

1                                   **SALES AND USE TAX REVISIONS**

2   2006 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Curtis S. Bramble**

5                                   House Sponsor: \_\_\_\_\_

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7   **LONG TITLE**

8   **General Description:**

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

11 **Highlighted Provisions:**

12           This bill:

- 13           ▶ amends, enacts, and repeals provisions relating to determining the location of a  
14 transaction for sales and use tax purposes;
- 15           ▶ amends, enacts, and repeals definitions;
- 16           ▶ requires the appointment of delegates to enter into multistate discussions relating to  
17 the Streamlined Sales and Use Tax Agreement and report to the Legislature;
- 18           ▶ addresses the collection and remittance of sales and use taxes by a seller that does  
19 not have sufficient contacts with the state to be required to collect and remit sales  
20 and use taxes to the state;
- 21           ▶ addresses the effective date of certain tax rate repeals or tax rate changes;
- 22           ▶ establishes which state sales and use taxes shall be deposited into the General Fund;
- 23           ▶ addresses the distribution of certain sales and use taxes to counties, cities, and  
24 towns;
- 25           ▶ addresses the deposit of revenues into the Remote Sales Restricted Account;
- 26           ▶ modifies provisions relating to a credit for a repossessed motor vehicle that is  
27 resold;



- 28           ▶ modifies reporting requirements to the State Tax Commission and related penalty
- 29 provisions;
- 30           ▶ repeals requirements that certain returns be filed electronically;
- 31           ▶ repeals tax collection, remittance, and reporting requirements for certain sellers;
- 32           ▶ repeals provisions relating to a deduction for bad debt;
- 33           ▶ repeals provisions establishing what constitutes a reasonable business practice for
- 34 purposes of a seller collecting sales and use taxes that exceed the amount the seller
- 35 is required to collect;
- 36           ▶ repeals obsolete language; and
- 37           ▶ makes technical changes.

**38 Monies Appropriated in this Bill:**

39           None

**40 Other Special Clauses:**

41           This bill takes effect on July 1, 2006.

42           This bill provides revisor instructions.

**43 Utah Code Sections Affected:**

44 AMENDS:

45           **10-1-307**, as last amended by Chapter 255, Laws of Utah 2004

46           **10-1-405**, as last amended by Chapter 158, Laws of Utah 2005

47           **59-12-102**, as last amended by Chapters 158 and 246, Laws of Utah 2005

48           **59-12-103 (Effective 07/01/06)**, as last amended by Chapter 1, Laws of Utah 2005,

49 First Special Session

50           **59-12-103.1**, as last amended by Chapter 312, Laws of Utah 2003

51           **59-12-104.3 (Effective 07/01/06)**, as enacted by Chapter 158, Laws of Utah 2005

52           **59-12-105 (Portions Eff 07/01/06 See 59-1-1201)**, as last amended by Chapters 156

53 and 255, Laws of Utah 2004

54           **59-12-107 (Portions Eff 07/01/06 See 59-1-1201)**, as last amended by Chapter 198,

55 Laws of Utah 2005

56           **59-12-108**, as last amended by Chapter 255, Laws of Utah 2004

57           **59-12-110**, as last amended by Chapter 255, Laws of Utah 2004

58           **59-12-110.1**, as last amended by Chapter 255, Laws of Utah 2004

59           **59-12-204 (Effective 07/01/06)**, as last amended by Chapters 312 and 337, Laws of  
60 Utah 2003

61           **59-12-205 (Effective 07/01/06)**, as last amended by Chapter 158, Laws of Utah 2005

62           **59-12-207.4**, as enacted by Chapter 312, Laws of Utah 2003

63           **59-12-210**, as last amended by Chapter 312, Laws of Utah 2003

64           **59-12-302**, as last amended by Chapter 255, Laws of Utah 2004

65           **59-12-354**, as last amended by Chapter 255, Laws of Utah 2004

66           **59-12-401 (See 59-1-1201 re: Eff)**, as last amended by Chapter 224, Laws of Utah  
67 2004

68           **59-12-402 (See 59-1-1201 re: Eff)**, as last amended by Chapters 224 and 255, Laws of  
69 Utah 2004

70           **59-12-403**, as last amended by Chapter 255, Laws of Utah 2004

71           **59-12-501 (See 59-1-1201 re: Eff)**, as last amended by Chapters 255 and 336, Laws of  
72 Utah 2004

73           **59-12-502 (See 59-1-1201 re: Eff)**, as last amended by Chapter 255, Laws of Utah  
74 2004

75           **59-12-504**, as last amended by Chapter 255, Laws of Utah 2004

76           **59-12-603**, as last amended by Chapters 105 and 269, Laws of Utah 2005

77           **59-12-703 (See 59-1-1201 re: Eff)**, as last amended by Chapter 105, Laws of Utah  
78 2005

79           **59-12-802 (See 59-1-1201 re: Eff)**, as last amended by Chapter 105, Laws of Utah  
80 2005

81           **59-12-804 (See 59-1-1201 re: Eff)**, as last amended by Chapter 105, Laws of Utah  
82 2005

83           **59-12-1001 (See 59-1-1201 re: Eff)**, as last amended by Chapter 255, Laws of Utah  
84 2004

85           **59-12-1002**, as last amended by Chapter 255, Laws of Utah 2004

86           **59-12-1102 (See 59-1-1201 re: Eff)**, as last amended by Chapter 255, Laws of Utah  
87 2004

88           **59-12-1201**, as last amended by Chapter 158, Laws of Utah 2005

89           **59-12-1302 (See 59-1-1201 re: Eff)**, as last amended by Chapter 255, Laws of Utah

90 2004  
91 **59-12-1402** (See **59-1-1201 re: Eff**), as last amended by Chapter 105, Laws of Utah  
92 2005  
93 **59-12-1503** (See **59-1-1201 re: Eff**), as last amended by Chapter 105, Laws of Utah  
94 2005  
95 **59-12-1604**, as enacted by Chapter 296, Laws of Utah 2005  
96 **63-51-4**, as last amended by Chapter 5, Laws of Utah 1987  
97 **69-2-5**, as last amended by Chapters 255 and 313, Laws of Utah 2004  
98 ENACTS:  
99 **59-12-102.2**, Utah Code Annotated 1953  
100 REPEALS:  
101 **17A-2-1064**, as last amended by Chapter 312, Laws of Utah 2003  
102 **59-12-102.1**, as enacted by Chapter 312, Laws of Utah 2003  
103 **59-12-107.1 (Effective 07/01/06)**, as last amended by Chapter 255, Laws of Utah 2004  
104 **59-12-107.2 (Effective 07/01/06)**, as last amended by Chapter 255, Laws of Utah 2004  
105 **59-12-107.3 (Effective 07/01/06)**, as enacted by Chapter 312, Laws of Utah 2003  
106 **59-12-107.4**, as enacted by Chapter 255, Laws of Utah 2004  
107 **59-12-107.5**, as enacted by Chapter 255, Laws of Utah 2004  
108 **59-12-119**, as renumbered and amended by Chapter 5, Laws of Utah 1987  
109 **59-12-121**, as last amended by Chapters 158 and 232, Laws of Utah 2005  
110 **59-12-122 (Effective 07/01/06)**, as last amended by Chapter 158, Laws of Utah 2005  
111 **59-12-207.1 (Effective 07/01/06)**, as last amended by Chapter 255, Laws of Utah 2004  
112 **59-12-207.2 (Effective 07/01/06)**, as enacted by Chapter 312, Laws of Utah 2003  
113 **59-12-207.3 (Effective 07/01/06)**, as last amended by Chapter 255, Laws of Utah 2004  
114 **59-12-207.5**, as last amended by Chapter 255, Laws of Utah 2004  
115 **59-12-303**, as enacted by Chapter 255, Laws of Utah 2004  
116 **59-12-356**, as last amended by Chapter 255, Laws of Utah 2004  
117 **59-12-404**, as last amended by Chapter 255, Laws of Utah 2004  
118 **59-12-505**, as last amended by Chapter 255, Laws of Utah 2004  
119 **59-12-604**, as last amended by Chapter 255, Laws of Utah 2004  
120 **59-12-706**, as last amended by Chapter 255, Laws of Utah 2004

121           **59-12-807**, as last amended by Chapter 255, Laws of Utah 2004  
 122           **59-12-1003**, as last amended by Chapter 255, Laws of Utah 2004  
 123           **59-12-1103**, as last amended by Chapter 255, Laws of Utah 2004  
 124           **59-12-1303**, as last amended by Chapter 255, Laws of Utah 2004  
 125           **59-12-1404**, as last amended by Chapter 255, Laws of Utah 2004  
 126           **59-12-1504**, as enacted by Chapter 255, Laws of Utah 2004

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127  
 128 *Be it enacted by the Legislature of the state of Utah:*

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

130           **10-1-307. Collection of taxes by commission -- Distribution of revenues -- Charge**  
 131 **for services -- Collection of taxes by municipality.**

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

136           (2) (a) Except as provided in Subsections 10-1-203(3)(d), 10-1-305(5), and  
 137 10-1-310(2), the commission shall pay a municipality the difference between:

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

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

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

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

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

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

- 152 (ii) The fee charged under Subsection (2)(c)(i) shall be:
- 153 (A) deposited in the Sales and Use Tax Administrative Fees Account; and
- 154 (B) used for sales tax administration as provided in Subsection 59-12-206(2).
- 155 (3) An energy supplier shall pay the municipal energy sales and use tax revenues it
- 156 collects from its customers under this part directly to each municipality in which the energy
- 157 supplier has sales of taxable energy if:
- 158 (a) the municipality is the energy supplier; or
- 159 (b) (i) the energy supplier estimates that the municipal energy sales and use tax
- 160 collected annually by the energy supplier from its Utah customers equals \$1,000,000 or more;
- 161 and
- 162 (ii) the energy supplier collects the tax imposed by this part.
- 163 (4) An energy supplier paying a tax under this part directly to a municipality may retain
- 164 the percentage of the tax authorized under Subsection 59-12-108(2) for the energy supplier's
- 165 costs of collecting and remitting the tax.
- 166 (5) An energy supplier paying the tax under this part directly to a municipality shall file
- 167 an information return with the commission, at least annually, on a form prescribed by the
- 168 commission.

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

170 **10-1-405. Collection of taxes by commission -- Uniform interlocal agreement --**  
 171 **Rulemaking authority -- Charge for services.**

- 172 (1) Subject to the other provisions of this section, the commission shall collect,
- 173 enforce, and administer any municipal telecommunications license tax imposed under this part
- 174 pursuant to:
- 175 (a) the same procedures used in the administration, collection, and enforcement of the
- 176 state sales and use tax under:
- 177 (i) Title 59, Chapter 1, General Taxation Policies; and
- 178 (ii) Title 59, Chapter 12, Part 1, Tax Collection:
- 179 (A) except for:
- 180 (I) Subsection 59-12-103(2)(e);
- 181 (II) Section 59-12-104;
- 182 (III) Section 59-12-104.1; and

183 (IV) Section 59-12-104.2; and  
184 [~~V) Sections 59-12-107.1 through 59-12-107.3; and]~~

185 (B) except that for purposes of Section 59-12-110, the term "taxpayer" may include a  
186 customer from whom a municipal telecommunications license tax is recovered in accordance  
187 with Subsection 10-1-403(2); and

188 (b) a uniform interlocal agreement:

189 (i) between:

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

191 (B) the commission;

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

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

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

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

197 (i) transmit monies collected under this part:

198 (A) monthly; and

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

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

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

203 (A) sufficient to reimburse the commission for the cost to the commission in rendering  
204 the services; and

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

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

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

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

214 (a) deposited in the Sales and Use Tax Administrative Fees Account; and  
 215 (b) used for administration of municipal telecommunications license taxes under this  
 216 part.

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

218 **59-12-102. Definitions.**

219 As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

242 [~~(n) Section 59-12-1503;]~~

243 [~~(5)~~ (2) "Aircraft" is as defined in Section 72-10-102.

244 [~~(6)~~ (3) "Alcoholic beverage" means a beverage that:

- 245 (a) is suitable for human consumption; and
- 246 (b) contains .5% or more alcohol by volume.
- 247 ~~[(7)]~~ (4) "Area agency on aging" is as defined in Section 62A-3-101.
- 248 ~~[(8)]~~ (5) "Authorized carrier" means:
- 249 (a) in the case of vehicles operated over public highways, the holder of credentials
- 250 indicating that the vehicle is or will be operated pursuant to both the International Registration
- 251 Plan and the International Fuel Tax Agreement;
- 252 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
- 253 certificate or air carrier's operating certificate; or
- 254 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
- 255 stock, the holder of a certificate issued by the United States Surface Transportation Board.
- 256 ~~[(9)]~~ (6) (a) Except as provided in Subsection ~~[(9)]~~ (6)(b), "biomass energy" means any
- 257 of the following that is used as the primary source of energy to produce fuel or electricity:
- 258 (i) material from a plant or tree; or
- 259 (ii) other organic matter that is available on a renewable basis, including:
- 260 (A) slash and brush from forests and woodlands;
- 261 (B) animal waste;
- 262 (C) methane produced:
- 263 (I) at landfills; or
- 264 (II) as a byproduct of the treatment of wastewater residuals;
- 265 (D) aquatic plants; and
- 266 (E) agricultural products.
- 267 (b) "Biomass energy" does not include:
- 268 (i) black liquor;
- 269 (ii) treated woods; or
- 270 (iii) biomass from municipal solid waste other than methane produced:
- 271 (A) at landfills; or
- 272 (B) as a byproduct of the treatment of wastewater residuals.
- 273 ~~[(10)] "Certified automated system" means software certified by the governing board of~~
- 274 ~~the agreement in accordance with Section 59-12-102.1 that:]~~
- 275 ~~[(a)] calculates the agreement sales and use tax imposed within a local taxing~~

276 jurisdiction:]

277 [~~(i) on a transaction; and~~]

278 [~~(ii) in the states that are members of the agreement;~~]

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

280 ~~member of the agreement; and~~]

281 [~~(c) maintains a record of the transaction described in Subsection (10)(a)(i).]~~

282 [~~(11) "Certified service provider" means an agent certified;~~]

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

284 and]

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

286 ~~use tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's~~

287 ~~own purchases.;~~]

288 [~~(12)~~] (7) (a) Subject to Subsection [~~(12)~~] (7)(b), "clothing" means all human wearing

289 apparel suitable for general use.

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

291 commission shall make rules[~~:(1)~~] listing the items that constitute "clothing."~~;~~and]

292 [~~(ii) that are consistent with the list of items that constitute "clothing" under the~~

293 ~~agreement.;~~]

294 (8) "Combined sales and use tax" means a tax imposed under:

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

296 (b) Section 59-12-204;

297 (c) Section 59-12-401;

298 (d) Section 59-12-501;

299 (e) Section 59-12-402;

300 (f) Section 59-12-502;

301 (g) Section 59-12-703;

302 (h) Section 59-12-802;

303 (i) Section 59-12-804;

304 (j) Section 59-12-1001;

305 (k) Section 59-12-1102;

306 (l) Section 59-12-1302;

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

308 (n) Section 59-12-1503.

309 [~~13~~] (9) (a) For purposes of Subsection 59-12-104(42), "coin-operated amusement  
310 device" means:

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

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

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

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

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

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

320 [~~14~~] (10) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or  
321 other fuels that does not constitute industrial use under Subsection [~~34~~] (29) or residential use  
322 under Subsection [~~68~~] (59).

323 [~~15~~] (11) (a) "Common carrier" means a person engaged in or transacting the  
324 business of transporting passengers, freight, merchandise, or other property for hire within this  
325 state.

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

329 (ii) For purposes of Subsection [~~15~~] (11)(b)(i), in accordance with Title 63, Chapter  
330 46a, Utah Administrative Rulemaking Act, the commission may make rules defining what  
331 constitutes a person's place of employment.

332 [~~16~~] (12) "Component part" includes:

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

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

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

- 338 (d) feed, seeds, and seedlings.
- 339 [~~(17)~~] (13) "Computer" means an electronic device that accepts information:
- 340 (a) (i) in digital form; or
- 341 (ii) in a form similar to digital form; and
- 342 (b) manipulates that information for a result based on a sequence of instructions.
- 343 [~~(18)~~] (14) "Computer software" means a set of coded instructions designed to cause:
- 344 (a) a computer to perform a task; or
- 345 (b) automatic data processing equipment to perform a task.
- 346 [~~(19)~~] (15) "Construction materials" means any tangible personal property that will be
- 347 converted into real property.
- 348 [~~(20)~~] (16) "Delivered electronically" means delivered to a purchaser by means other
- 349 than tangible storage media.
- 350 [~~(21)~~] (17) (a) "Delivery charge" means a charge:
- 351 (i) by a seller of:
- 352 (A) tangible personal property; or
- 353 (B) services; and
- 354 (ii) for preparation and delivery of the tangible personal property or services described
- 355 in Subsection [~~(21)~~] (17)(a)(i) to a location designated by the purchaser.
- 356 (b) "Delivery charge" includes a charge for the following:
- 357 (i) transportation;
- 358 (ii) shipping;
- 359 (iii) postage;
- 360 (iv) handling;
- 361 (v) crating; or
- 362 (vi) packing.
- 363 [~~(22)~~] (18) "Dietary supplement" means a product, other than tobacco, that:
- 364 (a) is intended to supplement the diet;
- 365 (b) contains one or more of the following dietary ingredients:
- 366 (i) a vitamin;
- 367 (ii) a mineral;
- 368 (iii) an herb or other botanical;

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

400 single address.

401 ~~[(24)]~~ (20) (a) "Drug" means a compound, substance, or preparation, or a component of  
402 a compound, substance, or preparation that is:

403 (i) recognized in:

404 (A) the official United States Pharmacopoeia;

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

406 (C) the official National Formulary; or

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

408 (C);

409 (ii) intended for use in the:

410 (A) diagnosis of disease;

411 (B) cure of disease;

412 (C) mitigation of disease;

413 (D) treatment of disease; or

414 (E) prevention of disease; or

415 (iii) intended to affect:

416 (A) the structure of the body; or

417 (B) any function of the body.

418 (b) "Drug" does not include:

419 (i) food and food ingredients;

420 (ii) a dietary supplement;

421 (iii) an alcoholic beverage; or

422 (iv) a prosthetic device.

423 ~~[(25)]~~ (21) (a) Except as provided in Subsection ~~[(25)]~~ (21)(c), "durable medical  
424 equipment" means equipment that:

425 (i) can withstand repeated use;

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

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

428 (iv) is not worn in or on the body.

429 (b) "Durable medical equipment" includes parts used in the repair or replacement of the  
430 equipment described in Subsection ~~[(25)]~~ (21)(a).

431 (c) Notwithstanding Subsection [~~(25)~~] (21)(a), "durable medical equipment" does not  
432 include mobility enhancing equipment.

433 [~~(26)~~] (22) "Electronic" means:

434 (a) relating to technology; and

435 (b) having:

436 (i) electrical capabilities;

437 (ii) digital capabilities;

438 (iii) magnetic capabilities;

439 (iv) wireless capabilities;

440 (v) optical capabilities;

441 (vi) electromagnetic capabilities; or

442 (vii) capabilities similar to Subsections [~~(26)~~] (22)(b)(i) through (vi).

443 [~~(27)~~] (23) (a) "Food and food ingredients" means substances:

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

445 (A) liquid form;

446 (B) concentrated form;

447 (C) solid form;

448 (D) frozen form;

449 (E) dried form; or

450 (F) dehydrated form; and

451 (ii) that are:

452 (A) sold for:

453 (I) ingestion by humans; or

454 (II) chewing by humans; and

455 (B) consumed for the substance's:

456 (I) taste; or

457 (II) nutritional value.

458 (b) "Food and food ingredients" does not include:

459 (i) an alcoholic beverage;

460 (ii) tobacco; or

461 (iii) prepared food.

462            [~~(28)~~] (24) (a) "Fundraising sales" means sales:

463            (i) (A) made by a school; or

464            (B) made by a school student;

465            (ii) that are for the purpose of raising funds for the school to purchase equipment,

466 materials, or provide transportation; and

467            (iii) that are part of an officially sanctioned school activity.

468            (b) For purposes of Subsection [~~(28)~~] (24)(a)(iii), "officially sanctioned school activity"

469 means a school activity:

470            (i) that is conducted in accordance with a formal policy adopted by the school or school

471 district governing the authorization and supervision of fundraising activities;

472            (ii) that does not directly or indirectly compensate an individual teacher or other

473 educational personnel by direct payment, commissions, or payment in kind; and

474            (iii) the net or gross revenues from which are deposited in a dedicated account

475 controlled by the school or school district.

476            [~~(29)~~] (25) "Geothermal energy" means energy contained in heat that continuously

477 flows outward from the earth that is used as the sole source of energy to produce electricity.

478            [~~(30)~~] "~~Governing board of the agreement~~" means the governing board of the agreement

479 ~~that is:~~

480            [~~(a) authorized to administer the agreement; and~~

481            [~~(b) established in accordance with the agreement.~~]

482            [~~(31)~~] (26) (a) "Hearing aid" means:

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

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

485            (II) correct impaired human hearing; and

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

487            (II) affixed behind the human ear;

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

489            (iii) a telephone amplifying device.

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

491            (i) except as provided in Subsection [~~(31)~~] (26)(a)(i)(B) or [~~(31)~~] (26)(a)(ii), an

492 instrument or device having an electronic component that is designed to be worn on the body;

493 (ii) except as provided in Subsection [~~(31)~~] (26)(a)(iii), an assistive listening device or  
494 system designed to be used by one individual, including:

495 (A) a personal amplifying system;

496 (B) a personal FM system;

497 (C) a television listening system; or

498 (D) a device or system similar to a device or system described in Subsections [~~(31)~~]

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

500 (iii) an assistive listening device or system designed to be used by more than one

501 individual, including:

502 (A) a device or system installed in:

503 (I) an auditorium;

504 (II) a church;

505 (III) a conference room;

506 (IV) a synagogue; or

507 (V) a theater; or

508 (B) a device or system similar to a device or system described in Subsections [~~(31)~~]

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

510 [~~(32)~~] (27) (a) "Hearing aid accessory" means a hearing aid:

511 (i) component;

512 (ii) attachment; or

513 (iii) accessory.

514 (b) "Hearing aid accessory" includes:

515 (i) a hearing aid neck loop;

516 (ii) a hearing aid cord;

517 (iii) a hearing aid ear mold;

518 (iv) hearing aid tubing;

519 (v) a hearing aid ear hook; or

520 (vi) a hearing aid remote control.

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

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

523 (A) instrument or device described in Subsection [~~(31)~~] (26)(b)(i); or

524 (B) assistive listening device or system described in Subsection [~~(31)~~] (26)(b)(ii) or  
525 (iii); or

526 (ii) a hearing aid battery.

527 [~~(33)~~] (28) "Hydroelectric energy" means water used as the sole source of energy to  
528 produce electricity.

529 [~~(34)~~] (29) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,  
530 or other fuels:

531 (a) in mining or extraction of minerals;

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

534 (i) commercial greenhouses;

535 (ii) irrigation pumps;

536 (iii) farm machinery;

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

539 (v) other farming activities;

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

543 (d) by a scrap recycler if:

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

547 (A) iron;

548 (B) steel;

549 (C) nonferrous metal;

550 (D) paper;

551 (E) glass;

552 (F) plastic;

553 (G) textile; or

554 (H) rubber; and

555 (ii) the new products under Subsection [~~(34)~~] (29)(d)(i) would otherwise be made with  
556 nonrecycled materials.

557 [~~(35)~~] (30) (a) Except as provided in Subsection [~~(35)~~] (30)(b), "installation charge"  
558 means a charge for installing tangible personal property.

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

561 [~~(36)~~] (31) (a) "Lease" or "rental" means a transfer of possession or control of tangible  
562 personal property for:

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

564 (B) an indeterminate term; and

565 (ii) consideration.

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

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

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

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

576 (A) upon completion of required payments; and

577 (B) if the payment of an option price does not exceed the greater of:

578 (I) \$100; or

579 (II) 1% of the total required payments; or

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

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

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

- 586 (ii) maintenance of tangible personal property; or  
587 (iii) inspection of tangible personal property.
- 588 [~~(37)~~] (32) "Load and leave" means delivery to a purchaser by use of a tangible storage  
589 media if the tangible storage media is not physically transferred to the purchaser.
- 590 [~~(38)~~] "Local taxing jurisdiction" means a:  
591 [(a) county that is authorized to impose an agreement sales and use tax;]  
592 [(b) city that is authorized to impose an agreement sales and use tax; or]  
593 [(c) town that is authorized to impose an agreement sales and use tax.]
- 594 [~~(39)~~] (33) "Manufactured home" is as defined in Section 58-56-3.
- 595 [~~(40)~~] (34) For purposes of Subsection 59-12-104(14), "manufacturing facility" means:  
596 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard  
597 Industrial Classification Manual of the federal Executive Office of the President, Office of  
598 Management and Budget; or  
599 (b) a scrap recycler if:  
600 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
601 one or more of the following items into prepared grades of processed materials for use in new  
602 products:  
603 (A) iron;  
604 (B) steel;  
605 (C) nonferrous metal;  
606 (D) paper;  
607 (E) glass;  
608 (F) plastic;  
609 (G) textile; or  
610 (H) rubber; and  
611 (ii) the new products under Subsection [~~(40)~~] (34)(b)(i) would otherwise be made with  
612 nonrecycled materials.
- 613 [~~(41)~~] (35) "Mobile home" is as defined in Section 58-56-3.
- 614 [~~(42)~~] (36) "Mobile telecommunications service" is as defined in the Mobile  
615 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 616 [~~(43)~~] (37) (a) Except as provided in Subsection [~~(43)~~] (37)(c), "mobility enhancing

617 equipment" means equipment that is:

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

620 (ii) appropriate for use in a:

621 (A) home; or

622 (B) motor vehicle; and

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

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

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

628 (i) a motor vehicle;

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

631 (iii) durable medical equipment; or

632 (iv) a prosthetic device.

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

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

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

640 ~~[(b) notwithstanding Subsection (45)(a), retains responsibility for remitting all of the  
641 sales tax:]~~

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

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

644 ~~[(46) (a) Subject to Subsection (46)(b), "model 3 seller" means a seller that has:]~~

645 ~~[(i) sales in at least five states that are members of the agreement;]~~

646 ~~[(ii) total annual sales revenues of at least \$500,000,000;]~~

647 ~~[(iii) a proprietary system that calculates the amount of tax:]~~

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

- 679 (c) "Permanently attached to real property" does not include:
- 680 (i) the attachment of portable or movable tangible personal property to real property if
- 681 that portable or movable tangible personal property is attached to real property only for:
- 682 (A) convenience;
- 683 (B) stability; or
- 684 (C) for an obvious temporary purpose; or
- 685 (ii) the detachment of tangible personal property from real property other than the
- 686 detachment described in Subsection [~~(52)~~] (43)(b)(ii).
- 687 [~~(53)~~] (44) "Person" includes any individual, firm, partnership, joint venture,
- 688 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
- 689 city, municipality, district, or other local governmental entity of the state, or any group or
- 690 combination acting as a unit.
- 691 [~~(54)~~] (45) "Place of primary use":
- 692 (a) for telephone service other than mobile telecommunications service, means the
- 693 street address representative of where the purchaser's use of the telephone service primarily
- 694 occurs, which shall be:
- 695 (i) the residential street address of the purchaser; or
- 696 (ii) the primary business street address of the purchaser; or
- 697 (b) for mobile telecommunications service, is as defined in the Mobile
- 698 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 699 [~~(55)~~] (46) "Postproduction" means an activity related to the finishing or duplication of
- 700 a medium described in Subsection 59-12-104(60)(a).
- 701 [~~(56)~~] (47) (a) "Prepared food" means:
- 702 (i) food:
- 703 (A) sold in a heated state; or
- 704 (B) heated by a seller;
- 705 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 706 item; or
- 707 (iii) except as provided in Subsection [~~(56)~~] (47)(c), food sold with an eating utensil
- 708 provided by the seller, including a:
- 709 (A) plate;

- 710 (B) knife;
- 711 (C) fork;
- 712 (D) spoon;
- 713 (E) glass;
- 714 (F) cup;
- 715 (G) napkin; or
- 716 (H) straw.
- 717 (b) "Prepared food" does not include:
- 718 (i) food that a seller only:
- 719 (A) cuts;
- 720 (B) repackages; or
- 721 (C) pasteurizes; or
- 722 (ii) (A) the following:
- 723 (I) raw egg;
- 724 (II) raw fish;
- 725 (III) raw meat;
- 726 (IV) raw poultry; or
- 727 (V) a food containing an item described in Subsections [~~56~~] (47)(b)(ii)(A)(I) through
- 728 (IV); and
- 729 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 730 Food and Drug Administration's Food Code that a consumer cook the items described in
- 731 Subsection [~~56~~] (47)(b)(ii)(A) to prevent food borne illness.
- 732 (c) Notwithstanding Subsection [~~56~~] (47)(a)(iii), an eating utensil provided by the
- 733 seller does not include the following used to transport the food:
- 734 (i) a container; or
- 735 (ii) packaging.
- 736 [~~57~~] (48) "Prescription" means an order, formula, or recipe that is issued:
- 737 (a) (i) orally;
- 738 (ii) in writing;
- 739 (iii) electronically; or
- 740 (iv) by any other manner of transmission; and

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

772 (ii) replacement parts for a prosthetic device.

773 (c) "Prosthetic device" does not include:

774 (i) corrective eyeglasses;

775 (ii) contact lenses;

776 (iii) hearing aids; or

777 (iv) dental prostheses.

778 ~~[(60)]~~ (51) (a) "Protective equipment" means an item:

779 (i) for human wear; and

780 (ii) that is:

781 (A) designed as protection:

782 (I) to the wearer against injury or disease; or

783 (II) against damage or injury of other persons or property; and

784 (B) not suitable for general use.

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

786 commission shall make rules~~[-(f)]~~ listing the items that constitute "protective equipment."~~[-~~

787 and]

788 ~~[(ii) that are consistent with the list of items that constitute "protective equipment"~~

789 ~~under the agreement.]~~

790 ~~[(61)]~~ (52) (a) "Purchase price" and "sales price" mean the total amount of

791 consideration:

792 (i) valued in money; and

793 (ii) for which tangible personal property or services are:

794 (A) sold;

795 (B) leased; or

796 (C) rented.

