) Notwithstanding Subsection (9)(a)(i), for a transaction described in Subsection
- 4195 (9)(b)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 4196 (A) that begins after the effective date of the enactment of the tax; and
- 4197 (B) if the billing period for the transaction begins before the effective date of the
- 4198 enactment of the tax under Subsection (1).
- 4199 (ii) Notwithstanding Subsection (9)(a)(i), for a transaction described in Subsection
- 4200 (9)(b)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 4201 (A) that began before the effective date of the repeal of the tax; and
- 4202 (B) if the billing period for the transaction begins before the effective date of the repeal
- 4203 of the tax imposed under Subsection (1).
- 4204 (iii) Subsections (9)(b)(i) and (ii) apply to transactions subject to a tax under:
- 4205 (A) Subsection 59-12-103(1)(b);
- 4206 (B) Subsection 59-12-103(1)(c);
- 4207 (C) Subsection 59-12-103(1)(d);
- 4208 (D) Subsection 59-12-103(1)(e);
- 4209 (E) Subsection 59-12-103(1)(f);
- 4210 (F) Subsection 59-12-103(1)(g);

- 4211 (G) Subsection 59-12-103(1)(h);
4212 (H) Subsection 59-12-103(1)(i);
4213 (I) Subsection 59-12-103(1)(j); or
4214 (J) Subsection 59-12-103(1)(k).
- 4215 (c) (i) Notwithstanding Subsection (9)(a)(i), if a tax due under this chapter on a
4216 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
4217 enactment or repeal of a tax described in Subsection (9)(a)(i) takes effect:
- 4218 (A) on the first day of a calendar quarter; and
4219 (B) beginning 60 days after the effective date of the enactment or repeal under
4220 Subsection (9)(a)(i).
- 4221 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4222 the commission may by rule define the term "catalogue sale."
- 4223 (d) (i) Except as provided in Subsection (9)(e) or (f), if, for an annexation that occurs
4224 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
4225 part for an annexing area, the enactment or repeal shall take effect:
- 4226 (A) on the first day of a calendar quarter; and
4227 (B) after a 90-day period beginning on the date the commission receives notice meeting
4228 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.
- 4229 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:
- 4230 (A) that the annexation described in Subsection (9)(d)(i)(B) will result in an enactment
4231 or repeal of a tax under this part for the annexing area;
4232 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);
4233 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and
4234 (D) the rate of the tax described in Subsection (9)(d)(ii)(A).
- 4235 (e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
4236 (9)(e)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 4237 (A) that begins after the effective date of the enactment of the tax; and
4238 (B) if the billing period for the transaction begins before the effective date of the
4239 enactment of the tax under Subsection (1).
- 4240 (ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
4241 (9)(e)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

- 4242 (A) that began before the effective date of the repeal of the tax; and
- 4243 (B) if the billing period for the transaction begins before the effective date of the repeal
- 4244 of the tax imposed under Subsection (1).
- 4245 (iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:
- 4246 (A) Subsection 59-12-103(1)(b);
- 4247 (B) Subsection 59-12-103(1)(c);
- 4248 (C) Subsection 59-12-103(1)(d);
- 4249 (D) Subsection 59-12-103(1)(e);
- 4250 (E) Subsection 59-12-103(1)(f);
- 4251 (F) Subsection 59-12-103(1)(g);
- 4252 (G) Subsection 59-12-103(1)(h);
- 4253 (H) Subsection 59-12-103(1)(i);
- 4254 (I) Subsection 59-12-103(1)(j); or
- 4255 (J) Subsection 59-12-103(1)(k).
- 4256 (f) (i) Notwithstanding Subsection (9)(d)(i), if a tax due under this chapter on a
- 4257 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 4258 enactment or repeal of a tax described in Subsection (9)(d)(i) takes effect:
- 4259 (A) on the first day of a calendar quarter; and
- 4260 (B) beginning 60 days after the effective date of the enactment or repeal under
- 4261 Subsection (9)(d)(i).
- 4262 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 4263 the commission may by rule define the term "catalogue sale."
- 4264 Section 37. Section **59-12-1604** is amended to read:
- 4265 **59-12-1604. Administration, collection, and enforcement of tax -- Administrative**
- 4266 **fee.**
- 4267 (1) Except as provided in Subsection (2), the tax authorized under this part shall be
- 4268 administered, collected, and enforced in accordance with:
- 4269 (a) the same procedures used to administer, collect, and enforce the tax under:
- 4270 (i) Part 1, Tax Collection; or
- 4271 (ii) Part 2, Local Sales and Use Tax Act; and
- 4272 (b) Chapter 1, General Taxation Policies.

