

1 **TAX COMMISSION ADMINISTRATION,**
2 **COLLECTION, AND ENFORCEMENT**
3 **AMENDMENTS**

4 2009 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Wayne L. Niederhauser**

7 House Sponsor: Todd E. Kiser

8
9 **LONG TITLE**

10 **General Description:**

11 This bill modifies provisions related to the administration, collection, and enforcement
12 of certain taxes, fees, and charges by the State Tax Commission.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ addresses the administration, collection, and enforcement of certain taxes, fees, and
16 charges by the State Tax Commission;
- 17 ▶ defines terms;
- 18 ▶ addresses penalties and interest on a tax, fee, or charge;
- 19 ▶ addresses the procedure for obtaining a redetermination of a deficiency;
- 20 ▶ addresses general collection procedures by the State Tax Commission;
- 21 ▶ addresses mailing procedures for the State Tax Commission or a person required to
22 mail certain documents to the State Tax Commission;
- 23 ▶ addresses record retention requirements for a person subject to a tax, fee, or charge;
- 24 ▶ enacts provisions related to the assessment, collection, and refund of a tax, fee, or
25 charge, including:
 - 26 • providing general collection authority;
 - 27 • providing exceptions to the provisions;
 - 28 • allowing for the State Tax Commission to make rules establishing collection
29 procedures;

- 30 • addressing notice requirements for the State Tax Commission;
- 31 • providing for an objection to a notice of deficiency;
- 32 • requiring the State Tax Commission to estimate a tax, fee, or charge, if a person
- 33 fails to file a return;
- 34 • addressing mathematical errors;
- 35 • addressing assessments of a tax, fee, or charge;
- 36 • providing for recomputation of amounts due;
- 37 • addressing actions for the collection of a tax, fee, or charge;
- 38 • addressing the time period for assessing a tax, fee, or charge;
- 39 • addressing credits and refunds;
- 40 • addressing notice and demand for an unpaid liability;
- 41 • addressing notices to a third party relating to a delinquency in the payment of a
- 42 liability;
- 43 • addressing a lien related to the payment of a liability;
- 44 • addressing a notice of a lien;
- 45 • addressing a warrant;
- 46 • addressing a levy for an unpaid liability;
- 47 • addressing a transferee obligated for the payment of a liability of a person that
- 48 originally owes the liability;
- 49 • addressing burden of proof;
- 50 • addressing statutes of limitations;
- 51 • addressing venue; and
- 52 • addressing miscellaneous provisions;
- 53 ▶ addresses overpayments, credits, and refunds in relation to certain taxes;
- 54 ▶ addresses State Tax Commission rulemaking authority;
- 55 ▶ addresses assessments and collections in relation to income taxes;
- 56 ▶ addresses income tax return filing requirements;
- 57 ▶ addresses powers and duties of the State Tax Commission;

- 58 ▶ addresses State Tax Commission collection, administration, and enforcement
- 59 authority in relation to the emergency services telephone charge to fund the Utah
- 60 Poison Control Center; and
- 61 ▶ makes technical changes.

62 Monies Appropriated in this Bill:

63 None

64 Other Special Clauses:

65 None

66 Utah Code Sections Affected:

67 AMENDS:

- 68 **10-1-307**, as last amended by Laws of Utah 2008, Chapter 384
- 69 **10-1-405**, as last amended by Laws of Utah 2008, Chapters 382 and 384
- 70 **19-6-410.5**, as last amended by Laws of Utah 2008, Chapter 382
- 71 **34A-2-202**, as last amended by Laws of Utah 2006, Chapter 275
- 72 **38-12-101**, as last amended by Laws of Utah 1998, Chapter 327
- 73 **59-1-101**, as enacted by Laws of Utah 1987, Chapter 3
- 74 **59-1-302**, as last amended by Laws of Utah 2008, Chapter 382
- 75 **59-1-401**, as last amended by Laws of Utah 2008, Chapter 382
- 76 **59-1-501**, as last amended by Laws of Utah 1987, Chapter 161
- 77 **59-1-703**, as last amended by Laws of Utah 2001, Chapter 9
- 78 **59-6-104**, as last amended by Laws of Utah 2008, Chapter 382
- 79 **59-7-519**, as last amended by Laws of Utah 2000, Chapter 86
- 80 **59-7-522**, as last amended by Laws of Utah 1998, Chapter 299
- 81 **59-10-501**, as renumbered and amended by Laws of Utah 1987, Chapter 2
- 82 **59-10-505**, as renumbered and amended by Laws of Utah 1987, Chapter 2
- 83 **59-10-510**, as renumbered and amended by Laws of Utah 1987, Chapter 2
- 84 **59-10-529**, as last amended by Laws of Utah 2007, Chapter 326
- 85 **59-10-531**, as last amended by Laws of Utah 1987, Chapter 161

- 86 **59-10-536**, as renumbered and amended by Laws of Utah 1987, Chapter 2
- 87 **59-10-537**, as last amended by Laws of Utah 1994, Chapter 138
- 88 **59-10-539**, as last amended by Laws of Utah 1993, Second Special Session, Chapter 1
- 89 **59-10-544**, as last amended by Laws of Utah 2007, Chapter 122
- 90 **59-11-113**, as last amended by Laws of Utah 2008, Chapter 382
- 91 **59-12-104**, as last amended by Laws of Utah 2008, Second Special Session, Chapter 2
- 92 **59-12-107**, as last amended by Laws of Utah 2008, Chapters 7, 382, and 384
- 93 **59-12-110**, as last amended by Laws of Utah 2008, Chapters 382 and 384
- 94 **59-12-110.1**, as last amended by Laws of Utah 2008, Chapter 384
- 95 **59-12-111**, as last amended by Laws of Utah 2001, Chapter 9
- 96 **59-12-128**, as enacted by Laws of Utah 2008, Chapter 384
- 97 **59-12-209**, as last amended by Laws of Utah 2008, Chapter 382
- 98 **59-13-209**, as last amended by Laws of Utah 2005, Chapter 198
- 99 **59-13-210**, as last amended by Laws of Utah 1998, Chapter 299
- 100 **59-13-211**, as enacted by Laws of Utah 1987, Chapter 6
- 101 **59-13-312**, as last amended by Laws of Utah 1997, Chapter 271
- 102 **59-13-313**, as last amended by Laws of Utah 2000, Chapter 86
- 103 **59-13-318**, as last amended by Laws of Utah 1998, Chapter 299
- 104 **59-14-205**, as last amended by Laws of Utah 2007, Chapter 6
- 105 **62A-11-304.1**, as last amended by Laws of Utah 2008, Chapter 382
- 106 **69-2-5.5**, as last amended by Laws of Utah 2008, Chapter 384

107 ENACTS:

- 108 **59-1-1401**, Utah Code Annotated 1953
- 109 **59-1-1402**, Utah Code Annotated 1953
- 110 **59-1-1403**, Utah Code Annotated 1953
- 111 **59-1-1404**, Utah Code Annotated 1953
- 112 **59-1-1405**, Utah Code Annotated 1953
- 113 **59-1-1406**, Utah Code Annotated 1953

114 **59-1-1407**, Utah Code Annotated 1953
115 **59-1-1408**, Utah Code Annotated 1953
116 **59-1-1409**, Utah Code Annotated 1953
117 **59-1-1410**, Utah Code Annotated 1953
118 **59-1-1411**, Utah Code Annotated 1953
119 **59-1-1412**, Utah Code Annotated 1953
120 **59-1-1413**, Utah Code Annotated 1953
121 **59-1-1414**, Utah Code Annotated 1953
122 **59-1-1415**, Utah Code Annotated 1953
123 **59-1-1416**, Utah Code Annotated 1953
124 **59-1-1417**, Utah Code Annotated 1953
125 **59-1-1418**, Utah Code Annotated 1953
126 **59-1-1419**, Utah Code Annotated 1953

127 REPEALS:

128 **59-1-302.1**, as enacted by Laws of Utah 1994, Chapter 107
129 **59-1-706**, as renumbered and amended by Laws of Utah 1987, Chapter 3
130 **59-5-105**, as last amended by Laws of Utah 1988, Chapter 4
131 **59-5-112**, as repealed and reenacted by Laws of Utah 1988, Chapter 4
132 **59-5-113**, as repealed and reenacted by Laws of Utah 1988, Chapter 4
133 **59-5-205**, as enacted by Laws of Utah 1988, Chapter 4
134 **59-5-212**, as enacted by Laws of Utah 1988, Chapter 4
135 **59-5-213**, as enacted by Laws of Utah 1988, Chapter 4
136 **59-5-214**, as last amended by Laws of Utah 1998, Chapter 299
137 **59-7-506**, as renumbered and amended by Laws of Utah 1993, Chapter 169
138 **59-7-516**, as renumbered and amended by Laws of Utah 1993, Chapter 169
139 **59-7-517**, as renumbered and amended by Laws of Utah 1993, Chapter 169
140 **59-7-518**, as last amended by Laws of Utah 2000, Chapter 86
141 **59-7-520**, as renumbered and amended by Laws of Utah 1993, Chapter 169

142 **59-7-521**, as last amended by Laws of Utah 2000, Chapter 86
143 **59-7-523**, as renumbered and amended by Laws of Utah 1993, Chapter 169
144 **59-7-524**, as renumbered and amended by Laws of Utah 1993, Chapter 169
145 **59-7-525**, as renumbered and amended by Laws of Utah 1993, Chapter 169
146 **59-7-526**, as renumbered and amended by Laws of Utah 1993, Chapter 169
147 **59-7-527**, as renumbered and amended by Laws of Utah 1993, Chapter 169
148 **59-9-106**, as last amended by Laws of Utah 1998, Chapter 299
149 **59-10-506**, as renumbered and amended by Laws of Utah 1987, Chapter 2
150 **59-10-521**, as renumbered and amended by Laws of Utah 1987, Chapter 2
151 **59-10-523**, as renumbered and amended by Laws of Utah 1987, Chapter 2
152 **59-10-524**, as last amended by Laws of Utah 2000, Chapter 86
153 **59-10-525**, as renumbered and amended by Laws of Utah 1987, Chapter 2
154 **59-10-526**, as renumbered and amended by Laws of Utah 1987, Chapter 2
155 **59-10-528**, as renumbered and amended by Laws of Utah 1987, Chapter 2
156 **59-10-532**, as last amended by Laws of Utah 1987, Chapter 161
157 **59-10-533**, as last amended by Laws of Utah 1987, Chapter 161
158 **59-10-535**, as last amended by Laws of Utah 1987, Chapter 161
159 **59-10-540**, as last amended by Laws of Utah 2006, Chapter 55
160 **59-10-542**, as renumbered and amended by Laws of Utah 1987, Chapter 2
161 **59-10-543**, as renumbered and amended by Laws of Utah 1987, Chapter 2
162 **59-12-113**, as last amended by Laws of Utah 2003, Chapter 312
163 **59-12-114**, as last amended by Laws of Utah 2008, Chapter 382
164 **59-12-115**, as last amended by Laws of Utah 2003, Chapter 312
165 **59-13-316**, as last amended by Laws of Utah 2000, Chapter 86
166 **59-13-317**, as last amended by Laws of Utah 1997, Chapter 271
167 **59-14-405**, as last amended by Laws of Utah 1993, Chapter 169
168 **59-15-103**, as last amended by Laws of Utah 1998, Chapter 299
169 **59-23-6**, as last amended by Laws of Utah 1998, Chapter 299

170 59-24-107, as enacted by Laws of Utah 2001, Chapter 314

171 59-25-107, as enacted by Laws of Utah 2003, Chapter 295

172 59-26-107, as enacted by Laws of Utah 2004, Chapter 300

173 59-27-107, as enacted by Laws of Utah 2004, Chapter 214



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

176 Section 1. Section 10-1-307 is amended to read:

177 **10-1-307. Administration, collection, and enforcement of taxes by commission --**
178 **Distribution of revenues -- Charge for services -- Collection of taxes by municipality.**

179 (1) Except as provided in Subsection (3), the commission shall administer, collect, and
180 enforce[, and administer] the municipal energy sales and use tax from energy suppliers
181 according to the procedures established in:

182 (a) Title 59, Chapter 1, General Taxation Policies; and

183 (b) Title 59, Chapter 12, Part 1, Tax Collection, except for Sections 59-12-107.1 and
184 59-12-123.

185 (2) (a) Except as provided in Subsections 10-1-203(3)(d), 10-1-305(5), and
186 10-1-310(2) and subject to Subsection (6), the commission shall pay a municipality the
187 difference between:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

219 (6) (a) As used in this Subsection (6):

220 (i) "2005 base amount" means, for a municipality that imposes a municipal energy
221 sales and use tax, the natural gas portion of municipal energy sales and use tax proceeds paid
222 to the municipality for fiscal year 2005.

223 (ii) "2006 base amount" means, for a municipality that imposes a municipal energy
224 sales and use tax, the natural gas portion of municipal energy sales and use tax proceeds paid
225 to the municipality for fiscal year 2006, reduced by the 2006 rebate amount.

226 (iii) "2006 rebate amount" means, for a municipality that imposes a municipal energy
227 sales and use tax, the difference between:

228 (A) the natural gas portion of municipal energy sales and use tax proceeds paid to the
229 municipality for fiscal year 2006; and

230 (B) the 2005 base amount, plus:

231 (I) 10% of the 2005 base amount; and

232 (II) the natural gas portion of municipal energy sales and use tax proceeds paid to the
233 municipality for fiscal year 2006 attributable to an increase in the rate of the municipal energy
234 sales and use tax implemented by the municipality during fiscal year 2006.

235 (iv) "2007 rebate amount" means, for a municipality that imposes a municipal energy
236 sales and use tax, the difference between:

237 (A) the natural gas portion of municipal energy sales and use tax proceeds paid to the
238 municipality for fiscal year 2007; and

239 (B) the 2006 base amount, plus:

240 (I) 10% of the 2006 base amount; and

241 (II) the natural gas portion of municipal energy sales and use tax proceeds paid to the
242 municipality for fiscal year 2007 attributable to an increase in the rate of the municipal energy
243 sales and use tax implemented by the municipality during fiscal year 2007.

244 (v) "Fiscal year 2005" means the period beginning July 1, 2004 and ending June 30,
245 2005.

246 (vi) "Fiscal year 2006" means the period beginning July 1, 2005 and ending June 30,
247 2006.

248 (vii) "Fiscal year 2007" means the period beginning July 1, 2006 and ending June 30,
249 2007.

250 (viii) "Gas supplier" means an energy supplier that supplies natural gas.

251 (ix) "Natural gas portion" means the amount of municipal energy sales and use tax
252 proceeds attributable to sales and uses of natural gas.

253 (b) (i) In December 2006, each gas supplier shall reduce the natural gas portion of

254 municipal energy sales and use gas proceeds to be paid to a municipality by the 2006 rebate
255 amount.

256 (ii) If the 2006 rebate amount exceeds the amount of the natural gas portion of
257 municipal energy sales and use tax proceeds for December 2006, the gas supplier shall reduce
258 the natural gas portion of municipal energy sales and use tax proceeds to be paid to a
259 municipality each month thereafter until the 2006 rebate amount is exhausted.

260 (iii) For December 2006 and for each month thereafter that the gas supplier is required
261 under Subsection (6)(b)(ii) to reduce the natural gas portion of municipal energy sales and use
262 tax proceeds to be paid to a municipality:

263 (A) each municipality imposing a municipal energy sales and use tax shall provide the
264 gas supplier with the amount by which its municipal energy sales and use tax rate applicable
265 to the sales and uses of natural gas would need to be reduced in order to reduce the natural gas
266 portion of municipal energy sales and use tax proceeds by the same amount as the reduction to
267 the municipality; and

268 (B) each gas supplier shall reduce the municipal energy sales and use tax rate
269 applicable to sales and uses of natural gas by the amount of the tax rate reduction provided by
270 the municipality.

271 (c) (i) In December 2007, each gas supplier shall reduce the natural gas portion of
272 municipal energy sales and use tax proceeds to be paid to a municipality by the 2007 rebate
273 amount.

274 (ii) If the 2007 rebate amount exceeds the amount of the natural gas portion of
275 municipal energy sales and use tax proceeds for December 2007, the gas supplier shall reduce
276 the natural gas portion of municipal energy sales and use tax proceeds to be paid to a
277 municipality each month thereafter until the 2007 rebate amount is exhausted.

278 (iii) For December 2007 and for each month thereafter that the gas supplier is required
279 under Subsection (6)(c)(ii) to reduce the natural gas portion of municipal energy sales and use
280 tax proceeds to be paid to a municipality:

281 (A) each municipality imposing a municipal energy sales and use tax shall provide the

282 gas supplier with the amount by which its municipal energy sales and use tax rate applicable
283 to the sales and uses of natural gas would need to be reduced in order to reduce the natural gas
284 portion of municipal energy sales and use tax proceeds by the same amount as the reduction to
285 the municipality; and

286 (B) each gas supplier shall reduce the municipal energy sales and use tax rate
287 applicable to sales and uses of natural gas by the amount of the tax rate reduction provided by
288 the municipality.

289 (d) Nothing in this Subsection (6) may be construed to require a reduction under
290 Subsection (6)(b) or (c) if the rebate amount is zero or negative.

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

292 **10-1-405. Collection of taxes by commission -- Uniform interlocal agreement --**
293 **Rulemaking authority -- Charge for services.**

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

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

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

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

301 (A) except for:

302 (I) Subsection 59-12-103(2)(g);

303 (II) Section 59-12-104;

304 (III) Section 59-12-104.1;

305 (IV) Section 59-12-104.2;

306 (V) Section 59-12-104.3;

307 (VI) Section 59-12-107.1; and

308 (VII) Section 59-12-123; and

309 (B) except that for purposes of Section [~~59-12-110~~] 59-1-1410, the term "[taxpayer]

310 person" may include a customer from whom a municipal telecommunications license tax is
311 recovered in accordance with Subsection 10-1-403(2); and

312 (b) a uniform interlocal agreement:

313 (i) between:

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

315 (B) the commission;

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

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

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

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

321 (i) transmit monies collected under this part:

322 (A) monthly; and

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

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

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

327 (A) sufficient to reimburse the commission for the cost to the commission in rendering
328 the services; and

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

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

334 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
335 the commission shall develop a uniform interlocal agreement that meets the requirements of
336 this section.

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

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

341 (4) If, on July 1, 2007, a municipality has in effect an ordinance that levies a
342 municipal telecommunications license tax under this part at a rate that exceeds 3.5%:

343 (a) except as provided in Subsection (4)(b), beginning on July 1, 2007, the
344 commission shall collect the municipal telecommunications license tax:

345 (i) within the municipality;

346 (ii) at a rate of 3.5%; and

347 (iii) from a telecommunications provider required to pay the municipal
348 telecommunications license tax on or after July 1, 2007; and

349 (b) the commission shall collect a municipal telecommunications license tax within
350 the municipality at the rate imposed by the municipality if:

351 (i) after July 1, 2007, the municipality has in effect an ordinance that levies a
352 municipal telecommunications license tax under this part at a rate of up to 3.5%;

353 (ii) the municipality meets the requirements of Subsection 10-1-403(3)(b) in changing
354 the rate of the municipal telecommunications license tax; and

355 (iii) a telecommunications provider is required to pay the municipal
356 telecommunications license tax on or after the day on which the ordinance described in
357 Subsection (4)(b)(ii) takes effect.

358 Section 3. Section **19-6-410.5** is amended to read:

359 **19-6-410.5. Environmental assurance program -- Participant fee -- State Tax**
360 **Commission administration, collection, and enforcement of tax.**

361 (1) As used in this section:

362 (a) "Cash balance" means cash plus investments and current accounts receivable
363 minus current accounts payable, excluding the liabilities estimated by the state risk manager.

364 (b) "Commission" means the State Tax Commission, as defined in Section 59-1-101.

365 (2) (a) There is created an Environmental Assurance Program.

366 (b) The program shall provide to a participating [owners and operators] owner or
 367 operator, upon payment of the fee imposed under Subsection (4), assistance with satisfying the
 368 financial responsibility requirements of 40 [~~CFR~~] C.F.R., Part 280, Subpart H, by providing
 369 funds from the Petroleum Storage Tank Trust Fund established in Section 19-6-409, subject to
 370 the terms and conditions of Chapter 6, Part 4, Underground Storage Tank Act, and rules
 371 implemented under that part.

372 (3) (a) Subject to Subsection (3)(b), participation in the program is voluntary.

373 (b) [~~Each~~] An owner [~~and~~] or operator seeking to satisfy financial responsibility
 374 requirements through the program shall use the program for all petroleum underground storage
 375 tanks that the owner or operator owns or operates.

376 (4) (a) There is assessed an environmental assurance fee of 1/2 cent per gallon on the
 377 first sale or use of petroleum products in the state.

378 (b) The environmental assurance fee and any other revenue collected under this
 379 section shall be deposited in the Petroleum Storage Tank Trust Fund created in Section
 380 19-6-409 and used solely for the purposes listed in Section 19-6-409.

381 [~~(5) (a) The commission shall collect the environmental assurance fee and any~~
 382 ~~penalties and interest imposed under this section.]~~

383 (5) (a) The commission shall administer, collect, and enforce the fee imposed under
 384 this section according to the same procedures used in the administration, collection, and
 385 enforcement of the state sales and use tax under:

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

387 (ii) Title 59, Chapter 12, Part 1, Tax Collection.

388 (b) [~~By following the procedures and requirements of~~] In accordance with Title 63G,
 389 Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules to
 390 establish:

391 (i) the method of payment of the environmental assurance fee;

392 (ii) the procedure for reimbursement or exemption of [~~owners or operators who do~~] an
 393 owner or operator that does not participate in the program, including [owners and operators of]

394 an owner or operator of an above ground storage [~~tanks~~] tank; and

395 (iii) the procedure for confirming with the department [~~those owners and operators~~
 396 ~~who qualify~~] that an owner or operator qualifies for reimbursement or exemption under
 397 Subsection (5)(b)(ii).

398 (c) The commission may retain an amount not to exceed 2.5% of fees collected under
 399 this section for the cost to [~~it~~] the commission of rendering its services.

400 (6) (a) The person [~~or entity~~] responsible for payment of the fee under this section
 401 shall, by the last day of the month following the month in which the sale occurs:

402 (i) complete and submit the form prescribed by the commission; and

403 (ii) pay the fee to the commission.

404 (b) (i) The penalties and interest for failure to file the form or to pay the environmental
 405 assurance fee are the same as the penalties and interest under Sections 59-1-401 and 59-1-402.

406 (ii) The commission shall deposit penalties and interest collected under this section in
 407 the Petroleum Storage Tank Trust Fund.

408 (c) The commission shall report to the department [~~any person or entity~~] a person who
 409 is delinquent in payment of the fee under this section.

410 (7) (a) (i) If the cash balance of the Petroleum Storage Tank Trust Fund on June 30 of
 411 any year exceeds \$20,000,000, the assessment of the environmental assurance fee as provided
 412 in Subsection (4) is reduced to 1/4 cent per gallon beginning November 1.

413 (ii) The reduction [~~shall remain~~] under this Subsection (7)(a) remains in effect until
 414 modified by the Legislature in a general or special session.

415 (b) The commission shall determine the cash balance of the fund each year as of June
 416 30.

417 (c) Before September 1 of each year, the department shall provide the commission
 418 with the accounts payable of the fund as of June 30.

419 Section 4. Section **34A-2-202** is amended to read:

420 **34A-2-202. Assessment on self-insured employers including the state, counties,**
 421 **cities, towns, or school districts paying compensation direct.**

422 (1) (a) (i) A self-insured employer, including a county, city, town, or school district,
423 shall pay annually, on or before March 31, an assessment in accordance with this section and
424 rules made by the commission under this section.

425 (ii) For purposes of this section, "self-insured employer" is as defined in Section
426 34A-2-201.5, except it includes the state if the state self-insures under Section 34A-2-203.

427 (b) The assessment required by Subsection (1)(a) is:

428 (i) to be collected by the State Tax Commission;

429 (ii) paid by the State Tax Commission into the state treasury as provided in Subsection
430 59-9-101(2); and

431 (iii) subject to the offset provided in Section 34A-2-202.5.

432 (c) The assessment under Subsection (1)(a) shall be based on a total calculated
433 premium multiplied by the premium assessment rate established pursuant to Subsection
434 59-9-101(2).

435 (d) The total calculated premium, for purposes of calculating the assessment under
436 Subsection (1)(a), shall be calculated by:

437 (i) multiplying the total of the standard premium for each class code calculated in
438 Subsection (1)(e) by the self-insured employer's experience modification factor; and

439 (ii) multiplying the total under Subsection (1)(d)(i) by a safety factor determined under
440 Subsection (1)(g).