797 (b) "Purchase price" and "sales price" include:

798 (i) the seller's cost of the tangible personal property or services sold;

799 (ii) expenses of the seller, including:

800 (A) the cost of materials used;

801 (B) a labor cost;

802 (C) a service cost;

- 803 (D) interest;
- 804 (E) a loss;
- 805 (F) the cost of transportation to the seller; or
- 806 (G) a tax imposed on the seller; or
- 807 (iii) a charge by the seller for any service necessary to complete the sale.
- 808 (c) "Purchase price" and "sales price" do not include:
- 809 (i) a discount:
- 810 (A) in a form including:
- 811 (I) cash;
- 812 (II) term; or
- 813 (III) coupon;
- 814 (B) that is allowed by a seller;
- 815 (C) taken by a purchaser on a sale; and
- 816 (D) that is not reimbursed by a third party; or
- 817 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 818 provided to the purchaser:
- 819 (A) the amount of a trade-in;
- 820 (B) the following from credit extended on the sale of tangible personal property or
- 821 services:
- 822 (I) interest charges;
- 823 (II) financing charges; or
- 824 (III) carrying charges;
- 825 (C) a tax or fee legally imposed directly on the consumer;
- 826 (D) a delivery charge; or
- 827 (E) an installation charge.
- 828 ~~[(62)]~~ (53) "Purchaser" means a person to whom:
- 829 (a) a sale of tangible personal property is made; or
- 830 (b) a service is furnished.
- 831 ~~[(63)]~~ (54) "Regularly rented" means:
- 832 (a) rented to a guest for value three or more times during a calendar year; or
- 833 (b) advertised or held out to the public as a place that is regularly rented to guests for

834 value.

835 [~~(64)~~] (55) "Renewable energy" means:

836 (a) biomass energy;

837 (b) hydroelectric energy;

838 (c) geothermal energy;

839 (d) solar energy; or

840 (e) wind energy.

841 [~~(65)~~] (56) (a) "Renewable energy production facility" means a facility that:

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

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

844 (b) A facility is a renewable energy production facility regardless of whether the  
845 facility is:

846 (i) connected to an electric grid; or

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

848 [~~(66)~~] (57) "Rental" is as defined in Subsection [~~(36)~~] (31).

849 [~~(67)~~] (58) "Repairs or renovations of tangible personal property" means:

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

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

855 [~~(68)~~] (59) "Residential use" means the use in or around a home, apartment building,  
856 sleeping quarters, and similar facilities or accommodations.

857 [~~(69)~~] (60) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose  
858 other than:

859 (a) resale;

860 (b) sublease; or

861 (c) subrent.

862 [~~(70)~~] (61) (a) "Retailer" means any person engaged in a regularly organized business  
863 in tangible personal property or any other taxable transaction under Subsection 59-12-103(1),  
864 and who is selling to the user or consumer and not for resale.

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

867 ~~[(71)]~~ (62) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
868 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
869 Subsection 59-12-103(1), for consideration.

870 (b) "Sale" includes:

871 (i) installment and credit sales;

872 (ii) any closed transaction constituting a sale;

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

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

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

880 ~~[(72)]~~ (63) "Sale at retail" is as defined in Subsection ~~[(69)]~~ (60).

881 ~~[(73)]~~ (64) "Sale-leaseback transaction" means a transaction by which title to tangible  
882 personal property that is subject to a tax under this chapter is transferred:

883 (a) by a purchaser-lessee;

884 (b) to a lessor;

885 (c) for consideration; and

886 (d) if:

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

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

891 (A) for the property; and

892 (B) to the purchaser-lessee; and

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

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

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

897 [~~74~~] (65) "Sales price" is as defined in Subsection [~~61~~] (52).

898 [~~75~~] (66) (a) "Sales relating to schools" means the following sales by, amounts paid  
899 to, or amounts charged by a school:

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

902 (A) the sale of:

903 (I) textbooks;

904 (II) textbook fees;

905 (III) laboratory fees;

906 (IV) laboratory supplies; or

907 (V) safety equipment;

908 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

909 that:

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

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

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

916 (I) food and food ingredients; or

917 (II) prepared food; or

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

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

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

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

923 (ii) except as provided in Subsection [~~75~~] (66)(a)(i)(B):

924 (A) clothing;

925 (B) clothing accessories or equipment;

926 (C) protective equipment; or

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

- 958 (B) maintaining an environment suitable for a semiconductor.
- 959 (b) "Semiconductor fabricating or processing materials" includes:
- 960 (i) parts used in the repairs or renovations of tangible personal property described in
- 961 Subsection ~~[(78)]~~ (69)(a); or
- 962 (ii) a chemical, catalyst, or other material used to:
- 963 (A) produce or induce in a semiconductor a:
- 964 (I) chemical change; or
- 965 (II) physical change;
- 966 (B) remove impurities from a semiconductor; or
- 967 (C) improve the marketable condition of a semiconductor.
- 968 ~~[(79)]~~ (70) "Senior citizen center" means a facility having the primary purpose of
- 969 providing services to the aged as defined in Section 62A-3-101.
- 970 ~~[(80) "Simplified electronic return" means the electronic return:]~~
- 971 ~~[(a) described in Section 318(C) of the agreement; and]~~
- 972 ~~[(b) approved by the governing board of the agreement.]~~
- 973 ~~[(81)]~~ (71) "Solar energy" means the sun used as the sole source of energy for
- 974 producing electricity.
- 975 ~~[(82)]~~ (72) (a) "Sports or recreational equipment" means an item:
- 976 (i) designed for human use; and
- 977 (ii) that is:
- 978 (A) worn in conjunction with:
- 979 (I) an athletic activity; or
- 980 (II) a recreational activity; and
- 981 (B) not suitable for general use.
- 982 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 983 commission shall make rules~~[-(i)]~~ listing the items that constitute "sports or recreational
- 984 equipment."~~[-and]~~
- 985 ~~[(ii) that are consistent with the list of items that constitute "sports or recreational~~
- 986 ~~equipment" under the agreement.]~~
- 987 ~~[(83)]~~ (73) "State" means the state of Utah, its departments, and agencies.
- 988 ~~[(84)]~~ (74) "Storage" means any keeping or retention of tangible personal property or

989 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose  
990 except sale in the regular course of business.

991 ~~[(85)]~~ (75) (a) "Tangible personal property" means personal property that:

992 (i) may be:

993 (A) seen;

994 (B) weighed;

995 (C) measured;

996 (D) felt; or

997 (E) touched; or

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

999 (b) "Tangible personal property" includes:

1000 (i) electricity;

1001 (ii) water;

1002 (iii) gas;

1003 (iv) steam; or

1004 (v) prewritten computer software.

1005 ~~[(86)]~~ (76) (a) "Telephone service" means a two-way transmission:

1006 (i) by:

1007 (A) wire;

1008 (B) radio;

1009 (C) lightwave; or

1010 (D) other electromagnetic means; and

1011 (ii) of one or more of the following:

1012 (A) a sign;

1013 (B) a signal;

1014 (C) writing;

1015 (D) an image;

1016 (E) sound;

1017 (F) a message;

1018 (G) data; or

1019 (H) other information of any nature.

- 1020 (b) "Telephone service" includes:
- 1021 (i) mobile telecommunications service;
- 1022 (ii) private communications service; or
- 1023 (iii) automated digital telephone answering service.
- 1024 (c) "Telephone service" does not include a service or a transaction that a state or a
- 1025 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
- 1026 Tax Freedom Act, Pub. L. No. 105-277.
- 1027 ~~[(87)]~~ (77) Notwithstanding where a call is billed or paid, "telephone service address"
- 1028 means:
- 1029 (a) if the location described in this Subsection ~~[(87)]~~ (77)(a) is known, the location of
- 1030 the telephone service equipment:
- 1031 (i) to which a call is charged; and
- 1032 (ii) from which the call originates or terminates;
- 1033 (b) if the location described in Subsection ~~[(87)]~~ (77)(a) is not known but the location
- 1034 described in this Subsection ~~[(87)]~~ (77)(b) is known, the location of the origination point of the
- 1035 signal of the telephone service first identified by:
- 1036 (i) the telecommunications system of the seller; or
- 1037 (ii) if the system used to transport the signal is not that of the seller, information
- 1038 received by the seller from its service provider; or
- 1039 (c) if the locations described in Subsection ~~[(87)]~~ (77)(a) or (b) are not known, the
- 1040 location of a purchaser's primary place of use.
- 1041 ~~[(88)]~~ (78) (a) "Telephone service provider" means a person that:
- 1042 (i) owns, controls, operates, or manages a telephone service; and
- 1043 (ii) engages in an activity described in Subsection ~~[(88)]~~ (78)(a)(i) for the shared use
- 1044 with or resale to any person of the telephone service.
- 1045 (b) A person described in Subsection ~~[(88)]~~ (78)(a) is a telephone service provider
- 1046 whether or not the Public Service Commission of Utah regulates:
- 1047 (i) that person; or
- 1048 (ii) the telephone service that the person owns, controls, operates, or manages.
- 1049 ~~[(89)]~~ (79) "Tobacco" means:
- 1050 (a) a cigarette;

- 1051 (b) a cigar;
- 1052 (c) chewing tobacco;
- 1053 (d) pipe tobacco; or
- 1054 (e) any other item that contains tobacco.
- 1055 ~~[(90)]~~ (80) (a) "Use" means the exercise of any right or power over tangible personal
- 1056 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that
- 1057 property, item, or service.
- 1058 (b) "Use" does not include the sale, display, demonstration, or trial of that property in
- 1059 the regular course of business and held for resale.
- 1060 ~~[(91)]~~ (81) (a) Subject to Subsection ~~[(91)]~~ (81)(b), "vehicle" means the following that
- 1061 are required to be titled, registered, or titled and registered:
- 1062 (i) an aircraft as defined in Section 72-10-102;
- 1063 (ii) a vehicle as defined in Section 41-1a-102;
- 1064 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1065 (iv) a vessel as defined in Section 41-1a-102.
- 1066 (b) For purposes of Subsection 59-12-104(35) only, "vehicle" includes:
- 1067 (i) a vehicle described in Subsection ~~[(91)]~~ (81)(a); or
- 1068 (ii) (A) a locomotive;
- 1069 (B) a freight car;
- 1070 (C) railroad work equipment; or
- 1071 (D) other railroad rolling stock.
- 1072 ~~[(92)]~~ (82) "Vehicle dealer" means a person engaged in the business of buying, selling,
- 1073 or exchanging a vehicle as defined in Subsection ~~[(91)]~~ (81).
- 1074 ~~[(93)]~~ (83) (a) Except as provided in Subsection ~~[(93)]~~ (83)(b), "waste energy facility"
- 1075 means a facility that generates electricity:
- 1076 (i) using as the primary source of energy waste materials that would be placed in a
- 1077 landfill or refuse pit if it were not used to generate electricity, including:
- 1078 (A) tires;
- 1079 (B) waste coal; or
- 1080 (C) oil shale; and
- 1081 (ii) in amounts greater than actually required for the operation of the facility.

- 1082 (b) "Waste energy facility" does not include a facility that incinerates:  
1083 (i) municipal solid waste;  
1084 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or  
1085 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.  
1086 [~~(94)~~] (84) "Watercraft" means a vessel as defined in Section 73-18-2.  
1087 [~~(95)~~] (85) "Wind energy" means wind used as the sole source of energy to produce  
1088 electricity.  
1089 [~~(96)~~] "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic  
1090 location by the United States Postal Service.]  
1091 Section 4. Section **59-12-102.2** is enacted to read:  
1092 **59-12-102.2. Participation in multistate discussions.**  
1093 (1) As provided in this section, delegates appointed in accordance with Subsection (2)  
1094 shall enter into multistate discussions to consider whether:  
1095 (a) the state should enter into the Streamlined Sales and Use Tax Agreement with one  
1096 or more states, including whether to:  
1097 (i) simplify and modernize sales and use tax administration in order to substantially  
1098 reduce the burden of tax compliance for all sellers and for all types of commerce;  
1099 (ii) establish standards for certification of a:  
1100 (A) certified service provider; and  
1101 (B) certified automated system; and  
1102 (iii) establish performance standards for multistate sellers; and  
1103 (b) amend the Streamlined Sales and Use Tax Agreement.  
1104 (2) For purposes of Subsection (1), delegates shall be appointed as follows:  
1105 (a) one delegate shall be a member of the House of Representatives appointed by the  
1106 speaker of the House of Representatives;  
1107 (b) one delegate shall be a member of the Senate appointed by the president of the  
1108 Senate; and  
1109 (c) two delegates shall be appointed by the governor, at least one of whom shall be  
1110 from the Utah State Tax Commission.  
1111 (3) The delegates described in Subsection (2) shall:  
1112 (a) report to the Revenue and Taxation Interim Committee as requested by the Revenue

1113 and Taxation Interim Committee; and

1114 (b) make recommendations to the Revenue and Taxation Interim Committee regarding:

1115 (i) the issues the delegates consider in accordance with Subsection (1); and

1116 (ii) any other issue the Revenue and Taxation Interim Committee requests the delegates

1117 to consider.

1118 (4) If the Revenue and Taxation Interim Committee determines that the state should

1119 enter into the Streamlined Sales and Use Tax Agreement with one or more states, the Revenue

1120 and Taxation Interim Committee shall request that legislation be prepared:

1121 (a) to bring the state into substantial compliance with:

1122 (i) the Streamlined Sales and Use Tax Agreement; and

1123 (ii) any amendments made to the Streamlined Sales and Use Tax Agreement as a result

1124 of multistate discussions required by this section; and

1125 (b) for consideration by the:

1126 (i) Revenue and Taxation Interim Committee; and

1127 (ii) Legislature.

1128 Section 5. Section **59-12-103 (Effective 07/01/06)** is amended to read:

1129 **59-12-103 (Effective 07/01/06). Sales and use tax base -- Rates -- Effective dates --**

1130 **Use of sales and use tax revenues.**

1131 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or

1132 charged for the following transactions:

1133 (a) retail sales of tangible personal property made within the state;

1134 (b) amounts paid:

1135 (i) (A) to a common carrier; or

1136 (B) whether the following are municipally or privately owned, to a:

1137 (I) telephone service provider; or

1138 (II) telegraph corporation as defined in Section 54-2-1; and

1139 (ii) for:

1140 (A) all transportation;

1141 (B) telephone service, other than mobile telecommunications service, that originates

1142 and terminates within the boundaries of this state;

1143 (C) mobile telecommunications service that originates and terminates within the

1144 boundaries of one state only to the extent permitted by the Mobile Telecommunications  
1145 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or  
1146 (D) telegraph service;  
1147 (c) sales of the following for commercial use:  
1148 (i) gas;  
1149 (ii) electricity;  
1150 (iii) heat;  
1151 (iv) coal;  
1152 (v) fuel oil; or  
1153 (vi) other fuels;  
1154 (d) sales of the following for residential use:  
1155 (i) gas;  
1156 (ii) electricity;  
1157 (iii) heat;  
1158 (iv) coal;  
1159 (v) fuel oil; or  
1160 (vi) other fuels;  
1161 (e) sales of prepared food;  
1162 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or  
1163 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,  
1164 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,  
1165 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit  
1166 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf  
1167 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,  
1168 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,  
1169 horseback rides, sports activities, or any other amusement, entertainment, recreation,  
1170 exhibition, cultural, or athletic activity;  
1171 (g) amounts paid or charged for services for repairs or renovations of tangible personal  
1172 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:  
1173 (i) the tangible personal property; and  
1174 (ii) parts used in the repairs or renovations of the tangible personal property described

1175 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations  
 1176 of that tangible personal property;

1177 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for  
 1178 cleaning or washing of tangible personal property;

1179 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court  
 1180 accommodations and services that are regularly rented for less than 30 consecutive days;

1181 (j) amounts paid or charged for laundry or dry cleaning services;

1182 (k) amounts paid or charged for leases or rentals of tangible personal property if within  
 1183 this state the tangible personal property is:

1184 (i) stored;

1185 (ii) used; or

1186 (iii) otherwise consumed;

1187 (l) amounts paid or charged for tangible personal property if within this state the  
 1188 tangible personal property is:

1189 (i) stored;

1190 (ii) used; or

1191 (iii) consumed; and

1192 (m) amounts paid or charged for prepaid telephone calling cards.

1193 (2) (a) Except as provided in Subsection (2)(b), beginning on July 1, 2001, a state tax  
 1194 and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

1195 (i) a state tax imposed on the transaction at a rate of 4.75%; and

1196 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
 1197 transaction under this chapter other than this part.

1198 (b) Notwithstanding Subsection (2)(a), beginning on July 1, 2001~~[-];~~:

1199 (i) a state tax and a local tax is imposed on a transaction described in Subsection (1)(d)  
 1200 equal to the sum of:

1201 ~~[(†)]~~ (A) a state tax imposed on the transaction at a rate of 2%; and

1202 ~~[(†)]~~ (B) a local tax equal to the sum of the tax rates a county, city, or town imposes on  
 1203 the transaction under this chapter other than this part~~[-];~~ or

1204 (ii) if a seller collects a tax in accordance with Subsection 59-12-107(1)(b) on a  
 1205 transaction described in Subsection (1), a state tax and a local tax is imposed on the transaction

- 1206 equal to the sum of:
- 1207 (A) a state tax imposed on the transaction at a rate of:
- 1208 (I) 4.75% for a transaction other than a transaction described in Subsection (1)(d); or
- 1209 (II) 2% for a transaction described in Subsection (1)(d); and
- 1210 (B) a local tax imposed on the transaction at a rate equal to the sum of the following
- 1211 rates:
- 1212 (I) the tax rate authorized by Section 59-12-204, but only if all of the counties, cities,
- 1213 and towns in the state impose the tax under Section 59-12-204; and
- 1214 (II) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the
- 1215 state impose the tax under Section 59-12-1102.
- 1216 (c) Subject to Subsections (2)(d) and (e), a tax rate repeal or tax rate change for a tax
- 1217 rate imposed under the following shall take effect on the first day of a calendar quarter:
- 1218 (i) Subsection (2)(a)(i); [~~or~~]
- 1219 (ii) Subsection (2)(b)(i)(A); or
- 1220 (iii) Subsection (2)(b)(ii)(A).
- 1221 (d) (i) For a transaction described in Subsection (2)(d)(iii), a tax rate increase shall take
- 1222 effect on the first day of the first billing period:
- 1223 (A) that begins after the effective date of the tax rate increase; and
- 1224 (B) if the billing period for the transaction begins before the effective date of a tax rate
- 1225 increase imposed under:
- 1226 (I) Subsection (2)(a)(i); [~~or~~]
- 1227 (II) Subsection (2)(b)(i)(A); or
- 1228 (III) Subsection (2)(b)(ii)(A).
- 1229 (ii) For a transaction described in Subsection (2)(d)(iii), the repeal of a tax or a tax rate
- 1230 decrease shall take effect on the first day of the last billing period:
- 1231 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
- 1232 and
- 1233 (B) if the billing period for the transaction begins before the effective date of the repeal
- 1234 of the tax or the tax rate decrease imposed under:
- 1235 (I) Subsection (2)(a)(i); [~~or~~]
- 1236 (II) Subsection (2)(b)(i)(A); or

- 1237 (III) Subsection (2)(b)(ii)(A).
- 1238 (iii) Subsections (2)(d)(i) and (ii) apply to transactions subject to a tax under:
- 1239 (A) Subsection (1)(b);
- 1240 (B) Subsection (1)(c);
- 1241 (C) Subsection (1)(d);
- 1242 (D) Subsection (1)(e);
- 1243 (E) Subsection (1)(f);
- 1244 (F) Subsection (1)(g);
- 1245 (G) Subsection (1)(h);
- 1246 (H) Subsection (1)(i);
- 1247 (I) Subsection (1)(j); or
- 1248 (J) Subsection (1)(k).
- 1249 (e) (i) If a tax due under Subsection (2)(a)(i) or (2)(b)(ii)(A) on a catalogue sale is
- 1250 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
- 1251 change in a tax rate imposed under Subsection (2)(a)(i) or (2)(b)(ii)(A) takes effect:
- 1252 (A) on the first day of a calendar quarter; and
- 1253 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change
- 1254 under Subsection (2)(a)(i) or (2)(b)(ii)(A).
- 1255 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 1256 the commission may by rule define the term "catalogue sale."
- 1257 (3) (a) Except as provided in Subsections (4) through (7), the following state taxes
- 1258 shall be deposited into the General Fund:
- 1259 (i) the tax imposed by Subsection (2)(a)(i); ~~[or]~~
- 1260 (ii) the tax imposed by Subsection (2)(b)(i)(A); or
- 1261 (iii) the tax imposed by Subsection (2)(b)(ii)(A).
- 1262 (b) The local taxes described in Subsections (2)(a)(ii) and (2)(b)~~[(iii)]~~ (i)(B) shall be
- 1263 distributed to a county, city, or town as provided in this chapter.
- 1264 (c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the
- 1265 state shall receive the county's, city's, or town's proportionate share of the revenues generated
- 1266 by the local tax described in Subsection (2)(b)(ii)(B) as provided in Subsection (3)(c)(ii).
- 1267 (ii) The commission shall determine a county's, city's, or town's proportionate share of

1268 the revenues under Subsection (3)(c)(i) by:

1269 (A) calculating an amount equal to the population of the unincorporated area of the  
1270 county, city, or town divided by the total population of the state; and

1271 (B) multiplying the amount determined under Subsection (3)(c)(ii)(A) by the total  
1272 amount of revenues generated by the local tax under Subsection (2)(b)(ii)(B) for all counties,  
1273 cities, and towns.

1274 (iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for  
1275 purposes of this section shall be derived from the most recent official census or census estimate  
1276 of the United States Census Bureau.

1277 (B) Notwithstanding Subsection (3)(c)(iii)(A), if a needed population estimate is not  
1278 available from the United States Census Bureau, population figures shall be derived from the  
1279 estimate from the Utah Population Estimates Committee created by executive order of the  
1280 governor.

1281 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
1282 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)  
1283 through (g):

1284 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1285 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

1286 (B) for the fiscal year; or

1287 (ii) \$17,500,000.

1288 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount  
1289 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the  
1290 Department of Natural Resources to:

1291 (A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to  
1292 protect sensitive plant and animal species; or

1293 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
1294 act, to political subdivisions of the state to implement the measures described in Subsections  
1295 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

1296 (ii) Money transferred to the Department of Natural Resources under Subsection  
1297 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other  
1298 person to list or attempt to have listed a species as threatened or endangered under the

1299 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.  
1300 (iii) At the end of each fiscal year:  
1301 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
1302 Conservation and Development Fund created in Section 73-10-24;  
1303 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
1304 Program Subaccount created in Section 73-10c-5; and  
1305 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
1306 Program Subaccount created in Section 73-10c-5.  
1307 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in  
1308 Subsection (4)(b)(i) shall be deposited each year in the Agriculture Resource Development  
1309 Fund created in Section 4-18-6.  
1310 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described  
1311 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water  
1312 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of  
1313 water rights.  
1314 (ii) At the end of each fiscal year:  
1315 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
1316 Conservation and Development Fund created in Section 73-10-24;  
1317 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
1318 Program Subaccount created in Section 73-10c-5; and  
1319 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
1320 Program Subaccount created in Section 73-10c-5.  
1321 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described  
1322 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development  
1323 Fund created in Section 73-10-24 for use by the Division of Water Resources.  
1324 (ii) In addition to the uses allowed of the Water Resources Conservation and  
1325 Development Fund under Section 73-10-24, the Water Resources Conservation and  
1326 Development Fund may also be used to:  
1327 (A) provide a portion of the local cost share, not to exceed in any fiscal year 50% of the  
1328 funds made available to the Division of Water Resources under this section, of potential project  
1329 features of the Central Utah Project;

1330 (B) conduct hydrologic and geotechnical investigations by the Department of Natural  
1331 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
1332 quantifying surface and ground water resources and describing the hydrologic systems of an  
1333 area in sufficient detail so as to enable local and state resource managers to plan for and  
1334 accommodate growth in water use without jeopardizing the resource;

1335 (C) fund state required dam safety improvements; and

1336 (D) protect the state's interest in interstate water compact allocations, including the  
1337 hiring of technical and legal staff.

1338 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
1339 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount  
1340 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1341 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
1342 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount  
1343 created in Section 73-10c-5 for use by the Division of Drinking Water to:

1344 (i) provide for the installation and repair of collection, treatment, storage, and  
1345 distribution facilities for any public water system, as defined in Section 19-4-102;

1346 (ii) develop underground sources of water, including springs and wells; and

1347 (iii) develop surface water sources.

1348 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
1349 2003, the lesser of the following amounts shall be used as provided in Subsections (5)(b)  
1350 through (d):

1351 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1352 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

1353 (B) for the fiscal year; or

1354 (ii) \$18,743,000.

1355 (b) (i) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described  
1356 in Subsection (5)(a) shall be deposited each year in the Transportation Corridor Preservation  
1357 Revolving Loan Fund created in Section 72-2-117.

1358 (ii) At least 50% of the money deposited in the Transportation Corridor Preservation  
1359 Revolving Loan Fund under Subsection (5)(b)(i) shall be used to fund loan applications made  
1360 by the Department of Transportation at the request of local governments.

1361 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in  
1362 Subsection (5)(a) shall be transferred each year as nonlapsing dedicated credits to the  
1363 Department of Transportation for the State Park Access Highways Improvement Program  
1364 created in Section 72-3-207.

1365 (d) For a fiscal year beginning on or after July 1, 2003, 94% of the amount described in  
1366 Subsection (5)(a) shall be deposited in the class B and class C roads account to be expended as  
1367 provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class B and C  
1368 roads.

1369 (6) (a) Notwithstanding Subsection (3)(a) and until Subsection (6)(b) applies,  
1370 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial  
1371 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed  
1372 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable  
1373 transactions under Subsection (1).

1374 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds  
1375 have been paid off and the highway projects completed that are intended to be paid from  
1376 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the  
1377 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of  
1378 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section  
1379 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated  
1380 by a 1/64% tax rate on the taxable transactions under Subsection (1).

1381 (7) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal  
1382 year 2004-05, the commission shall each year on or before the September 30 immediately  
1383 following the last day of the fiscal year deposit the difference described in Subsection (7)(b)  
1384 into the Remote Sales Restricted Account created in Section 59-12-103.2 if that difference is  
1385 greater than \$0.

1386 (b) The difference described in Subsection (7)(a) is equal to the difference between:

1387 (i) the total amount of the ~~following~~ revenues under Subsection (2)(b)(ii)(A) the  
1388 commission received from sellers collecting a tax in accordance with Subsection  
1389 59-12-107(1)(b) for the fiscal year immediately preceding the September 30 described in  
1390 Subsection (7)(a)[:]; and

1391 [~~(A) revenues under Subsection (2)(a)(i); and~~]

1392 [~~(B)~~ revenues under Subsection (2)(b)(i); and]

1393 (ii) \$7,279,673.

1394 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in  
1395 Subsection (6)(a), and until Subsection (8)(b) applies, for a fiscal year beginning on or after  
1396 July 1, 2005, the Division of Finance shall deposit \$59,594,700 of the revenues generated by  
1397 the taxes described in Subsections (2)(a)(i) and (2)(b)(i) into the Centennial Highway Fund  
1398 Restricted Account created by Section 72-2-118.

1399 (b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under  
1400 Subsection (6)(b), when the highway general obligation bonds have been paid off and the  
1401 highway projects completed that are intended to be paid from revenues deposited in the  
1402 Centennial Highway Fund Restricted Account as determined by the Executive Appropriations  
1403 Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit  
1404 \$59,594,700 of the revenues generated by the taxes described in Subsections (2)(a)(i) and  
1405 (2)(b)(i) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

1406 Section 6. Section **59-12-103.1** is amended to read:

1407 **59-12-103.1. Action by Supreme Court of the United States authorizing or action**  
1408 **by Congress permitting a state to require certain sellers to collect a sales or use tax --**  
1409 **Collection of tax by commission -- Commission report to Utah Tax Review Commission --**  
1410 **Utah Tax Review Commission study.**

1411 (1) [~~Except as provided in Sections 59-12-107.1 through 59-12-107.3, a~~] A seller shall  
1412 remit a tax to the commission [~~a tax~~] as provided in Section 59-12-107 if:

1413 (a) the Supreme Court of the United States issues a decision authorizing a state to  
1414 require a seller that does not meet one or more of the criteria described in Subsection  
1415 59-12-107(1)(a) to collect a sales or use tax; or

1416 (b) Congress permits the state to require a seller that does not meet one or more of the  
1417 criteria described in Subsection 59-12-107(1)(a) to collect a sales or use tax.

1418 (2) The commission shall:

1419 (a) collect the tax described in Subsection (1) from the seller:

1420 (i) to the extent:

1421 (A) authorized by the Supreme Court of the United States; or

1422 (B) permitted by Congress;

1423 (ii) beginning on the first day of a calendar quarter as prescribed by the Utah Tax  
 1424 Review Commission; and  
 1425 (b) make a report to the Utah Tax Review Commission:  
 1426 (i) regarding the actions taken by:  
 1427 (A) the Supreme Court of the United States; or  
 1428 (B) Congress; and  
 1429 (ii) at the Utah Tax Review Commission meeting immediately following the day on  
 1430 which the Supreme Court of the United States' or Congress' actions become effective.

1431 (3) The Utah Tax Review Commission shall after hearing the commission's report  
 1432 under Subsection (2)(b):  
 1433 (a) review the actions taken by:  
 1434 (i) the Supreme Court of the United States; or  
 1435 (ii) Congress;  
 1436 (b) direct the commission regarding the day on which the commission is required to  
 1437 collect the tax described in Subsection (1); and  
 1438 (c) make recommendations to the Revenue and Taxation Interim Committee:  
 1439 (i) regarding whether as a result of the Supreme Court of the United States' or  
 1440 Congress' actions any provisions of this chapter should be amended or repealed; and  
 1441 (ii) within a one-year period after the day on which the commission makes a report  
 1442 under Subsection (2)(b).

1443 Section 7. Section **59-12-104.3 (Effective 07/01/06)** is amended to read:

1444 **59-12-104.3 (Effective 07/01/06). Credit for certain repossessions of a motor**  
 1445 **vehicle.**

1446 (1) (a) Subject to ~~[Subsection]~~ Subsections (2) and (3), a seller that collects a tax under  
 1447 this chapter on the sale of a motor vehicle may claim a credit for a tax under this chapter~~[-(a)-~~  
 1448 ~~that the seller collected, and (b) on]~~ for a motor vehicle that:

1449 (i) has been repossessed; and  
 1450 (ii) that the seller resells.