4273 (2) [~~Notwithstanding Subsection (1), a~~] A tax under this part is not subject to[~~-(a)-~~
 4274 ~~Sections] Section 59-12-107.1 [through 59-12-107.3; (b) Sections 59-12-207.1 through~~
 4275 ~~59-12-207.4;] or [(c)] Subsections 59-12-205(2) through [(9)] (6).~~

4276 (3) (a) The commission:

4277 (i) except as provided in Subsection (3)(a)(ii), shall distribute the revenues generated
 4278 by the tax to the county within which the revenues were generated; and

4279 (ii) notwithstanding Subsection (3)(a)(i), may retain an amount of tax collected under
 4280 this part of not to exceed the lesser of:

4281 (A) 1.5%; or

4282 (B) an amount equal to the cost to the commission of administering this part.

4283 (b) Any amount the commission retains under Subsection (3)(a)(ii) shall be:

4284 (i) placed in the Sales and Use Tax Administrative Fees Account; and

4285 (ii) used as provided in Subsection 59-12-206(2).

4286 Section 38. Section **63-51-4** is amended to read:

4287 **63-51-4. Prepaid Sales and Use Tax Construction Account -- Use of account**
 4288 **funds.**

4289 There is created a Prepaid Sales and Use Tax Construction Account as a special
 4290 suspense account within the state General Fund. All revenues collected or received by the
 4291 State Tax Commission from the prepayment of sales or use taxes under this chapter shall be
 4292 deposited with the state treasurer [~~in accordance with Section 59-12-119]~~ daily and credited by
 4293 the state treasurer to the Prepaid Sales and Use Tax Construction Account. This account shall
 4294 be used to finance state-related public improvements, including but not limited to highways
 4295 and related facilities and schools and related facilities. Funds from this account shall only be
 4296 disbursed or drawn upon after proper authorization and only after appropriation of these funds
 4297 by the Legislature.

4298 Section 39. Section **69-2-5** is amended to read:

4299 **69-2-5. Funding for 911 emergency telephone service.**

4300 (1) In providing funding of 911 emergency telephone service, any public agency
 4301 establishing a 911 emergency telephone service may:

4302 (a) seek assistance from the federal or state government, to the extent constitutionally
 4303 permissible, in the form of loans, advances, grants, subsidies, and otherwise, directly or

- 4304 indirectly;
- 4305 (b) seek funds appropriated by local governmental taxing authorities for the funding of
- 4306 public safety agencies; and
- 4307 (c) seek gifts, donations, or grants from individuals, corporations, or other private
- 4308 entities.
- 4309 (2) For purposes of providing funding of 911 emergency telephone service, special
- 4310 service districts may raise funds as provided in Section 17A-2-1322 and may borrow money
- 4311 and incur indebtedness as provided in Section 17A-2-1316.
- 4312 (3) (a) Except as provided in Subsection (3)(b) and subject to the other provisions of
- 4313 this Subsection (3) a county, city, or town within which 911 emergency telephone service is
- 4314 provided may levy monthly an emergency services telephone charge on:
- 4315 (i) each local exchange service switched access line within the boundaries of the
- 4316 county, city, or town; and
- 4317 (ii) each revenue producing radio communications access line with a billing address
- 4318 within the boundaries of the county, city, or town.
- 4319 (b) Notwithstanding Subsection (3)(a), an access line provided for public coin
- 4320 telephone service is exempt from emergency telephone charges.
- 4321 (c) The amount of the charge levied under this section may not exceed:
- 4322 (i) 65 cents per month for each local exchange service switched access line;
- 4323 (ii) 65 cents per month for each radio communications access line; and
- 4324 (iii) 4 cents of the amount of the charge levied under Subsections (3)(c)(i) and (ii), less
- 4325 the collection costs of the provider and Tax Commission permitted by Subsection (3)(h) and
- 4326 Subsection 53-10-604(2)(b), shall be deposited monthly in the statewide unified E-911
- 4327 Emergency Service Fund created in Section 53-10-603, for the purposes outlined in that
- 4328 section.
- 4329 (d) (i) For purposes of this Subsection (3)(d) the following terms shall be defined as
- 4330 provided in Section 59-12-102:
- 4331 (A) "mobile telecommunications service";
- 4332 (B) "primary place of use";
- 4333 (C) "service address"; and
- 4334 (D) "telephone service."

4335 (ii) An access line described in Subsection (3)(a) is considered to be within the
4336 boundaries of a county, city, or town if the telephone services provided over the access line are
4337 located within the county, city, or town:

4338 (A) for purposes of sales and use taxes under Title 59, Chapter 12, Sales and Use Tax
4339 Act; and

4340 (B) determined in accordance with Section 59-12-207.4.