441 (e) A standard premium shall be calculated by:

442 (i) multiplying the prospective loss cost for the year being considered, as filed with the
443 insurance department pursuant to Section 31A-19a-406, for each applicable class code by 1.10
444 to determine the manual rate for each class code; and

445 (ii) multiplying the manual rate for each class code under Subsection (1)(e)(i) by each
446 \$100 of the self-insured employer's covered payroll for each class code.

447 (f) (i) Each self-insured employer paying compensation direct shall annually obtain the
448 experience modification factor required in Subsection (1)(d)(i) by using:

449 (A) the rate service organization designated by the insurance commissioner in Section

450 31A-19a-404; or

451 (B) for a self-insured employer that is a public agency insurance mutual, an actuary
452 approved by the commission.

453 (ii) If a self-insured employer's experience modification factor under Subsection
454 (1)(f)(i) is less than 0.50, the self-insured employer shall use an experience modification factor
455 of 0.50 in determining the total calculated premium.

456 (g) To provide incentive for improved safety, the safety factor required in Subsection
457 (1)(d)(ii) shall be determined based on the self-insured employer's experience modification
458 factor as follows:

459 EXPERIENCE	
460 MODIFICATION FACTOR	SAFETY FACTOR
461 Less than or equal to 0.90	0.56
462 Greater than 0.90 but less than or equal to 1.00	0.78
463 Greater than 1.00 but less than or equal to 1.10	1.00
464 Greater than 1.10 but less than or equal to 1.20	1.22
465 Greater than 1.20	1.44

466 (h) (i) A premium or premium assessment modification other than a premium or
467 premium assessment modification under this section may not be allowed.

468 (ii) If a self-insured employer paying compensation direct fails to obtain an experience
469 modification factor as required in Subsection (1)(f)(i) within the reasonable time period
470 established by rule by the State Tax Commission, the State Tax Commission shall use an
471 experience modification factor of 2.00 and a safety factor of 2.00 to calculate the total
472 calculated premium for purposes of determining the assessment.

473 (iii) Prior to calculating the total calculated premium under Subsection (1)(h)(ii), the
474 State Tax Commission shall provide the self-insured employer with written notice that failure
475 to obtain an experience modification factor within a reasonable time period, as established by
476 rule by the State Tax Commission:

477 (A) shall result in the State Tax Commission using an experience modification factor

478 of 2.00 and a safety factor of 2.00 in calculating the total calculated premium for purposes of
479 determining the assessment; and

480 (B) may result in the division revoking the self-insured employer's right to pay
481 compensation direct.

482 (i) The division may immediately revoke a self-insured employer's certificate issued
483 under Sections 34A-2-201 and 34A-2-201.5 that permits the self-insured employer to pay
484 compensation direct if the State Tax Commission assigns an experience modification factor
485 and a safety factor under Subsection (1)(h) because the self-insured employer failed to obtain
486 an experience modification factor.

487 (2) Notwithstanding the annual payment requirement in Subsection (1)(a), a
488 self-insured employer whose total assessment obligation under Subsection (1)(a) for the
489 preceding year was \$10,000 or more shall pay the assessment in quarterly installments in the
490 same manner provided in Section 59-9-104 and subject to the same penalty provided in
491 Section 59-9-104 for not paying or underpaying an installment.

492 (3) (a) The State Tax Commission shall have access to all the records of the division
493 for the purpose of auditing and collecting any amounts described in this section.

494 (b) Time periods for the State Tax Commission to allow a refund or make an
495 assessment shall be determined in accordance with [~~Section 59-9-106~~] Title 59, Chapter 1,
496 Part 14, Assessment, Collections, and Refunds Act.

497 (4) (a) A review of appropriate use of job class assignment and calculation
498 methodology may be conducted as directed by the division at any reasonable time as a
499 condition of the self-insured employer's certification of paying compensation direct.

500 (b) The State Tax Commission shall make any records necessary for the review
501 available to the commission.

502 (c) The commission shall make the results of any review available to the State Tax
503 Commission.

504 Section 5. Section **38-12-101** is amended to read:

505 **38-12-101. Definitions.**

506 For purposes of this chapter:

507 (1) "Lien" means:

508 (a) failure to pay moneys owed for property, services, or a notice of interest, a
509 judgment, or any other encumbrance on the title, that becomes a charge against or interest in:

510 (i) real property, a building, a structure, or an improvement including any franchise,
511 privilege, appurtenance, machinery, or fixture pertaining to or used in connection with any real
512 property, building, structure, or improvement;

513 (ii) personal property; or

514 (iii) a judgment, settlement, or compromise; or

515 (b) a tax as provided in Section [~~59-1-302.1~~] 59-1-1413, 59-5-108, 59-5-208,
516 59-11-110, or 59-12-112.

517 (2) "Lien" does not mean a charge against or interest in, for failure to pay moneys
518 owed for property, services, or a judgment, any:

519 (a) bank account;

520 (b) pension; or

521 (c) garnishment.

522 Section 6. Section **59-1-101** is amended to read:

523 **59-1-101. Definitions.**

524 [~~For purposes of this title "commission"~~]

525 As used in this title:

526 (1) "Commission" and "tax commission" mean the State Tax Commission.

527 (2) "Deficiency" is as defined in Section 59-1-1402.

528 Section 7. Section **59-1-302** is amended to read:

529 **59-1-302. Penalty for nonpayment of certain taxes -- Jeopardy proceedings.**

530 (1) This section applies to the following:

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

532 (b) a tax under Title 10, Chapter 1, Part 4, Municipal Telecommunications License

533 Tax Act;

- 534 (c) a tax under Chapter 10, Part 4, Withholding of Tax;
- 535 (d) ~~[(i) except as provided in Subsection (1)(d)(ii);]~~ a tax under Chapter 12, Sales and
536 Use Tax Act; ~~[and]~~
- 537 ~~[(ii) notwithstanding Subsection (1)(d)(i), this section does not apply to Chapter 12,~~
538 ~~Part 9, Sales Tax Refund for Qualified Emergency Food Agencies;]~~
- 539 (e) a tax under Chapter 13, Part 2, Motor Fuel;
- 540 (f) a tax under Chapter 13, Part 3, Special Fuel; and
- 541 (g) a tax under Chapter 13, Part 4, Aviation Fuel.
- 542 (2) ~~[Any]~~ (a) A person required to collect, truthfully account for, and pay over ~~[any]~~ a
543 tax listed in Subsection (1) who willfully fails to collect the tax, fails to truthfully account for
544 and pay over the tax, or attempts in any manner to evade or defeat ~~[any]~~ the tax or the payment
545 of the tax, ~~[shall be]~~ is liable for a penalty equal to the total amount of the tax evaded, not
546 collected, not accounted for, or not paid over. ~~[This penalty]~~
- 547 (b) The penalty described in Subsection (2)(a) is in addition to other penalties
548 provided by law.
- 549 (3) (a) If the commission determines in accordance with Subsection (2) that a person
550 is liable for the penalty, the commission shall ~~[notify the taxpayer]~~ mail a notice of the
551 proposed penalty to the person.
- 552 (b) The notice of proposed penalty shall:
- 553 (i) set forth the basis of the assessment; and
- 554 (ii) be mailed ~~[by certified mail];~~
- 555 (A) in accordance with Section 59-1-1404; and
- 556 (B) to the person's last-known address.
- 557 (4) Upon receipt of the notice of proposed penalty, the person against whom the
558 penalty is proposed may:
- 559 (a) pay the amount of the proposed penalty at the place and time stated in the notice;
- 560 or
- 561 (b) proceed in accordance with the review procedures of Subsection (5).

562 (5) ~~[Any]~~ A person against whom a penalty ~~[has been]~~ is proposed in accordance with
 563 Subsections (2) and (3) may contest the proposed penalty by filing a petition for an
 564 adjudicative proceeding with the commission.

565 (6) If the commission determines that the collection of the penalty is in jeopardy,
 566 ~~[nothing in]~~ this section ~~[may]~~ does not prevent the immediate collection of the penalty in
 567 accordance with the procedures and requirements for an emergency ~~[proceedings in]~~
 568 proceeding under Title 63G, Chapter 4, Administrative Procedures Act.

569 (7) (a) In ~~[any]~~ a hearing before the commission and in ~~[any]~~ a judicial review of the
 570 hearing, the commission and the court shall consider any inference and evidence that a person
 571 has willfully failed to collect, truthfully account for, or pay over ~~[any]~~ a tax listed in
 572 Subsection (1).

573 (b) It is prima facie evidence that a person has willfully failed to collect, truthfully
 574 account for, or pay over ~~[any of the taxes]~~ a tax listed in Subsection (1) if the commission or a
 575 court finds that the person charged with the responsibility of collecting, accounting for, or
 576 paying over the taxes:

577 (i) made a voluntary, conscious, and intentional decision to prefer other creditors over
 578 the state government or utilize the tax money for personal purposes;

579 (ii) recklessly disregarded obvious or known risks~~[, which]~~ that resulted in the failure
 580 to collect, truthfully account for, or pay over the tax; or

581 (iii) failed to investigate or to correct mismanagement, having notice that the tax was
 582 not or is not being collected, accounted for, or paid over as provided by law.

583 (c) The commission or court ~~[need not]~~ is not required to find a bad motive or specific
 584 intent to defraud the government or deprive ~~[it]~~ the government of revenue to establish
 585 willfulness under this section.

586 (d) ~~[(†)]~~ If the commission determines that a person is liable for the penalty under
 587 Subsection (2), the commission shall assess the penalty and give notice and demand for
 588 payment in accordance with Section 59-1-1411.

589 ~~[(ii) The notice and demand for payment described in Subsection (7)(d)(i) shall be~~

590 ~~mailed by certified mail to the person's last-known address.]~~

591 Section 8. Section **59-1-401** is amended to read:

592 **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**
593 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**
594 **interest.**

595 (1) As used in this section:

596 (a) (i) "Nonqualifying obligation" means a charge, fee, payment, or tax administered
597 by the commission.

598 (ii) "Nonqualifying obligation" does not include:

599 (A) beginning on the phase I activation date, a phase I obligation; or

600 (B) beginning on the phase II activation date, a phase II obligation.

601 (b) "Phase I activation date" means the earlier of:

602 (i) the day on which the commission's GenTax system is activated to administer all
603 phase I obligations; or

604 (ii) May 1, 2008.

605 (c) "Phase I obligation" means:

606 (i) a fee under Section 19-6-808;

607 (ii) a tax under Chapter 10, Part 1, Determination and Reporting of Tax Liability and
608 Information;

609 (iii) a tax under Chapter 10, Part 2, Trusts and Estates; or

610 [~~(iv) a tax under Chapter 10, Part 12, Single Rate Individual Income Tax Act; or]~~

611 [~~(v)~~ (iv) a tax under Chapter 12, Sales and Use Tax Act.

612 (d) "Phase II activation date" means the earlier of:

613 (i) the day on which the commission's GenTax system is activated to administer all
614 phase II obligations; or

615 (ii) May 4, 2009.

616 (e) (i) "Phase II obligation" means:

617 (A) a payment under Chapter 6, Mineral Production Tax Withholding;

- 618 (B) a tax under Chapter 7, Corporate Franchise and Income Taxes;
- 619 (C) a payment under Chapter 10, Part 4, Withholding of Tax; or
- 620 (D) a tax paid on a return filed in accordance with Section 59-10-507.
- 621 (ii) "Phase II obligation" does not include a payment of estimated tax under Section
- 622 59-7-504.
- 623 (2) (a) The due date for filing a return is:
- 624 (i) if the person filing the return is not allowed by law an extension of time for filing
- 625 the return, the day on which the return is due as provided by law; or
- 626 (ii) if the person filing the return is allowed by law an extension of time for filing the
- 627 return, the last day of that extension of time.
- 628 (b) (i) A penalty in the amount described in Subsection (2)(b)(ii) is imposed if:
- 629 (A) a person is required to file a return with respect to a nonqualifying obligation; and
- 630 (B) the person described in Subsection (2)(b)(i)(A) files the return after the due date
- 631 described in Subsection (2)(a).
- 632 (ii) For purposes of Subsection (2)(b)(i), the penalty is an amount equal to the greater
- 633 of:
- 634 (A) \$20; or
- 635 (B) 10% of the unpaid nonqualifying obligation due on the return.
- 636 (c) (i) A penalty in the amount described in Subsection (2)(c)(ii) is imposed if a
- 637 person:
- 638 (A) (I) is required to file a return:
- 639 (Aa) on or after the phase I activation date; and
- 640 (Bb) with respect to a phase I obligation; and
- 641 (II) files the return after the due date described in Subsection (2)(a); or
- 642 (B) (I) is required to file a return:
- 643 (Aa) on or after the phase II activation date; and
- 644 (Bb) with respect to a phase II obligation; and
- 645 (II) files the return after the due date described in Subsection (2)(a).

646 (ii) For purposes of Subsection (2)(c)(i), the penalty is an amount equal to the greater
647 of:

648 (A) \$20; or

649 (B) (I) 2% of the unpaid phase I obligation or phase II obligation due on the return if
650 the return is filed no later than five days after the due date described in Subsection (2)(a);

651 (II) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
652 return is filed more than five days after the due date but no later than 15 days after the due
653 date described in Subsection (2)(a); or

654 (III) 10% of the unpaid phase I obligation or phase II obligation due on the return if
655 the return is filed more than 15 days after the due date described in Subsection (2)(a).

656 (d) This Subsection (2) does not apply to:

657 (i) an amended return; or

658 (ii) a return with no tax due.

659 (3) (a) If a person fails to pay a tax, fee, or charge due, the person is subject to a
660 penalty as provided in this Subsection (3).

661 (b) (i) A penalty in the amount described in Subsection (3)(b)(ii) is imposed if:

662 (A) a person files a return with respect to a nonqualifying obligation on or before the
663 due date for filing a return described in Subsection (2)(a), but fails to pay the nonqualifying
664 obligation due on the return on or before that due date;

665 (B) a person:

666 (I) is subject to a penalty under Subsection (2)(b); and

667 (II) fails to pay a nonqualifying obligation due on a return within a 90-day period after
668 the due date for filing a return described in Subsection (2)(a);

669 (C) (I) a person is subject to a penalty under Subsection (2)(b); and

670 (II) the commission estimates an amount of tax due for that person in accordance with
671 Subsection 59-1-1406(2);

672 [~~C~~] (D) a person:

673 (I) is mailed a notice of deficiency; and

674 (II) within a 30-day period after the day on which the notice of deficiency described in
675 Subsection (3)(b)(i)[~~(C)~~](D)(I) is mailed:

676 (Aa) does not file a petition for redetermination or a request for agency action; and

677 (Bb) fails to pay a nonqualifying obligation due on a return;

678 [~~(D)~~] (E) (I) the commission:

679 (Aa) issues an order constituting final agency action resulting from a timely filed
680 petition for redetermination or a timely filed request for agency action; or

681 (Bb) is considered to have denied a request for reconsideration under Subsection
682 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed
683 request for agency action; and

684 (II) a person fails to pay a nonqualifying obligation due on a return within a 30-day
685 period after the date the commission:

686 (Aa) issues the order constituting final agency action described in Subsection
687 (3)(b)(i)[~~(D)~~](E)(I)(Aa); or

688 (Bb) is considered to have denied the request for reconsideration described in
689 Subsection (3)(b)(i)[~~(D)~~](E)(I)(Bb); or

690 [~~(E)~~] (F) a person fails to pay a nonqualifying obligation within a 30-day period after
691 the date of a final judicial decision resulting from a timely filed petition for judicial review.

692 (ii) For purposes of Subsection (3)(b)(i), the penalty is an amount equal to the greater
693 of:

694 (A) \$20; or

695 (B) 10% of the unpaid nonqualifying obligation due on the return.

696 (c) (i) This Subsection (3)(c) applies to a penalty:

697 (A) imposed on or after the phase I activation date with respect to a phase I obligation;

698 or

699 (B) imposed on or after the phase II activation date with respect to a phase II
700 obligation.

701 (ii) (A) The penalty described in Subsection (3)(c)(ii)(B) applies if a person:

702 (I) with respect to a phase I obligation:
703 (Aa) files a return on or before the due date for filing a return described in Subsection
704 (2)(a); and
705 (Bb) fails to pay the phase I obligation due on the return on or before the due date
706 described in Subsection (2)(a); or
707 (II) with respect to a phase II obligation:
708 (Aa) files a return on or before the due date for filing a return described in Subsection
709 (2)(a); and
710 (Bb) fails to pay the phase II obligation due on the return on or before the due date
711 described in Subsection (2)(a).
712 (B) For purposes of Subsection (3)(c)(ii)(A), the penalty is an amount equal to the
713 greater of:
714 (I) \$20; or
715 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
716 the phase I obligation or phase II obligation due on the return is paid no later than five days
717 after the due date for filing a return described in Subsection (2)(a);
718 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
719 phase I obligation or phase II obligation due on the return is paid more than five days after the
720 due date for filing a return described in Subsection (2)(a) but no later than 15 days after that
721 due date; or
722 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if
723 the phase I obligation or phase II obligation due on the return is paid more than 15 days after
724 the due date for filing a return described in Subsection (2)(a).
725 (iii) (A) A person is subject to a penalty as provided in Subsection (3)(c)(iii)(B) if the
726 person:
727 (I) is subject to a penalty under Subsection (2)(c); and
728 (II) fails to pay a phase I obligation or phase II obligation due on a return within a
729 90-day period after the due date for filing a return described in Subsection (2)(a).

730 (B) For purposes of Subsection (3)(c)(iii)(A), the penalty is an amount equal to the
731 greater of:

732 (I) \$20; or

733 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
734 the phase I obligation or phase II obligation due on the return is paid no later than five days
735 after the last day of the 90-day period described in Subsection (3)(c)(iii)(A)(II);

736 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
737 phase I obligation or phase II obligation due on the return is paid more than five days after the
738 last day of the 90-day period described in Subsection (3)(c)(iii)(A)(II) but no later than 15
739 days after the last day of the 90-day period described in Subsection (3)(c)(iii)(A)(II); or

740 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if
741 the phase I obligation or phase II obligation due on the return is paid more than 15 days after
742 the last day of the 90-day period described in Subsection (3)(c)(iii)(A)(II).

743 (iv) (A) A person is subject to a penalty as provided in Subsection (3)(c)(iv)(B) if:

744 (I) the person is subject to a penalty under Subsection (2)(b); and

745 (II) the commission estimates an amount of tax due for that person in accordance with
746 Subsection 59-1-1406(2).

747 (B) For purposes of Subsection (3)(c)(iv)(A), the penalty is an amount equal to the
748 greater of:

749 (I) \$20; or

750 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
751 the phase I obligation or phase II obligation due on the return is paid no later than five days
752 after the due date for filing a return described in Subsection (2)(a);

753 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
754 phase I obligation or phase II obligation due on the return is paid more than five days after the
755 due date for filing a return described in Subsection (2)(a) but no later than 15 days after the
756 due date for filing a return described in Subsection (2)(a); or

757 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if

758 the phase I obligation or phase II obligation due on the return is paid more than 15 days after
759 the due date for filing a return described in Subsection (2)(a).

760 ~~(iv)~~ (v) (A) A person is subject to a penalty as provided in Subsection (3)(c)(iv)(B) if
761 the person:

762 (I) is mailed a notice of deficiency; and

763 (II) within a 30-day period after the day on which the notice of deficiency described in
764 Subsection (3)(c)~~(iv)~~(v)(A)(I) is mailed:

765 (Aa) does not file a petition for redetermination or a request for agency action; and

766 (Bb) fails to pay a phase I obligation or phase II obligation due on a return.

767 (B) For purposes of Subsection (3)(c)~~(iv)~~(v)(A), the penalty is an amount equal to
768 the greater of:

769 (I) \$20; or

770 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
771 the phase I obligation or phase II obligation due on the return is paid no later than five days
772 after the last day of the 30-day period described in Subsection (3)(c)~~(iv)~~(v)(A)(II);

773 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
774 phase I obligation or phase II obligation due on the return is paid more than five days after the
775 last day of the 30-day period described in Subsection (3)(c)~~(iv)~~(v)(A)(II) but no later than 15
776 days after the last day of the 30-day period described in Subsection (3)(c)~~(iv)~~(v)(A)(II); or

777 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if
778 the phase I obligation or phase II obligation due on the return is paid more than 15 days after
779 the last day of the 30-day period described in Subsection (3)(c)~~(iv)~~(v)(A)(II).

780 ~~(v)~~ (vi) (A) A person is subject to a penalty as provided in Subsection
781 (3)(c)~~(v)~~(vi)(B) if:

782 (I) the commission:

783 (Aa) issues an order constituting final agency action resulting from a timely filed
784 petition for redetermination or a timely filed request for agency action; or

785 (Bb) is considered to have denied a request for reconsideration under Subsection

786 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed
787 request for agency action; and

788 (II) the person fails to pay a phase I obligation or phase II obligation due on a return
789 within a 30-day period after the date the commission:

790 (Aa) issues the order constituting final agency action described in Subsection
791 (3)(c)[(v)](vi)(A)(I)(Aa); or

792 (Bb) is considered to have denied the request for reconsideration described in
793 Subsection (3)(c)[(v)](vi)(A)(I)(Bb).

794 (B) For purposes of Subsection (3)(c)[(v)](vi)(A), the penalty is an amount equal to
795 the greater of:

796 (I) \$20; or

797 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
798 the phase I obligation or phase II obligation due on the return is paid no later than five days
799 after the last day of the 30-day period described in Subsection (3)(c)[(v)](vi)(A)(II);

800 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
801 phase I obligation or phase II obligation due on the return is paid more than five days after the
802 last day of the 30-day period described in Subsection (3)(c)[(v)](vi)(A)(II) but no later than 15
803 days after the last day of the 30-day period described in Subsection (3)(c)[(v)](vi)(A)(II); or

804 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if
805 the phase I obligation or phase II obligation due on the return is paid more than 15 days after
806 the last day of the 30-day period described in Subsection (3)(c)[(v)](vi)(A)(II).

807 [(v)] (vii) (A) A person is subject to a penalty as provided in Subsection
808 (3)(c)[(v)](vii)(B) if within a 30-day period after the date of a final judicial decision resulting
809 from a timely filed petition for judicial review, the person fails to pay a phase I obligation or
810 phase II obligation.

811 (B) For purposes of Subsection (3)(c)[(v)](vii)(A), the penalty is an amount equal to
812 the greater of:

813 (I) \$20; or

814 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
815 the phase I obligation or phase II obligation due on the return is paid no later than five days
816 after the last day of the 30-day period described in Subsection (3)(c)~~(vi)~~(vii)(A);

817 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
818 phase I obligation or phase II obligation due on the return is paid more than five days after the
819 last day of the 30-day period described in Subsection (3)(c)~~(vi)~~(vii)(A) but no later than 15
820 days after the last day of the 30-day period described in Subsection (3)(c)~~(vi)~~(vii)(A); or

821 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if
822 the phase I obligation or phase II obligation due on the return is paid more than 15 days after
823 the last day of the 30-day period described in Subsection (3)(c)~~(vi)~~(vii)(A).

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

829 (b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the
830 excess of the required installment over the amount, if any, of the installment paid on or before
831 the due date for the installment.

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

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

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

837 (iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited
838 against unpaid required installments in the order in which the installments are required to be
839 paid.

840 (5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a
841 person allowed by law an extension of time for filing a corporate franchise or income tax

842 return under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax
843 return under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount
844 described in Subsection (5)(b) if, on or before the day on which the return is due as provided
845 by law, not including the extension of time, the person fails to pay:

846 (i) for a person filing a corporate franchise or income tax return under Chapter 7,
847 Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b);
848 or

849 (ii) for a person filing an individual income tax return under Chapter 10, Individual
850 Income Tax Act, the payment required by Subsection 59-10-516(2).

851 (b) For purposes of Subsection (5)(a), the penalty per month during the period of the
852 extension of time for filing the return is an amount equal to 2% of the [~~unpaid~~] tax due on the
853 return, unpaid as of the day on which the return is due as provided by law.

854 (6) If a person does not file a return within an extension of time allowed by Section
855 59-7-505 or 59-10-516, the person:

856 (a) is not subject to a penalty in the amount described in Subsection (5)(b); and

857 (b) is subject to a penalty in an amount equal to the sum of:

858 (i) a late file penalty in an amount equal to the greater of:

859 (A) \$20; or

860 (B) 10% of the [~~unpaid~~] tax due on the return, unpaid as of the day on which the
861 return is due as provided by law, not including the extension of time; and

862 (ii) a late pay penalty in an amount equal to the greater of:

863 (A) \$20; or

864 (B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return
865 is due as provided by law, not including the extension of time.

866 (7) (a) Additional penalties for underpayments of tax are as provided in this
867 Subsection (7)(a).

868 (i) Except as provided in Subsection (7)(c), if any portion of an underpayment of tax is
869 due to negligence, the penalty is 10% of the portion of the underpayment that is due to

870 negligence.