1451 (b) A seller of a motor vehicle other than the seller that collects a tax under this chapter  
 1452 on the sale of that motor vehicle may claim a credit for a tax under this chapter:

1453 (i) for a motor vehicle that the seller:

- 1454 (A) repossessed; and  
 1455 (B) resells; and  
 1456 (ii) if the seller that collected the tax under this chapter on that motor vehicle:  
 1457 (A) is no longer doing business in the state; and  
 1458 (B) does not owe a tax under this chapter.  
 1459 (2) The amount of the credit allowed by Subsection (1) is equal to the product of:  
 1460 (a) the portion of the motor vehicle's purchase price that:  
 1461 (i) was subject to a tax under this chapter; and  
 1462 (ii) remains unpaid [~~at the time of the repossession of~~] after the motor vehicle is resold;  
 1463 and  
 1464 (b) the tax rate imposed by Subsection 59-12-103(2)(a):  
 1465 (i) on the motor vehicle's purchase price; and  
 1466 (ii) on the date the motor vehicle was purchased by the person that owns the motor  
 1467 vehicle at the time of the repossession.  
 1468 (3) If a seller recovers any portion of a motor vehicle's unpaid purchase price that is  
 1469 used to calculate a credit allowed by Subsection (1)(b), the seller shall report and remit a tax  
 1470 under this chapter to the commission:  
 1471 (a) on the portion of the motor vehicle's unpaid purchase price that:  
 1472 (i) the seller recovers; and  
 1473 (ii) is used to calculate the credit allowed by Subsection (1)(b); and  
 1474 (b) on a return filed for the time period for which the portion of the motor vehicle's  
 1475 unpaid purchase price is recovered.  
 1476 Section 8. Section **59-12-105 (Portions Eff 07/01/06 See 59-1-1201)** is amended to  
 1477 read:  
 1478 **59-12-105 (Portions Eff 07/01/06 See 59-1-1201). Certain exempt sales to be**  
 1479 **reported -- Penalties.**  
 1480 (1) An owner or purchaser shall report to the commission the amount of sales or uses  
 1481 exempt under Subsection 59-12-104(14) or (50).  
 1482 [~~(2) (a) A seller that files a simplified electronic return with the commission shall file a~~  
 1483 ~~report containing the information described in Subsection (2)(b).]~~  
 1484 [~~(b) The report required by Subsection (2)(a) shall contain the following amounts:]~~

1485 ~~[(i) for each store location that the seller has within the state:]~~  
1486 ~~[(A) the total amount of sales;]~~  
1487 ~~[(B) the total amount of sales that are exempt from a tax imposed by this chapter; and]~~  
1488 ~~[(C) the difference between the amount described in Subsection (2)(b)(i)(A) and the~~  
1489 ~~amount described in Subsection (2)(b)(i)(B);]~~  
1490 ~~[(ii) for the total amount of sales that the seller makes from a location in the state other~~  
1491 ~~than a fixed place of business in the state:]~~  
1492 ~~[(A) the total amount of sales;]~~  
1493 ~~[(B) the total amount of sales that are exempt from a tax imposed by this chapter; and]~~  
1494 ~~[(C) the difference between the amount described in Subsection (2)(b)(ii)(A) and the~~  
1495 ~~amount described in Subsection (2)(b)(ii)(B); and]~~  
1496 ~~[(iii) for the total amount of sales that the seller makes where inventory is shipped from~~  
1497 ~~a location outside the state:]~~  
1498 ~~[(A) the total amount of sales;]~~  
1499 ~~[(B) the total amount of sales that are exempt from a tax imposed by this chapter; and]~~  
1500 ~~[(C) the difference between the amount described in Subsection (2)(b)(iii)(A) and the~~  
1501 ~~amount described in Subsection (2)(b)(iii)(B).]~~  
1502 ~~[(3)(a)] (2) A report required by Subsection (1) ~~[or (2)]~~ shall be filed:  
1503 ~~[(i)] (a) with the commission; and~~  
1504 ~~[(ii)] (b) on a form prescribed by the commission.~~  
1505 ~~[(b) A report required by Subsection (2) shall be filed electronically.]~~  
1506 ~~[(c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~  
1507 ~~the commission shall make rules providing:]~~  
1508 ~~[(i) the information required to be included in the reports described in Subsections (1)~~  
1509 ~~and (2); and]~~  
1510 ~~[(ii) one or more due dates for filing the reports described in:]~~  
1511 ~~[(A) Subsection (1); and]~~  
1512 ~~[(B) Subsection (2).]~~  
1513 ~~[(4)] (3) (a) Notwithstanding Section 59-1-401, and except as provided in Subsections~~  
1514 ~~[(4)] (3)(b) and [(6)] (4), if the owner or purchaser fails to report the full amount of the~~  
1515 ~~exemptions granted under Subsection 59-12-104(14) or (50) on the report required by~~~~

1516 Subsection (1), the commission shall impose a penalty equal to the lesser of:

1517 (i) 10% of the sales and use tax that would have been imposed if the exemption had not  
1518 applied; or

1519 (ii) \$1,000.

1520 (b) Notwithstanding Subsection ~~[(4)]~~ (3)(a)(i), the commission may not impose a  
1521 penalty under Subsection ~~[(4)]~~ (3)(a)(i) if the owner or purchaser files an amended report:

1522 (i) containing the amount of the exemption; and

1523 (ii) before the owner or purchaser receives a notice of audit from the commission.

1524 ~~[(5) Notwithstanding Section 59-1-401, and except as provided in Subsection (6), if a~~  
1525 ~~seller fails to report the amounts required by Subsection (2), the commission shall impose a~~  
1526 ~~penalty of \$1,000.]~~

1527 ~~[(6)]~~ (4) (a) ~~[Notwithstanding Subsection (4)(a) or (5), the]~~ The commission may  
1528 waive, reduce, or compromise a penalty imposed under this section if the commission finds  
1529 there are reasonable grounds for the waiver, reduction, or compromise.

1530 (b) If the commission waives, reduces, or compromises a penalty under Subsection  
1531 ~~[(6)]~~ (4)(a), the commission shall make a record of the grounds for waiving, reducing, or  
1532 compromising the penalty.

1533 Section 9. Section **59-12-107 (Portions Eff 07/01/06 See 59-1-1201)** is amended to  
1534 read:

1535 **59-12-107 (Portions Eff 07/01/06 See 59-1-1201). Collection, remittance, and**  
1536 **payment of tax by sellers or other persons -- Returns -- Direct payment by purchaser of**  
1537 **vehicle -- Other liability for collection -- Rulemaking authority -- Credits -- Treatment of**  
1538 **bad debt -- Penalties.**

1539 (1) (a) Except as provided in Subsection (1)~~[(e)]~~ (d) ~~[or Sections 59-12-107.1 through~~  
1540 ~~59-12-107.4]~~ and subject to Subsection (1)~~[(f)]~~ (e), each seller shall pay or collect and remit the  
1541 sales and use taxes imposed by this chapter if within this state the seller:

1542 (i) has or utilizes:

1543 (A) an office;

1544 (B) a distribution house;

1545 (C) a sales house;

1546 (D) a warehouse;

- 1547 (E) a service enterprise; or
- 1548 (F) a place of business similar to Subsections (1)(a)(i)(A) through (E);
- 1549 (ii) maintains a stock of goods;
- 1550 (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the
- 1551 state, unless the seller's only activity in the state is:
- 1552 (A) advertising; or
- 1553 (B) solicitation by:
- 1554 (I) direct mail;
- 1555 (II) electronic mail;
- 1556 (III) the Internet;
- 1557 (IV) telephone; or
- 1558 (V) a means similar to Subsection (1)(a)(iii)(A) or (B);
- 1559 (iv) regularly engages in the delivery of property in the state other than by:
- 1560 (A) common carrier; or
- 1561 (B) United States mail; or
- 1562 (v) regularly engages in an activity directly related to the leasing or servicing of
- 1563 property located within the state.
- 1564 (b) A seller that does not meet one or more of the criteria provided for in Subsection
- 1565 (1)(a):
- 1566 (i) except as provided in Subsection (1)(b)(ii), may voluntarily:
- 1567 (A) collect a tax on a transaction described in Subsection 59-12-103(1); and
- 1568 (B) remit the tax to the commission as provided in this part; or
- 1569 (ii) notwithstanding Subsection (1)(b)(i), shall collect a tax on a transaction described
- 1570 in Subsection 59-12-103(1) if Section 59-12-103.1 requires the seller to collect the tax.
- 1571 ~~[(c) The collection and remittance of a tax under this chapter by a seller that is~~
- 1572 ~~registered under the agreement may not be used as a factor in determining whether that seller is~~
- 1573 ~~required by Subsection (1)(a) to:]~~
- 1574 ~~[(i) pay a tax, fee, or charge under:]~~
- 1575 ~~[(A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;]~~
- 1576 ~~[(B) Section 19-6-716;]~~
- 1577 ~~[(C) Section 19-6-805;]~~

- 1578 ~~[(D) Section 69-2-5.5; or]~~  
 1579 ~~[(E) this title; or]~~  
 1580 ~~[(ii) collect and remit a tax, fee, or charge under:]~~  
 1581 ~~[(A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;]~~  
 1582 ~~[(B) Section 19-6-716;]~~  
 1583 ~~[(C) Section 19-6-805;]~~  
 1584 ~~[(D) Section 69-2-5.5; or]~~  
 1585 ~~[(E) this title:]~~  
 1586 ~~[(F)]~~ (c) A person shall pay a use tax imposed by this chapter on a transaction  
 1587 described in Subsection 59-12-103(1) if:  
 1588 (i) the seller did not collect a tax imposed by this chapter on the transaction; and  
 1589 (ii) the person:  
 1590 (A) stores the tangible personal property in the state;  
 1591 (B) uses the tangible personal property in the state; or  
 1592 (C) consumes the tangible personal property in the state.  
 1593 ~~[(e)]~~ (d) ~~[Notwithstanding Subsection (1)(a), the]~~ The ownership of property that is  
 1594 located at the premises of a printer's facility with which the retailer has contracted for printing  
 1595 and that consists of the final printed product, property that becomes a part of the final printed  
 1596 product, or copy from which the printed product is produced, shall not result in the retailer  
 1597 being considered to have or maintain an office, distribution house, sales house, warehouse,  
 1598 service enterprise, or other place of business, or to maintain a stock of goods, within this state.  
 1599 ~~[(f)]~~ (e) (i) As used in this Subsection (1)~~[(f)]~~ (e):  
 1600 (A) "affiliated group" is as defined in Section 59-7-101, except that "affiliated group"  
 1601 includes a corporation that is qualified to do business but is not otherwise doing business in  
 1602 this state;  
 1603 (B) "common ownership" is as defined in Section 59-7-101;  
 1604 (C) "related seller" means a seller that:  
 1605 (I) is not required to pay or collect and remit sales and use taxes under Subsection  
 1606 (1)(a) or Section 59-12-103.1;  
 1607 (II) is:  
 1608 (Aa) related to a seller that is required to pay or collect and remit sales and use taxes

1609 under Subsection (1)(a) as part of an affiliated group or because of common ownership; or  
1610 (Bb) a limited liability company owned by the parent corporation of an affiliated group  
1611 if that parent corporation of the affiliated group is required to pay or collect and remit sales and  
1612 use taxes under Subsection (1)(a); and  
1613 (III) does not voluntarily collect and remit a tax under Subsection (1)(b)(i).  
1614 (ii) A seller is not required to pay or collect and remit sales and use taxes under  
1615 Subsection (1)(a):  
1616 (A) if the seller is a related seller;  
1617 (B) if the seller to which the related seller is related does not engage in any of the  
1618 following activities on behalf of the related seller:  
1619 (I) advertising;  
1620 (II) marketing;  
1621 (III) sales; or  
1622 (IV) other services; and  
1623 (C) if the seller to which the related seller is related accepts the return of an item sold  
1624 by the related seller, the seller to which the related seller is related accepts the return of that  
1625 item:  
1626 (I) sold by a seller that is not a related seller; and  
1627 (II) on the same terms as the return of an item sold by that seller to which the related  
1628 seller is related.  
1629 (2) (a) [~~Except as provided in Sections 59-12-107.1 through 59-12-107.4, a~~] A tax  
1630 under this chapter shall be collected from a purchaser.  
1631 (b) A seller may not collect as tax an amount, without regard to fractional parts of one  
1632 cent, in excess of the tax computed at the rates prescribed by this chapter.  
1633 (c) (i) Each seller shall:  
1634 (A) give the purchaser a receipt for the tax collected; or  
1635 (B) bill the tax as a separate item and declare the name of this state and the seller's  
1636 sales and use tax license number on the invoice for the sale.  
1637 (ii) The receipt or invoice is prima facie evidence that the seller has collected the tax  
1638 and relieves the purchaser of the liability for reporting the tax to the commission as a  
1639 consumer.

1640 (d) A seller is not required to maintain a separate account for the tax collected, but is  
1641 considered to be a person charged with receipt, safekeeping, and transfer of public moneys.

1642 (e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the  
1643 benefit of the state and for payment to the commission in the manner and at the time provided  
1644 for in this chapter.

1645 (f) If any seller, during any reporting period, collects as a tax an amount in excess of  
1646 the lawful state and local percentage of total taxable sales allowed under this chapter, the seller  
1647 shall remit to the commission the full amount of the tax imposed under this chapter, plus any  
1648 excess.

1649 (g) If the accounting methods regularly employed by the seller in the transaction of the  
1650 seller's business are such that reports of sales made during a calendar month or quarterly period  
1651 will impose unnecessary hardships, the commission may accept reports at intervals that will, in  
1652 the commission's opinion, better suit the convenience of the taxpayer or seller and will not  
1653 jeopardize collection of the tax.

1654 (3) (a) Except as provided in [~~Subsections~~] Subsection (4) [~~through (6)~~] and [~~in~~]  
1655 Section 59-12-108, the sales or use tax imposed by this chapter is due and payable to the  
1656 commission quarterly on or before the last day of the month next succeeding each calendar  
1657 quarterly period.

1658 (b) (i) Each seller shall, on or before the last day of the month next succeeding each  
1659 calendar quarterly period, file with the commission a return for the preceding quarterly period.

1660 (ii) The seller shall remit with the return under Subsection (3)(b)(i) the amount of the  
1661 tax required under this chapter to be collected or paid for the period covered by the return.

1662 (c) [~~(i) Except as provided in Subsections (3)(c)(ii) and (4)(b)(i)(C), each~~] Each return  
1663 shall contain information and be in a form the commission prescribes by rule.

1664 [~~(ii) Notwithstanding Subsection (3)(c)(i), a seller described in Subsection (1)(b) that is~~  
1665 ~~registered under the agreement shall file a return required by this section electronically.~~]

1666 (d) The sales tax as computed in the return shall be based upon the total nonexempt  
1667 sales made during the period, including both cash and charge sales.

1668 (e) The use tax as computed in the return shall be based upon the total amount of sales  
1669 and purchases for storage, use, or other consumption in this state made during the period,  
1670 including both by cash and by charge.

1671 (f) (i) Subject to Subsection (3)(f)(ii) and in accordance with Title 63, Chapter 46a,  
1672 Utah Administrative Rulemaking Act, the commission may by rule extend the time for making  
1673 returns and paying the taxes.

1674 (ii) An extension under Subsection (3)(f)(i) may not be for more than 90 days.

1675 (g) The commission may require returns and payment of the tax to be made for other  
1676 than quarterly periods if the commission considers it necessary in order to ensure the payment  
1677 of the tax imposed by this chapter.

1678 ~~[(4)(a)(i) Notwithstanding Subsection (3) and except as provided in Subsection~~  
1679 ~~(4)(a)(ii), a tax collected in accordance with Subsection (1)(b) by a seller described in~~  
1680 ~~Subsection (4)(d) shall be due and payable:]~~

1681 ~~[(A) to the commission;]~~

1682 ~~[(B) annually; and]~~

1683 ~~[(C) on or before the last day of the month immediately following the last day of each~~  
1684 ~~calendar year:]~~

1685 ~~[(ii) Notwithstanding Subsection (4)(a)(i), the commission may require that a tax~~  
1686 ~~collected in accordance with Subsection (1)(b) by a seller described in Subsection (4)(d) be due~~  
1687 ~~and payable:]~~

1688 ~~[(A) to the commission; and]~~

1689 ~~[(B) on the last day of the month immediately following any month in which the seller~~  
1690 ~~has accumulated a total of at least \$1,000 in agreement sales and use tax.]~~

1691 ~~[(b) (i) A tax remitted to the commission under Subsection (4)(a) shall be accompanied~~  
1692 ~~by a return that:]~~

1693 ~~[(A) contains information prescribed by the commission;]~~

1694 ~~[(B) is in a form prescribed by the commission; and]~~

1695 ~~[(C) notwithstanding Subsection (3)(c)(i), is filed electronically as required by~~  
1696 ~~Subsection (3)(c)(ii).]~~

1697 ~~[(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~  
1698 ~~the commission shall make rules prescribing:]~~

1699 ~~[(A) the information required to be contained in a return described in Subsection~~  
1700 ~~(4)(b)(i); and]~~

1701 ~~[(B) the form of the return described in Subsection (4)(b)(i).]~~

1702 ~~[(c) The tax collected in accordance with this Subsection (4) calculated in the return~~  
 1703 ~~described in Subsection (4)(b) shall be calculated on the basis of the total amount of taxable~~  
 1704 ~~transactions described in Subsection 59-12-103(1) conducted by a seller described in~~  
 1705 ~~Subsection (4)(d), including:]~~

1706 ~~[(i) a cash transaction; and]~~

1707 ~~[(ii) a charge transaction.]~~

1708 ~~[(d) This Subsection (4) applies to a seller that is:]~~

1709 ~~[(i) registered under the agreement;]~~

1710 ~~[(ii) described in Subsection (1)(b); and]~~

1711 ~~[(iii) not a:]~~

1712 ~~[(A) model 1 seller;]~~

1713 ~~[(B) model 2 seller; or]~~

1714 ~~[(C) model 3 seller.]~~

1715 ~~[(5) (a) Notwithstanding Subsection (3) and except as provided in Subsection (5)(b), a~~  
 1716 ~~tax collected in accordance with this chapter by a seller that files a simplified electronic return~~  
 1717 ~~shall be due and payable:]~~

1718 ~~[(i) monthly on or before the last day of the month immediately following the month~~  
 1719 ~~for which the seller collects a tax under this chapter; and]~~

1720 ~~[(ii) for the month for which the seller collects a tax under this chapter.]~~

1721 ~~[(b) Notwithstanding Subsection (5)(a), a tax collected in accordance with Subsection~~  
 1722 ~~(1)(b) by a seller described in Subsection (4)(d) that files a simplified electronic return, shall be~~  
 1723 ~~due and payable as provided in Subsection (4)(a).]~~

1724 ~~[(6)] (4) (a) [Notwithstanding Subsection (3), on] On each vehicle sale made by other~~  
 1725 ~~than a regular licensed vehicle dealer, the purchaser shall pay the sales or use tax directly to the~~  
 1726 ~~commission if the vehicle is subject to titling or registration under the laws of this state.~~

1727 (b) The commission shall collect the tax described in Subsection ~~[(6)] (4)(a)~~ when the  
 1728 vehicle is titled or registered.

1729 ~~[(7)] (5) If any sale of tangible personal property or any other taxable transaction under~~  
 1730 ~~Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not~~  
 1731 ~~responsible for the collection or payment of the tax imposed on the sale and the retailer is~~  
 1732 ~~responsible for the collection or payment of the tax imposed on the sale if:~~

1733 (a) the retailer represents that the personal property is purchased by the retailer for  
1734 resale; and

1735 (b) the personal property is not subsequently resold.

1736 ~~[(8)]~~ (6) If any sale of property or service subject to the tax is made to a person  
1737 prepaying sales or use tax in accordance with Title 63, Chapter 51, Resource Development, or  
1738 to a contractor or subcontractor of that person, the person to whom such payment or  
1739 consideration is payable is not responsible for the collection or payment of the sales or use tax  
1740 and the person prepaying the sales or use tax is responsible for the collection or payment of the  
1741 sales or use tax if the person prepaying the sales or use tax represents that the amount prepaid  
1742 as sales or use tax has not been fully credited against sales or use tax due and payable under the  
1743 rules promulgated by the commission.

1744 ~~[(9)]~~ (7) (a) For purposes of this Subsection ~~[(9)]~~ (7):

1745 (i) Except as provided in Subsection ~~[(9)]~~ (7)(a)(ii), "bad debt" is as defined in Section  
1746 166, Internal Revenue Code.

1747 (ii) Notwithstanding Subsection ~~[(9)]~~ (7)(a)(i), "bad debt" does not include:

1748 (A) an amount included in the purchase price of tangible personal property or a service  
1749 that is:

1750 (I) not a transaction described in Subsection 59-12-103(1); or

1751 (II) exempt under Section 59-12-104;

1752 (B) a financing charge;

1753 (C) interest;

1754 (D) a tax imposed under this chapter on the purchase price of tangible personal  
1755 property or a service;

1756 (E) an uncollectible amount on tangible personal property that:

1757 (I) is subject to a tax under this chapter; and

1758 (II) remains in the possession of a seller until the full purchase price is paid;

1759 (F) an expense incurred in attempting to collect any debt; or

1760 (G) an amount that a seller does not collect on repossessed property.

1761 (b) A seller may deduct bad debt from the total amount from which a tax under this  
1762 chapter is calculated on a return.

1763 (c) A seller may file a refund claim with the commission if:

- 1764 (i) the amount of bad debt for the time period described in Subsection ~~[(9)]~~ (7)(e)  
1765 exceeds the amount of the seller's sales that are subject to a tax under this chapter for that same  
1766 time period; and
- 1767 (ii) as provided in Section 59-12-110.
- 1768 (d) A bad debt deduction under this section may not include interest.
- 1769 (e) A bad debt may be deducted under this Subsection ~~[(9)]~~ (7) on a return for the time  
1770 period during which the bad debt:
- 1771 (i) is written off as uncollectible in the seller's books and records; and  
1772 (ii) would be eligible for a bad debt deduction:
- 1773 (A) for federal income tax purposes; and  
1774 (B) if the seller were required to file a federal income tax return.
- 1775 (f) If a seller recovers any portion of bad debt for which the seller makes a deduction or  
1776 claims a refund under this Subsection ~~[(9)]~~ (7), the seller shall report and remit a tax under this  
1777 chapter:
- 1778 (i) on the portion of the bad debt the seller recovers; and  
1779 (ii) on a return filed for the time period for which the portion of the bad debt is  
1780 recovered.
- 1781 (g) For purposes of reporting a recovery of a portion of bad debt under Subsection ~~[(9)]~~  
1782 (7)(f), a seller shall apply amounts received on the bad debt in the following order:
- 1783 (i) in a proportional amount:
- 1784 (A) to the purchase price of the tangible personal property or service; and  
1785 (B) to the tax due under this chapter on the tangible personal property or service; and  
1786 (ii) to:
- 1787 (A) interest charges;  
1788 (B) service charges; and  
1789 (C) other charges.
- 1790 ~~[(h) A seller's certified service provider may make a deduction or claim a refund for  
1791 bad debt on behalf of the seller.]~~
- 1792 ~~[(i) in accordance with this Subsection (9); and]~~
- 1793 ~~[(ii) if the certified service provider credits or refunds the full amount of the bad debt  
1794 deduction or refund to the seller.]~~

1795 ~~[(i) A bad debt may be allocated among the states that are members of the agreement if~~  
 1796 ~~a seller's books and records support that allocation.]~~

1797 ~~[(10)]~~ (8) (a) A seller may not, with intent to evade any tax, fail to timely remit the full  
 1798 amount of tax required by this chapter.

1799 (b) A violation of this section is punishable as provided in Section 59-1-401.

1800 (c) Each person who fails to pay any tax to the state or any amount of tax required to be  
 1801 paid to the state, except amounts determined to be due by the commission under Sections  
 1802 59-12-110 and 59-12-111, within the time required by this chapter, or who fails to file any  
 1803 return as required by this chapter, shall pay, in addition to the tax, penalties and interest as  
 1804 provided in Section 59-12-110.

1805 (d) For purposes of prosecution under this section, each quarterly tax period in which a  
 1806 seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the  
 1807 tax required to be remitted, constitutes a separate offense.

1808 Section 10. Section **59-12-108** is amended to read:

1809 **59-12-108. Monthly payment -- Penalty -- Amount of tax a seller may retain --**  
 1810 **Certain amounts allocated to local taxing jurisdictions.**

1811 (1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this  
 1812 chapter of \$50,000 or more for the previous calendar year shall:

1813 (i) file a return with the commission:

1814 (A) monthly on or before the last day of the month immediately following the month  
 1815 for which the seller collects a tax under this chapter; and

1816 (B) for the month for which the seller collects a tax under this chapter; and

1817 (ii) ~~[(A) except as provided in Subsection (1)(a)(ii)(B) or (1)(c);]~~ remit with the return  
 1818 required by Subsection (1)(a)(i) the amount the person is required to remit to the commission  
 1819 for each tax, fee, or charge described in Subsection (1)(b):

1820 ~~[(1)]~~ (A) if that seller's tax liability under this chapter for the previous calendar year is  
 1821 less than \$96,000, by any method permitted by the commission; or

1822 ~~[(1)]~~ (B) if that seller's tax liability under this chapter for the previous calendar year is  
 1823 \$96,000 or more, by electronic funds transfer~~[-or]~~.

1824 ~~[(B) notwithstanding Subsection (1)(a)(ii)(A), a seller shall remit electronically with~~  
 1825 ~~the return required by Subsection (1)(a)(i) the amount the person is required to remit to the~~

1826 commission for each tax, fee, or charge described in Subsection (1)(b) if that seller:]  
1827 [~~(F) is required by Section 59-12-107 to file the return electronically; or]~~  
1828 [~~(H) (Aa) is required to collect and remit a tax under Subsection 59-12-107(1)(a); and]~~  
1829 [~~(Bb) files a simplified electronic return.]~~

1830 (b) Subsections (1)(a)(i) and (ii) apply to the following taxes, fees, or charges:  
1831 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;  
1832 (ii) a fee under Section 19-6-716;  
1833 (iii) a fee under Section 19-6-805;  
1834 (iv) a charge under Section 69-2-5.5; or  
1835 (v) a tax under this chapter.

1836 (c) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63, Chapter 46a,  
1837 Utah Administrative Rulemaking Act, the commission shall make rules providing for a method  
1838 for making same-day payments other than by electronic funds transfer if making payments by  
1839 electronic funds transfer fails.

1840 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1841 commission shall establish by rule procedures and requirements for determining the amount a  
1842 seller is required to remit to the commission under this Subsection (1).

1843 (2) (a) Except as provided in Subsection (2)(b), a seller subject to Subsection (1) or a  
1844 seller described in Subsection (3) may retain each month an amount not to exceed:  
1845 (i) 1.31% of any amounts the seller is required to remit to the commission for:  
1846 (A) the month for which the seller is filing a return in accordance with Subsection (1);  
1847 and  
1848 (B) [~~an agreement~~] a combined sales and use tax; and  
1849 (ii) 1% of any amounts the seller is required to remit to the commission:  
1850 (A) for the month for which the seller is filing a return in accordance with Subsection  
1851 (1); and  
1852 (B) under:  
1853 (I) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;  
1854 (II) Subsection 59-12-603(1)(a)(i); or  
1855 (III) Subsection 59-12-603(1)(a)(ii).

1856 (b) Notwithstanding Subsection (2)(a), a state government entity that is required to

1857 remit taxes monthly in accordance with Subsection (1) may not retain any amount under  
1858 Subsection (2)(a).

1859 (3) A seller that has a tax liability under this chapter for the previous calendar year of  
1860 less than \$50,000 may:

1861 (a) voluntarily meet the requirements of Subsection (1); and

1862 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the  
1863 amounts allowed by Subsection (2)(a).

1864 (4) Penalties for late payment shall be as provided in Section 59-1-401.

1865 (5) (a) For any amounts required to be remitted to the commission under this part, the  
1866 commission shall each month calculate an amount equal to the difference between:

1867 (i) the total amount retained for that month by all sellers had the percentage listed  
1868 under Subsection (2)(a)(i) been 1.5%; and

1869 (ii) the total amount retained for that month by all sellers at the percentage listed under  
1870 Subsection (2)(a)(i).

1871 (b) The commission shall each month allocate the amount calculated under Subsection  
1872 (5)(a) to each [~~local taxing jurisdiction~~] county, city, and town on the basis of the proportion of  
1873 [~~agreement~~] combined sales and use tax that the commission distributes to each [~~local taxing~~  
1874 jurisdiction] county, city, and town for that month compared to the total [~~agreement~~] combined  
1875 sales and use tax that the commission distributes for that month to all [~~local taxing~~  
1876 jurisdictions] counties, cities, and towns.

1877 Section 11. Section **59-12-110** is amended to read:

1878 **59-12-110. Overpayments, deficiencies, and refunds procedures.**

1879 (1) (a) As soon as practicable after a return is filed, the commission shall examine the  
1880 return.

1881 (b) If the commission determines that the correct amount of tax to be remitted is  
1882 greater or less than the amount shown to be due on the return, the commission shall recompute  
1883 the tax.

1884 (c) If the amount paid exceeds the amount due, the excess, plus interest as provided in  
1885 Section 59-1-402, shall be credited or refunded to the taxpayer as provided in Subsection (2).

1886 (d) The commission may not credit or refund to the taxpayer interest on an  
1887 overpayment under Subsection (1)(c) if the commission determines that the overpayment was

1888 made for the purpose of investment.

1889 (2) (a) If a taxpayer pays a tax, penalty, or interest more than once or the commission  
1890 erroneously receives, collects, or computes any tax, penalty, or interest, including an  
1891 overpayment described in Subsection (1)(c), the commission shall:

1892 (i) credit the amount of tax, penalty, or interest paid by the taxpayer against any  
1893 amounts of tax, penalties, or interest the taxpayer owes; and

1894 (ii) refund any balance to the taxpayer or the taxpayer's successors, administrators,  
1895 executors, or assigns.