4341 (iii) The rate imposed on an access line under this section shall be determined in
4342 accordance with Subsection (3)(d)(iv) if the location of an access line described in Subsection
4343 (3)(a) is determined under Subsection (3)(d)(ii) to be a county, city, or town other than county,
4344 city, or town in which is located:

4345 (A) for telephone service other than mobile telecommunications service, the
4346 purchaser's service address; or

4347 (B) for mobile telecommunications service, the purchaser's primary place of use.

4348 (iv) The rate imposed on an access line under this section shall be the lower of:

4349 (A) the rate imposed by the county, city, or town in which the access line is located
4350 under Subsection (3)(d)(ii); or

4351 (B) the rate imposed by the county, city, or town in which it is located:

4352 (I) for telephone service other than mobile telecommunications service, the purchaser's
4353 service address; or

4354 (II) for mobile telecommunications service, the purchaser's primary place of use.

4355 (e) (i) A county, city, or town shall notify the Public Service Commission of the intent
4356 to levy the charge under this Subsection (3) at least 30 days prior to the effective date of the
4357 charge being levied.

4358 (ii) For purposes of this Subsection (3)(e):

4359 (A) "Annexation" means an annexation to:

4360 (I) a city or town under Title 10, Chapter 2, Part 4, Annexation; or

4361 (II) a county under Title 17, Chapter 2, Annexation to County.

4362 (B) "Annexing area" means an area that is annexed into a county, city, or town.

4363 (iii) (A) Except as provided in Subsection (3)(e)(iii)(C) or (D), if on or after July 1,
4364 2003, a county, city, or town enacts or repeals a charge or changes the amount of the charge
4365 under this section, the enactment, repeal, or change shall take effect:

- 4366 (I) on the first day of a calendar quarter; and
- 4367 (II) after a 90-day period beginning on the date the State Tax Commission receives
- 4368 notice meeting the requirements of Subsection (3)(e)(iii)(B) from the county, city, or town.
- 4369 (B) The notice described in Subsection (3)(e)(iii)(A) shall state:
- 4370 (I) that the county, city, or town will enact or repeal a charge or change the amount of
- 4371 the charge under this section;
- 4372 (II) the statutory authority for the charge described in Subsection (3)(e)(iii)(B)(I);
- 4373 (III) the effective date of the charge described in Subsection (3)(e)(iii)(B)(I); and
- 4374 (IV) if the county, city, or town enacts the charge or changes the amount of the charge
- 4375 described in Subsection (3)(e)(iii)(B)(I), the amount of the charge.
- 4376 (C) Notwithstanding Subsection (3)(e)(iii)(A), the enactment of a charge or a charge
- 4377 increase under this section shall take effect on the first day of the first billing period:
- 4378 (I) that begins after the effective date of the enactment of the charge or the charge
- 4379 increase; and
- 4380 (II) if the billing period for the charge begins before the effective date of the enactment
- 4381 of the charge or the charge increase imposed under this section.
- 4382 (D) Notwithstanding Subsection (3)(e)(iii)(A), the repeal of a charge or a charge
- 4383 decrease under this section shall take effect on the first day of the last billing period:
- 4384 (I) that began before the effective date of the repeal of the charge or the charge
- 4385 decrease; and
- 4386 (II) if the billing period for the charge begins before the effective date of the repeal of
- 4387 the charge or the charge decrease imposed under this section.
- 4388 (iv) (A) Except as provided in Subsection (3)(e)(iv)(C) or (D), if for an annexation that
- 4389 occurs on or after July 1, 2003, the annexation will result in the enactment, repeal, or a change
- 4390 in the amount of a charge imposed under this section for an annexing area, the enactment,
- 4391 repeal, or change shall take effect:
- 4392 (I) on the first day of a calendar quarter; and
- 4393 (II) after a 90-day period beginning on the date the State Tax Commission receives
- 4394 notice meeting the requirements of Subsection (3)(e)(iv)(B) from the county, city, or town that
- 4395 annexes the annexing area.
- 4396 (B) The notice described in Subsection (3)(e)(iv)(A) shall state:

4397 (I) that the annexation described in Subsection (3)(e)(iv)(A) will result in an
4398 enactment, repeal, or a change in the charge being imposed under this section for the annexing
4399 area;

4400 (II) the statutory authority for the charge described in Subsection (3)(e)(iv)(B)(I);

4401 (III) the effective date of the charge described in Subsection (3)(e)(iv)(B)(I); and

4402 (IV) if the county, city, or town enacts the charge or changes the amount of the charge
4403 described in Subsection (3)(e)(iv)(B)(I), the amount of the charge.