871 (ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of tax
872 is due to intentional disregard of law or rule, the penalty is 15% of the entire underpayment.

873 (iii) ~~[For]~~ If any portion of an underpayment is due to an intent to evade the tax, the
874 penalty is the greater of \$500 per period or 50% of the ~~[tax due]~~ entire underpayment.

875 (iv) If ~~[the]~~ any portion of an underpayment is due to fraud with intent to evade the
876 tax, the penalty is the greater of \$500 per period or 100% of the entire underpayment.

877 (b) If the commission determines that a person is liable for a penalty imposed under
878 Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the taxpayer of the proposed
879 penalty.

880 (i) The notice of proposed penalty shall:

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

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

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

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

886 or

887 (B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).

888 (iii) ~~[Any]~~ A person against whom a penalty ~~[has been]~~ is proposed in accordance
889 with this Subsection (7) may contest the proposed penalty by filing a petition for an
890 adjudicative proceeding with the commission.

891 (iv) (A) If the commission determines that a person is liable for a penalty under this
892 Subsection (7), the commission shall assess the penalty and give notice and demand for
893 payment.

894 (B) The commission shall mail the notice and demand for payment described in
895 Subsection (7)(b)(iv)(A) ~~[shall be mailed by certified mail, postage prepaid,];~~

896 (I) to the person's last-known address[-]; and

897 (II) in accordance with Section 59-1-1404.

898 (c) A seller that voluntarily collects a tax under Subsection 59-12-107(1)(b) is not
899 subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

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

902 (A) the seller meets one or more of the criteria described in Subsection
903 59-12-107(1)(a); and

904 (B) the commission or a county, city, or town may require the seller to collect a tax
905 under Subsection 59-12-103(2)(a) or (b); or

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

907 (A) the seller meets one or more of the criteria described in Subsection
908 59-12-107(1)(a); and

909 (B) the commission or a county, city, or town may require the seller to collect a tax
910 under Subsection 59-12-103(2)(a) or (b).

911 (d) A seller that voluntarily collects a tax under Subsection 59-12-107(1)(b) is not
912 subject to the penalty under Subsection (7)(a)(ii) if:

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

915 (I) the seller meets one or more of the criteria described in Subsection
916 59-12-107(1)(a); and

917 (II) the commission or a county, city, or town may require the seller to collect a tax
918 under Subsection 59-12-103(2)(a) or (b); or

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

920 (I) the seller meets one or more of the criteria described in Subsection
921 59-12-107(1)(a); and

922 (II) the commission or a county, city, or town may require the seller to collect a tax
923 under Subsection 59-12-103(2)(a) or (b); and

924 (ii) the seller's intentional disregard of law or rule is warranted by existing law or by a
925 nonfrivolous argument for the extension, modification, or reversal of existing law or the

926 establishment of new law.

927 (8) Except as provided in Section 59-12-105, the penalty for failure to file an
928 information return, information report, or a complete supporting schedule is \$50 for each
929 information return, information report, or supporting schedule up to a maximum of \$1,000.

930 (9) If ~~any~~ a taxpayer, in furtherance of a frivolous position, has a prima facie intent
931 to delay or impede administration of the tax law and files a purported return that fails to
932 contain information from which the correctness of reported tax liability can be determined or
933 that clearly indicates that the tax liability shown must be substantially incorrect, the penalty is
934 \$500.

935 (10) (a) A seller that fails to remit a tax, fee, or charge monthly as required by
936 Subsection 59-12-108(1)(a)(~~ii~~):

937 (i) is subject to a penalty described in Subsection (2); and

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

940 (b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as
941 required by Subsection 59-12-108(1)(a)(~~ii~~)(B):

942 (i) is subject to a penalty described in Subsection (2); and

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

945 (11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that
946 person:

947 (i) commits an act described in Subsection (11)(b) with respect to one or more of the
948 following documents:

949 (A) a return;

950 (B) an affidavit;

951 (C) a claim; or

952 (D) a document similar to Subsections (11)(a)(i)(A) through (C);

953 (ii) knows or has reason to believe that the document described in Subsection

954 (11)(a)(i) will be used in connection with any material matter administered by the
955 commission; and

956 (iii) knows that the document described in Subsection (11)(a)(i), if used in connection
957 with any material matter administered by the commission, would result in an understatement
958 of another person's liability for a tax, fee, or charge administered by the commission.

959 (b) The following acts apply to Subsection (11)(a)(i):

960 (i) preparing any portion of a document described in Subsection (11)(a)(i);

961 (ii) presenting any portion of a document described in Subsection (11)(a)(i);

962 (iii) procuring any portion of a document described in Subsection (11)(a)(i);

963 (iv) advising in the preparation or presentation of any portion of a document described
964 in Subsection (11)(a)(i);

965 (v) aiding in the preparation or presentation of any portion of a document described in
966 Subsection (11)(a)(i);

967 (vi) assisting in the preparation or presentation of any portion of a document described
968 in Subsection (11)(a)(i); or

969 (vii) counseling in the preparation or presentation of any portion of a document
970 described in Subsection (11)(a)(i).

971 (c) For purposes of Subsection (11)(a), the penalty:

972 (i) shall be imposed by the commission;

973 (ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which
974 the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and

975 (iii) is in addition to any other penalty provided by law.

976 (d) The commission may seek a court order to enjoin a person from engaging in
977 conduct that is subject to a penalty under this Subsection (11).

978 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
979 commission may make rules prescribing the documents that are similar to Subsections
980 (11)(a)(i)(A) through (C).

981 (12) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as

982 provided in Subsections (12)(b) through (e).

983 (b) (i) [~~Any~~] A person who is required by this title or any laws the commission
984 administers or regulates to register with or obtain a license or permit from the commission,
985 who operates without having registered or secured a license or permit, or who operates when
986 the registration, license, or permit is expired or not current, is guilty of a class B misdemeanor.

987 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the
988 penalty may not:

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

990 (B) exceed \$1,000.

991 (c) (i) [~~Any~~] A person who, with intent to evade [~~any~~] a tax or requirement of this title
992 or any lawful requirement of the commission, fails to make, render, sign, or verify [~~any~~] a
993 return or to supply [~~any~~] information within the time required by law, or who makes, renders,
994 signs, or verifies [~~any~~] a false or fraudulent return or statement, or who supplies [~~any~~] false or
995 fraudulent information, is guilty of a third degree felony.

996 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(c)(i), the
997 penalty may not:

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

999 (B) exceed \$5,000.

1000 (d) (i) [~~Any~~] A person who intentionally or willfully attempts to evade or defeat [~~any~~]
1001 a tax or the payment of a tax is, in addition to other penalties provided by law, guilty of a
1002 second degree felony.

1003 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the
1004 penalty may not:

1005 (A) be less than \$1,500; or

1006 (B) exceed \$25,000.

1007 (e) (i) A person is guilty of a second degree felony if that person commits an act:

1008 (A) described in Subsection (12)(e)(ii) with respect to one or more of the following
1009 documents:

- 1010 (I) a return;
- 1011 (II) an affidavit;
- 1012 (III) a claim; or
- 1013 (IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and
- 1014 (B) subject to Subsection (12)(e)(iii), with knowledge that the document described in
- 1015 Subsection (12)(e)(i)(A):
- 1016 (I) is false or fraudulent as to any material matter; and
- 1017 (II) could be used in connection with any material matter administered by the
- 1018 commission.
- 1019 (ii) The following acts apply to Subsection (12)(e)(i):
- 1020 (A) preparing any portion of a document described in Subsection (12)(e)(i)(A);
- 1021 (B) presenting any portion of a document described in Subsection (12)(e)(i)(A);
- 1022 (C) procuring any portion of a document described in Subsection (12)(e)(i)(A);
- 1023 (D) advising in the preparation or presentation of any portion of a document described
- 1024 in Subsection (12)(e)(i)(A);
- 1025 (E) aiding in the preparation or presentation of any portion of a document described in
- 1026 Subsection (12)(e)(i)(A);
- 1027 (F) assisting in the preparation or presentation of any portion of a document described
- 1028 in Subsection (12)(e)(i)(A); or
- 1029 (G) counseling in the preparation or presentation of any portion of a document
- 1030 described in Subsection (12)(e)(i)(A).
- 1031 (iii) This Subsection (12)(e) applies:
- 1032 (A) regardless of whether the person for which the document described in Subsection
- 1033 (12)(e)(i)(A) is prepared or presented:
- 1034 (I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or
- 1035 (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and
- 1036 (B) in addition to any other penalty provided by law.
- 1037 (iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the

1038 penalty may not:

1039 (A) be less than \$1,500; or

1040 (B) exceed \$25,000.

1041 (v) The commission may seek a court order to enjoin a person from engaging in
1042 conduct that is subject to a penalty under this Subsection (12)(e).

1043 (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1044 the commission may make rules prescribing the documents that are similar to Subsections
1045 (12)(e)(i)(A)(I) through (III).

1046 (f) The statute of limitations for prosecution for a violation of this Subsection (12) is
1047 the later of six years:

1048 (i) from the date the tax should have been remitted; or

1049 (ii) after the day on which the person commits the criminal offense.

1050 (13) Upon making a record of its actions, and upon reasonable cause shown, the
1051 commission may waive, reduce, or compromise any of the penalties or interest imposed under
1052 this part.

1053 Section 9. Section **59-1-501** is amended to read:

1054 **59-1-501. Procedure for obtaining redetermination of a deficiency -- Claim for**
1055 **refund.**

1056 [~~Any taxpayer~~]

1057 (1) As used in this section:

1058 (a) "Legal holiday" is as defined in Section 59-10-518.

1059 (b) "Tax, fee, or charge" is as defined in Section 59-1-1402.

1060 (2) A person may file a request for agency action, petitioning the commission for
1061 redetermination of a deficiency.

1062 (3) Subject to Subsections (4) through (6), a person shall file the request for agency
1063 action described in Subsection (2):

1064 (a) within a 30-day period after the date the commission mails a notice of deficiency
1065 to the person in accordance with Section 59-1-1405; or

1066 (b) within a 90-day period after the date the commission mails a notice of deficiency
 1067 to the person in accordance with Section 59-1-1405 if the notice of deficiency is addressed to
 1068 a person outside the United States or the District of Columbia.

1069 (4) If the last day of a time period described in Subsection (3) is a Saturday, Sunday,
 1070 or legal holiday, the last day for a person to file a request for agency action is the next day that
 1071 is not a Saturday, Sunday, or legal holiday.

1072 (5) A person that mails a request for agency action shall mail the request for agency
 1073 action in accordance with Section 59-1-1404.

1074 (6) For purposes of Subsection (3), a person is considered to have filed a request for
 1075 agency action:

1076 (a) if the person mails the request for agency action, on the date the person is
 1077 considered to have mailed the request for agency action in accordance with Section
 1078 59-1-1404; or

1079 (b) if the person delivers the request for agency action to the commission by a method
 1080 other than mail, on the date the commission receives the request for agency action.

1081 (7) A person who has not previously filed a timely request for agency action in
 1082 accordance with Subsection (3) may object to a final assessment issued by the commission by:

1083 (a) paying the tax, fee, or charge; and

1084 (b) filing a claim for a refund as provided in Section 59-1-1410.

1085 Section 10. Section **59-1-703** is amended to read:

1086 **59-1-703. Collection procedure -- Review -- Bond for stay -- Sale of seized**
 1087 **property.**

1088 (1) (a) If ~~[any liability which]~~ an amount that is due and payable under Sections
 1089 59-1-701 and 59-1-702 is not paid, the ~~[collection shall be made in the same manner as is~~
 1090 ~~provided for the collection of delinquent taxes in Sections 59-7-526 and 59-7-527. In~~
 1091 ~~addition, the commission may issue a warrant of like terms, force, and effect directed to any~~
 1092 ~~legally authorized representative of the commission. In the execution of the warrant the~~
 1093 ~~authorized representative shall have all the powers conferred by law upon sheriffs, but is~~

1094 ~~entitled to no fee or compensation in excess of actual expenses paid in the performance of~~
1095 ~~such duty.]~~ commission shall collect that amount in accordance with Part 14, Assessment,
1096 Collections, and Refunds Act.

1097 (b) (i) For purposes of collecting an amount described in Subsection (1)(a), the
1098 commission may issue a warrant.

1099 (ii) The commission may direct the warrant described in Subsection (1)(b)(i) to an
1100 authorized representative of the commission.

1101 (iii) In executing the warrant described in Subsection (1)(b)(i), the authorized
1102 representative described in Subsection (1)(b)(ii):

1103 (A) has all of the powers conferred by law upon a sheriff; and

1104 (B) may not collect a fee or other compensation for executing the warrant other than
1105 the actual expenses paid to execute the warrant.

1106 (2) (a) The appropriateness of [any] a termination or jeopardy assessment shall be
1107 reviewable under [the] procedures prescribed by the commission by rule made in accordance
1108 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1109 (b) The amount of [any] a termination or jeopardy assessment is reviewable only in the
1110 manner prescribed in [Title 59,] Chapter 1, [Parts 5 and 6] Part 5, Petitions for
1111 Redetermination of Deficiencies, and Part 6, Judicial Review.

1112 (3) In [any] a proceeding brought to enforce payment of [any] a liability made due and
1113 payable [by virtue of] under this section [or], Section 59-1-701, or 59-1-702, the finding of the
1114 commission, whether made after notice to the taxpayer or not, [shall be for all purposes] is
1115 presumptive evidence of jeopardy.

1116 (4) (a) After a petition [has been] is filed with the commission and when the amount
1117 [which] that the commission [has determined] determines to be assessable [has become]
1118 becomes final, any unpaid portion [which has been] that is stayed by bond shall be collected
1119 as part of the tax upon notice and demand from the commission[~~, and any remaining portion~~
1120 ~~of the assessment shall be abated~~].

1121 (b) A portion remaining after the commission collects the amount determined to be

1122 assessable under Subsection (4)(a) shall be abated.

1123 (c) If the amount [already collected] the commission collects in accordance with
1124 Subsection (4)(a) exceeds the amount [which] that should have been assessed, the excess shall
1125 be credited or refunded to the taxpayer [without the filing of claim].

1126 (d) If the amount the commission [has determined] determines to be assessable in
1127 accordance with Subsection (4)(a) is greater than the amount actually assessed, the difference
1128 shall be assessed, and collected as part of the tax, upon notice and demand by the commission.

1129 (5) (a) The commission may abate [the] a jeopardy assessment if [it] the commission
1130 finds that jeopardy does not exist. [The abatement]

1131 (b) An abatement described in Subsection (5)(a) may not be made after a decision of
1132 the commission in respect of the deficiency [has been] is rendered or, if no petition is filed
1133 with the commission, after the expiration of the period for filing a petition.

1134 (c) The period of limitation on making [assessments and levies] an assessment or levy
1135 or a proceeding for collection, in respect of [any] a deficiency, shall be determined as if the
1136 commission had not abated the jeopardy assessment [so abated had not been made] under
1137 Subsection (5)(a).

1138 (d) The running of the period of limitation on making an assessment or levy or a
1139 proceeding for collection shall be suspended from the date of [such] a jeopardy [assessments]
1140 assessment until the expiration of the 10th day after the jeopardy assessment is abated under
1141 this Subsection (5).

1142 (6) (a) The collection of all or [any] a part of [any] a jeopardy assessment may be
1143 stayed by [filing] posting a bond with the commission [a bond] in the amount and under
1144 conditions established by the commission. [The taxpayer has the right to waive the stay]

1145 (b) A taxpayer may waive a stay described in Subsection (6)(a) at any time in respect
1146 of all or part of the amount covered by the bond.

1147 (c) If, as a result of [the] a waiver described in Subsection (6)(b), any part of the
1148 amount covered by the bond is paid, [then the bond shall, at the request of the taxpayer, be
1149 proportionately reduced.] the commission shall proportionately reduce the bond at the request

1150 of the taxpayer that waives the stay in accordance with Subsection (6)(b).

1151 (d) If any portion of ~~[the]~~ a jeopardy assessment is abated, or if a notice of deficiency
1152 is mailed to ~~[the]~~ a taxpayer in a lesser amount, the bond shall, at the request of the taxpayer,
1153 be proportionately reduced.

1154 (7) (a) If a bond is ~~[given before the taxpayer has filed his petition pursuant to Chapter~~
1155 ~~4, Part 5,]~~ posted before a taxpayer files a petition for redetermination of a deficiency under
1156 Section 59-1-501, the bond shall contain a condition that the amount of the deficiency
1157 assessment, the collection of which is stayed by the bond, ~~[with]~~ shall be paid on notice and
1158 demand at any time after the expiration of ~~[such period]~~ the stay, together with interest
1159 ~~[thereon from]~~ on the deficiency assessment, beginning on the date of the jeopardy notice and
1160 demand ~~[until]~~ and ending on the date of notice and demand under this Subsection (7)(a).
1161 ~~[The bond]~~

1162 (b) A bond described in Subsection (7)(a) shall be conditioned upon the payment of
1163 that part of the assessment, ~~[collection of which is stayed by the bond]~~ ~~which is,~~ that is:

1164 (i) not abated by a decision of the commission; and ~~[has become]~~

1165 (ii) final.

1166 (c) If the commission determines that the amount of a deficiency assessed is greater
1167 than the amount ~~[which]~~ that should have been assessed, ~~[then]~~ the bond shall ~~[, at the request~~
1168 ~~of the taxpayer,]~~ be proportionately reduced ~~[when]:~~

1169 (i) at the time the decision of the commission is rendered~~[-];~~ and

1170 (ii) at the request of the taxpayer that posts the bond.

1171 (8) ~~[When]~~ (a) If a jeopardy assessment is made~~[-, the]~~ under this section, property
1172 seized for the collection of ~~[the]~~ a tax may not be sold until:

1173 (i) the commission issues a notice of deficiency ~~[is issued];~~ and

1174 (ii) the time for filing a petition for redetermination ~~[has expired. If]~~ expires.

1175 (b) Except as provided in Subsection (8)(c), if a taxpayer files a petition for
1176 redetermination ~~[is filed (whether),]~~ regardless of whether the taxpayer files the petition for
1177 redetermination before or after the ~~[making of]~~ commission makes the jeopardy assessment~~[-]~~,

1178 the property described in Subsection (8)(a) may not be sold until the commission's decision on
1179 the petition [~~becomes~~] is final [~~unless~~].

1180 (c) For purposes of Subsection (8)(b), the property described in Subsection (8)(a) may
1181 be sold if:

1182 (i) the taxpayer consents to the sale[;];

1183 (ii) the commission determines that the expenses of conservation and maintenance of
1184 the property would greatly reduce the net proceeds[;] of the sale; or

1185 (iii) the property is perishable.

1186 Section 11. Section **59-1-1401** is enacted to read:

1187 **Part 14. Assessment, Collections, and Refunds Act**

1188 **59-1-1401. Title.**

1189 This part is known as the "Assessment, Collections, and Refunds Act."

1190 Section 12. Section **59-1-1402** is enacted to read:

1191 **59-1-1402. Definitions.**

1192 As used in this part:

1193 (1) "Administrative cost" means a fee imposed to cover:

1194 (a) the cost of filing;

1195 (b) the cost of administering a garnishment; or

1196 (c) a cost similar to Subsection (1)(a) or (b) as determined by the commission by rule
1197 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1198 (2) "Books and records" means the following made available in printed or electronic
1199 format:

1200 (a) an account;

1201 (b) a book;

1202 (c) an invoice;

1203 (d) a memorandum;

1204 (e) a paper;

1205 (f) a record; or

1206 (g) an item similar to Subsections (2)(a) through (f) as determined by the commission
1207 by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1208 (3) "Deficiency" means:

1209 (a) the amount by which a tax, fee, or charge exceeds the difference between:

1210 (i) the sum of:

1211 (A) the amount shown as the tax, fee, or charge by a person on the person's return; and

1212 (B) any amount previously assessed, or collected without assessment, as a deficiency;

1213 and

1214 (ii) any amount previously abated, credited, refunded, or otherwise repaid with respect
1215 to that tax, fee, or charge; or

1216 (b) if a person does not show an amount as a tax, fee, or charge on the person's return,
1217 or if a person does not make a return, the amount by which the tax, fee, or charge exceeds:

1218 (i) the amount previously assessed, or collected without assessment, as a deficiency;

1219 and

1220 (ii) any amount previously abated, credited, refunded, or otherwise repaid with respect
1221 to that tax, fee, or charge.

1222 (4) "Garnishment" means any legal or equitable procedure through which one or more
1223 of the following are required to be withheld for payment of an amount a person owes:

1224 (a) an asset of the person held by another person; or

1225 (b) the earnings of the person.

1226 (5) "Liability" means the following that a person is required to remit to the
1227 commission:

1228 (a) a tax, fee, or charge;

1229 (b) an addition to a tax, fee, or charge;

1230 (c) an administrative cost;

1231 (d) interest that accrues in accordance with Section 59-1-402; or

1232 (e) a penalty that accrues in accordance with Section 59-1-401.

1233 (6) (a) Subject to Subsection (6)(b), "mathematical error" is as defined in Section

- 1234 6213(g)(2), Internal Revenue Code.
- 1235 (b) The reference to Section 6213(g)(2), Internal Revenue Code, in Subsection (6)(a)
- 1236 means:
- 1237 (i) the reference to Section 6213(g)(2), Internal Revenue Code, in effect for the taxable
- 1238 year; or
- 1239 (ii) a corresponding or comparable provision of the Internal Revenue Code as
- 1240 amended, redesignated, or reenacted.
- 1241 (7) (a) Except as provided in Subsection (7)(b), "tax, fee, or charge" means a tax, fee,
- 1242 or charge the commission administers under:
- 1243 (i) this title;
- 1244 (ii) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 1245 (iii) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- 1246 (iv) Section 19-6-410.5;
- 1247 (v) Section 19-6-714;
- 1248 (vi) Section 19-6-805;
- 1249 (vii) Section 69-2-5;
- 1250 (viii) Section 69-2-5.5; or
- 1251 (ix) Section 69-2-5.6.
- 1252 (b) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:
- 1253 (i) Chapter 2, Property Tax Act;
- 1254 (ii) Chapter 3, Tax Equivalent Property Act; or
- 1255 (iii) Chapter 4, Privilege Tax.
- 1256 (8) "Transferee" means:
- 1257 (a) a devisee;
- 1258 (b) a distributee;
- 1259 (c) a donee;
- 1260 (d) an heir;
- 1261 (e) a legatee; or

1262 (f) a person similar to Subsections (8)(a) through (e) as determined by the commission
1263 by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1264 Section 13. Section **59-1-1403** is enacted to read:

1265 **59-1-1403. Commission to collect a tax, fee, or charge -- Receipt for tax, fee, or**
1266 **charge paid -- Additional remedies -- Collection agents and counsel -- Action by attorney**
1267 **general or county attorney -- Commission rulemaking authority.**

1268 (1) Except as otherwise provided in this title, the commission shall collect a tax, fee,
1269 or charge.

1270 (2) The commission may designate an agent to collect a tax, fee, or charge.

1271 (3) The commission shall, upon request, give a receipt for a tax, fee, or charge the
1272 commission collects.

1273 (4) (a) A remedy provided in this part is in addition to other existing remedies.

1274 (b) An action taken by the commission may not be construed to be an election on the
1275 part of the state or an officer of the state to pursue a remedy under this part to the exclusion of
1276 another remedy.

1277 (5) The commission may:

1278 (a) retain counsel for the purpose of collecting an amount the commission assesses
1279 against a person who is not a resident of this state;

1280 (b) establish the compensation of an agent described in Subsection (2) or counsel
1281 described in Subsection (5)(a) to be paid out of money appropriated or otherwise lawfully
1282 available for payment to the agent or counsel; and

1283 (c) require a bond or other security for an agent described in Subsection (2) or counsel
1284 described in Subsection (5)(a) in a form and amount the commission considers appropriate.

1285 (6) (a) The commission shall represent the state in a matter pertaining to the collection
1286 of a tax, fee, or charge.

1287 (b) The commission may institute a proceeding to enforce a judgment allowing for the
1288 collection of a liability in the district court of a county in which is located a portion of
1289 property against which collection is sought.

1290 (c) For purposes of Subsection (6)(b), the commission may request that the following
1291 assist the commission:

1292 (i) the attorney general; or

1293 (ii) a county attorney.

1294 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1295 the commission may by rule establish a collection procedure:

1296 (a) in addition to the methods of collecting a liability provided in this title;

1297 (b) that is consistent with this part;

1298 (c) that uses a return, warrant, or other reasonable document or method; and

1299 (d) that is necessary in collecting a liability.

1300 Section 14. Section **59-1-1404** is enacted to read:

1301 **59-1-1404. Definition -- Mailing procedures -- Rulemaking authority --**

1302 **Commission mailing requirements.**

1303 (1) As used in this section, "Section 7502, Internal Revenue Code" means:

1304 (a) Section 7502, Internal Revenue Code, in effect for the taxable year; or

1305 (b) a corresponding or comparable provision to Section 7502, Internal Revenue Code,
1306 as amended, redesignated, or reenacted.