1896 (b) Except as provided in Subsections (2)(c) and (d) or Section 19-2-124, a taxpayer  
1897 shall file a claim with the commission to obtain a refund or credit under this Subsection (2)  
1898 within three years from the day on which the taxpayer overpaid the tax, penalty, or interest.

1899 (c) Notwithstanding Subsection (2)(b), beginning on July 1, 1998, the commission  
1900 shall extend the period for a taxpayer to file a claim under Subsection (2)(b) if:

1901 (i) the three-year period under Subsection (2)(b) has not expired; and

1902 (ii) the commission and the taxpayer sign a written agreement:

1903 (A) authorizing the extension; and

1904 (B) providing for the length of the extension.

1905 (d) Notwithstanding Subsection (2)(b), a seller that files a claim for a refund under  
1906 Subsection 59-12-107~~(9)~~ (7)(c) for bad debt shall file the claim with the commission within  
1907 three years from the date on which the seller could first claim the refund for the bad debt.

1908 (e) A taxpayer may file a claim to obtain a refund or credit under this Subsection (2)  
1909 regardless of whether the taxpayer received or objected to a notice of deficiency or a notice of  
1910 assessment as provided in Subsection 59-12-114(1).

1911 (f) A taxpayer may obtain a refund under this Subsection (2) of a tax paid under this  
1912 chapter on a transaction that is taxable under Section 59-12-103 if:

1913 (i) the sale or use was exempt from sales and use taxes under Section 59-12-104 on the  
1914 date of purchase; and

1915 (ii) except as provided in Subsection (2)(c), the taxpayer files a claim for a refund with  
1916 the commission as provided in Subsections (2)(b) through (e).

1917 (g) If the commission denies a claim for a refund or credit under this Subsection (2),  
1918 the taxpayer may request a redetermination of the denial by filing a petition or request for

1919 agency action with the commission as provided in Title 63, Chapter 46b, Administrative  
1920 Procedures Act.

1921 (3) If the commission erroneously determines an amount to be due from a taxpayer, the  
1922 commission shall authorize the amounts to be cancelled upon its records.

1923 (4) (a) Subject to the provisions of Subsection (4)(b), the commission may impose on a  
1924 deficiency under this section:

1925 (i) a penalty as provided in Section 59-1-401; and

1926 (ii) interest as provided in Section 59-1-402.

1927 (b) The commission may impose a penalty and interest on the entire deficiency if any  
1928 part of the deficiency is due to:

1929 (i) negligence;

1930 (ii) intentional disregard of law or rule; or

1931 (iii) fraud with intent to evade the tax.

1932 (5) (a) Except as provided in Subsection (5)(b), a taxpayer shall pay a tax deficiency,  
1933 including penalties or interest under this section, within ten days after the commission provides  
1934 the taxpayer notice and demand of the deficiency, penalty, or interest.

1935 (b) Notwithstanding Subsection (5)(a), a taxpayer may pay a tax deficiency, penalty, or  
1936 interest within 30 days after the commission provides the taxpayer notice and demand of the  
1937 deficiency, penalty, or interest if the commission determines:

1938 (i) that a greater amount was due than was shown on the return; and

1939 (ii) the tax is not in jeopardy.

1940 (6) (a) Except as provided in Subsections (6)(c) through (f), the commission shall  
1941 assess the amount of taxes imposed by this chapter, and any penalties and interest, within three  
1942 years after a taxpayer files a return.

1943 (b) Except as provided in Subsections (6)(c) through (f), if the commission does not  
1944 make an assessment under Subsection (6)(a) within three years, the commission may not  
1945 commence a proceeding for the collection of the taxes after the expiration of the three-year  
1946 period.

1947 (c) Notwithstanding Subsections (6)(a) and (b), the commission may make an  
1948 assessment or commence a proceeding to collect a tax at any time if a deficiency is due to:

1949 (i) fraud; or

1950 (ii) failure to file a return.

1951 (d) Notwithstanding Subsections (6)(a) and (b), beginning on July 1, 1998, the

1952 commission may extend the period to make an assessment or to commence a proceeding to

1953 collect the tax under this chapter if:

1954 (i) the three-year period under this Subsection (6) has not expired; and

1955 (ii) the commission and the taxpayer sign a written agreement:

1956 (A) authorizing the extension; and

1957 (B) providing for the length of the extension.

1958 (e) If the commission delays an audit at the request of a taxpayer, the commission may

1959 make an assessment as provided in Subsection (6)(f) if:

1960 (i) the taxpayer subsequently refuses to agree to an extension request by the

1961 commission; and

1962 (ii) the three-year period under this Subsection (6) expires before the commission

1963 completes the audit.

1964 (f) An assessment under Subsection (6)(e) shall be:

1965 (i) for the time period for which the commission could not make an assessment

1966 because of the expiration of the three-year period; and

1967 (ii) in an amount equal to the difference between:

1968 (A) the commission's estimate of the amount of taxes the taxpayer would have been

1969 assessed for the time period described in Subsection (6)(f)(i); and

1970 (B) the amount of taxes the taxpayer actually paid for the time period described in

1971 Subsection (6)(f)(i).

1972 Section 12. Section **59-12-110.1** is amended to read:

1973 **59-12-110.1. Refund or credit for taxes overpaid by a purchaser.**

1974 (1) Subject to the other provisions of this section, a purchaser may request from a seller

1975 a refund or credit of any amount that:

1976 (a) the purchaser overpaid in taxes under this chapter; and

1977 (b) was collected by the seller.

1978 (2) (a) Except as provided in Subsection (2)(b), the procedure described in Subsection

1979 (1) is in addition to the process for a taxpayer to file a claim for a refund or credit with the

1980 commission under Section 59-12-110.

- 1981 (b) Notwithstanding Subsection (2)(a):
- 1982 (i) the commission is not required to make a refund or credit of an amount for which as
- 1983 of the date the refund or credit is to be given the purchaser has requested or received a refund
- 1984 or credit from the seller; and
- 1985 (ii) a seller is not required to refund or credit an amount for which as of the date the
- 1986 refund is to be given the purchaser has requested or received a refund or credit from the
- 1987 commission.
- 1988 (3) A purchaser may not bring a cause of action against a seller for a refund or credit
- 1989 described in Subsection (1):
- 1990 (a) unless the purchaser provided the seller written notice that:
- 1991 (i) the purchaser requests the refund or credit described in Subsection (1); and
- 1992 (ii) contains the information necessary for the seller to determine the validity of the
- 1993 request; and
- 1994 (b) sooner than 60 days after the day on which the seller receives the written notice
- 1995 described in Subsection (3)(a).
- 1996 ~~[(4) A seller that has collected a tax under this chapter that exceeds the amount the~~
- 1997 ~~seller is required to collect under this chapter is presumed to have a reasonable business~~
- 1998 ~~practice if the seller:]~~
- 1999 ~~[(a) collected a tax under this chapter that exceeds the amount the seller is required to~~
- 2000 ~~collect under this chapter through the use of:]~~
- 2001 ~~[(i) a provider certified by the state; or]~~
- 2002 ~~[(ii) a system certified by the state, including a proprietary system certified by the state;~~
- 2003 ~~and]~~
- 2004 ~~[(b) has remitted to the commission all taxes that the seller is required to remit to the~~
- 2005 ~~commission under this chapter.]~~
- 2006 Section 13. Section **59-12-204 (Effective 07/01/06)** is amended to read:
- 2007 **59-12-204 (Effective 07/01/06). Sales and use tax ordinance provisions -- Tax rate**
- 2008 **-- Distribution of tax revenues.**
- 2009 (1) The tax ordinance adopted pursuant to this part shall impose a tax upon those
- 2010 transactions listed in Subsection 59-12-103(1).
- 2011 (2) (a) ~~[Except as provided in Subsections (2)(b) and 59-12-207.1(7)(c), the]~~ The tax

2012 ordinance under Subsection (1) shall include a provision imposing a tax upon every transaction  
2013 listed in Subsection 59-12-103(1) made within a county, including areas contained within the  
2014 cities and towns located in the county:

2015 (i) at the rate of 1% of the purchase price paid or charged; and

2016 (ii) if the transaction is consummated within the county in accordance with Section  
2017 59-12-205.

2018 (b) Notwithstanding Subsection (2)(a), a tax ordinance under this Subsection (2) shall  
2019 include a provision prohibiting a county, city, or town from imposing a tax under this section  
2020 on;

2021 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
2022 are exempt from taxation under Section 59-12-104[-]; and

2023 (ii) any amounts paid or charged by a seller that collects a tax in accordance with  
2024 Subsection 59-12-107(1)(b) unless all of the counties, cities, and towns in the state impose the  
2025 tax under this section.

2026 (3) Such tax ordinance shall include provisions substantially the same as those  
2027 contained in Part 1, Tax Collection, insofar as they relate to sales or use tax, except that the  
2028 name of the county as the taxing agency shall be substituted for that of the state where  
2029 necessary for the purpose of this part and that an additional license is not required if one has  
2030 been or is issued under Section 59-12-106.

2031 (4) Such tax ordinance shall include a provision that the county shall contract, prior to  
2032 the effective date of the ordinance, with the commission to perform all functions incident to the  
2033 administration or operation of the ordinance.

2034 (5) Such tax ordinance shall include a provision that the sale, storage, use, or other  
2035 consumption of tangible personal property, the purchase price or the cost of which has been  
2036 subject to sales or use tax under a sales and use tax ordinance enacted in accordance with this  
2037 part by any county, city, or town in any other county in this state, shall be exempt from the tax  
2038 due under this ordinance.

2039 (6) Such tax ordinance shall include a provision that any person subject to the  
2040 provisions of a city or town sales and use tax shall be exempt from the county sales and use tax  
2041 if the city or town sales and use tax is levied under an ordinance including provisions in  
2042 substance as follows:

2043 (a) a provision imposing a tax upon every transaction listed in Section 59-12-103 made  
2044 within the city or town at the rate imposed by the county in which it is situated pursuant to  
2045 Subsection (2);

2046 (b) notwithstanding Subsection (2)(a), a provision prohibiting the city or town from  
2047 imposing a tax under this section on any amounts paid or charged by a seller that collects a tax  
2048 in accordance with Subsection 59-12-107(1)(b) unless all of the counties, cities, and towns in  
2049 the state impose a tax under this section;

2050 ~~[(b)]~~ (c) provisions substantially the same as those contained in Part 1, Tax Collection,  
2051 insofar as they relate to sales and use taxes, except that the name of the city or town as the  
2052 taxing agency shall be substituted for that of the state where necessary for the purposes of this  
2053 part;

2054 ~~[(c)]~~ (d) a provision that the city or town shall contract prior to the effective date of the  
2055 city or town sales and use tax ordinance with the commission to perform all functions incident  
2056 to the administration or operation of the sales and use tax ordinance of the city or town;

2057 ~~[(d)]~~ (e) a provision that the sale, storage, use, or other consumption of tangible  
2058 personal property, the gross receipts from the sale of or the cost of which has been subject to  
2059 sales or use tax under a sales and use tax ordinance enacted in accordance with this part by any  
2060 county other than the county in which the city or town is located, or city or town in this state,  
2061 shall be exempt from the tax; and

2062 ~~[(e)]~~ (f) a provision that the amount of any tax paid under Part 1, Tax Collection, shall  
2063 not be included as a part of the purchase price paid or charged for a taxable item.

2064 ~~[(7) (a) Notwithstanding any other provision of this section, beginning on July 1, 1999,~~  
2065 ~~through May 5, 2003, the commission shall:]~~

2066 ~~[(i) determine and retain the portion of the sales and use tax imposed under this~~  
2067 ~~section:]~~

2068 ~~[(A) by a city or town that will have constructed within its boundaries the Airport to~~  
2069 ~~University of Utah Light Rail described in the Transportation Equity Act for the 21st Century,~~  
2070 ~~Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and]~~

2071 ~~[(B) that is equal to the revenues generated by a 1/64% tax rate; and]~~

2072 ~~[(ii) deposit the revenues described in Subsection (7) (a)(i) in the Airport to University~~  
2073 ~~of Utah Light Rail Restricted Account created in Section 17A-2-1064 for the purposes~~

2074 described in Section ~~17A-2-1064.~~]

2075 ~~[(b)]~~ (7) Notwithstanding any other provision of this section, beginning July 1, 2000,  
2076 the commission shall:

2077 ~~[(i)]~~ (a) determine and retain the portion of sales and use tax imposed under this  
2078 section:

2079 ~~[(A)]~~ (i) by each county and by each city and town within that county whose legislative  
2080 body consents by resolution to the commission's retaining and depositing sales and use tax  
2081 revenues as provided in this Subsection (7)~~[(b)]~~; and

2082 ~~[(B)]~~ (ii) that is equal to the revenues generated by a 1/64% tax rate;

2083 ~~[(i)]~~ (b) deposit the revenues described in Subsection (7) ~~[(b)]~~~~[(i)]~~ (a) into a special fund  
2084 of the county, or a city, town, or other political subdivision of the state located within that  
2085 county, that has issued bonds to finance sports or recreational facilities or that is leasing sports  
2086 or recreational facilities, in order to repay those bonds or to pay the lease payments; and

2087 ~~[(iii)]~~ (c) continue to deposit those revenues into the special fund only as long as the  
2088 bonds or leases are outstanding.

2089 Section 14. Section **59-12-205 (Effective 07/01/06)** is amended to read:

2090 **59-12-205 (Effective 07/01/06). Ordinances to conform with statutory**  
2091 **amendments -- Distribution of tax revenues -- Determination of population.**

2092 (1) Each county, city, and town, in order to maintain in effect sales and use tax  
2093 ordinances adopted pursuant to Section 59-12-204, shall, within 30 days of any amendment of  
2094 any applicable provisions of Part 1, Tax Collection, adopt amendments of their respective sales  
2095 and use tax ordinances to conform with the amendments to Part 1, Tax Collection, insofar as  
2096 they relate to sales and use taxes.

2097 (2) Except as provided in Subsection ~~[(7)]~~ (3) or (4):

2098 (a) 50% of each dollar collected from the sales and use tax authorized by this part shall  
2099 be paid to each county, city, and town on the basis of the percentage that the population of the  
2100 county, city, or town bears to the total population of all counties, cities, and towns in the state;  
2101 and

2102 (b) ~~[notwithstanding Sections 59-12-207.1 through 59-12-207.3,]~~ 50% of each dollar  
2103 collected from the sales and use tax authorized by this part shall be paid to each county, city,  
2104 and town on the basis of the location where the transaction is consummated as determined

2105 under ~~[this section]~~ Section 59-12-207.

2106 ~~[(3) For purposes of Subsection (2)(b), the location where a transaction is~~  
2107 ~~consummated is determined in accordance with Subsections (4) through (6).]~~

2108 ~~[(4) (a) For a transaction that is reported to the commission on a return other than a~~  
2109 ~~simplified electronic return, the location where the transaction is consummated is determined~~  
2110 ~~in accordance with Subsections (4)(b) through (h).]~~

2111 ~~[(b) (i) Except as provided in Subsections (4)(c) through (h), for a transaction~~  
2112 ~~described in Subsection (4)(b)(ii), the location where the transaction is consummated is the~~  
2113 ~~place of business of the seller.]~~

2114 ~~[(ii) Subsection (4)(b)(i) applies to a transaction other than a transaction described in:]~~

2115 ~~[(A) Subsection (4)(c)(ii);]~~

2116 ~~[(B) Subsection (4)(d)(ii);]~~

2117 ~~[(C) Subsection (4)(e)(ii);]~~

2118 ~~[(D) Subsection (4)(f)(ii);]~~

2119 ~~[(E) Subsection (4)(g)(ii); or]~~

2120 ~~[(F) Subsection (4)(h).]~~

2121 ~~[(c) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection~~  
2122 ~~(4)(c)(ii), the location where the transaction is consummated is determined by allocating the~~  
2123 ~~total revenues remitted to the commission each month that are generated by the tax imposed~~  
2124 ~~under this section on the transactions described in Subsection (4)(c)(ii):]~~

2125 ~~[(A) to each local taxing jurisdiction; and]~~

2126 ~~[(B) on the basis of the population of each local taxing jurisdiction as compared to the~~  
2127 ~~population of the state.]~~

2128 ~~[(ii) Subsection (4)(c)(i) applies to a transaction:]~~

2129 ~~[(A) made by a seller described in Subsection 59-12-107(1)(b); and]~~

2130 ~~[(B) involving tangible personal property that is shipped from outside the state.]~~

2131 ~~[(d) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection~~  
2132 ~~(4)(d)(ii), the location where the transaction is consummated is determined by allocating the~~  
2133 ~~total revenues reported to the commission each month that are generated by the tax imposed~~  
2134 ~~under this section on the transactions described in Subsection (4)(d)(ii):]~~

2135 ~~[(A) to local taxing jurisdictions within a county; and]~~

2136 ~~[(B) on the basis of the proportion of total revenues generated by the transactions~~  
2137 ~~described in Subsection (4)(b)(ii) that are reported to the commission for that month within a~~  
2138 ~~local taxing jurisdiction within that county as compared to the total revenues generated by the~~  
2139 ~~transactions described in Subsection (4)(b)(ii) that are reported to the commission for that~~  
2140 ~~month within all local taxing jurisdictions within that county.]~~

2141 ~~[(ii) Subsection (4)(d)(i) applies to a transaction:]~~

2142 ~~[(A) made from a location in the state other than a fixed place of business in the state;~~  
2143 ~~or]~~

2144 ~~[(B) (I) made by a seller described in Subsection 59-12-107(1)(a); and]~~

2145 ~~[(H) involving tangible personal property that is shipped from outside the state.]~~

2146 ~~[(e) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection~~  
2147 ~~(4)(e)(ii), the location where the transaction is consummated is determined by allocating the~~  
2148 ~~total revenues reported to the commission each month that are generated by the tax imposed~~  
2149 ~~under this section on the transactions described in Subsection (4)(e)(ii):]~~

2150 ~~[(A) to local taxing jurisdictions; and]~~

2151 ~~[(B) on the basis of the proportion of the total revenues generated by the transactions~~  
2152 ~~described in Subsection (4)(b)(ii) that are reported to the commission for that month within~~  
2153 ~~each local taxing jurisdiction as compared to the total revenues generated by the transactions~~  
2154 ~~described in Subsection (4)(b)(ii) that are reported to the commission for that month within the~~  
2155 ~~state.]~~

2156 ~~[(ii) Subsection (4)(e)(i) applies to a transaction involving tangible personal property~~  
2157 ~~purchased with a direct payment permit in accordance with Section 59-12-107.1.]~~

2158 ~~[(f) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection~~  
2159 ~~(4)(f)(ii), the location where the transaction is consummated is each location where the good or~~  
2160 ~~service described in Subsection 59-12-107.2(1)(b) is used.]~~

2161 ~~[(ii) Subsection (4)(f)(i) applies to a transaction involving a good or service:]~~

2162 ~~[(A) described in Subsection 59-12-107.2(1)(b);]~~

2163 ~~[(B) that is concurrently available for use in more than one location; and]~~

2164 ~~[(C) is purchased using the form described in Section 59-12-107.2.]~~

2165 ~~[(g) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection~~  
2166 ~~(4)(g)(ii), the location where the transaction is consummated is determined by allocating the~~

2167 ~~total revenues reported to the commission each month that are generated by the tax imposed~~  
2168 ~~under this section on the transactions described in Subsection (4)(g)(ii):]~~

2169 ~~[(A) to local taxing jurisdictions; and]~~

2170 ~~[(B) on the basis of the proportion of the total revenues generated by the transactions~~  
2171 ~~described in Subsection (4)(b)(ii) that are reported to the commission for that month within~~  
2172 ~~each local taxing jurisdiction as compared to the total revenues generated by the transactions~~  
2173 ~~described in Subsection (4)(b)(ii) that are reported to the commission for that month within the~~  
2174 ~~state:]~~

2175 ~~[(ii) Subsection (4)(g)(i) applies to a transaction involving a purchase of direct mail if~~  
2176 ~~the purchaser of the direct mail provides to the seller the form described in Subsection~~  
2177 ~~59-12-107.3(1)(a) at the time of the purchase of the direct mail.]~~

2178 ~~[(h) Notwithstanding Subsection (4)(b), for a transaction involving the sale of a service~~  
2179 ~~described in Section 59-12-207.4, the location where the transaction is consummated is the~~  
2180 ~~same as the location of the transaction determined under Section 59-12-207.4.]~~

2181 ~~[(5) (a) For a transaction that is reported to the commission on a simplified electronic~~  
2182 ~~return, the location where the transaction is consummated is determined in accordance with~~  
2183 ~~Subsections (5)(b) through (e).]~~

2184 ~~[(b) (i) Except as provided in Subsections (5)(c) through (e), the location where a~~  
2185 ~~transaction is consummated is determined by allocating the total revenues reported to the~~  
2186 ~~commission each month on the simplified electronic return:]~~

2187 ~~[(A) to local taxing jurisdictions; and]~~

2188 ~~[(B) on the basis of the proportion of the total revenues generated by the transactions~~  
2189 ~~described in Subsection (4)(b)(ii) that are reported to the commission in accordance with~~  
2190 ~~Subsection (5)(b)(ii) for that month within each local taxing jurisdiction as compared to the~~  
2191 ~~total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported~~  
2192 ~~to the commission in accordance with Subsection (5)(b)(ii) for that month within the state:]~~

2193 ~~[(ii) In making the allocations required by Subsection (5)(b)(i), the commission shall~~  
2194 ~~use the total revenues generated by the transactions described in Subsection (4)(b)(ii) reported~~  
2195 ~~to the commission:]~~

2196 ~~[(A) in the report required by Subsection 59-12-105(2); and]~~

2197 ~~[(B) if a local taxing jurisdiction reports revenues to the commission in accordance~~

2198 ~~with Subsection (5)(b)(iii), in the report made in accordance with Subsection (5)(b)(iii):]~~  
2199 ~~[(iii) (A) For purposes of this Subsection (5)(b), a local taxing jurisdiction may report~~  
2200 ~~to the commission the revenues generated by a tax imposed by this chapter within the local~~  
2201 ~~taxing jurisdiction if a seller:]~~  
2202 ~~[(F) opens an additional place of business within the local taxing jurisdiction after the~~  
2203 ~~seller makes an initial application for a license under Section 59-12-106; and]~~  
2204 ~~[(H) estimates that the additional place of business will increase by 5% or more the~~  
2205 ~~revenues generated by a tax imposed by this chapter within the local taxing jurisdiction:]~~  
2206 ~~[(B) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~  
2207 ~~the commission may make rules providing procedures and requirements for making the report~~  
2208 ~~described in this Subsection (5)(b):]~~  
2209 ~~[(c) (i) Notwithstanding Subsection (5)(b), for a transaction described in Subsection~~  
2210 ~~(5)(c)(ii), the location where the transaction is consummated is determined by allocating the~~  
2211 ~~total revenues reported to the commission each month that are generated by the tax imposed~~  
2212 ~~under this section on the transactions described in Subsection (5)(c)(ii):]~~  
2213 ~~[(A) to local taxing jurisdictions within a county; and]~~  
2214 ~~[(B) on the basis of the proportion of the total revenues generated by the transactions~~  
2215 ~~described in Subsection (4)(b)(ii) that are reported to the commission for that month within a~~  
2216 ~~local taxing jurisdiction within that county as compared to the total revenues generated by the~~  
2217 ~~transactions described in Subsection (4)(b)(ii) that are reported to the commission for that~~  
2218 ~~month within all local taxing jurisdictions within that county:]~~  
2219 ~~[(ii) Subsection (5)(c)(i) applies to a transaction:]~~  
2220 ~~[(A) made from a location in the state other than a fixed place of business in the state;~~  
2221 ~~or]~~  
2222 ~~[(B) (I) made by a seller described in Subsection 59-12-107(1)(a); and]~~  
2223 ~~[(H) involving tangible personal property that is shipped from outside the state:]~~  
2224 ~~[(d) Notwithstanding Subsection (5)(b), for a transaction made by a seller described in~~  
2225 ~~Subsection 59-12-107(1)(b), the location where the transaction is consummated is determined~~  
2226 ~~by allocating the total revenues remitted to the commission each month that are generated by~~  
2227 ~~the tax imposed under this section on the transactions made by a seller described in Subsection~~  
2228 ~~59-12-107(1)(b):]~~

- 2229           ~~[(i) to each local taxing jurisdiction; and]~~
- 2230           ~~[(ii) on the basis of the population of each local taxing jurisdiction as compared to the~~
- 2231 ~~population of the state.]~~
- 2232           ~~[(e) (i) Notwithstanding Subsection (5)(b), for a transaction described in Subsection~~
- 2233 ~~(5)(e)(ii), the location where the transaction is consummated is determined by allocating the~~
- 2234 ~~total revenues reported to the commission each month that are generated by the tax imposed~~
- 2235 ~~under this section on the transactions described in Subsection (5)(e)(ii):]~~
- 2236           ~~[(A) to local taxing jurisdictions; and]~~
- 2237           ~~[(B) on the basis of the proportion of the total revenues generated by the transactions~~
- 2238 ~~described in Subsection (4)(b)(ii) that are reported to the commission for that month within~~
- 2239 ~~each local taxing jurisdiction as compared to the total revenues generated by the transactions~~
- 2240 ~~described in Subsection (4)(b)(ii) that are reported to the commission for that month within the~~
- 2241 ~~state.]~~
- 2242           ~~[(ii) Subsection (5)(e)(i) applies to a transaction involving tangible personal property~~
- 2243 ~~purchased with a direct payment permit in accordance with Section 59-12-107.1.]~~
- 2244           ~~[(6) For purposes of Subsections (4) and (5) and in accordance with Title 63, Chapter~~
- 2245 ~~46a, Utah Administrative Rulemaking Act, the commission may make rules defining what~~
- 2246 ~~constitutes a fixed place of business in the state.]~~
- 2247           ~~[(7)] (3) (a) [Notwithstanding Subsection (2), a] A county, city, or town may not~~
- 2248 receive a tax revenue distribution less than .75% of the taxable sales within the boundaries of
- 2249 the county, city, or town.
- 2250           (b) The commission shall proportionally reduce quarterly distributions to any county,
- 2251 city, or town that, but for the reduction, would receive a distribution in excess of 1% of the
- 2252 sales and use tax revenue collected within the boundaries of the county, city, or town.
- 2253           (4) Notwithstanding Subsection (2), if a county, city, or town imposes a tax authorized
- 2254 by this part on any amounts paid or charged by a seller that collects a tax in accordance with
- 2255 Subsection 59-12-107(1)(b), the revenues generated by the tax shall be distributed as provided
- 2256 in Subsection 59-12-103(3)(c).
- 2257           ~~[(8)] (5) (a) Population figures for purposes of this section shall be based on the most~~
- 2258 ~~recent official census or census estimate of the United States Census Bureau.~~
- 2259           (b) If a needed population estimate is not available from the United States Census

2260 Bureau, population figures shall be derived from the estimate from the Utah Population  
2261 Estimates Committee created by executive order of the governor.

2262 [~~9~~] (6) The population of a county for purposes of this section shall be determined  
2263 solely from the unincorporated area of the county.

2264 Section 15. Section **59-12-207.4** is amended to read:

2265 **59-12-207.4. Location of transaction involving telephone service or other**  
2266 **communication service.**

2267 (1) As used in this section:

2268 (a) "Air-to-ground radiotelephone service" means a radio service:

2269 (i) as defined in 47 C.F.R. Sec. 22.99; and

2270 (ii) for which a common carrier is authorized to offer and provide radio  
2271 telecommunications service:

2272 (A) for hire; and

2273 (B) to a subscriber in an aircraft.

2274 (b) "Call-by-call basis" means a method of charging for telephone service that is  
2275 measured by individual calls.

2276 (c) "Communications channel" means a physical or virtual path of communications  
2277 over which a signal is transmitted between or among customer channel termination points.

2278 (d) (i) Subject to Subsection (1)(d)(ii), "customer" means:

2279 (A) a person that is obligated under a contract with a telephone service provider to pay  
2280 for telephone service received under the contract; or

2281 (B) if the end user is not the person described in Subsection (1)(d)(i)(A), the end user  
2282 of telephone service.

2283 (ii) "Customer" does not include a reseller:

2284 (A) of telephone service; or

2285 (B) for mobile telecommunications service, of a serving carrier under an agreement to  
2286 serve a customer outside the home service provider's licensed service area.

2287 (e) "Customer channel termination point" means the location where a customer:

2288 (i) inputs communications; or

2289 (ii) receives communications.