4404 (C) Notwithstanding Subsection (3)(e)(iv)(A), the enactment of a charge or a charge
4405 increase under this section shall take effect on the first day of the first billing period:

4406 (I) that begins after the effective date of the enactment of the charge or the charge
4407 increase; and

4408 (II) if the billing period for the charge begins before the effective date of the enactment
4409 of the charge or the charge increase imposed under this section.

4410 (D) Notwithstanding Subsection (3)(e)(iv)(A), the repeal of a charge or a charge
4411 decrease under this section shall take effect on the first day of the last billing period:

4412 (I) that began before the effective date of the repeal of the charge or the charge
4413 decrease; and

4414 (II) if the billing period for the charge begins before the effective date of the repeal of
4415 the charge or the charge decrease imposed under this section.

4416 (f) Subject to Subsection (3)(g), an emergency services telephone charge levied under
4417 this section shall:

4418 (i) be billed and collected by the person that provides the:

4419 (A) local exchange service switched access line services; or

4420 (B) radio communications access line services; and

4421 (ii) except for costs retained under Subsection (3)(h), remitted to the State Tax
4422 Commission.

4423 (g) An emergency services telephone charge on a mobile telecommunications service
4424 may be levied, billed, and collected only to the extent permitted by the Mobile
4425 Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

4426 (h) The person that bills and collects the charges levied under Subsection (3)(f) may:

4427 (i) bill the charge imposed by this section in combination with the charge levied under

4428 Section 69-2-5.6 as one line item charge; and
4429 (ii) retain an amount not to exceed 1.5% of the levy collected under this section as
4430 reimbursement for the cost of billing, collecting, and remitting the levy.
4431 (i) The State Tax Commission shall:
4432 (i) collect, enforce, and administer the charge imposed under this Subsection (3)
4433 pursuant to the same procedures used in the administration, collection, and enforcement of the
4434 state sales and use taxes under:
4435 (A) Title 59, Chapter 1, General Taxation Policies; and
4436 (B) Title 59, Chapter 12, Part 1, Tax Collection, except for:
4437 (I) Section 59-12-104;
4438 (II) Section 59-12-104.1;
4439 (III) Section 59-12-104.2; and
4440 (IV) ~~[Sections]~~ Section 59-12-107.1 ~~[through 59-12-107.3]~~.
4441 (ii) transmit monies collected under this Subsection (3):
4442 (A) monthly; and
4443 (B) by electronic funds transfer by the commission to the county, city, or town that
4444 imposes the charge; and
4445 (iii) charge the county, city, or town for the State Tax Commission's services under this
4446 Subsection (3) in an amount:
4447 (A) sufficient to reimburse the State Tax Commission for the cost to the State Tax
4448 Commission in rendering the services; and
4449 (B) that may not exceed an amount equal to 1.5% of the charges imposed under this
4450 Subsection (3).
4451 (4) (a) Any money received by a public agency for the provision of 911 emergency
4452 telephone service shall be deposited in a special emergency telephone service fund.
4453 (b) (i) Except as provided in Subsection (5), the money in the emergency telephone
4454 service fund shall be expended by the public agency to pay the costs of establishing, installing,
4455 maintaining, and operating a 911 emergency telephone system or integrating a 911 system into
4456 an established public safety dispatch center, including contracting with the providers of local
4457 exchange service, radio communications service, and vendors of appropriate terminal
4458 equipment as necessary to implement the 911 emergency telephone service.

4459 (ii) Revenues derived for the funding of 911 emergency telephone service may only be
4460 used for that portion of costs related to the operation of the 911 emergency telephone system
4461 when such a system is integrated with any public safety dispatch system.

4462 (c) Any unexpended money in the emergency telephone service fund at the end of a
4463 fiscal year does not lapse, and must be carried forward to be used for the purposes described in
4464 this section.

4465 (5) (a) Revenue received by a local entity from an increase in the levy imposed under
4466 Subsection (3) after the 2004 Annual General Session, or from grants from the Utah 911
4467 Committee pursuant to Section 53-10-605:

4468 (i) shall be deposited into the special emergency telephone service fund described in
4469 Subsection (4)(a); and

4470 (ii) shall only be used for that portion of the costs related to the development and
4471 operation of wireless and land-based enhanced 911 emergency telephone service and the
4472 implementation of wireless E-911 Phase I and Phase II services as provided in Subsection
4473 (5)(b).