1307 (2) If the commission or a person is required to mail a document under this part:

1308 (a) the commission or the person shall mail the document using:

1309 (i) the United States Postal Service; or

1310 (ii) a delivery service the commission describes or designates in accordance with any
1311 rules the commission makes as authorized by Subsection (3); and

1312 (b) the document is considered to be mailed:

1313 (i) for a document that is mailed using the method described in Subsection (2)(a)(i),
1314 on the date the document is postmarked; or

1315 (ii) for a document that is mailed using the method described in Subsection (2)(a)(ii),
1316 on the date the delivery service records or marks the document as having been received by the
1317 delivery service for delivery in accordance with any rules the commission makes as authorized

1318 by Subsection (3).

1319 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1320 the commission may make rules:

1321 (a) describing or designating one or more delivery services the commission or a person
1322 may use to mail a document under this part if a delivery service the commission describes or
1323 specifies is consistent with the definition of "designated delivery service" in Section 7502,
1324 Internal Revenue Code; or

1325 (b) providing procedures or requirements for determining the date a delivery service
1326 records or marks a document as having been received by the delivery service for delivery if
1327 those rules are consistent with Section 7502, Internal Revenue Code.

1328 (4) Subject to Subsection (5), if the commission is required to mail a notice to a
1329 person under this part, the commission shall mail the notice to the person at the person's
1330 last-known address as shown on the records of the commission.

1331 (5) In the case of a joint return filed by a husband and wife under Chapter 10,
1332 Individual Income Tax Act, if the commission is notified in writing by either spouse that
1333 separate residences have been established, the commission shall mail a duplicate of the joint
1334 notice to each spouse at each spouse's last-known address.

1335 Section 15. Section **59-1-1405** is enacted to read:

1336 **59-1-1405. Notice of deficiency -- Notice of assessment -- Amended return --**
1337 **Exception.**

1338 (1) Except as provided in Subsection (3) or (5), the commission shall mail a notice of
1339 deficiency to a person in accordance with Section 59-1-1404 if the commission finds there is:

1340 (a) a deficiency in a tax, fee, or charge imposed; or

1341 (b) an increase or decrease in a deficiency.

1342 (2) A notice of deficiency described in Subsection (1) shall contain:

1343 (a) the details of the deficiency; and

1344 (b) the manner of computing the tax.

1345 (3) If the commission estimates an amount of tax, fee, or charge due under Subsection

1346 59-1-1406(2), the commission:
1347 (a) shall mail a notice of deficiency:
1348 (i) to the person for which the commission estimates the amount of tax, fee, or charge
1349 due; and
1350 (ii) in accordance with Section 59-1-1404; or
1351 (b) shall:
1352 (i) mail a notice to the person for which the commission estimates the amount of tax,
1353 fee, or charge due:
1354 (A) that the amount the commission estimates as a tax, fee, or charge is an assessment;
1355 and
1356 (B) in accordance with Section 59-1-1404; and
1357 (ii) provide in the notice described in Subsection (3)(b)(i) that if the person files an
1358 amended return within the time period provided in Section 59-1-1410, the commission shall
1359 replace the assessment with the amount shown on the person's amended return.
1360 (4) If the commission mails notice to a person under Subsection (3)(b), the person may
1361 file an amended return within the period provided in Section 59-1-1410 to replace the
1362 assessment of tax.
1363 (5) If the commission makes a jeopardy assessment under Part 7, Termination and
1364 Jeopardy Assessments Procedure:
1365 (a) the commission is not required to mail a notice of deficiency described in
1366 Subsection (1) to the person against which the commission makes the jeopardy assessment;
1367 and
1368 (b) the jeopardy assessment is subject to the procedures and requirements of Part 7,
1369 Termination and Jeopardy Assessments Procedure.
1370 Section 16. Section **59-1-1406** is enacted to read:
1371 **59-1-1406. Record retention -- Commission estimates tax if person fails to file a**
1372 **return.**
1373 (1) A person subject to a tax, fee, or charge shall:

1374 (a) keep in a form prescribed by the commission books and records that are necessary
1375 to determine the amount of a tax, fee, or charge the person owes;

1376 (b) keep books and records described in Subsection (1)(a) for the time period during
1377 which an assessment may be made under Section 59-1-1408; and

1378 (c) open the person's books and records for examination at any time by:

1379 (i) the commission; or

1380 (ii) an agent or representative the commission designates.

1381 (2) (a) If a person required to file a return with the commission fails to file the return
1382 with the commission, the commission may estimate the tax, fee, or charge due from the best
1383 information or knowledge the commission can obtain.

1384 (b) An estimate the commission makes under Subsection (2)(a) is considered to be a
1385 return filed on the date the commission makes the estimate.

1386 (3) For the purpose of ascertaining the correctness of a return or for estimating a tax,
1387 fee, or charge due in accordance with Subsection (2)(a), the commission may:

1388 (a) examine the books and records bearing upon the matter required to be included in
1389 a return;

1390 (b) authorize an agent or representative designated by the commission to examine the
1391 books and records bearing upon the matter required to be included in a return;

1392 (c) require the attendance of:

1393 (i) an officer or employee of a person required to make a return; or

1394 (ii) a person having knowledge of a pertinent fact;

1395 (d) take testimony; or

1396 (e) require any other necessary information.

1397 Section 17. Section **59-1-1407** is enacted to read:

1398 **59-1-1407. Mathematical errors.**

1399 (1) The commission shall correct a mathematical error.

1400 (2) The commission shall provide notice to a person if:

1401 (a) because of a mathematical error appearing on a return, an amount of tax, fee, or

1402 charge in excess of that shown upon the return is due; and

1403 (b) an assessment of the amount of tax, fee, or charge is or will be made on the basis
1404 of what would have been the correct amount of tax, fee, or charge but for the mathematical
1405 error.

1406 (3) The notice required by Subsection (2):

1407 (a) shall describe the mathematical error; and

1408 (b) is not considered to be a notice of deficiency.

1409 (4) For purposes of Subsection (2):

1410 (a) there is no restriction upon the assessment and collection of an amount of tax, fee,
1411 or charge described in Subsection (2); and

1412 (b) the person described in Subsection (2) does not have a right to:

1413 (i) file a petition to the commission on the basis of a notice provided under Subsection
1414 (2); or

1415 (ii) apply for review by a district court or the Utah Supreme Court of the determination
1416 of a mathematical error by the commission.

1417 Section 18. Section **59-1-1408** is enacted to read:

1418 **59-1-1408. Assessments.**

1419 (1) Except as provided in Subsections (2) through (4), an assessment is made on the
1420 date a liability is posted to the records of the commission.

1421 (2) Except as provided in Subsection (4), for purposes of a liability for which the
1422 commission mails a notice of deficiency to a person in accordance with Section 59-1-1405, an
1423 assessment is made:

1424 (a) if a person has not filed a petition for redetermination of a deficiency under Section
1425 59-1-501, on the date:

1426 (i) (A) 30 days after the day on which the commission mails the notice of deficiency to
1427 the person; or

1428 (B) 90 days after the day on which the commission mails the notice of deficiency to
1429 the person if the notice is addressed to a person outside the United States or the District of

- 1430 Columbia; or
- 1431 (ii) the person in writing:
- 1432 (A) agrees with the commission on the existence and amount of the liability; and
- 1433 (B) consents to the assessment of the liability; or
- 1434 (b) if a person files a petition for redetermination of a deficiency under Section
- 1435 59-1-501, on the date the liability resulting from a final commission decision is posted to the
- 1436 records of the commission.
- 1437 (3) Except as provided in Subsection (4), for purposes of a notice of proposed penalty
- 1438 under Section 59-1-302 or Subsection 59-1-401(7), an assessment is made:
- 1439 (a) if a person has not filed a petition for redetermination of a deficiency under Section
- 1440 59-1-501, on the date:
- 1441 (i) (A) 30 days after the day on which the commission mails the notice of proposed
- 1442 penalty to the person; or
- 1443 (B) 90 days after the day on which the commission mails the notice of proposed
- 1444 penalty to the person if the notice is addressed to a person outside the United States or the
- 1445 District of Columbia; or
- 1446 (ii) the person in writing:
- 1447 (A) agrees with the commission on the existence and amount of the liability; and
- 1448 (B) consents to the assessment of the liability; or
- 1449 (b) if a person files a petition for redetermination of a deficiency under Section
- 1450 59-1-501, on the date the liability resulting from a final commission decision is posted to the
- 1451 records of the commission.
- 1452 (4) In the case of interest under Section 59-1-402 that accrues to a tax, fee, or charge,
- 1453 an assessment is considered to have been made on the date the tax, fee, or charge is assessed.
- 1454 (5) The commission may at any time within the time period prescribed for assessment
- 1455 under Section 59-1-1410, increase or decrease an assessment if the commission ascertains that
- 1456 the assessment is imperfect or incomplete in a material respect.
- 1457 Section 19. Section **59-1-1409** is enacted to read:

1458 **59-1-1409. Definition -- Recomputation of amounts due -- Refunds allowed.**

1459 (1) As used in this section, "overpayment" means the amount by which a tax, fee, or
1460 charge a person pays exceeds the amount of tax, fee, or charge the person owes.

1461 (2) If the commission determines that the correct amount of a tax, fee, or charge a
1462 person is required to remit is greater or less than the amount shown to be due on a return, the
1463 commission shall:

1464 (a) recompute the tax, fee, or charge; and

1465 (b) mail notice to the person:

1466 (i) that the commission recomputed the tax, fee, or charge; and

1467 (ii) in accordance with Section 59-1-1404.

1468 (3) If the amount of a tax, fee, or charge a person pays exceeds the amount of tax, fee,
1469 or charge the person owes, the commission shall:

1470 (a) credit the overpayment against any liability the person owes; and

1471 (b) refund any balance to:

1472 (i) the person; or

1473 (ii) (A) the person's assign;

1474 (B) the person's personal representative;

1475 (C) the person's successor; or

1476 (D) a person similar to Subsections (3)(b)(ii)(A) through (C) as determined by the
1477 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1478 Rulemaking Act.

1479 (4) The commission may not credit or refund interest on an overpayment to a person if
1480 the commission determines that the overpayment was made for the purpose of investment.

1481 (5) If the commission erroneously determines an amount of tax, fee, or charge to be
1482 due from a person, the commission shall:

1483 (a) authorize the amount to be cancelled upon the commission's records; and

1484 (b) mail notice to the person:

1485 (i) that the commission cancelled the amount upon the commission's records; and

1486 (ii) in accordance with Section 59-1-1404.

1487 Section 20. Section **59-1-1410** is enacted to read:

1488 **59-1-1410. Action for collection of tax, fee, or charge -- Action for refund or**
1489 **credit of tax, fee, or charge -- Denial of refund claim under appeal -- Appeal of denied**
1490 **refund claim.**

1491 (1) (a) Except as provided in Subsections (3) through (7) and Sections 59-5-114,
1492 59-7-519, 59-10-536, and 59-11-113, the commission shall assess a tax, fee, or charge within
1493 three years after the day on which a person files a return.

1494 (b) Except as provided in Subsections (3) through (7), if the commission does not
1495 assess a tax, fee, or charge within the three-year period provided in Subsection (1)(a), the
1496 commission may not commence a proceeding to collect the tax, fee, or charge.

1497 (2) (a) Except as provided in Subsection (2)(b), for purposes of this part, a return filed
1498 before the last day prescribed by statute or rule for filing the return is considered to be filed on
1499 the last day for filing the return.

1500 (b) A return of withholding tax under Chapter 10, Part 4, Withholding of Tax, is
1501 considered to be filed on April 15 of the succeeding calendar year if the return:

1502 (i) is for a period ending with or within a calendar year; and

1503 (ii) is filed before April 15 of the succeeding calendar year.

1504 (3) The commission may assess a tax, fee, or charge or commence a proceeding for the
1505 collection of a tax, fee, or charge at any time if:

1506 (a) a person:

1507 (i) files a:

1508 (A) false return with intent to evade; or

1509 (B) fraudulent return with intent to evade; or

1510 (ii) fails to file a return; or

1511 (b) the commission estimates the amount of tax, fee, or charge due in accordance with
1512 Subsection 59-1-1406(2).

1513 (4) The commission may extend the period to make an assessment or to commence a

- 1514 proceeding to collect a tax, fee, or charge if:
- 1515 (a) the three-year period under Subsection (1) has not expired; and
- 1516 (b) the commission and the person sign a written agreement:
- 1517 (i) authorizing the extension; and
- 1518 (ii) providing for the length of the extension.
- 1519 (5) The commission may make an assessment as provided in Subsection (6) if:
- 1520 (a) the commission delays an audit at the request of a person;
- 1521 (b) the person subsequently refuses to agree to an extension request by the
- 1522 commission; and
- 1523 (c) the three-year period under Subsection (1) expires before the commission
- 1524 completes the audit.
- 1525 (6) An assessment under Subsection (5) shall be:
- 1526 (a) for the time period for which the commission could not make the assessment
- 1527 because of the expiration of the three-year period; and
- 1528 (b) in an amount equal to the difference between:
- 1529 (i) the commission's estimate of the amount of tax, fee, or charge the person would
- 1530 have been assessed for the time period described in Subsection (6)(a); and
- 1531 (ii) the amount of tax, fee, or charge the person actually paid for the time period
- 1532 described in Subsection (6)(a).
- 1533 (7) If a person pays a liability more than once or the commission erroneously receives,
- 1534 collects, or computes a liability, the commission shall:
- 1535 (a) credit the liability against any amount of liability the person owes; and
- 1536 (b) refund any balance to:
- 1537 (i) the person; or
- 1538 (ii) (A) the person's assign;
- 1539 (B) the person's personal representative;
- 1540 (C) the person's successor; or
- 1541 (D) a person similar to Subsections (7)(b)(ii)(A) through (C) as determined by the

1542 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1543 Rulemaking Act.

1544 (8) (a) Except as provided in Subsection (8)(b) or Section 19-2-124, 59-7-522,
1545 59-10-529, or 59-12-110, the commission may not make a credit or refund unless a person
1546 files a claim with the commission within the later of:

1547 (i) three years from the due date of the return, including the period of any extension of
1548 time provided in statute for filing the return; or

1549 (ii) two years from the date the tax was paid.

1550 (b) The commission shall extend the time period for a person to file a claim under
1551 Subsection (8)(a) if:

1552 (i) the time period described in Subsection (8)(a) has not expired; and

1553 (ii) the commission and the person sign a written agreement:

1554 (A) authorizing the extension; and

1555 (B) providing for the length of the extension.

1556 (9) If the commission denies a claim for a credit or refund, a person may request a
1557 redetermination of the denial by filing a petition or request for agency action with the
1558 commission:

1559 (a) (i) within a 30-day period after the day on which the commission mails a notice of
1560 denial for the claim for credit or refund; or

1561 (ii) within a 90-day period after the day on which the commission mails a notice of
1562 denial for the claim for credit or refund, if the notice is addressed to a person outside the
1563 United States or the District of Columbia; and

1564 (b) in accordance with:

1565 (i) Section 59-1-501; and

1566 (ii) Title 63G, Chapter 4, Administrative Procedures Act.

1567 (10) The action of the commission on a person's petition for redetermination of a
1568 denial of a claim for credit or refund is final 30 days after the day on which the commission
1569 sends the commission's decision or order, unless the person seeks judicial review.

1570 Section 21. Section **59-1-1411** is enacted to read:

1571 **59-1-1411. Notice and demand.**

1572 (1) The commission shall as soon as practicable mail notice and demand to a person
1573 who owes a liability that has been assessed but remains unpaid.

1574 (2) (a) The notice and demand required by Subsection (1) shall:

1575 (i) except as provided in Subsection (2)(b), state the amount of the liability;

1576 (ii) demand payment of the liability; and

1577 (iii) be mailed in accordance with Section 59-1-1404.

1578 (b) For purposes of Subsection (2)(a)(i), the notice and demand shall:

1579 (i) state the amount of interest and penalties that have accrued as of the date of the
1580 notice and demand; and

1581 (ii) include a statement that interest and penalties may continue to accrue in
1582 accordance with Sections 59-1-401 and 59-1-402.

1583 (3) Payment for a liability may not be demanded before the last day prescribed for
1584 payment of the liability, including an extension, unless the commission determines under
1585 Section 59-1-701 that collection of the liability would be jeopardized by delay.

1586 (4) Upon issuance of the notice and demand described in this section, a person that
1587 owes a liability shall pay the liability at the place and time stated in the notice and demand.

1588 Section 22. Section **59-1-1412** is enacted to read:

1589 **59-1-1412. Applicability of section -- Delinquent payment -- Notice to third**
1590 **parties.**

1591 (1) (a) Except as provided in Subsection (1)(b), this section applies to a delinquency in
1592 the payment of a liability.

1593 (b) This section does not apply to a garnishment.

1594 (2) If a person is delinquent in the payment of a liability, the commission may mail
1595 notice of the amount of the delinquency:

1596 (a) to a person that at the time of the receipt of the notice has in that person's
1597 possession, under that person's control, or owing to that person:

1598 (i) a credit of the person owing the liability;
1599 (ii) personal property of the person owing the liability; or
1600 (iii) a debt of the person owing the liability; and
1601 (b) in accordance with Section 59-1-1404.
1602 (3) A person to which the commission mails notice in accordance with this section
1603 shall, within ten days after the date the commission mails the notice, advise the commission of
1604 the following in the person's possession, under the person's control, or owing to the person:
1605 (a) a credit of the person owing the liability;
1606 (b) personal property of the person owing the liability; or
1607 (c) a debt of the person owing the liability.
1608 (4) A person to which the commission mails notice in accordance with this section
1609 may not transfer or make any other disposition of a credit, personal property, or debt described
1610 in Subsection (3) until the sooner of:
1611 (a) the commission consents to the transfer or disposition; or
1612 (b) 20 days elapse after the day on which the person provides the commission the
1613 information required by Subsection (3).
1614 Section 23. Section **59-1-1413** is enacted to read:
1615 **59-1-1413. Lien for a liability.**
1616 (1) In addition to Section 40-6-14, 59-5-108, 59-5-208, 59-11-110, 59-12-112,
1617 59-13-302, or 59-13-311, if a person that owes a liability fails to pay that liability after the
1618 commission mails notice and demand under Section 59-1-1411, the amount of liability, plus
1619 any administrative cost, is a lien in favor of the state upon all property and rights to property,
1620 whether real or personal, belonging to that person.
1621 (2) Unless another date is specifically established by law, the lien imposed by this
1622 section:
1623 (a) arises at the time the commission makes the assessment of the tax, fee, or charge
1624 that is part of the liability; and
1625 (b) continues until the liability and administrative costs described in Subsection (1), or

1626 a judgment against the person arising from that liability and administrative costs:

1627 (i) is satisfied; or

1628 (ii) is unenforceable because the time period described in Subsection 59-1-1414(8) has
1629 elapsed.

1630 Section 24. Section **59-1-1414** is enacted to read:

1631 **59-1-1414. Warrant procedures -- Judgment -- Notice requirements after filing**
1632 **warrant.**

1633 (1) Except as provided in Subsections (3) and (4), if a person who owes a liability fails
1634 to pay that liability within 30 days after the day on which the commission mails notice and
1635 demand under Section 59-1-1411, the commission may:

1636 (a) file a warrant with the clerk of:

1637 (i) except as provided in Subsection (1)(a)(ii), the district court of any county in which
1638 that person has real or personal property; or

1639 (ii) if the person is not a resident of this state, the Third District Court in Salt Lake
1640 City; or

1641 (b) issue a warrant in duplicate under its official seal directed to the sheriff of a county
1642 requiring the sheriff to:

1643 (i) levy upon and sell the person's real and personal property for the payment of the
1644 liability, plus the cost of executing the warrant; and

1645 (ii) return to the commission within 60 days:

1646 (A) the warrant; and

1647 (B) the money collected under the warrant.

1648 (2) (a) A sheriff that receives a warrant under Subsection (1) shall within five days file
1649 a duplicate copy of the warrant with the clerk of the district court of the appropriate county.

1650 (b) (i) The sheriff shall execute the warrant in the same manner prescribed by law for
1651 an execution issued against property in accordance with a judgment by a court.

1652 (ii) An execution of a warrant described in Subsection (2)(b)(i) has the same effect as
1653 an execution issued against property in accordance with a judgment by a court.

1654 (iii) A sheriff that executes a warrant under Subsection (2)(b)(i) shall receive fees for
1655 the sheriff's services in executing the warrant as if the sheriff were executing a judgment by a
1656 court.

1657 (3) The commission may file a warrant without regard to the 30-day period provided
1658 in Subsection (1) if the commission finds that the collection of a liability that a person owes is
1659 in jeopardy.

1660 (4) The commission may not file a warrant under this section more than three years
1661 after the assessment of the tax, fee, or charge that is a portion of a liability.

1662 (5) A clerk of a district court that receives a warrant under this section shall enter in
1663 the judgment docket:

1664 (a) in the column for judgment debtors, the name of the person stated in the warrant;
1665 and

1666 (b) in appropriate columns:

1667 (i) the amount for which the warrant is filed; and

1668 (ii) the date the warrant is filed.

1669 (6) Notwithstanding Section 78B-5-202, the liability that serves as the basis for a
1670 warrant is a binding lien upon the real, personal, and other property of the person to the same
1671 extent as other judgments docketed in the office of the clerk of the district court.

1672 (7) When a warrant is filed with the clerk of a district court in accordance with this
1673 section, the commission is considered to have obtained a judgment against a person for a
1674 liability.

1675 (8) Notwithstanding Section 78B-5-202, a judgment described in Subsection (7) is
1676 effective for a period ending ten years after the date the amount for which the warrant is filed
1677 is assessed in accordance with Section 59-1-1408.

1678 (9) The commission may not renew a judgment described in Subsection (7).

1679 (10) The commission may authorize an action or proceeding to collect or enforce a
1680 judgment described in Subsection (7) in any place and by any procedure that a civil judgment
1681 of the Utah Supreme Court may be collected or enforced if:

1682 (a) a warrant is filed under this section against a person who is not a resident of this
1683 state; and

1684 (b) the commission determines that the person does not have sufficient real or personal
1685 property in the state to pay the person's liability.

1686 (11) After filing a warrant under Section 59-1-1414, the commission shall follow the
1687 notice requirements of Section 38-12-102.

1688 Section 25. Section **59-1-1415** is enacted to read:

1689 **59-1-1415. Release of lien.**

1690 The commission may release property from a lien placed under this part:

1691 (1) if the commission determines that the interests of the state will not be jeopardized
1692 by the release; and

1693 (2) under conditions the commission may require.

1694 Section 26. Section **59-1-1416** is enacted to read:

1695 **59-1-1416. Transferees.**

1696 (1) (a) If a transferee is obligated at law or equity for an amount of a liability of a
1697 person that originally owes a liability, the transferee is subject to this part for the assessment,
1698 payment, and collection of the amount of the liability for which the transferee has an
1699 obligation.

1700 (b) The period of limitations for an assessment against a transferee is extended:

1701 (i) subject to the other provisions of this section, by one year for each successive
1702 transfer:

1703 (A) in the order of transfer; and

1704 (B) beginning from the person that originally owes the liability to the transferee
1705 involved; and

1706 (ii) by not more than three years in the aggregate.

1707 (2) (a) Subject to Subsection (2)(b), if before the expiration of the period of limitations
1708 for assessment against a transferee, the commission files a claim in court against the person
1709 that originally owes the liability or the last preceding transferee, based upon the liability the

1710 person originally owes, the period of limitation for assessment against the transferee may not
1711 expire before one year after the claim is finally allowed, disallowed, or otherwise disposed of.

1712 (b) (i) Subject to Subsection (2)(b)(ii), if before expiration of the time period
1713 described in Subsection (1)(b) or (2)(a) for an assessment against a transferee, the commission
1714 and the transferee agree in writing to an assessment after the time period described in
1715 Subsection (1)(b) or (2)(a), the commission may make an assessment against the transferee at
1716 any time before the expiration of the time period to which the commission and transferee agree
1717 in writing.

1718 (ii) A time period that the commission and a transferee agree upon in writing in
1719 accordance with Subsection (2)(b)(i) may be extended by written agreement:

1720 (A) between the commission and the transferee; and

1721 (B) made before the expiration of the time period that the commission and the
1722 transferee previously agreed upon.

1723 (c) An agreement described in Subsection (2)(b)(i) or an extension described in
1724 Subsection (2)(b)(ii) is considered to be an agreement or extension described in Section
1725 59-1-1410 for purposes of determining the period of limitation on a credit or refund to a
1726 transferee of an overpayment of a liability:

1727 (i) made by:

1728 (A) the transferee; or

1729 (B) the transferor; and

1730 (ii) for which the transferee is allowed a credit or refund.