2290 (f) "End user" means:

- 2291 (i) an individual who uses a telephone service; or
- 2292 (ii) for telephone service provided to a person who is not an individual, an individual
- 2293 who uses a telephone service on behalf of the person who is provided the telephone service.
- 2294 (g) "Home service provider" is as defined in the Mobile Telecommunications Sourcing
- 2295 Act, 4 U.S.C. Sec. 124.
- 2296 (h) "Place of primary use":
- 2297 (i) for telephone service other than mobile telecommunications service, means the
- 2298 street address representative of where a customer's use of the telephone service primarily
- 2299 occurs, which shall be:
  - 2300 (A) the residential street address of the customer; or
  - 2301 (B) the primary business street address of the customer; or
- 2302 (ii) for mobile telecommunications service, is as defined in the Mobile
- 2303 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 2304 (i) (i) "Postpaid calling service" means a telephone service obtained by making a
- 2305 payment on a call-by-call basis:
  - 2306 (A) through the use of a:
    - 2307 (I) credit card;
    - 2308 (II) bank card;
    - 2309 (III) travel card; or
    - 2310 (IV) debit card; or
  - 2311 (B) by a charge made to a telephone number that is not associated with the origination
  - 2312 or termination of the telephone service.
- 2313 (ii) "Postpaid calling service" includes a telephone service that would be a prepaid
- 2314 calling service if the service were exclusively a telephone service.
- 2315 (j) "Prepaid calling service" means a telephone service:
  - 2316 (i) that allows a purchaser access to exclusively telephone service;
  - 2317 (ii) that:
    - 2318 (A) must be paid for in advance; and
    - 2319 (B) enables the origination of calls using an:
      - 2320 (I) access number; or
      - 2321 (II) authorization code;

- 2322 (iii) dialed:
- 2323 (A) manually; or
- 2324 (B) electronically; and
- 2325 (iv) sold in predetermined units or dollars that decline:
- 2326 (A) by a known amount; and
- 2327 (B) with use.
- 2328 (k) (i) (A) Subject to Subsection (1)(k)(i)(B), "private communication service" means a
- 2329 telephone service that entitles a customer to exclusive or priority use of a communications
- 2330 channel or group of communications channels between or among termination points.
- 2331 (B) The determination of whether a telephone service is a private communication
- 2332 service may not be based on the manner in which the communications channels or group of
- 2333 communications channels are connected.
- 2334 (ii) "Private communication service" includes the following services provided in
- 2335 connection with the use of a communications channel or group of communications channels:
- 2336 (A) switching capacity;
- 2337 (B) an extension line; or
- 2338 (C) a station.
- 2339 (l) Notwithstanding where a call is billed or paid, "service address" means:
- 2340 (i) if the location of where a call is billed or paid is known, the location of the
- 2341 telecommunications equipment:
- 2342 (A) to which a customer's call is charged; and
- 2343 (B) from which the call:
- 2344 (I) originates; or
- 2345 (II) terminates;
- 2346 (ii) if the location of where a call is billed or paid is not known but the location of the
- 2347 origination point of the signal of the telephone service is known, the location of the origination
- 2348 point of the signal of the telephone service first identified by:
- 2349 (A) the telecommunications system of the telephone service provider; or
- 2350 (B) if the system used to transport the signal of the telephone service is not a system of
- 2351 the telephone service provider, information received by the telephone service provider from the
- 2352 telephone service provider's telephone service provider; or

- 2353 (iii) if the following are not known, the location of a customer's place of primary use:
- 2354 (A) the location of where a call is billed or paid; and
- 2355 (B) the location of the origination point of the signal of the telephone service.
- 2356 (2) Except as provided in Subsection (4) [~~and subject to Subsection 59-12-207.1(7)~~],
- 2357 the location of a sale of a telephone service sold on a call-by-call basis is:
- 2358 (a) the location at which the call originates and terminates; or
- 2359 (b) the location at which:
- 2360 (i) the call:
- 2361 (A) originates; or
- 2362 (B) terminates; and
- 2363 (ii) the service address is located.
- 2364 (3) Except as provided in Subsection (4), [~~and subject to Subsection 59-12-207.1(7)~~],
- 2365 the location of a sale of a telephone service sold on a basis other than a call-by-call basis is the
- 2366 customer's place of primary use.
- 2367 (4) Notwithstanding Subsection (2) or (3) [~~; and subject to Subsection 59-12-207.1(7)~~]:
- 2368 (a) the location of a sale of a mobile telecommunications service, other than an
- 2369 air-to-ground radiotelephone service or a prepaid calling service, is the location required by the
- 2370 Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; and
- 2371 (b) the location of a sale of a postpaid calling service is the origination point of the
- 2372 telecommunications signal as first identified by:
- 2373 (i) the seller's telecommunications system; or
- 2374 (ii) if the system used to transport the telecommunications signal is not that of the
- 2375 seller, information received by the seller from the seller's telephone service provider [~~; and~~].
- 2376 [~~(c) (i) except as provided in Subsection (4)(c)(ii), the location of a sale of a prepaid~~
- 2377 ~~calling service is the location determined under Section 59-12-207.1, and]~~
- 2378 [~~(ii) notwithstanding Subsection (4)(c)(i), for purposes of Subsection 59-12-207.1(5),~~
- 2379 ~~the location of a sale of a prepaid calling service that is a mobile telecommunications service~~
- 2380 ~~shall include the location of the mobile telephone number.]~~
- 2381 (5) [~~Subject to Subsection 59-12-207.1(7), the~~] The location of a sale of a private
- 2382 communication service is:
- 2383 (a) if all of the customer channel termination points are located entirely within one

2384 [~~local taxing jurisdiction~~] county, city, or town, the location of the sale is the [~~local taxing~~  
2385 ~~jurisdiction~~] county, city, or town in which all of the customer channel termination points are  
2386 located;

2387 (b) if a charge for a service related to a customer channel termination point is  
2388 separately stated, the location of the sale is the location in which the customer channel  
2389 termination point is located;

2390 (c) if a charge for service for a segment of a channel between two customer channel  
2391 termination points located in different [~~local taxing jurisdictions~~] counties, cities, or towns is  
2392 separately stated, the location of the sale is each [~~local taxing jurisdiction~~] county, city, or  
2393 town:

2394 (i) in which the customer channel termination points are located; and

2395 (ii) in equal proportions; and

2396 (d) if a charge for service for a segment of a channel located in more than one [~~taxing~~  
2397 ~~jurisdiction~~] county, city, or town is not separately stated, the location of the sale is:

2398 (i) each [~~local taxing jurisdiction~~] county, city, or town in which a segment of the  
2399 channel is located; and

2400 (ii) in proportion to the percentage of customer channel termination points in each  
2401 [~~local taxing jurisdiction~~] county, city, or town compared to the total customer channel  
2402 termination points in all [~~local taxing jurisdictions~~] counties, cities, and towns.

2403 Section 16. Section **59-12-210** is amended to read:

2404 **59-12-210. Commission to provide data to counties.**

2405 (1) (a) The commission shall provide to each county the sales and use tax collection  
2406 data necessary to verify that the local sales and use tax revenues collected by the commission  
2407 are distributed to each county, city, and town in accordance with Sections 59-12-205,  
2408 59-12-206, 59-12-207, and [~~59-12-207.1 through~~] 59-12-207.4.

2409 (b) The data described in Subsection (1)(a) shall include the commission's reports of  
2410 seller sales, sales and use tax distribution reports, and a breakdown of local revenues.

2411 (2) (a) In addition to the access to information provided in Subsection (1) and Section  
2412 59-12-109, the commission shall provide a county, city, or town with copies of returns and  
2413 other information required by this chapter relating to a tax under this chapter.

2414 (b) The information described in Subsection (2)(a) is available only in official matters

2415 and must be requested in writing by the chief executive officer or the chief executive officer's  
2416 designee.

2417 (c) The request described in Subsection (2)(b) shall specifically indicate the  
2418 information being sought and how the information will be used.

2419 (d) Information received pursuant to the request described in Subsection (2)(b) shall  
2420 be:

2421 (i) classified as private or protected under Section 63-2-302 or 63-2-304; and

2422 (ii) subject to the confidentiality provisions of Section 59-1-403.

2423 Section 17. Section **59-12-302** is amended to read:

2424 **59-12-302. Collection of tax -- Administrative fee -- Penalties -- Commission to**  
2425 **interpret, audit, and adjudicate transient room tax.**

2426 (1) (a) Except as provided in Subsection (1)(b) or (c), the tax authorized under this part  
2427 shall be administered, collected, and enforced in accordance with:

2428 (i) the same procedures used to administer, collect, and enforce the tax under:

2429 (A) Part 1, Tax Collection; or

2430 (B) Part 2, Local Sales and Use Tax Act; and

2431 (ii) Chapter 1, General Taxation Policies.

2432 (b) (i) Notwithstanding Section 59-12-206, each county may collect the tax imposed by  
2433 the county and need not transmit the tax to the commission or contract with the commission to  
2434 collect the tax.

2435 (ii) The amount of tax collected shall be reported to the commission as provided in  
2436 [~~Subsection 59-12-207.1(13)~~] Section 59-12-207.

2437 (c) [~~Notwithstanding Subsection (1)(a), a~~] A tax under this part is not subject to[~~:(i)-~~  
2438 ~~Sections 59-12-107.1 through 59-12-107.3;~~ (ii) ~~Sections 59-12-207.1 through 59-12-207.4;~~ or  
2439 (iii)] Subsections 59-12-205(2) through [~~(9)~~] (6).

2440 (d) (i) If the commission collects a tax under this part, the commission:

2441 (A) except as provided in Subsection (1)(d)(i)(B), shall distribute the revenues  
2442 generated by the tax to the county within which the revenues were generated; and

2443 (B) notwithstanding Subsection (1)(d)(i)(A), may retain an amount of tax collected  
2444 under this part of not to exceed the lesser of:

2445 (I) 1.5%; or

- 2446 (II) an amount equal to the cost to the commission of administering this part.
- 2447 (ii) Any amount the commission retains under Subsection (1)(d)(i)(B) shall be:
- 2448 (A) placed in the Sales and Use Tax Administrative Fees Account; and
- 2449 (B) used as provided in Subsection 59-12-206(2).
- 2450 (2) (a) The tax ordinance adopted by a county pursuant to Section 59-12-301 may
- 2451 include provisions for the imposition of penalties and interest if a person or entity required to
- 2452 pay a tax under this part fails to timely remit the tax to the collecting agent.
- 2453 (b) A county legislative body may not establish penalties and interest by ordinance that
- 2454 exceed the penalties and interest rates authorized for the commission in Sections 59-1-401 and
- 2455 59-1-402.
- 2456 (3) A county may adopt an ordinance imposing penalties and interest under Subsection
- 2457 (2) only if the county does not contract with the commission to collect the tax.
- 2458 (4) If a county elects to collect the tax as provided in Subsection (1), the commission
- 2459 shall interpret, audit, and adjudicate the tax imposed under this part.
- 2460 Section 18. Section **59-12-354** is amended to read:
- 2461 **59-12-354. Collection of tax -- Administrative fee -- Penalties -- Commission to**
- 2462 **interpret, audit, and adjudicate transient room tax.**
- 2463 (1) Except as provided in Subsections (2) and (3), the tax authorized under this part
- 2464 shall be administered, collected, and enforced in accordance with:
- 2465 (a) the same procedures used to administer, collect, and enforce the tax under:
- 2466 (i) Part 1, Tax Collection; or
- 2467 (ii) Part 2, Local Sales and Use Tax Act; and
- 2468 (b) Chapter 1, General Taxation Policies.
- 2469 (2) Notwithstanding Section 59-12-206, a municipality imposing a tax under this part:
- 2470 (a) may collect the tax and is not required to:
- 2471 (i) transmit revenues generated by the tax to the commission; or
- 2472 (ii) contract with the commission to collect the tax;
- 2473 (b) shall report the revenues it collects to the commission as provided in [~~Subsection~~
- 2474 ~~59-12-207.1(13)] Section 59-12-207; and~~
- 2475 (c) subject to the limitations of Subsections (4) and (5), may adopt an ordinance
- 2476 imposing penalties and interest on a person who:

- 2477 (i) is required to pay the tax under this part; and
- 2478 (ii) does not remit the tax to the collecting agent in a timely manner.
- 2479 (d) (i) If the commission collects a tax under this part, the commission:
- 2480 (A) except as provided in Subsection (2)(d)(i)(B), shall distribute the revenues
- 2481 generated by the tax to the municipality within which the revenues were generated; and
- 2482 (B) notwithstanding Subsection (2)(d)(i)(A), may retain an amount of tax collected
- 2483 under this part of not to exceed the lesser of:
- 2484 (I) 1.5%; or
- 2485 (II) an amount equal to the cost to the commission of administering this part.
- 2486 (ii) Any amount the commission retains under Subsection (2)(d)(i)(B) shall be:
- 2487 (A) placed in the Sales and Use Tax Administrative Fees Account; and
- 2488 (B) used as provided in Subsection 59-12-206(2).
- 2489 (3) [~~Notwithstanding Subsection (1)(a), the~~] A tax under this part is not subject to[: (a)
- 2490 ~~Sections 59-12-107.1 through 59-12-107.3; (b)] Subsections 59-12-205(2) through [(9)] (6)[:~~
- 2491 ~~or (c) Sections 59-12-207.1 through 59-12-207.4].~~
- 2492 (4) A governing body of a municipality adopting an ordinance imposing penalties and
- 2493 interest under Subsection (2)(c) may impose penalties and interest in amounts that are less than
- 2494 or equal to the penalties and interest rates authorized for the commission under Sections
- 2495 59-1-401 and 59-1-402.
- 2496 (5) A municipality may adopt an ordinance imposing penalties and interest under
- 2497 Subsection (2)(c) only if the municipality does not contract with the commission to collect the
- 2498 tax.
- 2499 (6) If a municipality elects to collect the tax as provided in Subsection (2), the
- 2500 commission shall interpret, audit, and adjudicate the tax imposed under this part.
- 2501 Section 19. Section **59-12-401 (See 59-1-1201 re: Eff)** is amended to read:
- 2502 **59-12-401 (See 59-1-1201 re: Eff). Resort communities tax -- Base -- Rate --**
- 2503 **Collection fees.**
- 2504 (1) (a) [~~Except as provided in Subsections (1)(b) and 59-12-207.1(7)(c), and in~~] In
- 2505 addition to other sales and use taxes, a city or town in which the transient room capacity as
- 2506 defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent
- 2507 census population may impose a sales and use tax of up to 1% on the transactions described in

2508 Subsection 59-12-103(1) located within the city or town.

2509 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this  
2510 section on:

2511 (i) the sale of:

2512 (A) a motor vehicle;

2513 (B) an aircraft;

2514 (C) a watercraft;

2515 (D) a modular home;

2516 (E) a manufactured home; or

2517 (F) a mobile home; [~~or~~]

2518 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
2519 are exempt from taxation under Section 59-12-104[-]; and

2520 (iii) any amounts paid or charged by a seller that collects a tax under Subsection  
2521 59-12-107(1)(b).

2522 (c) For purposes of this Subsection (1), the location of a transaction shall be  
2523 determined in accordance with [~~Sections 59-12-207.1 through 59-12-207.4~~] Section 59-12-207.

2524 (2) (a) An amount equal to the total of any costs incurred by the state in connection  
2525 with the implementation of Subsection (1) which exceed, in any year, the revenues received by  
2526 the state from its collection fees received in connection with the implementation of Subsection  
2527 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax  
2528 provided for in Subsection (1).

2529 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among  
2530 those cities and towns according to the amount of revenue the respective cities and towns  
2531 generate in that year through imposition of that tax.

2532 Section 20. Section **59-12-402** (See **59-1-1201 re: Eff**) is amended to read:

2533 **59-12-402** (See **59-1-1201 re: Eff**). **Additional resort communities sales tax -- Base**  
2534 **-- Rate -- Collection fees -- Resolution and voter approval requirements -- Election**  
2535 **requirements -- Notice requirements -- Ordinance requirements.**

2536 (1) (a) [~~Except as provided in Subsections (1)(b) and 59-12-207.1(7)(c), and subject to~~  
2537 ~~the limitations of~~] Subject to Subsections (2) through (6), the governing body of a municipality  
2538 in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to

2539 66% of the municipality's permanent census population may, in addition to the sales tax  
2540 authorized under Section 59-12-401, impose an additional resort communities sales tax in an  
2541 amount that is less than or equal to .5% on the transactions described in Subsection  
2542 59-12-103(1) located within the municipality.

2543 (b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not  
2544 impose a tax under this section on:

2545 (i) the sale of:

2546 (A) a motor vehicle;

2547 (B) an aircraft;

2548 (C) a watercraft;

2549 (D) a modular home;

2550 (E) a manufactured home; or

2551 (F) a mobile home; [or]

2552 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
2553 are exempt from taxation under Section 59-12-104[-]; and

2554 (iii) any amounts paid or charged by a seller that collects a tax under Subsection  
2555 59-12-107(1)(b).

2556 (c) For purposes of this Subsection (1), the location of a transaction shall be  
2557 determined in accordance with [~~Sections 59-12-207.1 through 59-12-207.4~~] Section 59-12-207.

2558 (2) (a) An amount equal to the total of any costs incurred by the state in connection  
2559 with the implementation of Subsection (1) which exceed, in any year, the revenues received by  
2560 the state from its collection fees received in connection with the implementation of Subsection  
2561 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax  
2562 provided for in Subsection (1).

2563 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among  
2564 those cities and towns according to the amount of revenue the respective cities and towns  
2565 generate in that year through imposition of that tax.

2566 (3) To impose an additional resort communities sales tax under this section, the  
2567 governing body of the municipality shall:

2568 (a) pass a resolution approving the tax; and

2569 (b) except as provided in Subsection (6), obtain voter approval for the tax as provided

2570 in Subsection (4).

2571 (4) To obtain voter approval for an additional resort communities sales tax under  
2572 Subsection (3)(b), a municipality shall:

2573 (a) hold the additional resort communities sales tax election during:

2574 (i) a regular general election; or

2575 (ii) a municipal general election; and

2576 (b) publish notice of the election:

2577 (i) 15 days or more before the day on which the election is held; and

2578 (ii) in a newspaper of general circulation in the municipality.

2579 (5) An ordinance approving an additional resort communities sales tax under this  
2580 section shall provide an effective date for the tax as provided in Section 59-12-403.

2581 (6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the  
2582 voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the  
2583 municipality imposed a license fee or tax on businesses based on gross receipts pursuant to  
2584 Section 10-1-203.

2585 (b) The exception from the voter approval requirements in Subsection (6)(a) does not  
2586 apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only  
2587 one class of businesses based on gross receipts pursuant to Section 10-1-203.

2588 Section 21. Section **59-12-403** is amended to read:

2589 **59-12-403. Enactment or repeal of tax -- Tax rate change -- Effective date --**

2590 **Notice requirements -- Administration, collection, and enforcement of tax.**

2591 (1) For purposes of this section:

2592 (a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part  
2593 4, Annexation.

2594 (b) "Annexing area" means an area that is annexed into a city or town.

2595 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after July 1, 2004, a city  
2596 or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment,  
2597 repeal, or change shall take effect:

2598 (i) on the first day of a calendar quarter; and

2599 (ii) after a 90-day period beginning on the date the commission receives notice meeting  
2600 the requirements of Subsection (2)(b) from the city or town.

- 2601 (b) The notice described in Subsection (2)(a)(ii) shall state:
- 2602 (i) that the city or town will enact or repeal a tax or change the rate of a tax under this
- 2603 part;
- 2604 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);
- 2605 (iii) the effective date of the tax described in Subsection (2)(b)(i); and
- 2606 (iv) if the city or town enacts the tax or changes the rate of the tax described in
- 2607 Subsection (2)(b)(i), the rate of the tax.
- 2608 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
- 2609 (2)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
- 2610 first billing period:
- 2611 (A) that begins after the effective date of the enactment of the tax or the tax rate
- 2612 increase; and
- 2613 (B) if the billing period for the transaction begins before the effective date of the
- 2614 enactment of the tax or the tax rate increase imposed under:
- 2615 (I) Section 59-12-401; or
- 2616 (II) Section 59-12-402.
- 2617 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
- 2618 (2)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
- 2619 billing period:
- 2620 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
- 2621 and
- 2622 (B) if the billing period for the transaction begins before the effective date of the repeal
- 2623 of the tax or the tax rate decrease imposed under:
- 2624 (I) Section 59-12-401; or
- 2625 (II) Section 59-12-402.
- 2626 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:
- 2627 (A) Subsection 59-12-103(1)(b);
- 2628 (B) Subsection 59-12-103(1)(c);
- 2629 (C) Subsection 59-12-103(1)(d);
- 2630 (D) Subsection 59-12-103(1)(e);
- 2631 (E) Subsection 59-12-103(1)(f);

2632 (F) Subsection 59-12-103(1)(g);

2633 (G) Subsection 59-12-103(1)(h);

2634 (H) Subsection 59-12-103(1)(i);

2635 (I) Subsection 59-12-103(1)(j); or

2636 (J) Subsection 59-12-103(1)(k).

2637 (d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue  
2638 sale is computed on the basis of sales and use tax rates published in the catalogue, an  
2639 enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:

2640 (A) on the first day of a calendar quarter; and

2641 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the  
2642 rate of the tax under Subsection (2)(a).

2643 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
2644 the commission may by rule define the term "catalogue sale."

2645 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs  
2646 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the  
2647 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take  
2648 effect:

2649 (i) on the first day of a calendar quarter; and

2650 (ii) after a 90-day period beginning on the date the commission receives notice meeting  
2651 the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.

2652 (b) The notice described in Subsection (3)(a)(ii) shall state:

2653 (i) that the annexation described in Subsection (3)(a) will result in an enactment,  
2654 repeal, or change in the rate of a tax under this part for the annexing area;

2655 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);

2656 (iii) the effective date of the tax described in Subsection (3)(b)(i); and

2657 (iv) if the city or town enacts the tax or changes the rate of the tax described in  
2658 Subsection (3)(b)(i), the rate of the tax.

2659 (c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection  
2660 (3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the  
2661 first billing period:

2662 (A) that begins after the effective date of the enactment of the tax or the tax rate

2663 increase; and

2664 (B) if the billing period for the transaction begins before the effective date of the  
2665 enactment of the tax or the tax rate increase imposed under:

2666 (I) Section 59-12-401; or

2667 (II) Section 59-12-402.

2668 (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection  
2669 (3)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last  
2670 billing period:

2671 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
2672 and

2673 (B) if the billing period for the transaction begins before the effective date of the repeal  
2674 of the tax or the tax rate decrease imposed under:

2675 (I) Section 59-12-401; or

2676 (II) Section 59-12-402.

2677 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:

2678 (A) Subsection 59-12-103(1)(b);

2679 (B) Subsection 59-12-103(1)(c);

2680 (C) Subsection 59-12-103(1)(d);

2681 (D) Subsection 59-12-103(1)(e);

2682 (E) Subsection 59-12-103(1)(f);

2683 (F) Subsection 59-12-103(1)(g);

2684 (G) Subsection 59-12-103(1)(h);

2685 (H) Subsection 59-12-103(1)(i);

2686 (I) Subsection 59-12-103(1)(j); or

2687 (J) Subsection 59-12-103(1)(k).

2688 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue  
2689 sale is computed on the basis of sales and use tax rates published in the catalogue, an  
2690 enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:

2691 (A) on the first day of a calendar quarter; and

2692 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the  
2693 rate of the tax under Subsection (3)(a).

2694 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
 2695 the commission may by rule define the term "catalogue sale."

2696 (4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be  
 2697 administered, collected, and enforced in accordance with:

2698 (i) the same procedures used to administer, collect, and enforce the tax under:

2699 (A) Part 1, Tax Collection; or

2700 (B) Part 2, Local Sales and Use Tax Act; and

2701 (ii) Chapter 1, General Taxation Policies.

2702 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to  
 2703 Subsections 59-12-205(2) through ~~[(9)]~~ (6).

2704 Section 22. Section **59-12-501 (See 59-1-1201 re: Eff)** is amended to read:

2705 **59-12-501 (See 59-1-1201 re: Eff). Public transit tax -- Base -- Rate -- Voter**  
 2706 **approval.**

2707 (1) (a) (i) ~~[Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), in]~~ In  
 2708 addition to other sales and use taxes, any county, city, or town within a transit district  
 2709 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act, may impose a  
 2710 sales and use tax of up to .25% on the transactions described in Subsection 59-12-103(1)  
 2711 located within the county, city, or town, to fund a public transportation system.

2712 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax  
 2713 under this section on:

2714 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
 2715 are exempt from taxation under Section 59-12-104[-]; and

2716 (B) any amounts paid or charged by a seller that collects a tax under Subsection  
 2717 59-12-107(1)(b).

2718 (b) For purposes of this Subsection (1), the location of a transaction shall be  
 2719 determined in accordance with ~~[Sections 59-12-207.1 through 59-12-207.4]~~ Section 59-12-207.

2720 (c) (i) A county, city, or town may impose a tax under this section only if the governing  
 2721 body of the county, city, or town, by resolution, submits the proposal to all the qualified voters  
 2722 within the county, city, or town for approval at a general or special election conducted in the  
 2723 manner provided by statute.

2724 (ii) An election under Subsection 17B-2-512(3)(a)(ii) approving the annexation of an

2725 area to a public transit district or local district and approving for that annexed area the sales and  
 2726 use tax authorized by this section satisfies the election requirement of Subsection (1)(c)(i) for  
 2727 the area to be annexed to the public transit district or local district.

2728 (2) (a) If only a portion of a county is included within a public transit district, the  
 2729 proposal may be submitted only to the qualified voters residing within the boundaries of the  
 2730 proposed or existing public transit district.

2731 (b) Notice of any such election shall be given by the county, city, or town governing  
 2732 body 15 days in advance in the manner prescribed by statute.

2733 (c) If a majority of the voters voting in such election approve the proposal, it shall  
 2734 become effective on the date provided by the county, city, or town governing body.

2735 (3) This section may not be construed to require an election in jurisdictions where  
 2736 voters have previously approved a public transit sales or use tax.

2737 Section 23. Section **59-12-502 (See 59-1-1201 re: Eff)** is amended to read:

2738 **59-12-502 (See 59-1-1201 re: Eff). Additional public transit tax for expanded**  
 2739 **system and fixed guideway and interstate improvements -- Base -- Rate -- Voter approval.**

2740 (1) (a) (i) [~~Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), and in~~  
 2741 In addition to other sales and use taxes, including the public transit district tax authorized by  
 2742 Section 59-12-501, a county, city, or town within a transit district organized under Title 17A,  
 2743 Chapter 2, Part 10, Utah Public Transit District Act, may impose a sales and use tax of .25% on  
 2744 the transactions described in Subsection 59-12-103(1) located within the county, city, or town,  
 2745 to fund a fixed guideway and expanded public transportation system.

2746 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax  
 2747 under this section on:

2748 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
 2749 are exempt from taxation under Section 59-12-104[-]; and

2750 (B) any amounts paid or charged by a seller that collects a tax under Subsection  
 2751 59-12-107(1)(b).

2752 (b) For purposes of this Subsection (1), the location of a transaction shall be  
 2753 determined in accordance with [~~Sections 59-12-207.1 through 59-12-207.4~~] Section 59-12-207.

2754 (c) (i) A county, city, or town may impose the tax under this section only if the  
 2755 governing body of the county, city, or town submits, by resolution, the proposal to all the

2756 qualified voters within the county, city, or town for approval at a general or special election  
2757 conducted in the manner provided by statute.

2758 (ii) Notice of the election under Subsection (1)(c)(i) shall be given by the county, city,  
2759 or town governing body 15 days in advance in the manner prescribed by statute.

2760 (2) If the majority of the voters voting in this election approve the proposal, it shall  
2761 become effective on the date provided by the county, city, or town governing body.

2762 (3) (a) This section may not be construed to require an election in jurisdictions where  
2763 voters have previously approved a public transit sales or use tax.

2764 (b) This section shall be construed to require an election to impose the sales and use  
2765 tax authorized by this section, including jurisdictions where the voters have previously  
2766 approved the sales and use tax authorized by Section 59-12-501, but this section may not be  
2767 construed to affect the sales and use tax authorized by Section 59-12-501.

2768 (4) No public funds shall be spent to promote the required election.

2769 (5) Notwithstanding the designated use of revenues in Subsection (1), of the revenues  
2770 generated by the tax imposed under this section by any county of the first class:

2771 (a) 75% shall be allocated to fund a fixed guideway and expanded public transportation  
2772 system; and

2773 (b) 25% shall be allocated to fund new construction, major renovations, and  
2774 improvements to Interstate 15 and state highways within the county and to pay any debt service  
2775 and bond issuance costs related to those projects.

2776 (6) A county of the first class may, through an interlocal agreement, authorize the  
2777 deposit or transfer of the portion of the revenues described in Subsection (5)(b) to the Public  
2778 Transportation System Tax Highway Fund created in Section 72-2-121.

2779 Section 24. Section **59-12-504** is amended to read:

2780 **59-12-504. Enactment or repeal of tax -- Effective date -- Notice requirements --**  
2781 **Administration, collection, and enforcement of tax.**

2782 (1) For purposes of this section:

2783 (a) "Annexation" means an annexation to:

2784 (i) a county under Title 17, Chapter 2, Annexation to County; or

2785 (ii) a city or town under Title 10, Chapter 2, Part 4, Annexation.

2786 (b) "Annexing area" means an area that is annexed into a county, city, or town.

2787 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after July 1, 2004, a  
2788 county, city, or town enacts or repeals a tax under this part, the enactment or repeal shall take  
2789 effect:

2790 (i) on the first day of a calendar quarter; and

2791 (ii) after a 90-day period beginning on the date the commission receives notice meeting  
2792 the requirements of Subsection (2)(b) from the county, city, or town.

2793 (b) The notice described in Subsection (2)(a)(ii) shall state:

2794 (i) that the county, city, or town will enact or repeal a tax under this part;

2795 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

2796 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

2797 (iv) if the county, city, or town enacts the tax described in Subsection (2)(b)(i), the rate  
2798 of the tax.

2799 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection  
2800 (2)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

2801 (A) that begins after the effective date of the enactment of the tax; and

2802 (B) if the billing period for the transaction begins before the effective date of the  
2803 enactment of the tax under:

2804 (I) Section 59-12-501; or

2805 (II) Section 59-12-502.

2806 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection  
2807 (2)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

2808 (A) that began before the effective date of the repeal of the tax; and

2809 (B) if the billing period for the transaction begins before the effective date of the repeal  
2810 of the tax imposed under:

2811 (I) Section 59-12-501; or

2812 (II) Section 59-12-502.

2813 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:

2814 (A) Subsection 59-12-103(1)(b);

2815 (B) Subsection 59-12-103(1)(c);

2816 (C) Subsection 59-12-103(1)(d);

2817 (D) Subsection 59-12-103(1)(e);

- 2818 (E) Subsection 59-12-103(1)(f);
- 2819 (F) Subsection 59-12-103(1)(g);
- 2820 (G) Subsection 59-12-103(1)(h);
- 2821 (H) Subsection 59-12-103(1)(i);
- 2822 (I) Subsection 59-12-103(1)(j); or
- 2823 (J) Subsection 59-12-103(1)(k).
- 2824 (d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue
- 2825 sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 2826 enactment or repeal of a tax described in Subsection (2)(a) takes effect:
- 2827 (A) on the first day of a calendar quarter; and
- 2828 (B) beginning 60 days after the effective date of the enactment or repeal under
- 2829 Subsection (2)(a).
- 2830 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 2831 the commission may by rule define the term "catalogue sale."
- 2832 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs
- 2833 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
- 2834 part for an annexing area, the enactment or repeal shall take effect:
- 2835 (i) on the first day of a calendar quarter; and
- 2836 (ii) after a 90-day period beginning on the date the commission receives notice meeting
- 2837 the requirements of Subsection (3)(b) from the county, city, or town that annexes the annexing
- 2838 area.
- 2839 (b) The notice described in Subsection (3)(a)(ii) shall state:
- 2840 (i) that the annexation described in Subsection (3)(a) will result in an enactment or
- 2841 repeal of a tax under this part for the annexing area;
- 2842 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);
- 2843 (iii) the effective date of the tax described in Subsection (3)(b)(i); and
- 2844 (iv) the rate of the tax described in Subsection (3)(b)(i).
- 2845 (c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
- 2846 (3)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 2847 (A) that begins after the effective date of the enactment of the tax; and
- 2848 (B) if the billing period for the transaction begins before the effective date of the

2849 enactment of the tax under:

2850 (I) Section 59-12-501; or

2851 (II) Section 59-12-502.