4474 (b) The costs allowed under Subsection (5)(a)(ii) shall include the public service
4475 answering point's or local entity's costs for:

4476 (i) acquisition, upgrade, modification, maintenance, and operation of public service
4477 answering point equipment capable of receiving E-911 information;

4478 (ii) database development, operation, and maintenance; and

4479 (iii) personnel costs associated with establishing, installing, maintaining, and operating
4480 wireless E-911 Phase I and Phase II services, including training emergency service personnel
4481 regarding receipt and use of E-911 wireless service information and educating consumers
4482 regarding the appropriate and responsible use of E-911 wireless service.

4483 (6) A local entity that increases the levy it imposes under Subsection (3)(c) after the
4484 2004 Annual General Session shall increase the levy to the maximum amount permitted by
4485 Subsection (3)(c).

4486 **Section 40. Repealer.**

4487 This bill repeals:

4488 **Section 17A-2-1064, Airport to University of Utah Light Rail Restricted Account --**
4489 **Creation -- Use of revenues -- Distribution of revenues.**

4490 Section 59-12-102.1, Authority to enter into agreement -- Purpose and scope of
4491 agreement -- Rulemaking authority -- Agreement may require a state that is a member of
4492 the agreement to abide by certain requirements.

4493 Section 59-12-107.2 (Effective 07/01/06), Services, computer software, or digital
4494 goods concurrently available for use in more than one location.

4495 Section 59-12-107.3 (Effective 07/01/06), Collection, remittance, and payment of
4496 taxes on direct mail.

4497 Section 59-12-107.4, Certified service provider liability.

4498 Section 59-12-107.5, Seller or certified service provider reliance on commission
4499 information or certain systems.

4500 Section 59-12-119, Revenue credited to General Fund.

4501 Section 59-12-121, Amnesty.

4502 Section 59-12-122 (Effective 07/01/06), Monetary allowance for a seller or certified
4503 service provider registered under the agreement.

4504 Section 59-12-207.1 (Effective 07/01/06), Definitions -- Location of certain
4505 transactions -- Reports to commission -- Direct payment provision for a seller making
4506 certain purchases -- Exceptions -- Rulemaking authority.

4507 Section 59-12-207.2 (Effective 07/01/06), Location of transaction involving a sale of
4508 a motor vehicle, aircraft, watercraft, modular home, manufactured home, or mobile
4509 home.

4510 Section 59-12-207.3 (Effective 07/01/06), Location of transaction involving lease or
4511 rental of certain tangible personal property.

4512 Section 59-12-207.5, Seller or certified service provider reliance on commission
4513 information or certain systems.

4514 Section 59-12-303, Seller or certified service provider reliance on commission
4515 information or certain systems.

4516 Section 59-12-356, Seller or certified service provider reliance on commission
4517 information or certain systems.

4518 Section 59-12-404, Seller or certified service provider reliance on commission
4519 information or certain systems.

4520 Section 59-12-505, Seller or certified service provider reliance on commission

4521 **information or certain systems.**

4522 Section **59-12-604, Seller or certified service provider reliance on commission**
4523 **information or certain systems.**

4524 Section **59-12-706, Seller or certified service provider reliance on commission**
4525 **information or certain systems.**

4526 Section **59-12-807, Seller or certified service provider reliance on commission**
4527 **information or certain systems.**

4528 Section **59-12-1003, Seller or certified service provider reliance on commission**
4529 **information or certain systems.**

4530 Section **59-12-1103, Seller or certified service provider reliance on commission**
4531 **information or certain systems.**

4532 Section **59-12-1303, Seller or certified service provider reliance on commission**
4533 **information or certain systems.**

4534 Section **59-12-1404, Seller or certified service provider reliance on commission**
4535 **information or certain systems.**

4536 Section **59-12-1504, Seller or certified service provider reliance on commission**
4537 **information or certain systems.**

4538 Section 41. **Effective date.**

4539 This bill takes effect on July 1, 2006.

4540 Section 42. **Revisor instructions.**

4541 It is the intent of the Legislature that, in preparing the Utah Code database for
4542 publication, that:

4543 (1) the repeal of Section 59-12-207 by Section 68, Chapter 312, Laws of Utah 2003,
4544 not be given effect; and

4545 (2) Section 59-12-207 remains in effect as last amended by Section 7, Chapter 1, Laws
4546 of Utah 2004, Third Special Session.

State Impact

Passage of this bill could reduce staffing requirements in the Tax Commission by \$441,800 annually.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>
Restricted Funds	(\$441,800)	(\$441,800)	\$0	\$0
TOTAL	(\$441,800)	(\$441,800)	\$0	\$0

Individual and Business Impact

No fiscal impact.