1731 (d) If an agreement described in Subsection (2)(b)(i) or an extension described in
1732 Subsection (2)(b)(ii) is executed after the expiration of the period of limitation for assessment
1733 against the person that originally owes a liability, the time period in which a credit or refund
1734 may be claimed shall be increased by the time period:

1735 (i) beginning on the date of the expiration of the period of limitation for assessment
1736 against the person that originally owes the liability; and

1737 (ii) ending on the date the agreement described in Subsection (2)(b)(i) or the extension

1738 described in Subsection (2)(b)(ii) is executed.

1739 (3) If the person that originally owes a liability is deceased, the period of limitation for
1740 assessment of a liability against that person is the period that would be in effect had the person
1741 lived.

1742 (4) (a) Subject to Subsection (4)(b) and notwithstanding Section 59-1-403, the
1743 commission shall make available to a transferee information necessary to enable the transferee
1744 to determine the liability:

1745 (i) of the person that originally owes the liability; or

1746 (ii) a preceding transferee owes.

1747 (b) The commission may not take an action under Subsection (4)(a) that imposes an
1748 undue hardship to the person that originally owes the liability or a preceding transferee.

1749 Section 27. Section **59-1-1417** is enacted to read:

1750 **59-1-1417. Burden of proof.**

1751 In a proceeding before the commission, the burden of proof is on the petitioner except
1752 for determining the following, in which the burden of proof is on the commission:

1753 (1) whether the petitioner committed fraud with intent to evade a tax, fee, or charge;

1754 (2) whether the petitioner is obligated as the transferee of property of the person that
1755 originally owes a liability or a preceding transferee, but not to show that the person that
1756 originally owes a liability is obligated for the liability; and

1757 (3) whether the petitioner is liable for an increase in a deficiency if the increase is
1758 asserted initially after a notice of deficiency is mailed in accordance with Section 59-1-1405
1759 and a petition under Part 5, Petitions for Redetermination of Deficiencies, is filed, unless the
1760 increase in the deficiency is the result of a change or correction of federal taxable income:

1761 (a) required to be reported; and

1762 (b) of which the commission has no notice at the time the commission mails the notice
1763 of deficiency.

1764 Section 28. Section **59-1-1418** is enacted to read:

1765 **59-1-1418. Suspension of running of statute of limitations.**

1766 (1) The time period allowed for making an assessment or commencing a proceeding
1767 under Section 59-1-1410 shall be extended by the time period during which the commission is
1768 prohibited by law from making an assessment or commencing a proceeding for collection, plus
1769 60 days.

1770 (2) The time period allowed for commencing a proceeding under Section 59-1-1410
1771 shall be extended by the time period during which the commencement of the proceeding is
1772 stayed by injunction or statutory prohibition.

1773 Section 29. Section **59-1-1419** is enacted to read:

1774 **59-1-1419. Venue -- Section does not affect right to seek judicial review.**

1775 (1) If the commission commences a proceeding relating to the following, the venue is
1776 the Third District Court in Salt Lake City:

- 1777 (a) failure to pay a liability;
- 1778 (b) failure to file a return; or
- 1779 (c) failure to supply information.

1780 (2) Nothing in this section affects a right to seek judicial review in accordance with
1781 Part 6, Judicial Review.

1782 Section 30. Section **59-6-104** is amended to read:

1783 **59-6-104. Commission administration of chapter -- Rulemaking authority.**

1784 ~~[(1) The provisions of Title 59, Chapter 10, applicable to withholding of taxes by~~
1785 ~~employers under Title 59, Chapter 10, Part 4, relating to records, penalties, interest,~~
1786 ~~deficiencies, overpayments, refunds, assessments, venue, and civil and criminal penalties are~~
1787 ~~applicable to the withholding and payment of withheld taxes under this chapter to the extent~~
1788 ~~that those provisions are consistent with this chapter.]~~

1789 (1) To the extent the following are consistent with this chapter, the commission shall
1790 administer this chapter in accordance with:

- 1791 (a) Chapter 1, General Taxation Policies; and
- 1792 (b) Chapter 10, Part 4, Withholding of Tax.

1793 (2) ~~[The commission may adopt rules pursuant to]~~ In accordance with Title 63G,

1794 Chapter 3, ~~the~~ Utah Administrative Rulemaking Act, the commission may make rules
1795 necessary to effectuate the purposes of this chapter.

1796 Section 31. Section **59-7-519** is amended to read:

1797 **59-7-519. Period of limitation for making assessments -- Change, correction, or**
1798 **amendment of federal income tax -- Duty of corporation to notify state -- Extensions.**

1799 (1) (a) ~~[Except as provided in Section 59-7-520, the]~~ Subject to the other provisions of
1800 this section, the amount of taxes imposed by this chapter shall be assessed within three years
1801 after ~~the~~ a return ~~was~~ is filed~~[-, and no proceeding in the court].~~

1802 (b) After the expiration of the time period described in Subsection (1)(a), a proceeding
1803 in court may not be made without assessment for the collection of ~~[such taxes shall be begun~~
1804 ~~after the expiration of such period]~~ the taxes described in Subsection (1)(a).

1805 (2) In the case of a deficiency attributable to the application of a net loss carryback,
1806 ~~[this]~~ the deficiency may be assessed at any time before the expiration of the period within
1807 which a deficiency for the taxable year of the net loss ~~[which]~~ that results in the carryback may
1808 be assessed.

1809 (3) If the amount of federal taxable income for any year of any corporation as returned
1810 to the United States treasury department is changed or corrected by the commissioner of
1811 internal revenue or other officer of the United States or other competent authority, or where a
1812 renegotiation of a contract or subcontract with the United States results in a change of federal
1813 taxable income, ~~[that]~~ a taxpayer shall:

1814 (a) report the change or corrected net income within 90 days after the final
1815 determination of the change or correction as required to the commission; and ~~shall~~

1816 (b) concede the accuracy of the determination or state ~~[wherein it]~~ where the
1817 determination is erroneous.

1818 (4) Any corporation filing an amended return with the United States treasury
1819 department shall also file, within 90 days ~~[thereafter]~~ after the corporation files the amended
1820 return with the United States treasury department, an amended return with the commission
1821 ~~[which shall contain]~~ that contains the information ~~[as it shall require]~~ the commission

1822 requires.

1823 [~~(4)~~] (5) If a corporation fails to report a change or correction by the commissioner of
1824 internal revenue, other officer of the United States, or other competent authority or fails to file
1825 an amended return, any deficiency resulting from the [~~adjustments~~] change or correction may
1826 be assessed and collected within three years after [~~said~~] the change, correction, or amended
1827 return is reported to or filed with the federal government.

1828 [~~(5)~~] (6) If any corporation agrees with the commissioner of internal revenue for an
1829 extension, or [~~renewals thereof~~] a renewal of an extension, of the period for proposing and
1830 assessing deficiencies in federal income tax for any year, the period for sending [~~notices~~] a
1831 notice of proposed Utah tax deficiencies for [~~such year shall be~~] that year is the later of:

1832 (a) three years after the return [~~was~~] is filed; or

1833 (b) six months after the date of the expiration of the agreed period for assessing
1834 deficiencies in federal income tax[~~, whichever period expires the later~~].

1835 (7) The extensions described in Section 59-1-1418 apply to this section.

1836 Section 32. Section **59-7-522** is amended to read:

1837 **59-7-522. Overpayments.**

1838 [~~(1) Where there has been an overpayment of any tax imposed by this chapter, the~~
1839 ~~amount of such overpayment and interest calculated at the rate and in the manner prescribed in~~
1840 ~~Section 59-1-402 shall be credited against any tax then due from the taxpayer under this~~
1841 ~~chapter, and any balance shall be refunded immediately to the taxpayer.]~~

1842 [(2) (a) Except as provided in Subsection (2)(b), the commission may not make a credit
1843 or refund unless the taxpayer files a claim with the commission within three years from the
1844 date of overpayment.]

1845 [(b) Notwithstanding Subsection (2)(a), beginning on July 1, 1998, the commission
1846 shall extend the period for a taxpayer to file a claim under Subsection (2)(a) if:]

1847 [(i) the three-year period under Subsection (2)(a) has not expired; and]

1848 [(ii) the commission and the taxpayer sign a written agreement:]

1849 [(A) authorizing the extension; and]

1850 ~~[(B) providing for the length of the extension.]~~

1851 ~~[(3) If the]~~ (1) (a) Subject to Subsection (1)(b), a claim for credit or refund ~~[relates to]~~

1852 ~~of an overpayment that is attributable to a Utah net loss [carryback adjustment as provided in~~

1853 ~~Section 59-7-110, in lieu of the three-year period provided for in Subsection (2)(a), the period~~

1854 ~~shall be that period which ends with the expiration of the 15th day of the 40th month~~

1855 ~~following the end of the taxable year of the net loss which results in the carryback.]~~ carry back

1856 or carry forward shall be filed within three years from the due date of the return for the taxable

1857 year of the Utah net loss.

1858 (b) The three-year period described in Subsection (1)(a) shall be extended by any

1859 extension of time provided in statute for filing the return described in Subsection (1)(a).

1860 ~~[(4) Where]~~ (2) If an overpayment relates to ~~[adjustments to]~~ a change in or correction

1861 of federal taxable income [referred to] described in Section 59-7-519, a credit may be allowed

1862 or a refund paid any time before the expiration of the period within which a deficiency may be

1863 assessed.

1864 ~~[(5)]~~ (3) The amount of the credit or refund described in Subsection (2) may not

1865 exceed:

1866 (a) if a taxpayer files a claim for a credit or refund, the portion of the tax paid during

1867 the three years immediately preceding the filing of the claim[;]; or [if no claim was filed, then]

1868 (b) if a taxpayer does not file a claim for a credit or refund, the portion of the tax paid

1869 during the two years immediately preceding the allowance of the credit or refund.

1870 ~~[(6) Except as provided in Subsections (3) and (4), if on appeal a court finds that~~

1871 ~~there is no deficiency and further finds that the taxpayer has made an overpayment of tax in~~

1872 ~~respect of the taxable year in respect to which the commission determined the deficiency, the~~

1873 ~~court shall have jurisdiction to determine the amount of the overpayment and that amount~~

1874 ~~shall, when the court's decision has become final, be credited or refunded to the taxpayer. A~~

1875 ~~credit or refund may not be made of any portion of the tax paid more than three years before~~

1876 ~~the filing of the claim or the filing of the appeal or petition, whichever is earlier.]~~

1877 (4) The commission shall make a credit or refund within a 30-day period after the day

1878 on which a court's decision to require the commission to credit or refund the amount of an
1879 overpayment to a taxpayer is final.

1880 Section 33. Section **59-10-501** is amended to read:

1881 **59-10-501. Rulemaking authority -- Federal income tax return information.**

1882 [~~(1) Every person liable for any tax imposed by this chapter, or for the collections~~
1883 ~~thereof, shall keep such records, render such statements, make such returns, and comply with~~
1884 ~~such rules as the commission may from time to time by rule prescribe. Whenever in the~~
1885 ~~judgment of the commission it is necessary, it may require any person, by notice served upon~~
1886 ~~such person or by rule, to make such returns, render such statements, or keep such records, as~~
1887 ~~the commission deems sufficient to show whether or not such person is liable for tax under~~
1888 ~~this chapter.]~~

1889 [~~(2) The commission may, in its discretion, promulgate rules or instructions that~~
1890 ~~permit]~~

1891 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1892 commission may make rules to allow a taxpayer to submit specified excerpts from [his] the
1893 taxpayer's federal income tax return [in lieu of] rather than submitting a copy of the taxpayer's
1894 entire federal income tax return.

1895 Section 34. Section **59-10-505** is amended to read:

1896 **59-10-505. Return by minor.**

1897 [~~In the case of any individual required to make a return under Section 59-10-501, who~~
1898 ~~is a minor, such return shall include]~~

1899 (1) As used in this section, "parent" includes an individual who is entitled to the
1900 services of an individual who is a minor by reason of having parental rights and duties with
1901 respect to the individual who is a minor.

1902 (2) If an individual who is a minor is required to make a return under this chapter, the
1903 return shall include:

1904 (a) all income attributable to [his] the individual's personal services; and

1905 (b) all other items of [his] the individual's income[, and such income shall].

1906 (3) The income of an individual who is a minor may not be included on the return of
 1907 [his] the individual's parent. [All expenditures by the parent or the minor attributable to such
 1908 income shall be]

1909 (4) An expenditure attributable to the income of an individual who is a minor that is
 1910 made by the individual or the individual's parent is considered to have been paid or incurred
 1911 by the individual who is a minor. [However, any]

1912 (5) A tax assessed against [the] an individual who is a minor, to the extent attributable
 1913 to income from personal services, if not paid by the [minor] individual, for all purposes [shall
 1914 be] is considered as being properly assessable against the individual's parent. [For the
 1915 purposes of this section, the term "parent" includes an individual who is entitled to the
 1916 services of a minor by reason of having parental rights and duties in respect of such minor.]

1917 Section 35. Section **59-10-510** is amended to read:

1918 **59-10-510. Return of electing small business corporation.**

1919 ~~[Every]~~ An electing small business corporation, ~~[([as defined in Section 1371(a)(2) [of~~
 1920 ~~the], Internal Revenue Code[;]), shall make a return for each taxable year, stating specifically:~~

1921 (1) the items of [its] the electing small business corporation's gross income and the
 1922 deductions allowable by Subtitle A [of the], Internal Revenue Code[;];

1923 (2) the names and addresses of all persons owning stock in the electing small business
 1924 corporation at any time during the taxable year[;];

1925 (3) the number of shares of stock owned by each shareholder at all times during the
 1926 taxable year to each shareholder[;];

1927 (4) the date of each [such] distribution[;] to a shareholder; and [such]

1928 (5) other information as the commission may [by forms and rules] prescribe[. Any
 1929 return filed pursuant to this section shall, for the purposes of Section 59-10-536 (relating to
 1930 limitations), be treated as a required return filed by the corporation.] by:

1931 (a) form; or

1932 (b) administrative rule made in accordance with Title 63G, Chapter 3, Utah
 1933 Administrative Rulemaking Act.

1934 Section 36. Section **59-10-529** is amended to read:

1935 **59-10-529. Overpayment of tax -- Credits -- Refunds.**

1936 (1) [~~In cases where~~] If there has been an overpayment of any tax imposed by this
1937 chapter, the amount of overpayment is credited as follows:

1938 (a) against any income tax then due from the taxpayer;

1939 (b) against:

1940 (i) the amount of any judgment against the taxpayer, including one ordering the
1941 payment of a fine or of restitution to a victim under Title 77, Chapter 38a, Crime Victims
1942 Restitution Act, obtained through due process of law by any entity of state government; or

1943 (ii) subject to Subsection (3), any child support obligation [~~which~~] that is due or past
1944 due, as determined by the Office of Recovery Services in the Department of Human Services
1945 and after notice and an opportunity for an adjudicative proceeding, as provided in Subsection
1946 (2); or

1947 (c) subject to Subsection (3), (5), (6), or (7), as bail, to ensure the appearance of the
1948 taxpayer before the appropriate authority to resolve an outstanding warrant against the
1949 taxpayer for which bail is due, if a court of competent jurisdiction has not approved an
1950 alternative form of payment. [~~This bail~~]

1951 (2) If a balance remains after an overpayment is credited in accordance with
1952 Subsection (1), the balance shall be refunded to the taxpayer.

1953 (3) Bail described in Subsection (1)(c) may be applied to any fine or forfeiture
1954 [which]:

1955 (a) that is due and related to a warrant [~~which~~] that is outstanding on or after February
1956 16, 1984[;]; and

1957 (b) in accordance with Subsections [~~(3) and (4)] (5) and (6).~~

1958 [~~(2)(a) Subsection (1)(b)(ii) may be exercised only~~]

1959 (4) (a) The amount of an overpayment may be credited against an obligation described
1960 in Subsection (1)(b)(ii) if the Office of Recovery Services has sent written notice to the
1961 taxpayer's last-known address or the address on file under Section 62A-11-304.4, stating:

1962 (i) the amount of child support that is due or past due as of the date of the notice or
1963 other specified date;

1964 (ii) that any overpayment shall be applied to reduce the amount of due or past-due
1965 child support specified in the notice; and

1966 (iii) that the taxpayer may contest the amount of past-due child support specified in
1967 the notice by filing a written request for an adjudicative proceeding with the office within 15
1968 days of the notice being sent.

1969 (b) [~~The~~] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
1970 Act, the Office of Recovery Services shall establish rules to implement this Subsection [~~(2)~~]
1971 (4), including procedures, in accordance with the other provisions of this section, to ensure:

1972 (i) prompt reimbursement to the taxpayer of any amount of an overpayment [~~of taxes~~
1973 ~~which~~] that was credited against a child support obligation in error[~~;~~]; and [~~to ensure~~]

1974 (ii) prompt distribution of properly credited funds to the obligee parent.

1975 [~~(3) Subsection (1)(c) may be exercised only if:~~]

1976 (5) The amount of an overpayment may be credited against bail described in
1977 Subsection (1)(c) if:

1978 (a) a court has issued a warrant for the arrest of the taxpayer for failure to post bail,
1979 appear, or otherwise satisfy the terms of a citation, summons, or court order; and

1980 (b) a notice of intent to apply the overpayment as bail on the issued warrant has been
1981 sent to the person's current address on file with the commission.

1982 [~~(4)~~] (6) (a) (i) The commission shall deliver [~~the~~] an overpayment applied as bail to
1983 the court that issued the warrant of arrest.

1984 (ii) The clerk of the court is authorized to endorse the check or commission warrant of
1985 payment on behalf of the payees and deposit the monies in the court treasury.

1986 (b) (i) The court receiving [~~the~~] an overpayment applied as bail shall order withdrawal
1987 of the warrant for arrest of the taxpayer if:

1988 (A) the case is [~~one~~] a case for which a personal appearance of the taxpayer is not
1989 required; and [if]

1990 (B) the dollar amount of the overpayment represents the full dollar amount of bail. [~~In~~
 1991 ~~all other cases;~~]

1992 (ii) In a case except for a case described in Subsection (6)(b)(i):

1993 (A) the court receiving the overpayment applied as bail is not required to order the
 1994 withdrawal of the warrant of arrest of the taxpayer during the 40-day period[~~;~~]; and

1995 (B) the taxpayer may be arrested on the warrant.

1996 (c) (i) If [~~the~~] a taxpayer fails to respond to the notice [~~described in Subsection (3)]~~
 1997 required by Subsection (5)(b), or to resolve the warrant within 40 days after the notice [~~was~~] is
 1998 sent under [~~that Subsection;~~] Subsection (5)(b):

1999 (A) the overpayment applied as bail is forfeited; and

2000 (B) notice of the forfeiture shall be mailed to the taxpayer at the current address on file
 2001 with the commission. [~~The court may then~~]

2002 (ii) A court may issue another warrant or allow the original warrant to remain in force
 2003 if:

2004 [(~~i~~)] (A) the taxpayer has not complied with an order of the court;

2005 [(~~ii~~)] (B) the taxpayer has failed to appear and respond to a criminal charge for which
 2006 a personal appearance is required; or

2007 [(~~iii~~)] (C) the taxpayer has paid partial but not full bail in a case for which a personal
 2008 appearance is not required.

2009 [(~~5~~)] (d) If the alleged violations named in [~~the~~] a warrant are later resolved in favor of
 2010 the taxpayer, the bail amount shall be remitted to the taxpayer.

2011 [~~(6) Any balance shall be refunded immediately to the taxpayer.~~]

2012 [(~~7~~) (a) If a refund or credit is due because the amount of tax deducted and withheld
 2013 from wages exceeds the actual tax due, a refund or credit may not be made or allowed unless
 2014 the taxpayer or his legal representative files with the commission a tax return claiming the
 2015 refund or credit:]

2016 [(~~i~~) within three years from the due date of the return, plus the period of any extension
 2017 of time for filing the return provided for in Subsection (7)(c); or]

2018 ~~[(ii) within two years from the date the tax was paid, whichever period is later:]~~

2019 ~~[(b) Except as provided in Subsection (7)(d), in other instances where a refund or~~

2020 ~~credit of tax which has not been deducted and withheld from income is due, a credit or refund~~

2021 ~~may not be allowed or made after three years from the time the tax was paid, unless, before the~~

2022 ~~expiration of the period, a claim is filed by the taxpayer or his legal representative:]~~

2023 ~~[(c) Beginning on July 1, 1998, the commission shall extend the period for a taxpayer~~

2024 ~~to file a claim under Subsection (7)(a)(i) if:]~~

2025 ~~[(i) the time period for filing a claim under Subsection (7)(a) has not expired; and]~~

2026 ~~[(ii) the commission and the taxpayer sign a written agreement:]~~

2027 ~~[(A) authorizing the extension; and]~~

2028 ~~[(B) providing for the length of the extension:]~~

2029 ~~[(d) Notwithstanding Subsection (7)(b), beginning on July 1, 1998, the commission~~

2030 ~~shall extend the period for a taxpayer to file a claim under Subsection (7)(b) if:]~~

2031 ~~[(i) the three-year period under Subsection (7)(b) has not expired; and]~~

2032 ~~[(ii) the commission and the taxpayer sign a written agreement:]~~

2033 ~~[(A) authorizing the extension; and]~~

2034 ~~[(B) providing for the length of the extension:]~~

2035 ~~[(8)]~~ (7) The fine and bail forfeiture provisions of this section apply to all warrants and

2036 fines issued in cases charging ~~[the]~~ a taxpayer with a felony, a misdemeanor, or an infraction

2037 described in this section which are outstanding on or after February 16, 1984.

2038 ~~[(9)]~~ (8) If the amount allowable as a credit for tax withheld from ~~[the]~~ a taxpayer

2039 exceeds the tax to which the credit relates, the excess is considered an overpayment.

2040 ~~[(10)]~~ (9) (a) ~~[(A)]~~ Subject to Subsection (9)(b), a claim for credit or refund of an

2041 overpayment [which] that is attributable to [the application to the taxpayer of] a net operating

2042 loss [carryback shall be filed within three years from the time the return was due for the

2043 taxable year of the loss] carry back or carry forward shall be filed within three years from the

2044 due date of the return for the taxable year of the net operating loss.

2045 (b) The three-year period described in Subsection (9)(a) shall be extended by any

2046 extension of time provided in statute for filing the return described in Subsection (9)(a).

2047 [~~(11)~~] (10) If there has been an overpayment of [~~the~~] a tax [~~which~~] that is required to
2048 be deducted and withheld under Section 59-10-402, a refund shall be made to the employer
2049 only to the extent that the amount of overpayment [~~was~~] is not deducted and withheld by the
2050 employer.

2051 [~~(12)~~] (11) If there is no tax liability for a period in which an amount is paid [~~as~~
2052 ~~income tax~~] under this chapter, the amount is an overpayment.

2053 [~~(13)~~] (12) If [~~an income~~] a tax under this chapter is assessed or collected after the
2054 expiration of the applicable period of limitation, that amount is an overpayment.

2055 [~~(14) (a) If a taxpayer is required to~~]

2056 (13) (a) A taxpayer may file a claim for a credit or refund of an overpayment within
2057 two years from the date a notice of change, notice of correction, or amended return is required
2058 to be filed with the commission if the taxpayer is required to:

2059 (i) report a change or correction in [~~federal taxable~~] income reported on [~~his~~] the
2060 taxpayer's federal income tax return [~~, or to~~];

2061 (ii) report a change or correction [~~which~~] that is treated in the same manner as if [~~it~~]
2062 the change or correction were an overpayment for federal income tax purposes [~~;~~]; or [~~to~~]

2063 (iii) file an amended return with the commission [~~, a claim for credit or refund of any~~
2064 ~~resulting overpayment of tax shall be filed by the taxpayer within two years from the date the~~
2065 ~~notice of the change, correction, or amended return was required to be filed with the~~
2066 ~~commission~~].

2067 (b) If [~~the~~] a report or amended return is not filed within 90 days, interest on any
2068 resulting refund or credit ceases to accrue after the 90-day period.

2069 (c) The amount of the credit or refund may not exceed the amount of the reduction in
2070 tax attributable to the federal change, correction, or items amended on the taxpayer's amended
2071 federal income tax return.

2072 (d) Except as [~~specifically provided, this section~~] provided in Subsection (13)(a), this
2073 Subsection (13) does not affect the amount or the time within which a claim for credit or

2074 refund may be filed.

2075 ~~[(15) No credit or refund may]~~

2076 (14) A credit or refund may not be allowed or made if ~~[the]~~ an overpayment is less
2077 than \$1.

2078 ~~[(16)]~~ (15) The amount of ~~[the]~~ a credit or refund may not exceed the tax paid during
2079 the three years immediately preceding the filing of the claim, or if no claim is filed, then
2080 during the three years immediately preceding the allowance of the credit or refund.