2852 (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection

2853 (3)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

2854 (A) that began before the effective date of the repeal of the tax; and

2855 (B) if the billing period for the transaction begins before the effective date of the repeal

2856 of the tax imposed under:

2857 (I) Section 59-12-501; or

2858 (II) Section 59-12-502.

2859 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:

2860 (A) Subsection 59-12-103(1)(b);

2861 (B) Subsection 59-12-103(1)(c);

2862 (C) Subsection 59-12-103(1)(d);

2863 (D) Subsection 59-12-103(1)(e);

2864 (E) Subsection 59-12-103(1)(f);

2865 (F) Subsection 59-12-103(1)(g);

2866 (G) Subsection 59-12-103(1)(h);

2867 (H) Subsection 59-12-103(1)(i);

2868 (I) Subsection 59-12-103(1)(j); or

2869 (J) Subsection 59-12-103(1)(k).

2870 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue

2871 sale is computed on the basis of sales and use tax rates published in the catalogue, an

2872 enactment or repeal of a tax described in Subsection (3)(a) takes effect:

2873 (A) on the first day of a calendar quarter; and

2874 (B) beginning 60 days after the effective date of the enactment or repeal under

2875 Subsection (3)(a).

2876 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

2877 the commission may by rule define the term "catalogue sale."

2878 (4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be

2879 administered, collected, and enforced in accordance with:

2880 (i) the same procedures used to administer, collect, and enforce the tax under:

2881 (A) Part 1, Tax Collection; or

2882 (B) Part 2, Local Sales and Use Tax Act; and

2883 (ii) Chapter 1, General Taxation Policies.

2884 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to

2885 Subsections 59-12-205(2) through [~~6~~] (6).

2886 Section 25. Section **59-12-603** is amended to read:

2887 **59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Collection --**

2888 **Adoption of ordinance required -- Administration -- Distribution -- Enactment or repeal**  
2889 **of tax or tax rate change -- Effective date -- Notice requirements.**

2890 (1) In addition to any other taxes, a county legislative body may, as provided in this  
2891 part, impose a tax as follows:

2892 (a) (i) a county legislative body of any county may impose a tax of not to exceed 3% on  
2893 all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and  
2894 rentals of motor vehicles made for the purpose of temporarily replacing a person's motor  
2895 vehicle that is being repaired pursuant to a repair or an insurance agreement; and

2896 (ii) beginning on or after January 1, 1999, a county legislative body of any county  
2897 imposing a tax under Subsection (1)(a)(i) may, in addition to imposing the tax under  
2898 Subsection (1)(a)(i), impose a tax of not to exceed 4% on all short-term leases and rentals of  
2899 motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for  
2900 the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to  
2901 a repair or an insurance agreement;

2902 (b) a county legislative body of any county may impose a tax of not to exceed 1% of all  
2903 sales of prepared foods and beverages that are sold by restaurants; and

2904 (c) a county legislative body of any county may impose a tax of not to exceed .5% on  
2905 charges for the accommodations and services described in Subsection 59-12-103(1)(i).

2906 (2) (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided  
2907 for in Subsections (1)(a) through (c) may be used for the purposes of:

2908 (i) financing tourism promotion; and

2909 (ii) the development, operation, and maintenance of tourist, recreation, cultural, and  
2910 convention facilities as defined in Section 59-12-602.

2911 (b) A county of the first class shall expend at least \$450,000 each year of the revenues  
2912 from the imposition of a tax authorized by Subsection (1)(c) within the county to fund a  
2913 marketing and ticketing system designed to:

2914 (i) promote tourism in ski areas within the county by persons that do not reside within  
2915 the state; and

2916 (ii) combine the sale of:

2917 (A) ski lift tickets; and

2918 (B) accommodations and services described in Subsection 59-12-103(1)(i).

2919 (3) The tax imposed under Subsection (1)(c) shall be in addition to the tax imposed  
2920 under Part 3, Transient Room Tax, and may be imposed only by a county of the first class.

2921 (4) A tax imposed under this part may be pledged as security for bonds, notes, or other  
2922 evidences of indebtedness incurred by a county under Title 11, Chapter 14, Local Government  
2923 Bonding Act, to finance tourism, recreation, cultural, and convention facilities.

2924 (5) (a) In order to impose the tax under Subsection (1), each county legislative body  
2925 shall annually adopt an ordinance imposing the tax.

2926 (b) The ordinance under Subsection (5)(a) shall include provisions substantially the  
2927 same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on  
2928 those items and sales described in Subsection (1).

2929 (c) The name of the county as the taxing agency shall be substituted for that of the state  
2930 where necessary, and an additional license is not required if one has been or is issued under  
2931 Section 59-12-106.

2932 (6) In order to maintain in effect its tax ordinance adopted under this part, each county  
2933 legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1,  
2934 Tax Collection, adopt amendments to its tax ordinance to conform with the applicable  
2935 amendments to Part 1, Tax Collection.

2936 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part  
2937 shall be administered, collected, and enforced in accordance with:

2938 (A) the same procedures used to administer, collect, and enforce the tax under:

2939 (I) Part 1, Tax Collection; or

2940 (II) Part 2, Local Sales and Use Tax Act; and

2941 (B) Chapter 1, General Taxation Policies.

2942 (ii) [~~Notwithstanding Subsection (7)(a)(i), a~~] A tax under this part is not subject to[:  
2943 ~~(A) Sections 59-12-107.1 through 59-12-107.3; (B)~~] Subsections 59-12-205(2) through [~~(9)~~  
2944 ~~(6)~~] [; or ~~(C) Sections 59-12-207.1 through 59-12-207.4~~].

2945 (b) Except as provided in Subsection (7)(c):

2946 (i) for a tax under this part other than the tax under Subsection (1)(a)(ii), the  
2947 commission shall distribute the revenues to the county imposing the tax; and

2948 (ii) for a tax under Subsection (1)(a)(ii), the commission shall distribute the revenues  
2949 according to the distribution formula provided in Subsection (8).

2950 (c) Notwithstanding Subsection (7)(b), the commission shall deduct from the  
2951 distributions under Subsection (7)(b) an administrative charge for collecting the tax as provided  
2952 in Section 59-12-206.

2953 (8) The commission shall distribute the revenues generated by the tax under Subsection  
2954 (1)(a)(ii) to each county collecting a tax under Subsection (1)(a)(ii) according to the following  
2955 formula:

2956 (a) the commission shall distribute 70% of the revenues based on the percentages  
2957 generated by dividing the revenues collected by each county under Subsection (1)(a)(ii) by the  
2958 total revenues collected by all counties under Subsection (1)(a)(ii); and

2959 (b) the commission shall distribute 30% of the revenues based on the percentages  
2960 generated by dividing the population of each county collecting a tax under Subsection (1)(a)(ii)  
2961 by the total population of all counties collecting a tax under Subsection (1)(a)(ii).

2962 (9) (a) For purposes of this Subsection (9):

2963 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,  
2964 Annexation to County.

2965 (ii) "Annexing area" means an area that is annexed into a county.

2966 (b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county  
2967 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or  
2968 change shall take effect:

2969 (A) on the first day of a calendar quarter; and

2970 (B) after a 90-day period beginning on the date the commission receives notice meeting  
2971 the requirements of Subsection (9)(b)(ii) from the county.

2972 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:

2973 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

2974 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

2975 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

2976 (D) if the county enacts the tax or changes the rate of the tax described in Subsection

2977 (9)(b)(ii)(A), the rate of the tax.

2978 (c) (i) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection

2979 (9)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the

2980 first billing period:

2981 (A) that begins after the effective date of the enactment of the tax or the tax rate

2982 increase; and

2983 (B) if the billing period for the transaction begins before the effective date of the

2984 enactment of the tax or the tax rate increase imposed under Subsection (1).

2985 (ii) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection

2986 (9)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last

2987 billing period:

2988 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;

2989 and

2990 (B) if the billing period for the transaction begins before the effective date of the repeal

2991 of the tax or the tax rate decrease imposed under Subsection (1).

2992 (iii) Subsections (9)(c)(i) and (ii) apply to transactions subject to a tax under:

2993 (A) Subsection 59-12-103(1)(e);

2994 (B) Subsection 59-12-103(1)(i); or

2995 (C) Subsection 59-12-103(1)(k).

2996 (d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or

2997 after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a

2998 tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

2999 (A) on the first day of a calendar quarter; and

3000 (B) after a 90-day period beginning on the date the commission receives notice meeting

3001 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

3002 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

3003 (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,

3004 repeal, or change in the rate of a tax under this part for the annexing area;

3005 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

3006 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

3007 (D) if the county enacts the tax or changes the rate of the tax described in Subsection  
3008 (9)(d)(ii)(A), the rate of the tax.

3009 (e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection  
3010 (9)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the  
3011 first billing period:

3012 (A) that begins after the effective date of the enactment of the tax or the tax rate  
3013 increase; and

3014 (B) if the billing period for the transaction begins before the effective date of the  
3015 enactment of the tax or the tax rate increase imposed under Subsection (1).

3016 (ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection  
3017 (9)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last  
3018 billing period:

3019 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
3020 and

3021 (B) if the billing period for the transaction begins before the effective date of the repeal  
3022 of the tax or the tax rate decrease imposed under Subsection (1).

3023 (iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:

3024 (A) Subsection 59-12-103(1)(e);

3025 (B) Subsection 59-12-103(1)(i); or

3026 (C) Subsection 59-12-103(1)(k).

3027 Section 26. Section **59-12-703 (See 59-1-1201 re: Eff)** is amended to read:

3028 **59-12-703 (See 59-1-1201 re: Eff). Opinion question election -- Imposition of tax**  
3029 **-- Uses of tax monies -- Enactment or repeal of tax -- Effective date -- Notice**  
3030 **requirements.**

3031 (1) (a) (i) [~~Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), a~~] A  
3032 county legislative body may submit an opinion question to the residents of that county, by  
3033 majority vote of all members of the legislative body, so that each resident of the county, except  
3034 residents in municipalities that have already imposed a sales and use tax under Part 14, City or

3035 Town Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or  
3036 Facilities, has an opportunity to express the resident's opinion on the imposition of a local sales  
3037 and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the  
3038 county, to fund recreational and zoological facilities, botanical, cultural, and zoological  
3039 organizations, and rural radio stations, in that county.

3040 (ii) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a  
3041 tax under this section on:

3042 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
3043 are exempt from taxation under Section 59-12-104; ~~[and]~~

3044 (B) sales and uses within municipalities that have already imposed a sales and use tax  
3045 under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and  
3046 Zoological Organizations or Facilities[-]; and

3047 (C) any amounts paid or charged by a seller that collects a tax under Subsection  
3048 59-12-107(1)(b).

3049 (b) For purposes of this Subsection (1), the location of a transaction shall be  
3050 determined in accordance with ~~[Sections 59-12-207.1 through 59-12-207.4]~~ Section 59-12-207.

3051 (c) The election shall follow the procedures outlined in Title 11, Chapter 14, Local  
3052 Government Bonding Act.

3053 (2) (a) If the county legislative body determines that a majority of the county's  
3054 registered voters voting on the imposition of the tax have voted in favor of the imposition of  
3055 the tax as prescribed in Subsection (1)(a), the county legislative body may impose the tax by a  
3056 majority vote of all members of the legislative body on the transactions:

3057 (i) described in Subsection (1); and

3058 (ii) within the county, including the cities and towns located in the county, except those  
3059 cities and towns that have already imposed a sales and use tax under Part 14, City or Town  
3060 Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or  
3061 Facilities.

3062 (b) A county legislative body may revise county ordinances to reflect statutory changes  
3063 to the distribution formula or eligible recipients of revenues generated from a tax imposed  
3064 under Subsection (2)(a):

3065 (i) after the county legislative body submits an opinion question to residents of the

3066 county in accordance with Subsection (1) giving them the opportunity to express their opinion  
3067 on the proposed revisions to county ordinances; and

3068 (ii) if the county legislative body determines that a majority of those voting on the  
3069 opinion question have voted in favor of the revisions.

3070 (3) The monies generated from any tax imposed under Subsection (2) shall be used for  
3071 funding:

3072 (a) recreational and zoological facilities located within the county or a city or town  
3073 located in the county, except a city or town that has already imposed a sales and use tax under  
3074 Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological  
3075 Organizations or Facilities; and

3076 (b) ongoing operating expenses of:

3077 (i) recreational facilities described in Subsection (3)(a);

3078 (ii) botanical, cultural, and zoological organizations within the county; and

3079 (iii) rural radio stations within the county.

3080 (4) (a) A tax authorized under this part shall be:

3081 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in  
3082 accordance with:

3083 (A) the same procedures used to administer, collect, and enforce the tax under:

3084 (I) Part 1, Tax Collection; or

3085 (II) Part 2, Local Sales and Use Tax Act; and

3086 (B) Chapter 1, General Taxation Policies; and

3087 (ii) levied for a period of ten years and may be reauthorized at the end of the ten-year  
3088 period in accordance with this section.

3089 (b) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to  
3090 Subsections 59-12-205(2) through [~~9~~] (6).

3091 (5) (a) For purposes of this Subsection (5):

3092 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,  
3093 Annexation to County.

3094 (ii) "Annexing area" means an area that is annexed into a county.

3095 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a  
3096 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

- 3097 (A) on the first day of a calendar quarter; and
- 3098 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 3099 the requirements of Subsection (5)(b)(ii) from the county.
- 3100 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:
- 3101 (A) that the county will enact or repeal a tax under this part;
- 3102 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
- 3103 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
- 3104 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the
- 3105 tax.
- 3106 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
- 3107 (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 3108 (A) that begins after the effective date of the enactment of the tax; and
- 3109 (B) if the billing period for the transaction begins before the effective date of the
- 3110 enactment of the tax under this section.
- 3111 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
- 3112 (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 3113 (A) that began before the effective date of the repeal of the tax; and
- 3114 (B) if the billing period for the transaction begins before the effective date of the repeal
- 3115 of the tax imposed under this section.
- 3116 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:
- 3117 (A) Subsection 59-12-103(1)(b);
- 3118 (B) Subsection 59-12-103(1)(c);
- 3119 (C) Subsection 59-12-103(1)(d);
- 3120 (D) Subsection 59-12-103(1)(e);
- 3121 (E) Subsection 59-12-103(1)(f);
- 3122 (F) Subsection 59-12-103(1)(g);
- 3123 (G) Subsection 59-12-103(1)(h);
- 3124 (H) Subsection 59-12-103(1)(i);
- 3125 (I) Subsection 59-12-103(1)(j); or
- 3126 (J) Subsection 59-12-103(1)(k).
- 3127 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a

3128 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an  
3129 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

3130 (A) on the first day of a calendar quarter; and

3131 (B) beginning 60 days after the effective date of the enactment or repeal under

3132 Subsection (5)(b)(i).

3133 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

3134 the commission may by rule define the term "catalogue sale."

3135 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs  
3136 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this  
3137 part for an annexing area, the enactment or repeal shall take effect:

3138 (A) on the first day of a calendar quarter; and

3139 (B) after a 90-day period beginning on the date the commission receives notice meeting  
3140 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

3141 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

3142 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or  
3143 repeal of a tax under this part for the annexing area;

3144 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

3145 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

3146 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

3147 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection  
3148 (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

3149 (A) that begins after the effective date of the enactment of the tax; and

3150 (B) if the billing period for the transaction begins before the effective date of the  
3151 enactment of the tax under this section.

3152 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection  
3153 (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

3154 (A) that began before the effective date of the repeal of the tax; and

3155 (B) if the billing period for the transaction begins before the effective date of the repeal  
3156 of the tax imposed under this section.

3157 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

3158 (A) Subsection 59-12-103(1)(b);

3159 (B) Subsection 59-12-103(1)(c);

3160 (C) Subsection 59-12-103(1)(d);

3161 (D) Subsection 59-12-103(1)(e);

3162 (E) Subsection 59-12-103(1)(f);

3163 (F) Subsection 59-12-103(1)(g);

3164 (G) Subsection 59-12-103(1)(h);

3165 (H) Subsection 59-12-103(1)(i);

3166 (I) Subsection 59-12-103(1)(j); or

3167 (J) Subsection 59-12-103(1)(k).

3168 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a  
3169 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an  
3170 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

3171 (A) on the first day of a calendar quarter; and

3172 (B) beginning 60 days after the effective date of the enactment or repeal under  
3173 Subsection (5)(e)(i).

3174 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
3175 the commission may by rule define the term "catalogue sale."

3176 Section 27. Section **59-12-802 (See 59-1-1201 re: Eff)** is amended to read:

3177 **59-12-802 (See 59-1-1201 re: Eff). Imposition of rural county health care facilities**  
3178 **tax -- Base -- Rate -- Administration, collection, and enforcement of tax.**

3179 (1) (a) A county legislative body may impose a sales and use tax of up to 1%:

3180 (i) [~~except as provided in Subsections (1)(b) and 59-12-207.1(7)(c);~~] on the  
3181 transactions described in Subsection 59-12-103(1) located within the county; and

3182 (ii) to fund rural county health care facilities in that county.

3183 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a  
3184 tax under this section on:

3185 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
3186 are exempt from taxation under Section 59-12-104; [~~or~~]

3187 (ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in  
3188 a city that imposes a tax under Section 59-12-804[-]; and

3189 (iii) any amounts paid or charged by a seller that collects a tax under Subsection

3190 59-12-107(1)(b).

3191 (c) For purposes of this Subsection (1), the location of a transaction shall be  
3192 determined in accordance with [~~Sections 59-12-207.1 through 59-12-207.4~~] Section 59-12-207.

3193 (2) (a) Before imposing a tax under Subsection (1)(a), a county legislative body shall  
3194 obtain approval to impose the tax from a majority of the:

3195 (i) members of the county's legislative body; and

3196 (ii) county's registered voters voting on the imposition of the tax.

3197 (b) The county legislative body shall conduct the election according to the procedures  
3198 and requirements of Title 11, Chapter 14, Local Government Bonding Act.

3199 (3) The monies generated by a tax imposed under Subsection (1) may only be used for  
3200 the financing of:

3201 (a) ongoing operating expenses of a rural county health care facility;

3202 (b) the acquisition of land for a rural county health care facility; or

3203 (c) the design, construction, equipping, or furnishing of a rural county health care  
3204 facility.

3205 (4) (a) A tax under this section shall be:

3206 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in  
3207 accordance with:

3208 (A) the same procedures used to administer, collect, and enforce the tax under:

3209 (I) Part 1, Tax Collection; or

3210 (II) Part 2, Local Sales and Use Tax Act; and

3211 (B) Chapter 1, General Taxation Policies; and

3212 (ii) levied for a period of ten years and may be reauthorized at the end of the ten-year  
3213 period by the county legislative body as provided in Subsection (1).

3214 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to  
3215 Subsections 59-12-205(2) through [~~(9)~~] (6).

3216 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected  
3217 under this section for the cost of administering this tax.

3218 Section 28. Section **59-12-804** (See **59-1-1201 re: Eff**) is amended to read:

3219 **59-12-804** (See **59-1-1201 re: Eff**). **Imposition of rural city hospital tax -- Base --**  
3220 **Rate -- Administration, collection, and enforcement of tax.**

- 3221 (1) (a) A city legislative body may impose a sales and use tax of up to 1%:  
3222 (i) [~~except as provided in Subsections (1)(b) and 59-12-207.1(7)(c),~~] on the  
3223 transactions described in Subsection 59-12-103(1) located within the city; and  
3224 (ii) to fund rural city hospitals in that city.
- 3225 (b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax  
3226 under this section on:
- 3227 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
3228 are exempt from taxation under Section 59-12-104[-]; and  
3229 (ii) any amounts paid or charged by a seller that collects a tax under Subsection  
3230 59-12-107(1)(b).
- 3231 (c) For purposes of this Subsection (1), the location of a transaction shall be  
3232 determined in accordance with [~~Sections 59-12-207.1 through 59-12-207.4~~] Section 59-12-207.
- 3233 (2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall  
3234 obtain approval to impose the tax from a majority of the:
- 3235 (i) members of the city legislative body; and  
3236 (ii) city's registered voters voting on the imposition of the tax.
- 3237 (b) The city legislative body shall conduct the election according to the procedures and  
3238 requirements of Title 11, Chapter 14, Local Government Bonding Act.
- 3239 (3) The monies generated by a tax imposed under Subsection (1) may only be used for  
3240 the financing of:
- 3241 (a) ongoing operating expenses of a rural city hospital;  
3242 (b) the acquisition of land for a rural city hospital; or  
3243 (c) the design, construction, equipping, or furnishing of a rural city hospital.
- 3244 (4) (a) A tax under this section shall be:
- 3245 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in  
3246 accordance with:
- 3247 (A) the same procedures used to administer, collect, and enforce the tax under:  
3248 (I) Part 1, Tax Collection; or  
3249 (II) Part 2, Local Sales and Use Tax Act; and  
3250 (B) Chapter 1, General Taxation Policies; and  
3251 (ii) levied for a period of ten years and may be reauthorized at the end of the ten-year

3252 period by the city legislative body as provided in Subsection (1).

3253 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to  
3254 Subsections 59-12-205(2) through [~~(9)~~] (6).

3255 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected  
3256 under this section for the cost of administering the tax.

3257 Section 29. Section **59-12-1001 (See 59-1-1201 re: Eff)** is amended to read:

3258 **59-12-1001 (See 59-1-1201 re: Eff). Authority to impose tax for highways or to**  
3259 **fund a system for public transit -- Ordinance requirements -- Voter approval**  
3260 **requirements -- Election requirements -- Notice of election requirements -- Exceptions to**  
3261 **voter approval requirements -- Enactment or repeal of tax -- Effective date -- Notice**  
3262 **requirements.**

3263 (1) (a) [~~Except as provided in Subsections (1)(b) and 59-12-207.1(7)(c), a~~] A city or  
3264 town in which the transactions described in Subsection 59-12-103(1) are not subject to a sales  
3265 and use tax under Section 59-12-501 may as provided in this part impose a sales and use tax of  
3266 .25% on the transactions described in Subsection 59-12-103(1) located within the city or town.

3267 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this  
3268 section on:

3269 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
3270 are exempt from taxation under Section 59-12-104[-]; and

3271 (ii) any amounts paid or charged by a seller that collects a tax under Subsection  
3272 59-12-107(1)(b).

3273 (c) For purposes of this Subsection (1), the location of a transaction shall be  
3274 determined in accordance with [~~Sections 59-12-207.1 through 59-12-207.4~~] Section 59-12-207.

3275 (2) (a) A city or town imposing a tax under this part may use the revenues generated by  
3276 the tax:

3277 (i) for the construction and maintenance of highways under the jurisdiction of the city  
3278 or town imposing the tax;

3279 (ii) subject to Subsection (2)(b), to fund a system for public transit; or

3280 (iii) for a combination of the purposes described in Subsections (2)(a)(i) and (ii).

3281 (b) (i) For purposes of Subsection (2)(a)(ii) and except as provided in Subsection  
3282 (2)(b)(ii), "public transit" is as defined in Section 17A-2-1004.

- 3283 (ii) Notwithstanding Subsection (2)(b)(i), "public transit" does not include a fixed  
3284 guideway system.
- 3285 (3) To impose a tax under this part, the governing body of the city or town shall:
- 3286 (a) pass an ordinance approving the tax; and
- 3287 (b) except as provided in Subsection (7), obtain voter approval for the tax as provided  
3288 in Subsection (4).
- 3289 (4) To obtain voter approval for a tax under Subsection (3)(b), a city or town shall:
- 3290 (a) hold an election during:
- 3291 (i) a regular general election; or
- 3292 (ii) a municipal general election; and
- 3293 (b) publish notice of the election:
- 3294 (i) 15 days or more before the day on which the election is held; and
- 3295 (ii) in a newspaper of general circulation in the city or town.
- 3296 (5) An ordinance approving a tax under this part shall provide an effective date for the  
3297 tax as provided in Subsection (6).
- 3298 (6) (a) For purposes of this Subsection (6):
- 3299 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part  
3300 4, Annexation.
- 3301 (ii) "Annexing area" means an area that is annexed into a city or town.
- 3302 (b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after July 1, 2004, a city  
3303 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:
- 3304 (A) on the first day of a calendar quarter; and
- 3305 (B) after a 90-day period beginning on the date the commission receives notice meeting  
3306 the requirements of Subsection (6)(b)(ii) from the city or town.
- 3307 (ii) The notice described in Subsection (6)(b)(i)(B) shall state:
- 3308 (A) that the city or town will enact or repeal a tax under this part;
- 3309 (B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);
- 3310 (C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and
- 3311 (D) if the city or town enacts the tax described in Subsection (6)(b)(ii)(A), the rate of  
3312 the tax.
- 3313 (c) (i) Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection

3314 (6)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

3315 (A) that begins after the effective date of the enactment of the tax; and

3316 (B) if the billing period for the transaction begins before the effective date of the  
3317 enactment of the tax under Subsection (1).

3318 (ii) Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection  
3319 (6)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

3320 (A) that began before the effective date of the repeal of the tax; and

3321 (B) if the billing period for the transaction begins before the effective date of the repeal  
3322 of the tax imposed under Subsection (1).

3323 (iii) Subsections (6)(c)(i) and (ii) apply to transactions subject to a tax under:

3324 (A) Subsection 59-12-103(1)(b);

3325 (B) Subsection 59-12-103(1)(c);

3326 (C) Subsection 59-12-103(1)(d);

3327 (D) Subsection 59-12-103(1)(e);

3328 (E) Subsection 59-12-103(1)(f);

3329 (F) Subsection 59-12-103(1)(g);

3330 (G) Subsection 59-12-103(1)(h);

3331 (H) Subsection 59-12-103(1)(i);

3332 (I) Subsection 59-12-103(1)(j); or

3333 (J) Subsection 59-12-103(1)(k).

3334 (d) (i) Notwithstanding Subsection (6)(b)(i), if a tax due under this chapter on a  
3335 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an  
3336 enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:

3337 (A) on the first day of a calendar quarter; and

3338 (B) beginning 60 days after the effective date of the enactment or repeal under  
3339 Subsection (6)(b)(i).

3340 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
3341 the commission may by rule define the term "catalogue sale."

3342 (e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs  
3343 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this  
3344 part for an annexing area, the enactment or repeal shall take effect:

- 3345 (A) on the first day of a calendar quarter; and
- 3346 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 3347 the requirements of Subsection (6)(e)(ii) from the city or town that annexes the annexing area.
- 3348 (ii) The notice described in Subsection (6)(e)(i)(B) shall state:
- 3349 (A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or
- 3350 repeal of a tax under this part for the annexing area;
- 3351 (B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);
- 3352 (C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and
- 3353 (D) the rate of the tax described in Subsection (6)(e)(ii)(A).
- 3354 (f) (i) Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection
- 3355 (6)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 3356 (A) that begins after the effective date of the enactment of the tax; and
- 3357 (B) if the billing period for the transaction begins before the effective date of the
- 3358 enactment of the tax under Subsection (1).
- 3359 (ii) Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection
- 3360 (6)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 3361 (A) that began before the effective date of the repeal of the tax; and
- 3362 (B) if the billing period for the transaction begins before the effective date of the repeal
- 3363 of the tax imposed under Subsection (1).
- 3364 (iii) Subsections (6)(f)(i) and (ii) apply to transactions subject to a tax under:
- 3365 (A) Subsection 59-12-103(1)(b);
- 3366 (B) Subsection 59-12-103(1)(c);
- 3367 (C) Subsection 59-12-103(1)(d);
- 3368 (D) Subsection 59-12-103(1)(e);
- 3369 (E) Subsection 59-12-103(1)(f);
- 3370 (F) Subsection 59-12-103(1)(g);
- 3371 (G) Subsection 59-12-103(1)(h);
- 3372 (H) Subsection 59-12-103(1)(i);
- 3373 (I) Subsection 59-12-103(1)(j); or
- 3374 (J) Subsection 59-12-103(1)(k).
- 3375 (g) (i) Notwithstanding Subsection (6)(e)(i), if a tax due under this chapter on a

3376 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an  
3377 enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:

3378 (A) on the first day of a calendar quarter; and

3379 (B) beginning 60 days after the effective date of the enactment or repeal under

3380 Subsection (6)(e)(i).

3381 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
3382 the commission may by rule define the term "catalogue sale."

3383 (7) (a) Except as provided in Subsection (7)(b), a city or town is not subject to the  
3384 voter approval requirements of Subsection (3)(b) if:

3385 (i) on or before January 1, 1996, the city or town imposed a license fee or tax on  
3386 businesses based on gross receipts pursuant to Section 10-1-203; or

3387 (ii) the city or town:

3388 (A) on or before June 30, 2002, obtained voter approval in accordance with Subsection  
3389 (3)(b) to impose a tax under this part for a purpose described in Subsection (2)(a)(i); and

3390 (B) on or after July 1, 2002, uses the revenues generated by a tax under this part for a  
3391 purpose described in Subsection (2)(a).

3392 (b) Notwithstanding Subsection (7)(a), the exception from the voter approval  
3393 requirements in Subsection (7)(a)(i) does not apply to a city or town that, on or before January  
3394 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts  
3395 pursuant to Section 10-1-203.

3396 Section 30. Section **59-12-1002** is amended to read:

3397 **59-12-1002. Collection of taxes by commission -- Charge for service.**

3398 (1) The commission shall:

3399 (a) collect the tax imposed by a city or town under this part; and

3400 (b) subject to Subsection (3), transmit to the city or town monthly by electronic funds  
3401 transfer the revenues generated by the tax imposed by the city or town.

3402 (2) (a) Except as provided in Subsection (2)(b), a tax authorized under this part shall be  
3403 administered, collected, and enforced in accordance with:

3404 (i) the same procedures used to administer, collect, and enforce the tax under:

3405 (A) Part 1, Tax Collection; or

3406 (B) Part 2, Local Sales and Use Tax Act; and

3407 (ii) Chapter 1, General Taxation Policies.

3408 (b) Notwithstanding Subsection (2)(a), a tax under this part is not subject to  
3409 Subsections 59-12-205(2) through ~~[(9)]~~ (6).

3410 (3) (a) The commission shall charge a city or town imposing a tax under this part a fee  
3411 for administering the tax as provided in Subsections (3)(b) and (c).

3412 (b) The fee shall be in an amount equal to the costs of administering the tax under this  
3413 part, except that the fee may not exceed 1-1/2% of the revenues generated in the city or town  
3414 by the tax under this part.

3415 (c) Fees under this Subsection (3) shall be:

3416 (i) placed in the Sales and Use Tax Administrative Fees Account; and

3417 (ii) used for sales tax administration as provided in Subsection 59-12-206(2).

3418 Section 31. Section **59-12-1102** (See **59-1-1201 re: Eff**) is amended to read:

3419 **59-12-1102** (See **59-1-1201 re: Eff**). **Base -- Rate -- Imposition of tax --**

3420 **Distribution of revenue -- Administration -- Enactment or repeal of tax -- Effective date --**

3421 **Notice requirements.**

3422 (1) (a) (i) ~~[Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), subject~~  
3423 ~~to the provisions of]~~ Subject to Subsections (2) through (5), and in addition to any other tax  
3424 authorized by this chapter, a county may impose by ordinance a county option sales and use tax  
3425 of .25% upon the transactions described in Subsection 59-12-103(1).

3426 (ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this  
3427 section on:

3428 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
3429 are exempt from taxation under Section 59-12-104[-]; and

3430 (B) any amounts paid or charged by a seller that collects a tax under Subsection  
3431 59-12-107(1)(b) unless all of the counties in the state impose a tax under this section.

3432 (b) For purposes of this Subsection (1), the location of a transaction shall be  
3433 determined in accordance with ~~[Sections 59-12-207.1 through 59-12-207.4]~~ Section 59-12-207.

3434 (c) The county option sales and use tax under this section shall be imposed:

3435 (i) upon transactions that are located within the county, including transactions that are  
3436 located within municipalities in the county; and

3437 (ii) except as provided in Subsection (1)(d) or (5), beginning on the first day of

3438 January:

3439 (A) of the next calendar year after adoption of the ordinance imposing the tax if the  
3440 ordinance is adopted on or before May 25; or

3441 (B) of the second calendar year after adoption of the ordinance imposing the tax if the  
3442 ordinance is adopted after May 25.

3443 (d) Notwithstanding Subsection (1)(c)(ii), the county option sales and use tax under  
3444 this section shall be imposed:

3445 (i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before  
3446 September 4, 1997; or

3447 (ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997  
3448 but after September 4, 1997.

3449 (2) (a) Before imposing a county option sales and use tax under Subsection (1), a  
3450 county shall hold two public hearings on separate days in geographically diverse locations in  
3451 the county.

3452 (b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting  
3453 time of no earlier than 6 p.m.

3454 (ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven  
3455 days after the day the first advertisement required by Subsection (2)(c) is published.

3456 (c) (i) Before holding the public hearings required by Subsection (2)(a), the county  
3457 shall advertise in a newspaper of general circulation in the county:

3458 (A) its intent to adopt a county option sales and use tax;

3459 (B) the date, time, and location of each public hearing; and

3460 (C) a statement that the purpose of each public hearing is to obtain public comments  
3461 regarding the proposed tax.

3462 (ii) The advertisement shall be published once each week for the two weeks preceding  
3463 the earlier of the two public hearings.

3464 (iii) The advertisement shall be no less than 1/8 page in size, and the type used shall be  
3465 no smaller than 18 point and surrounded by a 1/4-inch border.

3466 (iv) The advertisement may not be placed in that portion of the newspaper where legal  
3467 notices and classified advertisements appear.

3468 (v) Whenever possible:

3469 (A) the advertisement shall appear in a newspaper that is published at least five days a  
3470 week, unless the only newspaper in the county is published less than five days a week; and

3471 (B) the newspaper selected shall be one of general interest and readership in the  
3472 community, and not one of limited subject matter.

3473 (d) The adoption of an ordinance imposing a county option sales and use tax is subject  
3474 to a local referendum election as provided in Title 20A, Chapter 7, Part 6, Local Referenda -  
3475 Procedures, except that:

3476 (i) notwithstanding Subsection 20A-7-609(2)(a), the county clerk shall hold a  
3477 referendum election that qualifies for the ballot on the earlier of the next regular general  
3478 election date or the next municipal general election date more than 155 days after adoption of  
3479 an ordinance under this section;

3480 (ii) for 1997 only, the 120-day period in Subsection 20A-7-606(1) shall be 30 days; and

3481 (iii) the deadlines in Subsections 20A-7-606(2) and (3) do not apply, and the clerk shall  
3482 take the actions required by those subsections before the referendum election.

3483 (3) (a) If the aggregate population of the counties imposing a county option sales and  
3484 use tax under Subsection (1) is less than 75% of the state population, the tax levied under  
3485 Subsection (1) shall be distributed to the county in which the tax was collected.

3486 (b) If the aggregate population of the counties imposing a county option sales and use  
3487 tax under Subsection (1) is greater than or equal to 75% of the state population:

3488 (i) 50% of the tax collected under Subsection (1) in each county shall be distributed to  
3489 the county in which the tax was collected; and

3490 (ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection  
3491 (1) in each county shall be distributed proportionately among all counties imposing the tax,  
3492 based on the total population of each county.

3493 (c) If the amount to be distributed annually to a county under Subsection (3)(b)(ii),  
3494 when combined with the amount distributed to the county under Subsection (3)(b)(i), does not  
3495 equal at least \$75,000, then:

3496 (i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall  
3497 be increased so that, when combined with the amount distributed to the county under  
3498 Subsection (3)(b)(i), the amount distributed annually to the county is \$75,000; and

3499 (ii) the amount to be distributed annually to all other counties under Subsection

3500 (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under  
3501 Subsection (3)(c)(i).

3502 (d) The commission shall establish rules to implement the distribution of the tax under  
3503 Subsections (3)(a), (b), and (c).

3504 (e) Notwithstanding Subsections (3)(a) and (b), if a county imposes a tax under this  
3505 section on any amounts paid or charged by a seller that collects a tax in accordance with  
3506 Subsection 59-12-107(1)(b), the revenues generated by the tax shall be distributed as provided  
3507 in Subsection 59-12-103(3)(c).

3508 (4) (a) Except as provided in Subsection (4)(b) or (c), a tax authorized under this part  
3509 shall be administered, collected, and enforced in accordance with:

3510 (i) the same procedures used to administer, collect, and enforce the tax under:

3511 (A) Part 1, Tax Collection; or

3512 (B) Part 2, Local Sales and Use Tax Act; and

3513 (ii) Chapter 1, General Taxation Policies.

3514 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to  
3515 Subsections 59-12-205(2) through [~~9~~] (6).

3516 (c) Notwithstanding Subsection (4)(a), the fee charged by the commission under  
3517 Section 59-12-206 shall be based on the distribution amounts resulting after all the applicable  
3518 distribution calculations under Subsection (3) have been made.

3519 (5) (a) For purposes of this Subsection (5):

3520 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,  
3521 Annexation to County.

3522 (ii) "Annexing area" means an area that is annexed into a county.

3523 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a  
3524 county enacts or repeals a tax under this part:

3525 (A) (I) the enactment shall take effect as provided in Subsection (1)(c); or

3526 (II) the repeal shall take effect on the first day of a calendar quarter; and

3527 (B) after a 90-day period beginning on the date the commission receives notice meeting  
3528 the requirements of Subsection (5)(b)(ii) from the county.

3529 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

3530 (A) that the county will enact or repeal a tax under this part;

- 3531 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);  
3532 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and  
3533 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the  
3534 tax.
- 3535 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection  
3536 (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:  
3537 (A) that begins after the effective date of the enactment of the tax; and  
3538 (B) if the billing period for the transaction begins before the effective date of the  
3539 enactment of the tax under Subsection (1).
- 3540 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection  
3541 (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:  
3542 (A) that began before the effective date of the repeal of the tax; and  
3543 (B) if the billing period for the transaction begins before the effective date of the repeal  
3544 of the tax imposed under Subsection (1).
- 3545 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:  
3546 (A) Subsection 59-12-103(1)(b);  
3547 (B) Subsection 59-12-103(1)(c);  
3548 (C) Subsection 59-12-103(1)(d);  
3549 (D) Subsection 59-12-103(1)(e);  
3550 (E) Subsection 59-12-103(1)(f);  
3551 (F) Subsection 59-12-103(1)(g);  
3552 (G) Subsection 59-12-103(1)(h);  
3553 (H) Subsection 59-12-103(1)(i);  
3554 (I) Subsection 59-12-103(1)(j); or  
3555 (J) Subsection 59-12-103(1)(k).
- 3556 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a  
3557 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an  
3558 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:  
3559 (A) on the first day of a calendar quarter; and  
3560 (B) beginning 60 days after the effective date of the enactment or repeal under  
3561 Subsection (5)(b)(i).

3562 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
3563 the commission may by rule define the term "catalogue sale."

3564 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs  
3565 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this  
3566 part for an annexing area, the enactment or repeal shall take effect:

3567 (A) on the first day of a calendar quarter; and

3568 (B) after a 90-day period beginning on the date the commission receives notice meeting  
3569 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

3570 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

3571 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or  
3572 repeal of a tax under this part for the annexing area;

3573 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

3574 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

3575 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

3576 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection  
3577 (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

3578 (A) that begins after the effective date of the enactment of the tax; and

3579 (B) if the billing period for the transaction begins before the effective date of the  
3580 enactment of the tax under Subsection (1).

3581 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection  
3582 (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

3583 (A) that began before the effective date of the repeal of the tax; and

3584 (B) if the billing period for the transaction begins before the effective date of the repeal  
3585 of the tax imposed under Subsection (1).

3586 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

3587 (A) Subsection 59-12-103(1)(b);

3588 (B) Subsection 59-12-103(1)(c);

3589 (C) Subsection 59-12-103(1)(d);

3590 (D) Subsection 59-12-103(1)(e);

3591 (E) Subsection 59-12-103(1)(f);

3592 (F) Subsection 59-12-103(1)(g);

- 3593 (G) Subsection 59-12-103(1)(h);  
3594 (H) Subsection 59-12-103(1)(i);  
3595 (I) Subsection 59-12-103(1)(j); or  
3596 (J) Subsection 59-12-103(1)(k).  
3597 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a  
3598 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an  
3599 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:  
3600 (A) on the first day of a calendar quarter; and  
3601 (B) beginning 60 days after the effective date of the enactment or repeal under  
3602 Subsection (5)(e)(i).  
3603 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
3604 the commission may by rule define the term "catalogue sale."  
3605 Section 32. Section **59-12-1201** is amended to read:  
3606 **59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration,**  
3607 **collection, and enforcement of tax -- Administrative fee -- Deposits.**  
3608 (1) (a) Except as provided in Subsection (3), there is imposed a tax of 2.5% on all  
3609 short-term leases and rentals of motor vehicles not exceeding 30 days.  
3610 (b) The tax imposed in this section is in addition to all other state, county, or municipal  
3611 fees and taxes imposed on rentals of motor vehicles.  
3612 (2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax  
3613 imposed under Subsection (1) shall take effect on the first day of a calendar quarter.  
3614 (b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall  
3615 take effect on the first day of the first billing period:  
3616 (A) that begins after the effective date of the tax rate increase; and  
3617 (B) if the billing period for the transaction begins before the effective date of a tax rate  
3618 increase imposed under Subsection (1).  
3619 (ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax  
3620 rate decrease shall take effect on the first day of the last billing period:  
3621 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
3622 and  
3623 (B) if the billing period for the transaction begins before the effective date of the repeal

3624 of the tax or the tax rate decrease imposed under Subsection (1).

3625 (3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

3626 (a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

3627 (b) the motor vehicle is rented as a personal household goods moving van; or

3628 (c) the lease or rental of the motor vehicle is made for the purpose of temporarily  
3629 replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an  
3630 insurance agreement.

3631 (4) (a) (i) [~~Except as provided in Subsection (4)(a)(ii), the~~] The tax authorized under  
3632 this section shall be administered, collected, and enforced in accordance with:

3633 (A) the same procedures used to administer, collect, and enforce the tax under Part 1,  
3634 Tax Collection; and

3635 (B) Chapter 1, General Taxation Policies.

3636 (ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to[~~(A)~~]  
3637 Subsections 59-12-103(4) through [~~(7)~~, or] (8).

3638 [~~(B) Sections 59-12-107.1 through 59-12-107.3.~~]

3639 (b) The commission may retain a maximum of 1-1/2% of the tax collected under this  
3640 section for the costs of rendering its services under this section.

3641 (c) Except as provided under Subsection (4)(b), all revenue received by the  
3642 commission under this section shall be deposited daily with the state treasurer and credited  
3643 monthly to the Transportation Corridor Preservation Revolving Loan Fund under Section  
3644 72-2-117.

3645 Section 33. Section **59-12-1302** (See **59-1-1201 re: Eff**) is amended to read:

3646 **59-12-1302** (See **59-1-1201 re: Eff**). **Authority to impose -- Base -- Rate --**

3647 **Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements.**

3648 (1) [~~Except as provided in Subsection 59-12-207.1(7)(c), beginning~~] Beginning on or  
3649 after January 1, 1998, the governing body of a town may impose a tax as provided in this part  
3650 in an amount that does not exceed 1%.

3651 (2) A town may impose a tax as provided in this part if the town imposed a license fee  
3652 or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1,  
3653 1996.

3654 (3) A town imposing a tax under this section shall:

3655 (a) except as provided in Subsection (4), impose the tax on the transactions described  
3656 in Subsection 59-12-103(1) located within the town; and

3657 (b) provide an effective date for the tax as provided in Subsection (5).

3658 (4) (a) Notwithstanding Subsection (3)(a), a town may not impose a tax under this  
3659 section on:

3660 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
3661 are exempt from taxation under Section 59-12-104[-]; and

3662 (ii) any amounts paid or charged by a seller that collects a tax under Subsection  
3663 59-12-107(1)(b).

3664 (b) For purposes of this Subsection (4), the location of a transaction shall be  
3665 determined in accordance with [~~Sections 59-12-207.1 through 59-12-207.4~~] Section 59-12-207.

3666 (5) (a) For purposes of this Subsection (5):

3667 (i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4,  
3668 Annexation.

3669 (ii) "Annexing area" means an area that is annexed into a town.

3670 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a  
3671 town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,  
3672 or change shall take effect:

3673 (A) on the first day of a calendar quarter; and

3674 (B) after a 90-day period beginning on the date the commission receives notice meeting  
3675 the requirements of Subsection (5)(b)(ii) from the town.

3676 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

3677 (A) that the town will enact or repeal a tax or change the rate of a tax under this part;

3678 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

3679 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

3680 (D) if the town enacts the tax or changes the rate of the tax described in Subsection  
3681 (5)(b)(ii)(A), the rate of the tax.

3682 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection  
3683 (5)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the  
3684 first billing period:

3685 (A) that begins after the effective date of the enactment of the tax or the tax rate

3686 increase; and

3687 (B) if the billing period for the transaction begins before the effective date of the  
3688 enactment of the tax or the tax rate increase imposed under Subsection (1).

3689 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection  
3690 (5)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last  
3691 billing period:

3692 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
3693 and

3694 (B) if the billing period for the transaction begins before the effective date of the repeal  
3695 of the tax or the tax rate decrease imposed under Subsection (1).

3696 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

3697 (A) Subsection 59-12-103(1)(b);

3698 (B) Subsection 59-12-103(1)(c);

3699 (C) Subsection 59-12-103(1)(d);

3700 (D) Subsection 59-12-103(1)(e);

3701 (E) Subsection 59-12-103(1)(f);

3702 (F) Subsection 59-12-103(1)(g);

3703 (G) Subsection 59-12-103(1)(h);

3704 (H) Subsection 59-12-103(1)(i);

3705 (I) Subsection 59-12-103(1)(j); or

3706 (J) Subsection 59-12-103(1)(k).

3707 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a  
3708 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an  
3709 enactment, repeal, or change in the rate of a tax described in Subsection (5)(b)(i) takes effect:

3710 (A) on the first day of a calendar quarter; and

3711 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the  
3712 rate of the tax under Subsection (5)(b)(i).

3713 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
3714 the commission may by rule define the term "catalogue sale."

3715 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs  
3716 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the

3717 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take  
3718 effect:

3719 (A) on the first day of a calendar quarter; and

3720 (B) after a 90-day period beginning on the date the commission receives notice meeting  
3721 the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

3722 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

3723 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment,  
3724 repeal, or change in the rate of a tax under this part for the annexing area;

3725 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

3726 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

3727 (D) if the town enacts the tax or changes the rate of the tax described in Subsection  
3728 (5)(e)(ii)(A), the rate of the tax.

3729 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection  
3730 (5)(f)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the  
3731 first billing period:

3732 (A) that begins after the effective date of the enactment of the tax or the tax rate  
3733 increase; and

3734 (B) if the billing period for the transaction begins before the effective date of the  
3735 enactment of the tax or the tax rate increase imposed under Subsection (1).

3736 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection  
3737 (5)(f)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last  
3738 billing period:

3739 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
3740 and

3741 (B) if the billing period for the transaction begins before the effective date of the repeal  
3742 of the tax or the tax rate decrease imposed under Subsection (1).

3743 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

3744 (A) Subsection 59-12-103(1)(b);

3745 (B) Subsection 59-12-103(1)(c);

3746 (C) Subsection 59-12-103(1)(d);

3747 (D) Subsection 59-12-103(1)(e);

3748 (E) Subsection 59-12-103(1)(f);

3749 (F) Subsection 59-12-103(1)(g);

3750 (G) Subsection 59-12-103(1)(h);

3751 (H) Subsection 59-12-103(1)(i);

3752 (I) Subsection 59-12-103(1)(j); or

3753 (J) Subsection 59-12-103(1)(k).

3754 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a  
3755 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an  
3756 enactment, repeal, or change in the rate of a tax described in Subsection (5)(e)(i) takes effect:

3757 (A) on the first day of a calendar quarter; and

3758 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the  
3759 rate of the tax under Subsection (5)(e)(i).

3760 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
3761 the commission may by rule define the term "catalogue sale."

3762 (6) The commission shall:

3763 (a) except as provided in Subsection (6)(c), distribute the revenues generated by the tax  
3764 under this section to the town imposing the tax;

3765 (b) except as provided in Subsection (7), administer, collect, and enforce the tax  
3766 authorized under this section in accordance with:

3767 (i) the same procedures used to administer, collect, and enforce the tax under:

3768 (A) Part 1, Tax Collection; or

3769 (B) Part 2, Local Sales and Use Tax Act; and

3770 (ii) Chapter 1, General Taxation Policies; and

3771 (c) deduct from the distribution under Subsection (6)(a) an administrative charge for  
3772 collecting the tax as provided in Section 59-12-206.

3773 (7) Notwithstanding Subsection (6)(b), a tax under this section is not subject to  
3774 Subsections 59-12-205(2) through [~~6~~] (6).

3775 Section 34. Section **59-12-1402** (See **59-1-1201 re: Eff**) is amended to read:

3776 **59-12-1402** (See **59-1-1201 re: Eff**). **Opinion question election -- Imposition of tax**  
3777 **-- Uses of tax monies -- Enactment or repeal of tax -- Effective date -- Notice**  
3778 **requirements.**

3779 (1) (a) (i) [~~Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), and~~  
3780 ~~subject~~] Subject to Subsection (6), beginning on January 1, 2003, a city or town legislative  
3781 body subject to this part may submit an opinion question to the residents of that city or town,  
3782 by majority vote of all members of the legislative body, so that each resident of the city or town  
3783 has an opportunity to express the resident's opinion on the imposition of a local sales and use  
3784 tax of .1% on the transactions described in Subsection 59-12-103(1) located within the city or  
3785 town, to fund recreational and zoological facilities and botanical, cultural, and zoological  
3786 organizations in that city or town.

3787 (ii) Notwithstanding Subsection (1)(a)(i), a city or town legislative body may not  
3788 impose a tax under this section:

3789 (A) if the county in which the city or town is located imposes a tax under Part 7,  
3790 County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or  
3791 Facilities; [~~or~~]

3792 (B) on the sales and uses described in Section 59-12-104 to the extent the sales and  
3793 uses are exempt from taxation under Section 59-12-104[-]; and

3794 (C) any amounts paid or charged by a seller that collects a tax under Subsection  
3795 59-12-107(1)(b).

3796 (b) For purposes of this Subsection (1), the location of a transaction shall be  
3797 determined in accordance with [~~Sections 59-12-207.1 through 59-12-207.4~~] Section 59-12-207.

3798 (c) The election shall be held at a regular general election or a municipal general  
3799 election, as those terms are defined in Section 20A-1-102, and shall follow the procedures  
3800 outlined in Title 11, Chapter 14, Local Government Bonding Act, except as provided in  
3801 Subsection (6).

3802 (2) If the city or town legislative body determines that a majority of the city's or town's  
3803 registered voters voting on the imposition of the tax have voted in favor of the imposition of  
3804 the tax as prescribed in Subsection (1)(a), the city or town legislative body may impose the tax  
3805 by a majority vote of all members of the legislative body.

3806 (3) The monies generated from any tax imposed under Subsection (2) shall be used for  
3807 financing:

3808 (a) recreational and zoological facilities within the city or town or within the  
3809 geographic area of entities that are parties to an interlocal agreement, to which the city or town

3810 is a party, providing for recreational or zoological facilities; and

3811 (b) ongoing operating expenses of botanical, cultural, and zoological organizations  
3812 within the city or town or within the geographic area of entities that are parties to an interlocal  
3813 agreement, to which the city or town is a party, providing for the support of botanical, cultural,  
3814 or zoological organizations.

3815 (4) (a) A tax authorized under this part shall be:

3816 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in  
3817 accordance with:

3818 (A) the same procedures used to administer, collect, and enforce the tax under:

3819 (I) Part 1, Tax Collection; or

3820 (II) Part 2, Local Sales and Use Tax Act; and

3821 (B) Chapter 1, General Taxation Policies; and

3822 (ii) (A) levied for a period of eight years; and

3823 (B) may be reauthorized at the end of the eight-year period in accordance with this  
3824 section.

3825 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to  
3826 Subsections 59-12-205(2) through [~~4~~] (6).

3827 (5) (a) For purposes of this Subsection (5):

3828 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part  
3829 4, Annexation.

3830 (ii) "Annexing area" means an area that is annexed into a city or town.

3831 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city  
3832 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

3833 (A) on the first day of a calendar quarter; and

3834 (B) after a 90-day period beginning on the date the commission receives notice meeting  
3835 the requirements of Subsection (5)(b)(ii) from the city or town.

3836 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

3837 (A) that the city or town will enact or repeal a tax under this part;

3838 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

3839 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

3840 (D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of

3841 the tax.

3842 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection  
3843 (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

3844 (A) that begins after the effective date of the enactment of the tax; and

3845 (B) if the billing period for the transaction begins before the effective date of the  
3846 enactment of the tax under this section.

3847 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection  
3848 (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

3849 (A) that began before the effective date of the repeal of the tax; and

3850 (B) if the billing period for the transaction begins before the effective date of the repeal  
3851 of the tax imposed under this section.

3852 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

3853 (A) Subsection 59-12-103(1)(b);

3854 (B) Subsection 59-12-103(1)(c);

3855 (C) Subsection 59-12-103(1)(d);

3856 (D) Subsection 59-12-103(1)(e);

3857 (E) Subsection 59-12-103(1)(f);

3858 (F) Subsection 59-12-103(1)(g);

3859 (G) Subsection 59-12-103(1)(h);

3860 (H) Subsection 59-12-103(1)(i);

3861 (I) Subsection 59-12-103(1)(j); or

3862 (J) Subsection 59-12-103(1)(k).

3863 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a  
3864 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an  
3865 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

3866 (A) on the first day of a calendar quarter; and

3867 (B) beginning 60 days after the effective date of the enactment or repeal under  
3868 Subsection (5)(b)(i).

3869 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
3870 the commission may by rule define the term "catalogue sale."

3871 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs

3872 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this  
3873 part for an annexing area, the enactment or repeal shall take effect:

3874 (A) on the first day of a calendar quarter; and

3875 (B) after a 90-day period beginning on the date the commission receives notice meeting  
3876 the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.

3877 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

3878 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or  
3879 repeal a tax under this part for the annexing area;

3880 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

3881 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

3882 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

3883 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection  
3884 (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

3885 (A) that begins after the effective date of the enactment of the tax; and

3886 (B) if the billing period for the transaction begins before the effective date of the  
3887 enactment of the tax under this section.

3888 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection  
3889 (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

3890 (A) that began before the effective date of the repeal of the tax; and

3891 (B) if the billing period for the transaction begins before the effective date of the repeal  
3892 of the tax imposed under this section.

3893 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

3894 (A) Subsection 59-12-103(1)(b);

3895 (B) Subsection 59-12-103(1)(c);

3896 (C) Subsection 59-12-103(1)(d);

3897 (D) Subsection 59-12-103(1)(e);

3898 (E) Subsection 59-12-103(1)(f);

3899 (F) Subsection 59-12-103(1)(g);

3900 (G) Subsection 59-12-103(1)(h);

3901 (H) Subsection 59-12-103(1)(i);

3902 (I) Subsection 59-12-103(1)(j); or

3903 (J) Subsection 59-12-103(1)(k).

3904 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a  
3905 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an  
3906 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

3907 (A) on the first day of a calendar quarter; and

3908 (B) beginning 60 days after the effective date of the enactment or repeal under  
3909 Subsection (5)(e)(i).

3910 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
3911 the commission may by rule define the term "catalogue sale."

3912 (6) (a) Before a city or town legislative body submits an opinion question to the  
3913 residents of the city or town under Subsection (1)(a)(i), the city or town legislative body shall:

3914 (i) submit to the county legislative body in which the city or town is located a written  
3915 notice of the intent to submit the opinion question to the residents of the city or town; and

3916 (ii) receive from the county legislative body:

3917 (A) a written resolution passed by the county legislative body stating that the county  
3918 legislative body is not seeking to impose a tax under Part 7, County Option Funding for  
3919 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

3920 (B) a written statement that in accordance with Subsection (6)(b) the results of a county  
3921 opinion question submitted to the residents of the county under Part 7, County Option Funding  
3922 for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city  
3923 or town legislative body to submit the opinion question to the residents of the city or town in  
3924 accordance with this part.

3925 (b) (i) Within 60 days after the day the county legislative body receives from a city or  
3926 town legislative body described in Subsection (6)(a) the notice of the intent to submit an  
3927 opinion question to the residents of the city or town, the county legislative body shall provide  
3928 the city or town legislative body:

3929 (A) the written resolution described in Subsection (6)(a)(ii)(A); or

3930 (B) written notice that the county legislative body will submit an opinion question to  
3931 the residents of the county under Part 7, County Option Funding for Botanical, Cultural,  
3932 Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under  
3933 that part.

3934 (ii) If the county legislative body provides the city or town legislative body the written  
3935 notice that the county legislative body will submit an opinion question as provided in  
3936 Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no  
3937 later than, from the date the county legislative body sends the written notice, the later of:

- 3938 (A) a 12-month period;
- 3939 (B) the next regular primary election; or
- 3940 (C) the next regular general election.

3941 (iii) Within 30 days of the date of the canvass of the election at which the opinion  
3942 question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the  
3943 city or town legislative body described in Subsection (6)(a) written results of the opinion  
3944 question submitted by the county legislative body under Part 7, County Option Funding for  
3945 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

3946 (A) (I) the city or town legislative body may not impose a tax under this part because a  
3947 majority of the county's registered voters voted in favor of the county imposing the tax and the  
3948 county legislative body by a majority vote approved the imposition of the tax; or

3949 (II) for at least 12 months from the date the written results are submitted to the city or  
3950 town legislative body, the city or town legislative body may not submit to the county legislative  
3951 body a written notice of the intent to submit an opinion question under this part because a  
3952 majority of the county's registered voters voted against the county imposing the tax and the  
3953 majority of the registered voters who are residents of the city or town described in Subsection  
3954 (6)(a) voted against the imposition of the county tax; or

3955 (B) the city or town legislative body may submit the opinion question to the residents  
3956 of the city or town in accordance with this part because although a majority of the county's  
3957 registered voters voted against the county imposing the tax, the majority of the registered voters  
3958 who are residents of the city or town voted for the imposition of the county tax.

3959 (c) Notwithstanding Subsection (6)(b), at any time a county legislative body may  
3960 provide a city or town legislative body described in Subsection (6)(a) a written resolution  
3961 passed by the county legislative body stating that the county legislative body is not seeking to  
3962 impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and  
3963 Zoological Organizations or Facilities, which permits the city or town legislative body to  
3964 submit under Subsection (1)(a)(i) an opinion question to the city's or town's residents.

3965 Section 35. Section **59-12-1503** (See **59-1-1201 re: Eff**) is amended to read:  
3966 **59-12-1503** (See **59-1-1201 re: Eff**). **Opinion question election -- Imposition of tax**  
3967 **-- Use of tax revenues -- Administration, collection, and enforcement of tax by**  
3968 **commission -- Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**

3969 (1) (a) Beginning on or after April 1, 2004, and subject to the other provisions of this  
3970 part, the county legislative body of a qualifying county may impose a sales and use tax of .25%:

3971 (i) [~~except as provided in Subsections (1)(b) and 59-12-207.1(7)(c),~~] on the  
3972 transactions:

3973 (A) described in Subsection 59-12-103(1); and

3974 (B) within the county, including the cities and towns within the county;

3975 (ii) for the purposes determined by the county legislative body in accordance with  
3976 Subsection (2); and

3977 (iii) in addition to any other sales and use tax authorized under this chapter.

3978 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a  
3979 tax under this section on:

3980 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
3981 are exempt from taxation under Section 59-12-104[-]; or

3982 any amounts paid or charged by a seller that collects a tax under Subsection  
3983 59-12-107(1)(b).

3984 (c) For purposes of this Subsection (1), the location of a transaction shall be  
3985 determined in accordance with [~~Sections 59-12-207.1 through 59-12-207.4~~] Section 59-12-207.