2081 ~~[(17)]~~ (16) In the case of an overpayment of tax by ~~[the]~~ an employer under ~~[the~~
2082 ~~withholding provisions of this chapter]~~ Part 4, Withholding of Tax, a refund or credit shall be
2083 made to the employer only to the extent that the amount of the overpayment ~~[was]~~ is not
2084 deducted and withheld from wages under ~~[the provisions of]~~ this chapter.

2085 ~~[(18)]~~ (17) (a) If a taxpayer ~~[who is entitled to]~~ that is allowed a refund under this
2086 chapter dies, the commission may make payment to the ~~[duly appointed executor or~~
2087 ~~administrator]~~ personal representative of the taxpayer's estate.

2088 (b) If there is no ~~[executor or administrator]~~ personal representative of the taxpayer's
2089 estate, payment may be made to those persons who establish entitlement to inherit the property
2090 of the decedent in the proportions ~~[set out]~~ established in Title 75, Utah Uniform Probate
2091 Code.

2092 ~~[(19) Where]~~ (18) If an overpayment relates to ~~[adjustments to]~~ a change in net
2093 income ~~[referred to]~~ described in Subsection 59-10-536~~[(5);](2)(a)~~, a credit may be allowed or
2094 a refund paid any time before the expiration of the period within which a deficiency may be
2095 assessed.

2096 ~~[(20)]~~ (19) An overpayment of a tax imposed by this chapter shall accrue interest at
2097 the rate and in the manner prescribed in Section 59-1-402.

2098 Section 37. Section **59-10-531** is amended to read:

2099 **59-10-531. Claims for refund or credit.**

2100 ~~[(1) Any taxpayer claiming to be entitled to]~~

2101 A taxpayer that claims to be allowed a refund or credit under ~~[the provisions of]~~

2102 Section 59-10-529 may file a claim for the refund or credit with the commission within the
2103 time provided in ~~[that section]~~ Section 59-10-529.

2104 ~~[(2) No claim may be filed for refund or credit on any tax for which the taxpayer has~~
2105 ~~sought judicial review.]~~

2106 Section 38. Section **59-10-536** is amended to read:

2107 **59-10-536. Assessment and collection of tax -- Change on federal income tax**
2108 **return -- Taxpayer requirement to make certain filings with the commission.**

2109 ~~[(1) Except as otherwise provided in this section, the amount of any tax imposed by~~
2110 ~~this chapter shall be assessed within three years after the return was filed (whether or not such~~
2111 ~~return was filed on or after the date prescribed), and no proceeding in court without~~
2112 ~~assessment for the collection of such tax shall be begun after the expiration of such period.]~~

2113 ~~[(2) For purposes of this section:]~~

2114 ~~[(a) A return of tax imposed by this chapter, except withholding tax, filed before the~~
2115 ~~last day prescribed by statute or by rules promulgated pursuant to statute for the filing thereof,~~
2116 ~~shall be deemed to be filed on such last day.]~~

2117 ~~[(b) If a return of withholding tax for any period ending with or within a calendar year~~
2118 ~~is filed before April 15 of the succeeding calendar year, such return shall be deemed to be filed~~
2119 ~~on April 15 of such succeeding calendar year.]~~

2120 ~~[(3) The tax may be assessed at any time if:]~~

2121 ~~[(a) no return is filed;]~~

2122 ~~[(b) a false or fraudulent return is filed with intent to evade tax; or]~~

2123 ~~[(c) a return for the taxpayer is prepared by the commission in accordance with~~
2124 ~~Section 59-10-506.]~~

2125 ~~[(4)]~~ (1) (a) If, before the expiration of the time prescribed in this section for the
2126 assessment of a tax, ~~[both]~~ the commission and the taxpayer ~~[have consented]~~ agree in writing
2127 to ~~[its]~~ the assessment ~~[after such time]~~ of the tax in a time period after the time period
2128 prescribed in this section for the assessment of a tax, the tax may be assessed at any time
2129 ~~[prior to]~~ before the expiration of the period ~~[agreed upon. The period so agreed upon may be~~

2130 ~~extended by subsequent agreements in writing]~~ to which the commission and the taxpayer
2131 agree.

2132 (b) A time period that the commission and a taxpayer agree upon under Subsection
2133 (1)(a) may be extended by written agreement:

2134 (i) between the commission and the taxpayer; and

2135 (ii) made before the expiration of the [~~period previously agreed upon~~] time period that
2136 the commission and the taxpayer previously agreed upon.

2137 ~~[(5)]~~ (2) (a) (i) [H] Except as provided in Subsection (2)(a)(iii), if a change is made in
2138 a taxpayer's net income on [~~his or her~~] the taxpayer's federal income tax return[~~, either because~~
2139 the taxpayer has filed an amended return or] because of an action by the federal government,
2140 the taxpayer [~~must notify~~] shall file with the commission within 90 days after the date there is
2141 a final determination of [~~such change. The taxpayer shall file a copy of the amended federal~~
2142 return and an amended state return which conforms to the changes on the federal return. No
2143 notification is required of changes in the] the action:

2144 (A) a copy of the taxpayer's amended federal income tax return; and

2145 (B) an amended state income tax return that conforms with the changes made in the
2146 taxpayer's amended federal income tax return.

2147 (ii) Except as provided in Subsection (2)(a)(iii), if a change is made in a taxpayer's net
2148 income on the taxpayer's federal income tax return because the taxpayer files an amended
2149 federal income tax return, the taxpayer shall file with the commission within 90 days after the
2150 date the taxpayer files the amended federal income tax return:

2151 (A) a copy of the taxpayer's amended federal income tax return; and

2152 (B) an amended state income tax return that conforms with the changes made in the
2153 taxpayer's amended federal income tax return.

2154 (iii) A taxpayer is not required to file a return described in Subsection (2)(a)(i) or (ii) if
2155 a change in the taxpayer's federal income tax return [~~which do~~] does not [affect] increase state
2156 tax liability.

2157 (b) [~~The~~] (i) Subject to Subsection (2)(b)(iii), the commission may assess [~~any~~] a

2158 deficiency in state income taxes within three years after ~~[such report]~~ a notification or
2159 amended federal income tax return ~~[was]~~ described in Subsection (2)(a) is filed.

2160 (ii) The amount of ~~[such]~~ an assessment of tax ~~[shall]~~ under this Subsection (2)(b)
2161 may not exceed the amount of the increase in Utah tax attributable to ~~[such federal change or~~
2162 ~~correction. The provisions of this Subsection (b) do not affect the time within which or the~~
2163 ~~amount for which an assessment may otherwise be made. However, if the]~~ the change
2164 described in Subsection (2)(a).

2165 (iii) ~~If a~~ taxpayer fails to report to the commission ~~[the correction]~~ a change specified
2166 in this Subsection (2)(b), the assessment may be made at any time within six years after the
2167 date of ~~[said correction]~~ the change.

2168 ~~[(6)]~~ (3) If a deficiency in federal income tax required to be reported is attributable to
2169 ~~[the application to the taxpayer of]~~ a net operating loss ~~[carryback within the meaning of~~
2170 ~~Section 6501(h) of the Internal Revenue Code, the corresponding]~~ carry back or carry forward,
2171 a deficiency in the tax imposed by this chapter may be assessed ~~[at any time before the~~
2172 ~~expiration of the period within which a deficiency for the taxable year of the net operating loss~~
2173 ~~giving rise to the carryback may be assessed.]~~ within three years from the due date of the
2174 return for the taxable year of the net operating loss.

2175 (4) Except as provided in Subsections (1) through (3), this section does not affect the
2176 time within which or the amount for which an assessment may otherwise be made.

2177 ~~[(7)]~~ (5) (a) An erroneous refund shall be considered an underpayment of tax on the
2178 date ~~[made, and an]~~ the commission makes the erroneous refund.

2179 (b) An assessment of a deficiency arising out of an erroneous refund may be made at
2180 any time within three years from the ~~[time]~~ date the refund ~~[was]~~ is made, except that ~~[the]~~ an
2181 assessment may be made within five years from the time the refund ~~[was]~~ is made if ~~[it~~
2182 ~~appears that]~~ any part of the refund ~~[was]~~ is induced by fraud or misrepresentation of a
2183 material fact.

2184 ~~[(8) If]~~ (6) (a) Subject to Subsection (6)(b), if a return is required for a decedent or for
2185 ~~[his]~~ the decedent's estate during the period of administration, the tax shall be assessed within

2186 18 months after written request [~~therefor (~~] for the assessment:
 2187 (i) made after the return is filed[~~); and~~
 2188 (ii) by [~~the executor, administrator, or other~~]:
 2189 (A) the personal representative; or
 2190 (B) another person representing the estate of [~~such~~] the decedent[~~, but not~~.
 2191 (b) Except as otherwise provided in this section, the assessment described in
 2192 Subsection (6)(a) may not be made more than three years after the time the return [~~was~~] is
 2193 filed[~~, except as otherwise provided in Subsections (3) through (9)].~~
 2194 ~~(9)~~ (7) (a) The amount of [~~any~~] a tax imposed by this chapter may be assessed at any
 2195 time within six years after the time the return [~~was~~] is filed if:
 2196 ~~(a)~~ (i) a resident individual, resident estate, or resident trust omits from gross income
 2197 as reported for federal income tax purposes an amount properly includable [~~therein~~] in
 2198 adjusted gross income, which is in excess of 25% of the amount of gross income stated in the
 2199 return; or
 2200 ~~(b)~~ (ii) a nonresident individual, nonresident estate, or nonresident trust omits from
 2201 gross income as reported for federal income tax purposes an amount of adjusted gross income
 2202 derived from Utah sources as defined by Section 59-10-117, properly includable [~~therein~~] in
 2203 adjusted gross income, which is in excess of 25% of the amount of adjusted gross income
 2204 derived from Utah sources which is reflected in [~~such~~] the return.
 2205 (b) For [~~the~~] purposes of [~~this~~] Subsection [~~(b)~~] (7)(a)(ii), there may not be taken into
 2206 account any amount [~~which~~] that is omitted in the return if [~~such~~] the amount is disclosed:
 2207 (i) (A) in the return[~~;~~]; or
 2208 (B) in a statement attached to the return[~~;~~]; and
 2209 (ii) in a manner adequate to apprise the commission of the nature and amount of
 2210 [~~such~~] the item.
 2211 ~~(10) The running of the period of limitations on assessments or collection of tax or~~
 2212 ~~other amount (or of a transferee's liability) shall, after the mailing of a notice of deficiency, be~~
 2213 ~~suspended for the period during which the commission is prohibited from making the~~

2214 ~~assessment or from collecting by levy.]~~

2215 Section 39. Section **59-10-537** is amended to read:

2216 **59-10-537. Interest on underpayment, nonpayment, or extension of time for**
2217 **payment of tax.**

2218 (1) ~~[If]~~ (a) Subject to the other provisions of this section, if any amount of income tax
2219 is not paid on or before the last date prescribed in this chapter for payment, interest on ~~[such]~~
2220 the amount at the rate and in the manner prescribed in Section 59-1-402 shall be paid.

2221 (b) Interest under this Subsection (1) may not be paid if the amount ~~[thereof]~~ of the
2222 interest is less than \$1.

2223 (c) If the time for filing of a return of tax withheld by an employer is extended, the
2224 employer shall pay interest for the period for which the extension is granted and may not
2225 charge such interest to the employee.

2226 (2) ~~[Where]~~ If a deficiency or any interest or additional ~~[amounts]~~ amount assessed in
2227 connection ~~[therewith under Section 59-10-525 or]~~ with an amount under Subsection (1), or
2228 ~~[an addition to the tax]~~ a penalty in case of a delinquency provided for in Section 59-10-539 is
2229 not paid in full within ten days from the date of notice and demand from the commission,
2230 there shall be collected as part of the tax, interest at the rate and in the manner prescribed in
2231 Section 59-1-402 from the date of ~~[such]~~ the notice and demand until ~~[it]~~ the entire amount of
2232 the deficiency, interest, and additional amount is paid.

2233 (3) If the time for payment of the amount determined as the tax by the taxpayer is
2234 extended under the authority of Section 59-10-522, ~~[there]~~ interest shall be collected as a part
2235 of ~~[such]~~ the amount~~[, interest thereon]~~ at the rate and in the manner prescribed in Section
2236 59-1-402.

2237 Section 40. Section **59-10-539** is amended to read:

2238 **59-10-539. Penalties and interest.**

2239 (1) (a) In case of failure to file an income tax return and pay the tax required under this
2240 chapter on or before the date prescribed ~~[therefor (determined with regard to any extension of~~
2241 time for filing)] for paying the tax, including extensions, unless it is shown that ~~[such]~~ the

2242 failure is due to reasonable cause and not due to willful neglect, there shall be added to the
2243 amount required to be shown as tax on ~~[such]~~ the return a penalty as provided in Section
2244 59-1-401.

2245 (b) For ~~[the]~~ purposes of ~~[this subsection]~~ Subsection (1)(a), the amount of tax
2246 required to be shown on ~~[the]~~ a return shall be reduced by:

2247 (i) the amount of any part of the tax ~~[which]~~ that is paid on or before the date
2248 prescribed for payment of the tax; and ~~[by]~~

2249 (ii) the amount of any credit against the tax ~~[which]~~ that may be claimed upon the
2250 return.

2251 (2) If any part of any deficiency in a tax imposed by this chapter~~[, as defined by~~
2252 ~~Section 59-10-523;]~~ is due to negligence or intentional disregard of rules, but without intent to
2253 defraud, a penalty shall be assessed, collected, and paid as provided in Section 59-1-401 in the
2254 same manner as if ~~[it]~~ the deficiency were an underpayment.

2255 (3) (a) If any part of a deficiency in a tax imposed by this chapter~~[, as defined by~~
2256 ~~Section 59-10-523;]~~ is due to fraud, there shall be added to the tax a penalty as provided in
2257 Section 59-1-401. ~~[This amount]~~

2258 (b) The amount described in Subsection (3)(a) shall be in lieu of any other ~~[addition to~~
2259 ~~tax]~~ penalty imposed by Subsection (1) or (2).

2260 (4) (a) If any employer, without intent to evade or defeat any tax imposed by this
2261 chapter or the payment ~~[thereof]~~ of any tax imposed by this chapter, fails to make a return and
2262 pay a tax withheld by ~~[him]~~ the employer at the time required under Section 59-10-402, ~~[such]~~
2263 the employer shall be liable for ~~[such]~~ the tax and shall pay ~~[it]~~ the tax together with interest at
2264 the rate and in the manner prescribed in Section 59-1-402.

2265 (b) The ~~[addition to tax]~~ penalty provided in Subsection (1) and ~~[such]~~ interest may
2266 not be charged to or collected from the employee by the employer.

2267 (c) The commission has the same rights and powers for the collection of ~~[such]~~ a tax,
2268 interest, and ~~[addition to tax]~~ penalty against ~~[such]~~ an employer described in this section as
2269 are prescribed by this chapter for the collection of tax against an individual taxpayer.

2270 (5) (a) Any person required to collect, truthfully account for, and pay over the tax
 2271 imposed by this chapter who willfully fails to collect [~~such~~] the tax or truthfully account for
 2272 and pay over [~~such~~] the tax or willfully attempts in any manner to evade or default the tax or
 2273 the payment [~~thereof~~] of the tax, shall, in addition to other penalties provided by law, be liable
 2274 [~~to~~] for a penalty as provided in Section 59-1-401. [~~No addition to tax under~~]

2275 (b) A penalty described in Subsection (1) or (2) may not be imposed for any offense to
 2276 which [~~this subsection~~] Subsection (5)(a) applies.

2277 (6) In case of each failure to file a statement of a payment to another person, required
 2278 under authority of Section 59-10-406, [~~(f)~~]relating to information at source, including the
 2279 duplicate statement of tax withheld on wages[~~g~~], on the date prescribed [~~therefor (determined~~
 2280 ~~with regard to any extension of time for filing)~~] for filing the statement, including extensions,
 2281 unless it is shown that [~~such~~] the failure is due to reasonable cause and not to willful neglect,
 2282 there shall, upon notice and demand by the commission and in the same manner as tax, be
 2283 paid by the person [~~so failing~~] that fails to file the statement, a penalty as provided in Section
 2284 59-1-401.

2285 (7) (a) [~~If any person who is~~] Except as provided in Subsection (7)(b) or (c), a person
 2286 is subject to a penalty as provided in Section 59-1-401 if the person fails to do one or more of
 2287 the following as required by rules prescribed by the commission under this chapter: [~~(a)~~]

2288 (i) to include [~~his~~] the person's identifying number in any return, statement, or other
 2289 document[~~, (b)~~];

2290 (ii) to furnish [~~his~~] the person's identifying number to another person[~~;~~]; or [~~(c)~~]

2291 (iii) to include on any return, statement, or other document made with respect to
 2292 another person the identifying number of [~~such~~] the other person[~~, fails to comply with such~~
 2293 ~~requirement at the time prescribed by such rules, such person shall pay a penalty as provided~~
 2294 ~~in Section 59-1-401, unless~~].

2295 (b) A person is not subject to a penalty under Subsection (7)(a) if it is shown that
 2296 [~~such failure~~] the person's failure to do an act described in Subsection (7)(a) is due to
 2297 reasonable cause. [~~For failure to include his~~]

2298 (c) If a person fails to include the person's own identification number in any return,
2299 statement, or other document [required to be filed by him, such], a penalty under Subsection
2300 (7)(a) may not be imposed unless [such] the person fails to supply [his] the person's
2301 identification number to the commission within 30 days after [demand therefor] the
2302 commission requests the identification number.

2303 (8) In addition to the penalties ~~[added]~~ required by this section, there shall be added to
2304 ~~[the]~~ a tax due interest payable at the rate and in the manner prescribed in Section 59-1-402
2305 for underpayments.

2306 (9) The ~~[additions to tax,]~~ penalties~~;~~ and interest ~~[provided]~~ required by this section
2307 shall be:

2308 (a) paid upon notice and demand by the commission in accordance with Section
2309 59-1-1411; and [shall be]

2310 (b) assessed, collected, and paid in ~~[the same manner as taxes. Any]~~ accordance with
2311 Chapter 1, Part 14, Assessment, Collections, and Refunds Act.

2312 (10) A reference in this chapter to income tax or tax imposed by this chapter[; is
2313 deemed also to refer to the additions to tax,] is considered to include the penalties[; and
2314 interest provided by this section.

2315 ~~[(10)]~~ (11) For purposes of Subsections (2) and (3), the amount shown as the tax by
2316 the taxpayer upon ~~[his]~~ the taxpayer's return shall be taken into account in determining the
2317 amount of the deficiency only if ~~[such]~~ the return ~~[was]~~ is filed on or before the last day
2318 prescribed for ~~[the]~~ filing of ~~[such]~~ the return, ~~[determined with regard to any extension of~~
2319 time for such filing] including extensions.

2320 Section 41. Section **59-10-544** is amended to read:

2321 **59-10-544. General powers and duties of the commission -- Deposit, distribution,**
2322 **or credit of revenues -- Refund reverts to state under certain circumstances.**

2323 (1) (a) The commission shall administer and enforce ~~[the]~~ a tax ~~[herein]~~ imposed
2324 under this chapter for which purpose it may divide the state into districts in each of which a
2325 branch office of the commission may be maintained.

2326 (b) A county may not be divided in forming a district.

2327 [~~(2) The commission may designate agents for the purpose of collecting income taxes~~
2328 ~~and shall require from each of them an adequate bond.~~]

2329 [~~(3) The commission, for the purpose of ascertaining the correctness of any return or~~
2330 ~~for the purpose of making an estimate of taxable income of any person where information has~~
2331 ~~been obtained, may examine or cause to have examined, by any agent or representative~~
2332 ~~designated by it for that purpose, any books, papers, records, or memoranda bearing upon the~~
2333 ~~matters required to be included in the return, and may require the attendance of the person~~
2334 ~~rendering the return or any officer or employee of such person, or the attendance of any other~~
2335 ~~person having knowledge in the premises, and may take testimony and require proof material~~
2336 ~~for its information.~~]

2337 [~~(4) AH~~] (2) (a) The commission shall daily deposit all revenue collected or received
2338 by the commission under this chapter [~~shall be deposited daily~~] with the state treasurer. [~~The~~
2339 ~~balance of such revenue, subject to the provisions of Sections 59-10-529 and 59-10-531~~
2340 ~~(relating to refunds);~~]

2341 (b) Subject to Sections 59-10-529 and 59-10-531, the balance of the revenue
2342 described in Subsection (2)(a) shall be periodically distributed and credited to the Education
2343 Fund. [~~Refunds shall be made by the commission, and if~~]

2344 (c) If a refund the commission makes is not claimed within two years from the date [of
2345 issuance shall revert] the commission issues the refund:

2346 (i) the refund reverts to the state to be credited to the Education Fund[;]; and

2347 (ii) no further [claims] claim may be made [~~upon~~] on the commission for the [~~amounts~~
2348 ~~of such refunds] amount of the refund.~~

2349 Section 42. Section **59-11-113** is amended to read:

2350 **59-11-113. Administration by commission -- Taxpayer notification of change on**
2351 **federal estate tax return -- Assessment of deficiency -- Appeal.**

2352 (1) The commission is charged with the administration and enforcement of this
2353 chapter and may [~~promulgate~~] make rules under Title 63G, Chapter 3, Utah Administrative

2354 Rulemaking Act, to effectuate the purposes of this chapter.

2355 ~~[(2) The commission shall collect the tax provided for under this chapter, including~~
2356 ~~applicable interest and penalties, and shall represent this state in all matters pertaining to~~
2357 ~~collection, either before courts or otherwise. The commission may institute proceedings for~~
2358 ~~the collection of this tax, and any interest and penalties on the tax, in the district court of any~~
2359 ~~county in which any portion of the property is situated. For this purpose the commission may~~
2360 ~~call to its assistance the attorney general and the various county attorneys throughout the~~
2361 ~~state.]~~

2362 ~~[(3) (a) Except as provided in Subsections (4) through (7), the commission shall assess~~
2363 ~~a tax under this chapter within three years after a taxpayer files a return.]~~

2364 ~~[(b) Except as provided in Subsections (4) through (7), if the commission does not~~
2365 ~~assess a tax under this chapter within the three-year period provided in Subsection (3)(a), the~~
2366 ~~commission may not file an action to collect the tax.]~~

2367 ~~[(4) Notwithstanding Subsection (3), the commission may assess a tax at any time if a~~
2368 ~~taxpayer:]~~

2369 ~~[(a) files a false or fraudulent return with intent to evade; or]~~

2370 ~~[(b) does not file a return.]~~

2371 ~~[(5) Notwithstanding Subsection (3), beginning on July 1, 1998, the commission may~~
2372 ~~extend the period to make an assessment or to commence a proceeding to collect the tax under~~
2373 ~~this chapter if:]~~

2374 ~~[(a) the three-year period under Subsection (3) has not expired; and]~~

2375 ~~[(b) the commission and the taxpayer sign a written agreement:]~~

2376 ~~[(i) authorizing the extension; and]~~

2377 ~~[(ii) providing for the length of the extension.]~~

2378 ~~[(6) If the commission delays an audit at the request of a taxpayer, the commission~~
2379 ~~may make an assessment as provided in Subsection (7) if:]~~

2380 ~~[(a) the taxpayer subsequently refuses to agree to an extension request by the~~
2381 ~~commission; and]~~

2382 ~~[(b) the three-year period under Subsection (3) expires before the commission~~
2383 ~~completes the audit.]~~

2384 ~~[(7) An assessment under Subsection (6) shall be:]~~

2385 ~~[(a) for the time period for which the commission could not make an assessment~~
2386 ~~because of the expiration of the three-year period; and]~~

2387 ~~[(b) in an amount equal to the difference between:]~~

2388 ~~[(i) the commission's estimate of the amount of taxes the taxpayer would have been~~
2389 ~~assessed for the time period described in Subsection (7)(a); and]~~

2390 ~~[(ii) the amount of taxes the taxpayer actually paid for the time period described in~~
2391 ~~Subsection (7)(a);]~~

2392 ~~[(8)]~~ (2) A taxpayer shall:

2393 (a) notify the commission within 90 days after a final determination of a change ~~[made~~
2394 ~~in a taxpayer's net income]~~ on the taxpayer's federal estate tax return if:

2395 (i) the change is made because:

2396 (A) the taxpayer filed an amended federal return; or

2397 (B) of an action by the federal government; and

2398 (ii) the change ~~[affects]~~ increases the taxpayer's state tax liability; and

2399 (b) if the taxpayer is required to notify the commission of a change as provided in
2400 Subsection ~~[(8)]~~ (2)(a)(i), file a copy of:

2401 (i) the amended federal return; and

2402 (ii) an amended state return ~~[which]~~ that conforms to the changes on the federal
2403 return.