3986 (2) (a) Subject to Subsection (2)(b), before obtaining the approval required by  
3987 Subsection (3), a county legislative body shall adopt a resolution specifying the percentage of  
3988 revenues the county will receive from the tax under this part that will be allocated to fund one  
3989 or more of the following:

3990 (i) a project or service relating to a fixed guideway system:

3991 (A) for the portion of the project or service that is performed within the county; and

3992 (B) if the fixed guideway system is owned and operated by a public transit district  
3993 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;

3994 (ii) a project or service relating to a system for public transit:

3995 (A) for the portion of the project or service that is performed within the county; and

3996 (B) if the system for public transit is owned and operated by a public transit district  
3997 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; or  
3998 (iii) the following relating to a state highway within the county:  
3999 (A) a project beginning on or after the day on which a county legislative body imposes  
4000 a tax under this part only within the county involving:  
4001 (I) new construction;  
4002 (II) a renovation;  
4003 (III) an improvement; or  
4004 (IV) an environmental study;  
4005 (B) debt service on a project described in Subsections (2)(a)(iii)(A)(I) through (IV); or  
4006 (C) bond issuance costs relating to a project described in Subsections (2)(a)(iii)(A)(I)  
4007 through (IV).  
4008 (b) (i) A county legislative body shall in the resolution required by Subsection (2)(a)  
4009 allocate as required by Subsection (2)(a) 100% of the revenues the county will receive from the  
4010 tax under this part.  
4011 (ii) For purposes of this Subsection (2)(b), the revenues a county will receive from the  
4012 tax under this part do not include amounts retained by the commission in accordance with  
4013 Subsection (8).  
4014 (3) (a) Before imposing a tax under this part, a county legislative body shall:  
4015 (i) obtain approval from a majority of the members of the county legislative body to:  
4016 (A) impose the tax; and  
4017 (B) allocate the revenues the county will receive from the tax in accordance with the  
4018 resolution adopted in accordance with Subsection (2); and  
4019 (ii) subject to Subsection (3)(b), submit an opinion question to the county's registered  
4020 voters voting on the imposition of the tax so that each registered voter has the opportunity to  
4021 express the registered voter's opinion on whether a tax should be imposed under this part.  
4022 (b) The opinion question required by Subsection (3)(a)(ii) shall state the allocations  
4023 specified in the resolution:  
4024 (i) adopted in accordance with Subsection (2); and  
4025 (ii) approved by the county legislative body in accordance with Subsection (3)(a).  
4026 (c) The election required by this Subsection (3) shall be held:

- 4027 (i) (A) at a regular general election; and  
4028 (B) in accordance with the procedures and requirements of Title 20A, Election Code,  
4029 governing regular general elections; or  
4030 (ii) (A) at a special election called by the county legislative body;  
4031 (B) only on the date of a municipal general election provided in Subsection  
4032 20A-1-202(1); and  
4033 (C) in accordance with the procedures and requirements of Section 20A-1-203.  
4034 (4) (a) Subject to Subsection (8), if a county legislative body determines that a majority  
4035 of the county's registered voters voting on the imposition of the tax have voted in favor of the  
4036 imposition of the tax in accordance with Subsection (3), the county legislative body may  
4037 impose the tax by a majority vote of all of the members of the county legislative body.  
4038 (b) If a county legislative body imposes a tax under Subsection (4)(a), the revenues  
4039 generated by the tax shall be:  
4040 (i) allocated in accordance with the allocations specified in the resolution under  
4041 Subsection (2); and  
4042 (ii) expended as provided in this part.  
4043 (5) If a county legislative body allocates revenues generated by the tax for a project  
4044 described in Subsection (2)(a)(iii)(A), before beginning the project the county legislative body  
4045 shall:  
4046 (a) obtain approval from the Transportation Commission to complete the project; and  
4047 (b) enter into an interlocal agreement:  
4048 (i) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;  
4049 (ii) with the Department of Transportation; and  
4050 (iii) to complete the project.  
4051 (6) (a) If after a county legislative body imposes a tax under Subsection (4) the county  
4052 legislative body seeks to change the allocation of the tax specified in the resolution under  
4053 Subsection (2), the county legislative body may change the allocation of the tax by:  
4054 (i) adopting a resolution in accordance with Subsection (2) specifying the percentage of  
4055 revenues the county will receive from the tax under this part that will be allocated to fund one  
4056 or more of the systems or projects described in Subsection (2);  
4057 (ii) obtaining approval to change the allocation of the tax from a majority of the

4058 members of the county legislative body; and

4059 (iii) (A) submitting an opinion question to the county's registered voters voting on  
4060 changing the allocation of the tax so that each registered voter has the opportunity to express  
4061 the registered voter's opinion on whether the allocation of the tax should be changed; and

4062 (B) obtaining approval to change the allocation of the tax from a majority of the  
4063 county's registered voters voting on changing the allocation of the tax.

4064 (b) (i) The opinion question required by Subsection (6)(a)(iii) shall state the allocations  
4065 specified in the resolution:

4066 (A) adopted in accordance with Subsection (6)(a)(i); and

4067 (B) approved by the county legislative body in accordance with Subsection (6)(a)(ii).

4068 (ii) The election required by Subsection (6)(a)(iii) shall follow the procedures and  
4069 requirements of Title 11, Chapter 14, Local Government Bonding Act.

4070 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), revenues generated by a tax  
4071 under this part that are allocated for a purpose described in Subsection (2)(a)(i) or (ii) shall be  
4072 transmitted:

4073 (A) by the commission;

4074 (B) to the county;

4075 (C) monthly; and

4076 (D) by electronic funds transfer.

4077 (ii) Notwithstanding Subsection (7)(a)(i), a county may request that the commission  
4078 transfer the revenues described in Subsection (7)(a)(i):

4079 (A) directly to a public transit district:

4080 (I) organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; and

4081 (II) designated by the county; and

4082 (B) by providing written notice to the commission:

4083 (I) requesting the revenues to be transferred directly to a public transit district as  
4084 provided in Subsection (7)(a)(ii)(A); and

4085 (II) designating the public transit district to which the revenues are requested to be  
4086 transferred.

4087 (b) Revenues generated by a tax under this part that are allocated for a purpose  
4088 described in Subsection (2)(a)(iii) shall be:

- 4089 (i) deposited into the State Highway Projects Within Counties Fund created by Section  
4090 72-2-121.1; and
- 4091 (ii) expended as provided in Section 72-2-121.1.
- 4092 (8) (a) (i) Except as provided in Subsection (8)(a)(ii), the tax authorized under this part  
4093 shall be administered, collected, and enforced in accordance with:
- 4094 (A) the same procedures used to administer, collect, and enforce the tax under:
- 4095 (I) Part 1, Tax Collection; or
- 4096 (II) Part 2, Local Sales and Use Tax Act; and
- 4097 (B) Chapter 1, General Taxation Policies.
- 4098 (ii) Notwithstanding Subsection (8)(a)(i), a tax under this part is not subject to  
4099 Subsections 59-12-205(2) through [~~9~~] 6.
- 4100 (b) (i) The commission may retain an amount of tax collected under this part of not to  
4101 exceed the lesser of:
- 4102 (A) 1.5%; or
- 4103 (B) an amount equal to the cost to the commission of administering this part.
- 4104 (ii) Any amount the commission retains under Subsection (8)(b)(i) shall be:
- 4105 (A) placed in the Sales and Use Tax Administrative Fees Account; and
- 4106 (B) used as provided in Subsection 59-12-206(2).
- 4107 (9) (a) (i) Except as provided in Subsection (9)(b) or (c), if, on or after July 1, 2004, a  
4108 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:
- 4109 (A) on the first day of a calendar quarter; and
- 4110 (B) after a 90-day period beginning on the date the commission receives notice meeting  
4111 the requirements of Subsection (9)(a)(ii) from the county.
- 4112 (ii) The notice described in Subsection (9)(a)(i)(B) shall state:
- 4113 (A) that the county will enact or repeal a tax under this part;
- 4114 (B) the statutory authority for the tax described in Subsection (9)(a)(ii)(A);
- 4115 (C) the effective date of the tax described in Subsection (9)(a)(ii)(A); and
- 4116 (D) if the county enacts the tax described in Subsection (9)(a)(ii)(A), the rate of the tax.
- 4117 (b) (i) Notwithstanding Subsection (9)(a)(i), for a transaction described in Subsection  
4118 (9)(b)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 4119 (A) that begins after the effective date of the enactment of the tax; and

4120 (B) if the billing period for the transaction begins before the effective date of the  
4121 enactment of the tax under Subsection (1).

4122 (ii) Notwithstanding Subsection (9)(a)(i), for a transaction described in Subsection  
4123 (9)(b)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

4124 (A) that began before the effective date of the repeal of the tax; and

4125 (B) if the billing period for the transaction begins before the effective date of the repeal  
4126 of the tax imposed under Subsection (1).

4127 (iii) Subsections (9)(b)(i) and (ii) apply to transactions subject to a tax under:

4128 (A) Subsection 59-12-103(1)(b);

4129 (B) Subsection 59-12-103(1)(c);

4130 (C) Subsection 59-12-103(1)(d);

4131 (D) Subsection 59-12-103(1)(e);

4132 (E) Subsection 59-12-103(1)(f);

4133 (F) Subsection 59-12-103(1)(g);

4134 (G) Subsection 59-12-103(1)(h);

4135 (H) Subsection 59-12-103(1)(i);

4136 (I) Subsection 59-12-103(1)(j); or

4137 (J) Subsection 59-12-103(1)(k).

4138 (c) (i) Notwithstanding Subsection (9)(a)(i), if a tax due under this chapter on a  
4139 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an  
4140 enactment or repeal of a tax described in Subsection (9)(a)(i) takes effect:

4141 (A) on the first day of a calendar quarter; and

4142 (B) beginning 60 days after the effective date of the enactment or repeal under  
4143 Subsection (9)(a)(i).

4144 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
4145 the commission may by rule define the term "catalogue sale."

4146 (d) (i) Except as provided in Subsection (9)(e) or (f), if, for an annexation that occurs  
4147 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this  
4148 part for an annexing area, the enactment or repeal shall take effect:

4149 (A) on the first day of a calendar quarter; and

4150 (B) after a 90-day period beginning on the date the commission receives notice meeting

- 4151 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.
- 4152 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:
- 4153 (A) that the annexation described in Subsection (9)(d)(i)(B) will result in an enactment
- 4154 or repeal of a tax under this part for the annexing area;
- 4155 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);
- 4156 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and
- 4157 (D) the rate of the tax described in Subsection (9)(d)(ii)(A).
- 4158 (e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
- 4159 (9)(e)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 4160 (A) that begins after the effective date of the enactment of the tax; and
- 4161 (B) if the billing period for the transaction begins before the effective date of the
- 4162 enactment of the tax under Subsection (1).
- 4163 (ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
- 4164 (9)(e)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 4165 (A) that began before the effective date of the repeal of the tax; and
- 4166 (B) if the billing period for the transaction begins before the effective date of the repeal
- 4167 of the tax imposed under Subsection (1).
- 4168 (iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:
- 4169 (A) Subsection 59-12-103(1)(b);
- 4170 (B) Subsection 59-12-103(1)(c);
- 4171 (C) Subsection 59-12-103(1)(d);
- 4172 (D) Subsection 59-12-103(1)(e);
- 4173 (E) Subsection 59-12-103(1)(f);
- 4174 (F) Subsection 59-12-103(1)(g);
- 4175 (G) Subsection 59-12-103(1)(h);
- 4176 (H) Subsection 59-12-103(1)(i);
- 4177 (I) Subsection 59-12-103(1)(j); or
- 4178 (J) Subsection 59-12-103(1)(k).
- 4179 (f) (i) Notwithstanding Subsection (9)(d)(i), if a tax due under this chapter on a
- 4180 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 4181 enactment or repeal of a tax described in Subsection (9)(d)(i) takes effect:

4182 (A) on the first day of a calendar quarter; and

4183 (B) beginning 60 days after the effective date of the enactment or repeal under

4184 Subsection (9)(d)(i).

4185 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

4186 the commission may by rule define the term "catalogue sale."

4187 Section 36. Section **59-12-1604** is amended to read:

4188 **59-12-1604. Administration, collection, and enforcement of tax -- Administrative**  
4189 **fee.**

4190 (1) Except as provided in Subsection (2), the tax authorized under this part shall be  
4191 administered, collected, and enforced in accordance with:

4192 (a) the same procedures used to administer, collect, and enforce the tax under:

4193 (i) Part 1, Tax Collection; or

4194 (ii) Part 2, Local Sales and Use Tax Act; and

4195 (b) Chapter 1, General Taxation Policies.

4196 (2) [~~Notwithstanding Subsection (1), a~~] A tax under this part is not subject to[~~-(a)-~~  
4197 ~~Sections 59-12-107.1 through 59-12-107.3; (b) Sections 59-12-207.1 through 59-12-207.4; or~~  
4198 ~~(c)~~] Subsections 59-12-205(2) through [~~(9)~~] (6).

4199 (3) (a) The commission:

4200 (i) except as provided in Subsection (3)(a)(ii), shall distribute the revenues generated  
4201 by the tax to the county within which the revenues were generated; and

4202 (ii) notwithstanding Subsection (3)(a)(i), may retain an amount of tax collected under  
4203 this part of not to exceed the lesser of:

4204 (A) 1.5%; or

4205 (B) an amount equal to the cost to the commission of administering this part.

4206 (b) Any amount the commission retains under Subsection (3)(a)(ii) shall be:

4207 (i) placed in the Sales and Use Tax Administrative Fees Account; and

4208 (ii) used as provided in Subsection 59-12-206(2).

4209 Section 37. Section **63-51-4** is amended to read:

4210 **63-51-4. Prepaid Sales and Use Tax Construction Account -- Use of account**  
4211 **funds.**

4212 There is created a Prepaid Sales and Use Tax Construction Account as a special

4213 suspense account within the state General Fund. All revenues collected or received by the  
4214 State Tax Commission from the prepayment of sales or use taxes under this chapter shall be  
4215 deposited with the state treasurer [~~in accordance with Section 59-12-119~~] daily and credited by  
4216 the state treasurer to the Prepaid Sales and Use Tax Construction Account. This account shall  
4217 be used to finance state-related public improvements, including but not limited to highways  
4218 and related facilities and schools and related facilities. Funds from this account shall only be  
4219 disbursed or drawn upon after proper authorization and only after appropriation of these funds  
4220 by the Legislature.

4221 Section 38. Section **69-2-5** is amended to read:

4222 **69-2-5. Funding for 911 emergency telephone service.**

4223 (1) In providing funding of 911 emergency telephone service, any public agency  
4224 establishing a 911 emergency telephone service may:

4225 (a) seek assistance from the federal or state government, to the extent constitutionally  
4226 permissible, in the form of loans, advances, grants, subsidies, and otherwise, directly or  
4227 indirectly;

4228 (b) seek funds appropriated by local governmental taxing authorities for the funding of  
4229 public safety agencies; and

4230 (c) seek gifts, donations, or grants from individuals, corporations, or other private  
4231 entities.

4232 (2) For purposes of providing funding of 911 emergency telephone service, special  
4233 service districts may raise funds as provided in Section 17A-2-1322 and may borrow money  
4234 and incur indebtedness as provided in Section 17A-2-1316.

4235 (3) (a) Except as provided in Subsection (3)(b) and subject to the other provisions of  
4236 this Subsection (3) a county, city, or town within which 911 emergency telephone service is  
4237 provided may levy monthly an emergency services telephone charge on:

4238 (i) each local exchange service switched access line within the boundaries of the  
4239 county, city, or town; and

4240 (ii) each revenue producing radio communications access line with a billing address  
4241 within the boundaries of the county, city, or town.

4242 (b) Notwithstanding Subsection (3)(a), an access line provided for public coin  
4243 telephone service is exempt from emergency telephone charges.

4244 (c) The amount of the charge levied under this section may not exceed:  
4245 (i) 65 cents per month for each local exchange service switched access line;  
4246 (ii) 65 cents per month for each radio communications access line; and  
4247 (iii) 4 cents of the amount of the charge levied under Subsections (3)(c)(i) and (ii), less  
4248 the collection costs of the provider and Tax Commission permitted by Subsection (3)(h) and  
4249 Subsection 53-10-604(2)(b), shall be deposited monthly in the statewide unified E-911  
4250 Emergency Service Fund created in Section 53-10-603, for the purposes outlined in that  
4251 section.

4252 (d) (i) For purposes of this Subsection (3)(d) the following terms shall be defined as  
4253 provided in Section 59-12-102:

- 4254 (A) "mobile telecommunications service";
- 4255 (B) "primary place of use";
- 4256 (C) "service address"; and
- 4257 (D) "telephone service."

4258 (ii) An access line described in Subsection (3)(a) is considered to be within the  
4259 boundaries of a county, city, or town if the telephone services provided over the access line are  
4260 located within the county, city, or town:

- 4261 (A) for purposes of sales and use taxes under Title 59, Chapter 12, Sales and Use Tax  
4262 Act; and
- 4263 (B) determined in accordance with Section 59-12-207.4.

4264 (iii) The rate imposed on an access line under this section shall be determined in  
4265 accordance with Subsection (3)(d)(iv) if the location of an access line described in Subsection  
4266 (3)(a) is determined under Subsection (3)(d)(ii) to be a county, city, or town other than county,  
4267 city, or town in which is located:

- 4268 (A) for telephone service other than mobile telecommunications service, the  
4269 purchaser's service address; or
- 4270 (B) for mobile telecommunications service, the purchaser's primary place of use.

4271 (iv) The rate imposed on an access line under this section shall be the lower of:

- 4272 (A) the rate imposed by the county, city, or town in which the access line is located  
4273 under Subsection (3)(d)(ii); or
- 4274 (B) the rate imposed by the county, city, or town in which it is located:

4275 (I) for telephone service other than mobile telecommunications service, the purchaser's  
4276 service address; or

4277 (II) for mobile telecommunications service, the purchaser's primary place of use.

4278 (e) (i) A county, city, or town shall notify the Public Service Commission of the intent  
4279 to levy the charge under this Subsection (3) at least 30 days prior to the effective date of the  
4280 charge being levied.

4281 (ii) For purposes of this Subsection (3)(e):

4282 (A) "Annexation" means an annexation to:

4283 (I) a city or town under Title 10, Chapter 2, Part 4, Annexation; or

4284 (II) a county under Title 17, Chapter 2, Annexation to County.

4285 (B) "Annexing area" means an area that is annexed into a county, city, or town.

4286 (iii) (A) Except as provided in Subsection (3)(e)(iii)(C) or (D), if on or after July 1,  
4287 2003, a county, city, or town enacts or repeals a charge or changes the amount of the charge  
4288 under this section, the enactment, repeal, or change shall take effect:

4289 (I) on the first day of a calendar quarter; and

4290 (II) after a 90-day period beginning on the date the State Tax Commission receives  
4291 notice meeting the requirements of Subsection (3)(e)(iii)(B) from the county, city, or town.

4292 (B) The notice described in Subsection (3)(e)(iii)(A) shall state:

4293 (I) that the county, city, or town will enact or repeal a charge or change the amount of  
4294 the charge under this section;

4295 (II) the statutory authority for the charge described in Subsection (3)(e)(iii)(B)(I);

4296 (III) the effective date of the charge described in Subsection (3)(e)(iii)(B)(I); and

4297 (IV) if the county, city, or town enacts the charge or changes the amount of the charge  
4298 described in Subsection (3)(e)(iii)(B)(I), the amount of the charge.

4299 (C) Notwithstanding Subsection (3)(e)(iii)(A), the enactment of a charge or a charge  
4300 increase under this section shall take effect on the first day of the first billing period:

4301 (I) that begins after the effective date of the enactment of the charge or the charge  
4302 increase; and

4303 (II) if the billing period for the charge begins before the effective date of the enactment  
4304 of the charge or the charge increase imposed under this section.

4305 (D) Notwithstanding Subsection (3)(e)(iii)(A), the repeal of a charge or a charge

4306 decrease under this section shall take effect on the first day of the last billing period:  
4307       (I) that began before the effective date of the repeal of the charge or the charge  
4308 decrease; and  
4309       (II) if the billing period for the charge begins before the effective date of the repeal of  
4310 the charge or the charge decrease imposed under this section.  
4311       (iv) (A) Except as provided in Subsection (3)(e)(iv)(C) or (D), if for an annexation that  
4312 occurs on or after July 1, 2003, the annexation will result in the enactment, repeal, or a change  
4313 in the amount of a charge imposed under this section for an annexing area, the enactment,  
4314 repeal, or change shall take effect:  
4315       (I) on the first day of a calendar quarter; and  
4316       (II) after a 90-day period beginning on the date the State Tax Commission receives  
4317 notice meeting the requirements of Subsection (3)(e)(iv)(B) from the county, city, or town that  
4318 annexes the annexing area.  
4319       (B) The notice described in Subsection (3)(e)(iv)(A) shall state:  
4320       (I) that the annexation described in Subsection (3)(e)(iv)(A) will result in an  
4321 enactment, repeal, or a change in the charge being imposed under this section for the annexing  
4322 area;  
4323       (II) the statutory authority for the charge described in Subsection (3)(e)(iv)(B)(I);  
4324       (III) the effective date of the charge described in Subsection (3)(e)(iv)(B)(I); and  
4325       (IV) if the county, city, or town enacts the charge or changes the amount of the charge  
4326 described in Subsection (3)(e)(iv)(B)(I), the amount of the charge.  
4327       (C) Notwithstanding Subsection (3)(e)(iv)(A), the enactment of a charge or a charge  
4328 increase under this section shall take effect on the first day of the first billing period:  
4329       (I) that begins after the effective date of the enactment of the charge or the charge  
4330 increase; and  
4331       (II) if the billing period for the charge begins before the effective date of the enactment  
4332 of the charge or the charge increase imposed under this section.  
4333       (D) Notwithstanding Subsection (3)(e)(iv)(A), the repeal of a charge or a charge  
4334 decrease under this section shall take effect on the first day of the last billing period:  
4335       (I) that began before the effective date of the repeal of the charge or the charge  
4336 decrease; and

4337 (II) if the billing period for the charge begins before the effective date of the repeal of  
4338 the charge or the charge decrease imposed under this section.

4339 (f) Subject to Subsection (3)(g), an emergency services telephone charge levied under  
4340 this section shall:

4341 (i) be billed and collected by the person that provides the:

4342 (A) local exchange service switched access line services; or

4343 (B) radio communications access line services; and

4344 (ii) except for costs retained under Subsection (3)(h), remitted to the State Tax  
4345 Commission.

4346 (g) An emergency services telephone charge on a mobile telecommunications service  
4347 may be levied, billed, and collected only to the extent permitted by the Mobile  
4348 Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

4349 (h) The person that bills and collects the charges levied under Subsection (3)(f) may:

4350 (i) bill the charge imposed by this section in combination with the charge levied under  
4351 Section 69-2-5.6 as one line item charge; and

4352 (ii) retain an amount not to exceed 1.5% of the levy collected under this section as  
4353 reimbursement for the cost of billing, collecting, and remitting the levy.

4354 (i) The State Tax Commission shall:

4355 (i) collect, enforce, and administer the charge imposed under this Subsection (3)  
4356 pursuant to the same procedures used in the administration, collection, and enforcement of the  
4357 state sales and use taxes under:

4358 (A) Title 59, Chapter 1, General Taxation Policies; and

4359 (B) Title 59, Chapter 12, Part 1, Tax Collection, except for:

4360 (I) Section 59-12-104;

4361 (II) Section 59-12-104.1; and

4362 (III) Section 59-12-104.2[~~;~~and].

4363 [~~(IV) Sections 59-12-107.1 through 59-12-107.3.~~]

4364 (ii) transmit monies collected under this Subsection (3):

4365 (A) monthly; and

4366 (B) by electronic funds transfer by the commission to the county, city, or town that  
4367 imposes the charge; and

4368 (iii) charge the county, city, or town for the State Tax Commission's services under this  
4369 Subsection (3) in an amount:

4370 (A) sufficient to reimburse the State Tax Commission for the cost to the State Tax  
4371 Commission in rendering the services; and

4372 (B) that may not exceed an amount equal to 1.5% of the charges imposed under this  
4373 Subsection (3).

4374 (4) (a) Any money received by a public agency for the provision of 911 emergency  
4375 telephone service shall be deposited in a special emergency telephone service fund.

4376 (b) (i) Except as provided in Subsection (5), the money in the emergency telephone  
4377 service fund shall be expended by the public agency to pay the costs of establishing, installing,  
4378 maintaining, and operating a 911 emergency telephone system or integrating a 911 system into  
4379 an established public safety dispatch center, including contracting with the providers of local  
4380 exchange service, radio communications service, and vendors of appropriate terminal  
4381 equipment as necessary to implement the 911 emergency telephone service.

4382 (ii) Revenues derived for the funding of 911 emergency telephone service may only be  
4383 used for that portion of costs related to the operation of the 911 emergency telephone system  
4384 when such a system is integrated with any public safety dispatch system.

4385 (c) Any unexpended money in the emergency telephone service fund at the end of a  
4386 fiscal year does not lapse, and must be carried forward to be used for the purposes described in  
4387 this section.

4388 (5) (a) Revenue received by a local entity from an increase in the levy imposed under  
4389 Subsection (3) after the 2004 Annual General Session, or from grants from the Utah 911  
4390 Committee pursuant to Section 53-10-605:

4391 (i) shall be deposited into the special emergency telephone service fund described in  
4392 Subsection (4)(a); and

4393 (ii) shall only be used for that portion of the costs related to the development and  
4394 operation of wireless and land-based enhanced 911 emergency telephone service and the  
4395 implementation of wireless E-911 Phase I and Phase II services as provided in Subsection  
4396 (5)(b).

4397 (b) The costs allowed under Subsection (5)(a)(ii) shall include the public service  
4398 answering point's or local entity's costs for:

4399 (i) acquisition, upgrade, modification, maintenance, and operation of public service  
4400 answering point equipment capable of receiving E-911 information;  
4401 (ii) database development, operation, and maintenance; and  
4402 (iii) personnel costs associated with establishing, installing, maintaining, and operating  
4403 wireless E-911 Phase I and Phase II services, including training emergency service personnel  
4404 regarding receipt and use of E-911 wireless service information and educating consumers  
4405 regarding the appropriate and responsible use of E-911 wireless service.

4406 (6) A local entity that increases the levy it imposes under Subsection (3)(c) after the  
4407 2004 Annual General Session shall increase the levy to the maximum amount permitted by  
4408 Subsection (3)(c).

4409 Section 39. **Repealer.**

4410 This bill repeals:

4411 Section 17A-2-1064, **Airport to University of Utah Light Rail Restricted Account --**  
4412 **Creation -- Use of revenues -- Distribution of revenues.**

4413 Section 59-12-102.1, **Authority to enter into agreement -- Purpose and scope of**  
4414 **agreement -- Rulemaking authority -- Agreement may require a state that is a member of**  
4415 **the agreement to abide by certain requirements.**

4416 Section 59-12-107.1 (Effective 07/01/06), **Direct payment permit.**

4417 Section 59-12-107.2 (Effective 07/01/06), **Services, computer software, or digital**  
4418 **goods concurrently available for use in more than one location.**

4419 Section 59-12-107.3 (Effective 07/01/06), **Collection, remittance, and payment of**  
4420 **taxes on direct mail.**

4421 Section 59-12-107.4, **Certified service provider liability.**

4422 Section 59-12-107.5, **Seller or certified service provider reliance on commission**  
4423 **information or certain systems.**

4424 Section 59-12-119, **Revenue credited to General Fund.**

4425 Section 59-12-121, **Amnesty.**

4426 Section 59-12-122 (Effective 07/01/06), **Monetary allowance for a seller or certified**  
4427 **service provider registered under the agreement.**

4428 Section 59-12-207.1 (Effective 07/01/06), **Definitions -- Location of certain**  
4429 **transactions -- Reports to commission -- Direct payment provision for a seller making**

4430 **certain purchases -- Exceptions -- Rulemaking authority.**

4431           Section **59-12-207.2 (Effective 07/01/06), Location of transaction involving a sale of**  
4432 **a motor vehicle, aircraft, watercraft, modular home, manufactured home, or mobile**  
4433 **home.**

4434           Section **59-12-207.3 (Effective 07/01/06), Location of transaction involving lease or**  
4435 **rental of certain tangible personal property.**

4436           Section **59-12-207.5, Seller or certified service provider reliance on commission**  
4437 **information or certain systems.**

4438           Section **59-12-303, Seller or certified service provider reliance on commission**  
4439 **information or certain systems.**

4440           Section **59-12-356, Seller or certified service provider reliance on commission**  
4441 **information or certain systems.**

4442           Section **59-12-404, Seller or certified service provider reliance on commission**  
4443 **information or certain systems.**

4444           Section **59-12-505, Seller or certified service provider reliance on commission**  
4445 **information or certain systems.**

4446           Section **59-12-604, Seller or certified service provider reliance on commission**  
4447 **information or certain systems.**

4448           Section **59-12-706, Seller or certified service provider reliance on commission**  
4449 **information or certain systems.**

4450           Section **59-12-807, Seller or certified service provider reliance on commission**  
4451 **information or certain systems.**

4452           Section **59-12-1003, Seller or certified service provider reliance on commission**  
4453 **information or certain systems.**

4454           Section **59-12-1103, Seller or certified service provider reliance on commission**  
4455 **information or certain systems.**

4456           Section **59-12-1303, Seller or certified service provider reliance on commission**  
4457 **information or certain systems.**

4458           Section **59-12-1404, Seller or certified service provider reliance on commission**  
4459 **information or certain systems.**

4460           Section **59-12-1504, Seller or certified service provider reliance on commission**

4461 **information or certain systems.**

4462 Section 40. **Effective date.**

4463 This bill takes effect on July 1, 2006.

4464 Section 41. **Revisor instructions.**

4465 It is the intent of the Legislature that, in preparing the Utah Code database for  
4466 publication, that:

4467 (1) the repeal of Section 59-12-207 by Section 68, Chapter 312, Laws of Utah 2003,  
4468 not be given effect; and

4469 (2) Section 59-12-207 remains in effect as last amended by Section 7, Chapter 1, Laws  
4470 of Utah 2004, Third Special Session.

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**Legislative Review Note**

**as of 2-20-06 9:24 AM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

**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
<b>TOTAL</b>	<b>(\$441,800)</b>	<b>(\$441,800)</b>	<b>\$0</b>	<b>\$0</b>

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**Individual and Business Impact**

No fiscal impact.

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