2404 ~~[(9)]~~ (3) (a) The commission may assess a deficiency in state estate taxes as a result of
2405 a change in a taxpayer's net income under Subsection ~~[(8)]~~ (2):

2406 (i) within three years after a taxpayer files an amended return under Subsection ~~[(8)]~~
2407 (2)(b) if the taxpayer files an amended return; or

2408 (ii) within six years after the change if a taxpayer does not file an amended return
2409 under Subsection ~~[(8)]~~ (2)(b).

2410 (b) The amount of a deficiency assessed under Subsection ~~[(9)]~~ (3)(a) may not exceed
2411 the amount of the increase in Utah tax attributable to the change ~~[in the taxpayer's net income]~~
2412 under Subsection ~~[(8)]~~ (2)(a).

2413 ~~[(10)(a) Except as provided in Subsection (10)(b), the commission may not make a~~
2414 ~~credit or refund unless the taxpayer files a claim with the commission within three years of the~~
2415 ~~date of overpayment.]~~

2416 ~~[(b) Notwithstanding Subsection (10)(a), beginning on July 1, 1998, the commission~~
2417 ~~shall extend the period for a taxpayer to file a claim under Subsection (10)(a) if:]~~

2418 ~~[(i) the three-year period under Subsection (10)(a) has not expired; and]~~

2419 ~~[(ii) the commission and the taxpayer sign a written agreement:]~~

2420 ~~[(A) authorizing the extension; and]~~

2421 ~~[(B) providing for the length of the extension.]~~

2422 ~~[(11) Any]~~ (4) A party to a proceeding before the district court concerning ~~[the]~~ a tax
2423 imposed by this chapter, including the commission, may appeal from the order, judgment, or
2424 decree entered by the district court.

2425 Section 43. Section **59-12-104** is amended to read:

2426 **59-12-104. Exemptions.**

2427 The following sales and uses are exempt from the taxes imposed by this chapter:

2428 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
2429 under Chapter 13, Motor and Special Fuel Tax Act;

2430 (2) sales to the state, its institutions, and its political subdivisions; however, this
2431 exemption does not apply to sales of:

2432 (a) construction materials except:

2433 (i) construction materials purchased by or on behalf of institutions of the public
2434 education system as defined in Utah Constitution Article X, Section 2, provided the
2435 construction materials are clearly identified and segregated and installed or converted to real
2436 property which is owned by institutions of the public education system; and

2437 (ii) construction materials purchased by the state, its institutions, or its political

2438 subdivisions which are installed or converted to real property by employees of the state, its
2439 institutions, or its political subdivisions; or

2440 (b) tangible personal property in connection with the construction, operation,
2441 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
2442 providing additional project capacity, as defined in Section 11-13-103;

2443 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

2444 (i) the proceeds of each sale do not exceed \$1; and

2445 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
2446 the cost of the item described in Subsection (3)(b) as goods consumed; and

2447 (b) Subsection (3)(a) applies to:

2448 (i) food and food ingredients; or

2449 (ii) prepared food;

2450 (4) sales of the following to a commercial airline carrier for in-flight consumption:

2451 (a) food and food ingredients;

2452 (b) prepared food; or

2453 (c) services related to Subsection (4)(a) or (b);

2454 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of
2455 parts and equipment:

2456 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
2457 North American Industry Classification System of the federal Executive Office of the
2458 President, Office of Management and Budget; and

2459 (II) for:

2460 (Aa) installation in an aircraft, including services relating to the installation of parts or
2461 equipment in the aircraft;

2462 (Bb) renovation of an aircraft; or

2463 (Cc) repair of an aircraft; or

2464 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
2465 commerce; or

2466 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
2467 aircraft operated by a common carrier in interstate or foreign commerce; and
2468 (b) notwithstanding the time period of Subsection [~~59-12-110(2)~~] 59-1-1410(8) for
2469 filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a
2470 sale by filing for a refund:
2471 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;
2472 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
2473 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
2474 the sale prior to filing for the refund;
2475 (iv) for sales and use taxes paid under this chapter on the sale;
2476 (v) in accordance with Section [~~59-12-110~~] 59-1-1410; and
2477 (vi) subject to any extension allowed for filing for a refund under Section [~~59-12-110~~]
2478 59-1-1410, if the person files for the refund on or before September 30, 2011;
2479 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
2480 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
2481 exhibitor, distributor, or commercial television or radio broadcaster;
2482 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
2483 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
2484 washing of tangible personal property;
2485 (b) if a seller that sells at the same business location assisted cleaning or washing of
2486 tangible personal property and cleaning or washing of tangible personal property that is not
2487 assisted cleaning or washing of tangible personal property, the exemption described in
2488 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
2489 or washing of the tangible personal property; and
2490 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
2491 Utah Administrative Rulemaking Act, the commission may make rules:
2492 (i) governing the circumstances under which sales are at the same business location;
2493 and

2494 (ii) establishing the procedures and requirements for a seller to separately account for
2495 sales of assisted cleaning or washing of tangible personal property;

2496 (8) sales made to or by religious or charitable institutions in the conduct of their
2497 regular religious or charitable functions and activities, if the requirements of Section
2498 59-12-104.1 are fulfilled;

2499 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws
2500 of this state if the vehicle is:

2501 (a) not registered in this state; and

2502 (b) (i) not used in this state; or

2503 (ii) used in this state:

2504 (A) if the vehicle is not used to conduct business, for a time period that does not
2505 exceed the longer of:

2506 (I) 30 days in any calendar year; or

2507 (II) the time period necessary to transport the vehicle to the borders of this state; or

2508 (B) if the vehicle is used to conduct business, for the time period necessary to
2509 transport the vehicle to the borders of this state;

2510 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

2511 (i) the item is intended for human use; and

2512 (ii) (A) a prescription was issued for the item; or

2513 (B) the item was purchased by a hospital or other medical facility; and

2514 (b) (i) Subsection (10)(a) applies to:

2515 (A) a drug;

2516 (B) a syringe; or

2517 (C) a stoma supply; and

2518 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
2519 the commission may by rule define the terms:

2520 (A) "syringe"; or

2521 (B) "stoma supply";

2522 (11) sales or use of property, materials, or services used in the construction of or
2523 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

2524 (12) (a) sales of an item described in Subsection (12)(c) served by:

2525 (i) the following if the item described in Subsection (12)(c) is not available to the
2526 general public:

2527 (A) a church; or

2528 (B) a charitable institution;

2529 (ii) an institution of higher education if:

2530 (A) the item described in Subsection (12)(c) is not available to the general public; or

2531 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
2532 offered by the institution of higher education; or

2533 (b) sales of an item described in Subsection (12)(c) provided for a patient by:

2534 (i) a medical facility; or

2535 (ii) a nursing facility; and

2536 (c) Subsections (12)(a) and (b) apply to:

2537 (i) food and food ingredients;

2538 (ii) prepared food; or

2539 (iii) alcoholic beverages;

2540 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal
2541 property or a product transferred electronically by a person:

2542 (i) regardless of the number of transactions involving the sale of that tangible personal
2543 property or product transferred electronically by that person; and

2544 (ii) not regularly engaged in the business of selling that type of tangible personal
2545 property or product transferred electronically;

2546 (b) this Subsection (13) does not apply if:

2547 (i) the sale is one of a series of sales of a character to indicate that the person is
2548 regularly engaged in the business of selling that type of tangible personal property or product
2549 transferred electronically;

2550 (ii) the person holds that person out as regularly engaged in the business of selling that
2551 type of tangible personal property or product transferred electronically;

2552 (iii) the person sells an item of tangible personal property or product transferred
2553 electronically that the person purchased as a sale that is exempt under Subsection (25); or

2554 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
2555 this state in which case the tax is based upon:

2556 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
2557 sold; or

2558 (B) in the absence of a bill of sale or other written evidence of value, the fair market
2559 value of the vehicle or vessel being sold at the time of the sale as determined by the
2560 commission; and

2561 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2562 commission shall make rules establishing the circumstances under which:

2563 (i) a person is regularly engaged in the business of selling a type of tangible personal
2564 property or product transferred electronically;

2565 (ii) a sale of tangible personal property or a product transferred electronically is one of
2566 a series of sales of a character to indicate that a person is regularly engaged in the business of
2567 selling that type of tangible personal property or product transferred electronically; or

2568 (iii) a person holds that person out as regularly engaged in the business of selling a
2569 type of tangible personal property or product transferred electronically;

2570 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
2571 July 1, 2006, for a purchase or lease by a manufacturing facility other than a cogeneration
2572 facility, for the following:

2573 (i) machinery and equipment that:

2574 (A) is used:

2575 (I) for a manufacturing facility other than a manufacturing facility that is a scrap
2576 recycler described in Subsection 59-12-102(52)(b):

2577 (Aa) in the manufacturing process; and

2578 (Bb) to manufacture an item sold as tangible personal property; or
2579 (II) for a manufacturing facility that is a scrap recycler described in Subsection
2580 59-12-102(52)(b), to process an item sold as tangible personal property; and
2581 (B) has an economic life of three or more years; and
2582 (ii) normal operating repair or replacement parts that:
2583 (A) have an economic life of three or more years; and
2584 (B) are used:
2585 (I) for a manufacturing facility in the state other than a manufacturing facility that is a
2586 scrap recycler described in Subsection 59-12-102(52)(b), in the manufacturing process; or
2587 (II) for a manufacturing facility in the state that is a scrap recycler described in
2588 Subsection 59-12-102(52)(b), to process an item sold as tangible personal property;
2589 (b) (i) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
2590 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
2591 for the following:
2592 (A) machinery and equipment that:
2593 (I) is used:
2594 (Aa) in the manufacturing process; and
2595 (Bb) to manufacture an item sold as tangible personal property; and
2596 (II) has an economic life of three or more years; and
2597 (B) normal operating repair or replacement parts that:
2598 (I) are used in the manufacturing process in a manufacturing facility in the state; and
2599 (II) have an economic life of three or more years; and
2600 (ii) for amounts paid or charged on or after July 1, 2005, but on or before June 30,
2601 2006, for a purchase or lease described in Subsection (14)(b)(i), a cogeneration facility may
2602 claim the exemption allowed by Subsection (14)(b)(i) by filing for a refund:
2603 (A) for sales and use taxes paid under this chapter on the purchase or lease payment;
2604 and
2605 (B) in accordance with Section [~~59-12-110~~] 59-1-1410;

2606 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
2607 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
2608 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
2609 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
2610 of the 2002 North American Industry Classification System of the federal Executive Office of
2611 the President, Office of Management and Budget:

2612 (i) machinery and equipment that:

2613 (A) are used in:

2614 (I) the production process, other than the production of real property; or

2615 (II) research and development; and

2616 (B) have an economic life of three or more years; and

2617 (ii) normal operating repair or replacement parts that:

2618 (A) have an economic life of three or more years; and

2619 (B) are used in:

2620 (I) the production process, other than the production of real property, in an

2621 establishment described in this Subsection (14)(c) in the state; or

2622 (II) research and development in an establishment described in this Subsection (14)(c)

2623 in the state;

2624 (d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,
2625 Utah Administrative Rulemaking Act, the commission:

2626 (i) shall by rule define the term "establishment"; and

2627 (ii) may by rule define what constitutes:

2628 (A) processing an item sold as tangible personal property;

2629 (B) the production process, other than the production of real property; or

2630 (C) research and development; and

2631 (e) on or before October 1, 2011, and every five years after October 1, 2011, the

2632 commission shall:

2633 (i) review the exemptions described in this Subsection (14) and make

2634 recommendations to the Revenue and Taxation Interim Committee concerning whether the
2635 exemptions should be continued, modified, or repealed; and
2636 (ii) include in its report:
2637 (A) the cost of the exemptions;
2638 (B) the purpose and effectiveness of the exemptions; and
2639 (C) the benefits of the exemptions to the state;
2640 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
2641 (i) tooling;
2642 (ii) special tooling;
2643 (iii) support equipment;
2644 (iv) special test equipment; or
2645 (v) parts used in the repairs or renovations of tooling or equipment described in
2646 Subsections (15)(a)(i) through (iv); and
2647 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
2648 (i) the tooling, equipment, or parts are used or consumed exclusively in the
2649 performance of any aerospace or electronics industry contract with the United States
2650 government or any subcontract under that contract; and
2651 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
2652 title to the tooling, equipment, or parts is vested in the United States government as evidenced
2653 by:
2654 (A) a government identification tag placed on the tooling, equipment, or parts; or
2655 (B) listing on a government-approved property record if placing a government
2656 identification tag on the tooling, equipment, or parts is impractical;
2657 (16) sales of newspapers or newspaper subscriptions;
2658 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
2659 product transferred electronically traded in as full or part payment of the purchase price,
2660 except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle
2661 dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

2662 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
2663 vehicle being traded in; or

2664 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
2665 fair market value of the vehicle being sold and the vehicle being traded in, as determined by
2666 the commission; and

2667 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the
2668 following items of tangible personal property or products transferred electronically traded in as
2669 full or part payment of the purchase price:

2670 (i) money;

2671 (ii) electricity;

2672 (iii) water;

2673 (iv) gas; or

2674 (v) steam;

2675 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal
2676 property or a product transferred electronically used or consumed primarily and directly in
2677 farming operations, regardless of whether the tangible personal property or product transferred
2678 electronically:

2679 (A) becomes part of real estate; or

2680 (B) is installed by a:

2681 (I) farmer;

2682 (II) contractor; or

2683 (III) subcontractor; or

2684 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
2685 product transferred electronically if the tangible personal property or product transferred
2686 electronically is exempt under Subsection (18)(a)(i); and

2687 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following are
2688 subject to the taxes imposed by this chapter:

2689 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is

2690 incidental to farming:

2691 (I) machinery;

2692 (II) equipment;

2693 (III) materials; or

2694 (IV) supplies; and

2695 (B) tangible personal property that is considered to be used in a manner that is

2696 incidental to farming includes:

2697 (I) hand tools; or

2698 (II) maintenance and janitorial equipment and supplies;

2699 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product

2700 transferred electronically if the tangible personal property or product transferred electronically

2701 is used in an activity other than farming; and

2702 (B) tangible personal property or a product transferred electronically that is considered

2703 to be used in an activity other than farming includes:

2704 (I) office equipment and supplies; or

2705 (II) equipment and supplies used in:

2706 (Aa) the sale or distribution of farm products;

2707 (Bb) research; or

2708 (Cc) transportation; or

2709 (iii) a vehicle required to be registered by the laws of this state during the period

2710 ending two years after the date of the vehicle's purchase;

2711 (19) sales of hay;

2712 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or

2713 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or

2714 garden, farm, or other agricultural produce is sold by:

2715 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other

2716 agricultural produce;

2717 (b) an employee of the producer described in Subsection (20)(a); or

2718 (c) a member of the immediate family of the producer described in Subsection (20)(a);
2719 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
2720 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

2721 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
2722 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
2723 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
2724 manufacturer, processor, wholesaler, or retailer;

2725 (23) a product stored in the state for resale;

2726 (24) (a) purchases of a product if:

2727 (i) the product is:

2728 (A) purchased outside of this state;

2729 (B) brought into this state:

2730 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
2731 (II) by a nonresident person who is not living or working in this state at the time of the
2732 purchase;

2733 (C) used for the personal use or enjoyment of the nonresident person described in
2734 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

2735 (D) not used in conducting business in this state; and

2736 (ii) for:

2737 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
2738 the product for a purpose for which the product is designed occurs outside of this state;

2739 (B) a boat, the boat is registered outside of this state; or

2740 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
2741 outside of this state;

2742 (b) the exemption provided for in Subsection (24)(a) does not apply to:

2743 (i) a lease or rental of a product; or

2744 (ii) a sale of a vehicle exempt under Subsection (33); and

2745 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

2746 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
2747 following:

2748 (i) conducting business in this state if that phrase has the same meaning in this
2749 Subsection (24) as in Subsection (64);

2750 (ii) the first use of a product if that phrase has the same meaning in this Subsection
2751 (24) as in Subsection (64); or

2752 (iii) a purpose for which a product is designed if that phrase has the same meaning in
2753 this Subsection (24) as in Subsection (64);

2754 (25) a product purchased for resale in this state, in the regular course of business, either
2755 in its original form or as an ingredient or component part of a manufactured or compounded
2756 product;

2757 (26) a product upon which a sales or use tax was paid to some other state, or one of its
2758 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
2759 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
2760 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
2761 Act;

2762 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
2763 person for use in compounding a service taxable under the subsections;

2764 (28) purchases made in accordance with the special supplemental nutrition program
2765 for women, infants, and children established in 42 U.S.C. Sec. 1786;

2766 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
2767 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or
2768 ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial
2769 Classification Manual of the federal Executive Office of the President, Office of Management
2770 and Budget;

2771 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
2772 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

2773 (a) not registered in this state; and

2774 (b) (i) not used in this state; or
2775 (ii) used in this state:
2776 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
2777 time period that does not exceed the longer of:
2778 (I) 30 days in any calendar year; or
2779 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
2780 the borders of this state; or
2781 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
2782 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
2783 state;
2784 (31) sales of aircraft manufactured in Utah;
2785 (32) amounts paid for the purchase of telecommunications service for purposes of
2786 providing telecommunications service;
2787 (33) sales, leases, or uses of the following:
2788 (a) a vehicle by an authorized carrier; or
2789 (b) tangible personal property that is installed on a vehicle:
2790 (i) sold or leased to or used by an authorized carrier; and
2791 (ii) before the vehicle is placed in service for the first time;
2792 (34) (a) 45% of the sales price of any new manufactured home; and
2793 (b) 100% of the sales price of any used manufactured home;
2794 (35) sales relating to schools and fundraising sales;
2795 (36) sales or rentals of durable medical equipment if:
2796 (a) a person presents a prescription for the durable medical equipment; and
2797 (b) the durable medical equipment is used for home use only;
2798 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
2799 Section 72-11-102; and
2800 (b) the commission shall by rule determine the method for calculating sales exempt
2801 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

- 2802 (38) sales to a ski resort of:
- 2803 (a) snowmaking equipment;
- 2804 (b) ski slope grooming equipment;
- 2805 (c) passenger ropeways as defined in Section 72-11-102; or
- 2806 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 2807 described in Subsections (38)(a) through (c);
- 2808 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial
- 2809 use;
- 2810 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 2811 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 2812 59-12-102;
- 2813 (b) if a seller that sells or rents at the same business location the right to use or operate
- 2814 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 2815 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 2816 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 2817 amusement, entertainment, or recreation for the assisted amusement devices; and
- 2818 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
- 2819 Utah Administrative Rulemaking Act, the commission may make rules:
- 2820 (i) governing the circumstances under which sales are at the same business location;
- 2821 and
- 2822 (ii) establishing the procedures and requirements for a seller to separately account for
- 2823 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation
- 2824 for assisted amusement devices;
- 2825 (41) (a) sales of photocopies by:
- 2826 (i) a governmental entity; or
- 2827 (ii) an entity within the state system of public education, including:
- 2828 (A) a school; or
- 2829 (B) the State Board of Education; or

- 2830 (b) sales of publications by a governmental entity;
- 2831 (42) amounts paid for admission to an athletic event at an institution of higher
- 2832 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
- 2833 20 U.S.C. Sec. 1681 et seq.;
- 2834 (43) sales of telecommunications service charged to a prepaid telephone calling card;
- 2835 (44) (a) sales made to or by:
- 2836 (i) an area agency on aging; or
- 2837 (ii) a senior citizen center owned by a county, city, or town; or
- 2838 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 2839 (45) sales or leases of semiconductor fabricating, processing, research, or development
- 2840 materials regardless of whether the semiconductor fabricating, processing, research, or
- 2841 development materials:
- 2842 (a) actually come into contact with a semiconductor; or
- 2843 (b) ultimately become incorporated into real property;
- 2844 (46) an amount paid by or charged to a purchaser for accommodations and services
- 2845 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
- 2846 59-12-104.2;
- 2847 (47) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
- 2848 sports event registration certificate in accordance with Section 41-3-306 for the event period
- 2849 specified on the temporary sports event registration certificate;
- 2850 (48) sales or uses of electricity, if the sales or uses are:
- 2851 (a) made under a tariff adopted by the Public Service Commission of Utah only for
- 2852 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
- 2853 source, as designated in the tariff by the Public Service Commission of Utah; and
- 2854 (b) for an amount of electricity that is:
- 2855 (i) unrelated to the amount of electricity used by the person purchasing the electricity
- 2856 under the tariff described in Subsection (48)(a); and
- 2857 (ii) equivalent to the number of kilowatthours specified in the tariff described in

2858 Subsection (48)(a) that may be purchased under the tariff described in Subsection (48)(a);
2859 (49) sales or rentals of mobility enhancing equipment if a person presents a
2860 prescription for the mobility enhancing equipment;
2861 (50) sales of water in a:
2862 (a) pipe;
2863 (b) conduit;
2864 (c) ditch; or
2865 (d) reservoir;
2866 (51) sales of currency or coinage that constitute legal tender of the United States or of
2867 a foreign nation;
2868 (52) (a) sales of an item described in Subsection (52)(b) if the item:
2869 (i) does not constitute legal tender of any nation; and
2870 (ii) has a gold, silver, or platinum content of 80% or more; and
2871 (b) Subsection (52)(a) applies to a gold, silver, or platinum:
2872 (i) ingot;
2873 (ii) bar;
2874 (iii) medallion; or
2875 (iv) decorative coin;
2876 (53) amounts paid on a sale-leaseback transaction;
2877 (54) sales of a prosthetic device:
2878 (a) for use on or in a human; and
2879 (b) (i) for which a prescription is required; or
2880 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
2881 (55) (a) except as provided in Subsection (55)(b), purchases, leases, or rentals of
2882 machinery or equipment by an establishment described in Subsection (55)(c) if the machinery
2883 or equipment is primarily used in the production or postproduction of the following media for
2884 commercial distribution:
2885 (i) a motion picture;

2886 (ii) a television program;
2887 (iii) a movie made for television;
2888 (iv) a music video;
2889 (v) a commercial;
2890 (vi) a documentary; or
2891 (vii) a medium similar to Subsections (55)(a)(i) through (vi) as determined by the
2892 commission by administrative rule made in accordance with Subsection (55)(d); or
2893 (b) notwithstanding Subsection (55)(a), purchases, leases, or rentals of machinery or
2894 equipment by an establishment described in Subsection (55)(c) that is used for the production
2895 or postproduction of the following are subject to the taxes imposed by this chapter:
2896 (i) a live musical performance;
2897 (ii) a live news program; or
2898 (iii) a live sporting event;
2899 (c) the following establishments listed in the 1997 North American Industry
2900 Classification System of the federal Executive Office of the President, Office of Management
2901 and Budget, apply to Subsections (55)(a) and (b):
2902 (i) NAICS Code 512110; or
2903 (ii) NAICS Code 51219; and
2904 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
2905 the commission may by rule:
2906 (i) prescribe what constitutes a medium similar to Subsections (55)(a)(i) through (vi);
2907 or
2908 (ii) define:
2909 (A) "commercial distribution";
2910 (B) "live musical performance";
2911 (C) "live news program"; or
2912 (D) "live sporting event";
2913 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004 but

2914 on or before June 30, 2019, of machinery or equipment that:

2915 (i) is leased or purchased for or by a facility that:

2916 (A) is a renewable energy production facility;

2917 (B) is located in the state; and

2918 (C) (I) becomes operational on or after July 1, 2004; or

2919 (II) has its generation capacity increased by one or more megawatts on or after July 1,

2920 2004 as a result of the use of the machinery or equipment;

2921 (ii) has an economic life of five or more years; and

2922 (iii) is used to make the facility or the increase in capacity of the facility described in

2923 Subsection (56)(a)(i) operational up to the point of interconnection with an existing

2924 transmission grid including:

2925 (A) a wind turbine;

2926 (B) generating equipment;

2927 (C) a control and monitoring system;

2928 (D) a power line;

2929 (E) substation equipment;

2930 (F) lighting;

2931 (G) fencing;

2932 (H) pipes; or

2933 (I) other equipment used for locating a power line or pole; and

2934 (b) this Subsection (56) does not apply to:

2935 (i) machinery or equipment used in construction of:

2936 (A) a new renewable energy production facility; or

2937 (B) the increase in the capacity of a renewable energy production facility;

2938 (ii) contracted services required for construction and routine maintenance activities;

2939 and

2940 (iii) unless the machinery or equipment is used or acquired for an increase in capacity

2941 of the facility described in Subsection (56)(a)(i)(C)(II), machinery or equipment used or

2942 acquired after:

2943 (A) the renewable energy production facility described in Subsection (56)(a)(i) is
2944 operational as described in Subsection (56)(a)(iii); or

2945 (B) the increased capacity described in Subsection (56)(a)(i) is operational as
2946 described in Subsection (56)(a)(iii);

2947 (57) (a) leases of seven or more years or purchases made on or after July 1, 2004 but
2948 on or before June 30, 2019, of machinery or equipment that:

2949 (i) is leased or purchased for or by a facility that:

2950 (A) is a waste energy production facility;

2951 (B) is located in the state; and

2952 (C) (I) becomes operational on or after July 1, 2004; or

2953 (II) has its generation capacity increased by one or more megawatts on or after July 1,
2954 2004 as a result of the use of the machinery or equipment;

2955 (ii) has an economic life of five or more years; and

2956 (iii) is used to make the facility or the increase in capacity of the facility described in
2957 Subsection (57)(a)(i) operational up to the point of interconnection with an existing
2958 transmission grid including:

2959 (A) generating equipment;

2960 (B) a control and monitoring system;

2961 (C) a power line;

2962 (D) substation equipment;

2963 (E) lighting;

2964 (F) fencing;

2965 (G) pipes; or

2966 (H) other equipment used for locating a power line or pole; and

2967 (b) this Subsection (57) does not apply to:

2968 (i) machinery or equipment used in construction of:

2969 (A) a new waste energy facility; or

2970 (B) the increase in the capacity of a waste energy facility;

2971 (ii) contracted services required for construction and routine maintenance activities;

2972 and

2973 (iii) unless the machinery or equipment is used or acquired for an increase in capacity

2974 described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or acquired after:

2975 (A) the waste energy facility described in Subsection (57)(a)(i) is operational as

2976 described in Subsection (57)(a)(iii); or

2977 (B) the increased capacity described in Subsection (57)(a)(i) is operational as

2978 described in Subsection (57)(a)(iii);

2979 (58) (a) leases of five or more years or purchases made on or after July 1, 2004 but on

2980 or before June 30, 2019, of machinery or equipment that:

2981 (i) is leased or purchased for or by a facility that:

2982 (A) is located in the state;

2983 (B) produces fuel from biomass energy including:

2984 (I) methanol; or

2985 (II) ethanol; and

2986 (C) (I) becomes operational on or after July 1, 2004; or

2987 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004

2988 as a result of the installation of the machinery or equipment;

2989 (ii) has an economic life of five or more years; and

2990 (iii) is installed on the facility described in Subsection (58)(a)(i);

2991 (b) this Subsection (58) does not apply to:

2992 (i) machinery or equipment used in construction of:

2993 (A) a new facility described in Subsection (58)(a)(i); or

2994 (B) the increase in capacity of the facility described in Subsection (58)(a)(i); or

2995 (ii) contracted services required for construction and routine maintenance activities;

2996 and

2997 (iii) unless the machinery or equipment is used or acquired for an increase in capacity

2998 described in Subsection (58)(a)(i)(C)(II), machinery or equipment used or acquired after:
2999 (A) the facility described in Subsection (58)(a)(i) is operational; or
3000 (B) the increased capacity described in Subsection (58)(a)(i) is operational;
3001 (59) (a) subject to Subsection (59)(b) or (c), sales of tangible personal property or a
3002 product transferred electronically to a person within this state if that tangible personal property
3003 or product transferred electronically is subsequently shipped outside the state and incorporated
3004 pursuant to contract into and becomes a part of real property located outside of this state;
3005 (b) the exemption under Subsection (59)(a) is not allowed to the extent that the other
3006 state or political entity to which the tangible personal property is shipped imposes a sales, use,
3007 gross receipts, or other similar transaction excise tax on the transaction against which the other
3008 state or political entity allows a credit for sales and use taxes imposed by this chapter; and
3009 (c) notwithstanding the time period of Subsection [~~59-12-110(2)(b)~~] 59-1-1410(8) for
3010 filing for a refund, a person may claim the exemption allowed by this Subsection (59) for a
3011 sale by filing for a refund:
3012 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;
3013 (ii) as if this Subsection (59) as in effect on July 1, 2008, were in effect on the day on
3014 which the sale is made;
3015 (iii) if the person did not claim the exemption allowed by this Subsection (59) for the
3016 sale prior to filing for the refund;
3017 (iv) for sales and use taxes paid under this chapter on the sale;
3018 (v) in accordance with Section [~~59-12-110~~] 59-1-1410; and
3019 (vi) subject to any extension allowed for filing for a refund under Section [~~59-12-110~~]
3020 59-1-1410, if the person files for the refund on or before June 30, 2011;
3021 (60) purchases:
3022 (a) of one or more of the following items in printed or electronic format:
3023 (i) a list containing information that includes one or more:
3024 (A) names; or
3025 (B) addresses; or

- 3026 (ii) a database containing information that includes one or more:
- 3027 (A) names; or
- 3028 (B) addresses; and
- 3029 (b) used to send direct mail;
- 3030 (61) redemptions or repurchases of a product by a person if that product was:
- 3031 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 3032 (b) redeemed or repurchased within the time period established in a written agreement
- 3033 between the person and the pawnbroker for redeeming or repurchasing the product;
- 3034 (62) (a) purchases or leases of an item described in Subsection (62)(b) if the item:
- 3035 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
- 3036 and
- 3037 (ii) has a useful economic life of one or more years; and
- 3038 (b) the following apply to Subsection (62)(a):
- 3039 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 3040 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 3041 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 3042 (iv) telecommunications switching or routing equipment, machinery, or software; or
- 3043 (v) telecommunications transmission equipment, machinery, or software;
- 3044 (63) (a) beginning on July 1, 2006, and ending on June 30, 2016, purchases of
- 3045 tangible personal property or a product transferred electronically that are used in the research
- 3046 and development of coal-to-liquids, oil shale, or tar sands technology; and
- 3047 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 3048 the commission may, for purposes of Subsection (63)(a), make rules defining what constitutes
- 3049 purchases of tangible personal property or a product transferred electronically that are used in
- 3050 the research and development of coal-to-liquids, oil shale, and tar sands technology;
- 3051 (64) (a) purchases of tangible personal property or a product transferred electronically
- 3052 if:
- 3053 (i) the tangible personal property or product transferred electronically is:

- 3054 (A) purchased outside of this state;
- 3055 (B) brought into this state at any time after the purchase described in Subsection
- 3056 (64)(a)(i)(A); and
- 3057 (C) used in conducting business in this state; and
- 3058 (ii) for:
- 3059 (A) tangible personal property or a product transferred electronically other than the
- 3060 tangible personal property described in Subsection (64)(a)(ii)(B), the first use of the property
- 3061 for a purpose for which the property is designed occurs outside of this state; or
- 3062 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
- 3063 outside of this state;
- 3064 (b) the exemption provided for in Subsection (64)(a) does not apply to:
- 3065 (i) a lease or rental of tangible personal property or a product transferred
- 3066 electronically; or
- 3067 (ii) a sale of a vehicle exempt under Subsection (33); and
- 3068 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
- 3069 purposes of Subsection (64)(a), the commission may by rule define what constitutes the
- 3070 following:
- 3071 (i) conducting business in this state if that phrase has the same meaning in this
- 3072 Subsection (64) as in Subsection (24);
- 3073 (ii) the first use of tangible personal property or a product transferred electronically if
- 3074 that phrase has the same meaning in this Subsection (64) as in Subsection (24); or
- 3075 (iii) a purpose for which tangible personal property or a product transferred
- 3076 electronically is designed if that phrase has the same meaning in this Subsection (64) as in
- 3077 Subsection (24);
- 3078 (65) sales of disposable home medical equipment or supplies if:
- 3079 (a) a person presents a prescription for the disposable home medical equipment or
- 3080 supplies;
- 3081 (b) the disposable home medical equipment or supplies are used exclusively by the

3082 person to whom the prescription described in Subsection (65)(a) is issued; and
3083 (c) the disposable home medical equipment and supplies are listed as eligible for
3084 payment under:
3085 (i) Title XVIII, federal Social Security Act; or
3086 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
3087 (66) sales:
3088 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
3089 District Act; or
3090 (b) of tangible personal property to a subcontractor of a public transit district, if the
3091 tangible personal property is:
3092 (i) clearly identified; and
3093 (ii) installed or converted to real property owned by the public transit district;
3094 (67) sales of construction materials:
3095 (a) purchased on or after July 1, 2010;
3096 (b) purchased by, on behalf of, or for the benefit of an international airport:
3097 (i) located within a county of the first class; and
3098 (ii) that has a United States customs office on its premises; and
3099 (c) if the construction materials are:
3100 (i) clearly identified;
3101 (ii) segregated; and
3102 (iii) installed or converted to real property:
3103 (A) owned or operated by the international airport described in Subsection (67)(b);
3104 and
3105 (B) located at the international airport described in Subsection (67)(b);
3106 (68) sales of construction materials:
3107 (a) purchased on or after July 1, 2008;
3108 (b) purchased by, on behalf of, or for the benefit of a new airport:
3109 (i) located within a county of the second class; and

- 3110 (ii) that is owned or operated by a city in which an airline as defined in Section
- 3111 59-2-102 is headquartered; and
- 3112 (c) if the construction materials are:
 - 3113 (i) clearly identified;
 - 3114 (ii) segregated; and
 - 3115 (iii) installed or converted to real property:
 - 3116 (A) owned or operated by the new airport described in Subsection (68)(b);
 - 3117 (B) located at the new airport described in Subsection (68)(b); and
 - 3118 (C) as part of the construction of the new airport described in Subsection (68)(b); and
- 3119 (69) sales of fuel to a common carrier that is a railroad for use in a locomotive engine.

3120 Section 44. Section **59-12-107** is amended to read:

3121 **59-12-107. Collection, remittance, and payment of tax by sellers or other persons**
3122 **-- Returns -- Reports -- Direct payment by purchaser of vehicle -- Other liability for**
3123 **collection -- Rulemaking authority -- Credits -- Treatment of bad debt -- Penalties.**

3124 (1) (a) Except as provided in Subsection (1)(d) or Section 59-12-107.1 or 59-12-123
3125 and subject to Subsection (1)(e), each seller shall pay or collect and remit the sales and use
3126 taxes imposed by this chapter if within this state the seller:

- 3127 (i) has or utilizes:
 - 3128 (A) an office;
 - 3129 (B) a distribution house;
 - 3130 (C) a sales house;
 - 3131 (D) a warehouse;
 - 3132 (E) a service enterprise; or
 - 3133 (F) a place of business similar to Subsections (1)(a)(i)(A) through (E);
- 3134 (ii) maintains a stock of goods;
- 3135 (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the
3136 state, unless the seller's only activity in the state is:
 - 3137 (A) advertising; or

- 3138 (B) solicitation by:
- 3139 (I) direct mail;
- 3140 (II) electronic mail;
- 3141 (III) the Internet;
- 3142 (IV) telecommunications service; or
- 3143 (V) a means similar to Subsection (1)(a)(iii)(A) or (B);
- 3144 (iv) regularly engages in the delivery of property in the state other than by:
- 3145 (A) common carrier; or
- 3146 (B) United States mail; or
- 3147 (v) regularly engages in an activity directly related to the leasing or servicing of
- 3148 property located within the state.
- 3149 (b) A seller that does not meet one or more of the criteria provided for in Subsection
- 3150 (1)(a):
- 3151 (i) except as provided in Subsection (1)(b)(ii), may voluntarily:
- 3152 (A) collect a tax on a transaction described in Subsection 59-12-103(1); and
- 3153 (B) remit the tax to the commission as provided in this part; or
- 3154 (ii) notwithstanding Subsection (1)(b)(i), shall collect a tax on a transaction described
- 3155 in Subsection 59-12-103(1) if Section 59-12-103.1 requires the seller to collect the tax.
- 3156 (c) The collection and remittance of a tax under this chapter by a seller that is
- 3157 registered under the agreement may not be used as a factor in determining whether that seller
- 3158 is required by Subsection (1)(a) to:
- 3159 (i) pay a tax, fee, or charge under:
- 3160 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 3161 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- 3162 [~~B~~] (C) Section [~~19-6-716~~] 19-6-714;
- 3163 [~~C~~] (D) Section 19-6-805;
- 3164 [~~D~~] (E) Section 69-2-5;
- 3165 [~~E~~] (F) Section 69-2-5.5;

- 3166 [~~F~~] (G) Section 69-2-5.6; or
3167 [~~G~~] (H) this title; or
3168 (ii) collect and remit a tax, fee, or charge under:
3169 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
3170 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
3171 [~~B~~] (C) Section [~~19-6-716~~] 19-6-714;
3172 [~~C~~] (D) Section 19-6-805;
3173 [~~D~~] (E) Section 69-2-5;
3174 [~~E~~] (F) Section 69-2-5.5;
3175 [~~F~~] (G) Section 69-2-5.6; or
3176 [~~G~~] (H) this title.
3177 (d) A person shall pay a use tax imposed by this chapter on a transaction described in
3178 Subsection 59-12-103(1) if:
3179 (i) the seller did not collect a tax imposed by this chapter on the transaction; and
3180 (ii) the person:
3181 (A) stores the tangible personal property or product transferred electronically in the
3182 state;
3183 (B) uses the tangible personal property or product transferred electronically in the
3184 state; or
3185 (C) consumes the tangible personal property or product transferred electronically in
3186 the state.
3187 (e) The ownership of property that is located at the premises of a printer's facility with
3188 which the retailer has contracted for printing and that consists of the final printed product,
3189 property that becomes a part of the final printed product, or copy from which the printed
3190 product is produced, shall not result in the retailer being considered to have or maintain an
3191 office, distribution house, sales house, warehouse, service enterprise, or other place of
3192 business, or to maintain a stock of goods, within this state.
3193 (f) (i) As used in this Subsection (1)(f):

3194 (A) "Affiliated group" is as defined in Section 59-7-101, except that "affiliated group"
3195 includes a corporation that is qualified to do business but is not otherwise doing business in
3196 this state[;].

3197 (B) "Common ownership" is as defined in Section 59-7-101[;].

3198 (C) "Related seller" means a seller that:

3199 (I) is not required to pay or collect and remit sales and use taxes under Subsection
3200 (1)(a) or Section 59-12-103.1;

3201 (II) is:

3202 (Aa) related to a seller that is required to pay or collect and remit sales and use taxes
3203 under Subsection (1)(a) as part of an affiliated group or because of common ownership; or

3204 (Bb) a limited liability company owned by the parent corporation of an affiliated
3205 group if that parent corporation of the affiliated group is required to pay or collect and remit
3206 sales and use taxes under Subsection (1)(a); and

3207 (III) does not voluntarily collect and remit a tax under Subsection (1)(b)(i).

3208 (ii) A seller is not required to pay or collect and remit sales and use taxes under
3209 Subsection (1)(a):

3210 (A) if the seller is a related seller;

3211 (B) if the seller to which the related seller is related does not engage in any of the
3212 following activities on behalf of the related seller:

3213 (I) advertising;

3214 (II) marketing;

3215 (III) sales; or

3216 (IV) other services; and

3217 (C) if the seller to which the related seller is related accepts the return of an item sold
3218 by the related seller, the seller to which the related seller is related accepts the return of that
3219 item:

3220 (I) sold by a seller that is not a related seller; and

3221 (II) on the same terms as the return of an item sold by that seller to which the related

3222 seller is related.

3223 (2) (a) Except as provided in Section 59-12-107.1, a tax under this chapter shall be
3224 collected from a purchaser.

3225 (b) A seller may not collect as tax an amount, without regard to fractional parts of one
3226 cent, in excess of the tax computed at the rates prescribed by this chapter.

3227 (c) (i) Each seller shall:

3228 (A) give the purchaser a receipt for the tax collected; or

3229 (B) bill the tax as a separate item and declare the name of this state and the seller's
3230 sales and use tax license number on the invoice for the sale.

3231 (ii) The receipt or invoice is prima facie evidence that the seller has collected the tax
3232 and relieves the purchaser of the liability for reporting the tax to the commission as a
3233 consumer.

3234 (d) A seller is not required to maintain a separate account for the tax collected, but is
3235 considered to be a person charged with receipt, safekeeping, and transfer of public moneys.

3236 (e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the
3237 benefit of the state and for payment to the commission in the manner and at the time provided
3238 for in this chapter.

3239 (f) If any seller, during any reporting period, collects as a tax an amount in excess of
3240 the lawful state and local percentage of total taxable sales allowed under this chapter, the seller
3241 shall remit to the commission the full amount of the tax imposed under this chapter, plus any
3242 excess.

3243 (g) If the accounting methods regularly employed by the seller in the transaction of the
3244 seller's business are such that reports of sales made during a calendar month or quarterly
3245 period will impose unnecessary hardships, the commission may accept reports at intervals that
3246 will, in the commission's opinion, better suit the convenience of the taxpayer or seller and will
3247 not jeopardize collection of the tax.

3248 (3) (a) Except as provided in Subsections (4) through (6) and Section 59-12-108, the
3249 sales or use tax imposed by this chapter is due and payable to the commission quarterly on or

3250 before the last day of the month next succeeding each calendar quarterly period.

3251 (b) (i) Each seller shall, on or before the last day of the month next succeeding each
3252 calendar quarterly period, file with the commission a return for the preceding quarterly period.

3253 (ii) The seller shall remit with the return under Subsection (3)(b)(i) the amount of the
3254 tax required under this chapter to be collected or paid for the period covered by the return.

3255 (c) Except as provided in Subsection (4)(c), a return shall contain information and be
3256 in a form the commission prescribes by rule.

3257 (d) The sales tax as computed in the return shall be based upon the total nonexempt
3258 sales made during the period, including both cash and charge sales.

3259 (e) The use tax as computed in the return shall be based upon the total amount of
3260 purchases for storage, use, or other consumption in this state made during the period,
3261 including both by cash and by charge.

3262 (f) (i) Subject to Subsection (3)(f)(ii) and in accordance with Title 63G, Chapter 3,
3263 Utah Administrative Rulemaking Act, the commission may by rule extend the time for making
3264 returns and paying the taxes.

3265 (ii) An extension under Subsection (3)(f)(i) may not be for more than 90 days.

3266 (g) The commission may require returns and payment of the tax to be made for other
3267 than quarterly periods if the commission considers it necessary in order to ensure the payment
3268 of the tax imposed by this chapter.

3269 (h) (i) The commission may require a seller that files a simplified electronic return
3270 with the commission to file an additional electronic report with the commission.

3271 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
3272 the commission may make rules providing:

3273 (A) the information required to be included in the additional electronic report
3274 described in Subsection (3)(h)(i); and

3275 (B) one or more due dates for filing the additional electronic report described in
3276 Subsection (3)(h)(i).

3277 (4) (a) As used in this Subsection (4) and Subsection (5)(b), "remote seller" means a

3278 seller that is:

3279 (i) registered under the agreement;

3280 (ii) described in Subsection (1)(b); and

3281 (iii) not a:

3282 (A) model 1 seller;

3283 (B) model 2 seller; or

3284 (C) model 3 seller.

3285 (b) (i) Except as provided in Subsection (4)(b)(ii), a tax a remote seller collects in

3286 accordance with Subsection (1)(b) is due and payable:

3287 (A) to the commission;

3288 (B) annually; and

3289 (C) on or before the last day of the month immediately following the last day of each

3290 calendar year.

3291 (ii) The commission may require that a tax a remote seller collects in accordance with

3292 Subsection (1)(b) be due and payable:

3293 (A) to the commission; and

3294 (B) on the last day of the month immediately following any month in which the seller

3295 accumulates a total of at least \$1,000 in agreement sales and use tax.

3296 (c) (i) If a remote seller remits a tax to the commission in accordance with Subsection

3297 (4)(b), the remote seller shall file a return:

3298 (A) with the commission;

3299 (B) with respect to the tax;

3300 (C) containing information prescribed by the commission; and

3301 (D) on a form prescribed by the commission.

3302 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

3303 the commission shall make rules prescribing:

3304 (A) the information required to be contained in a return described in Subsection

3305 (4)(a)(i); and

3306 (B) the form described in Subsection (4)(c)(i)(D).
3307 (d) A tax a remote seller collects in accordance with this Subsection (4) shall be
3308 calculated on the basis of the total amount of taxable transactions under Subsection
3309 59-12-103(1) the remote seller completes, including:
3310 (i) a cash transaction; and
3311 (ii) a charge transaction.
3312 (5) (a) Except as provided in Subsection (5)(b), a tax a seller that files a simplified
3313 electronic return collects in accordance with this chapter is due and payable:
3314 (i) monthly on or before the last day of the month immediately following the month
3315 for which the seller collects a tax under this chapter; and
3316 (ii) for the month for which the seller collects a tax under this chapter.
3317 (b) A tax a remote seller that files a simplified electronic return collects in accordance
3318 with this chapter is due and payable as provided in Subsection (4).
3319 (6) (a) On each vehicle sale made by other than a regular licensed vehicle dealer, the
3320 purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to
3321 titling or registration under the laws of this state.
3322 (b) The commission shall collect the tax described in Subsection (6)(a) when the
3323 vehicle is titled or registered.
3324 (7) If any sale of tangible personal property or any other taxable transaction under
3325 Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not
3326 responsible for the collection or payment of the tax imposed on the sale and the retailer is
3327 responsible for the collection or payment of the tax imposed on the sale if:
3328 (a) the retailer represents that the personal property is purchased by the retailer for
3329 resale; and
3330 (b) the personal property is not subsequently resold.
3331 (8) If any sale of property or service subject to the tax is made to a person prepaying
3332 sales or use tax in accordance with Title 63M, Chapter 5, Resource Development Act, or to a
3333 contractor or subcontractor of that person, the person to whom such payment or consideration

3334 is payable is not responsible for the collection or payment of the sales or use tax and the
3335 person prepaying the sales or use tax is responsible for the collection or payment of the sales or
3336 use tax if the person prepaying the sales or use tax represents that the amount prepaid as sales
3337 or use tax has not been fully credited against sales or use tax due and payable under the rules
3338 promulgated by the commission.

3339 (9) (a) For purposes of this Subsection (9):

3340 (i) Except as provided in Subsection (9)(a)(ii), "bad debt" is as defined in Section 166,
3341 Internal Revenue Code.

3342 (ii) Notwithstanding Subsection (9)(a)(i), "bad debt" does not include:

3343 (A) an amount included in the purchase price of tangible personal property, a product
3344 transferred electronically, or a service that is:

3345 (I) not a transaction described in Subsection 59-12-103(1); or

3346 (II) exempt under Section 59-12-104;

3347 (B) a financing charge;

3348 (C) interest;

3349 (D) a tax imposed under this chapter on the purchase price of tangible personal
3350 property, a product transferred electronically, or a service;

3351 (E) an uncollectible amount on tangible personal property or a product transferred
3352 electronically that:

3353 (I) is subject to a tax under this chapter; and

3354 (II) remains in the possession of a seller until the full purchase price is paid;

3355 (F) an expense incurred in attempting to collect any debt; or

3356 (G) an amount that a seller does not collect on repossessed property.

3357 (b) A seller may deduct bad debt from the total amount from which a tax under this
3358 chapter is calculated on a return.

3359 (c) A seller may file a refund claim with the commission if:

3360 (i) the amount of bad debt for the time period described in Subsection (9)(e) exceeds
3361 the amount of the seller's sales that are subject to a tax under this chapter for that same time

3362 period; and

3363 (ii) as provided in Section [~~59-12-110~~] 59-1-1410.

3364 (d) A bad debt deduction under this section may not include interest.

3365 (e) A bad debt may be deducted under this Subsection (9) on a return for the time

3366 period during which the bad debt:

3367 (i) is written off as uncollectible in the seller's books and records; and

3368 (ii) would be eligible for a bad debt deduction:

3369 (A) for federal income tax purposes; and

3370 (B) if the seller were required to file a federal income tax return.

3371 (f) If a seller recovers any portion of bad debt for which the seller makes a deduction

3372 or claims a refund under this Subsection (9), the seller shall report and remit a tax under this

3373 chapter:

3374 (i) on the portion of the bad debt the seller recovers; and

3375 (ii) on a return filed for the time period for which the portion of the bad debt is

3376 recovered.

3377 (g) For purposes of reporting a recovery of a portion of bad debt under Subsection

3378 (9)(f), a seller shall apply amounts received on the bad debt in the following order:

3379 (i) in a proportional amount:

3380 (A) to the purchase price of the tangible personal property, product transferred

3381 electronically, or service; and

3382 (B) to the tax due under this chapter on the tangible personal property, product

3383 transferred electronically, or service; and

3384 (ii) to:

3385 (A) interest charges;

3386 (B) service charges; and

3387 (C) other charges.

3388 (h) A seller's certified service provider may make a deduction or claim a refund for

3389 bad debt on behalf of the seller:

3390 (i) in accordance with this Subsection (9); and

3391 (ii) if the certified service provider credits or refunds the entire amount of the bad debt
3392 deduction or refund to the seller.

3393 (i) A seller may allocate bad debt among the states that are members of the agreement
3394 if the seller's books and records support that allocation.

3395 (10) (a) A seller may not, with intent to evade any tax, fail to timely remit the full
3396 amount of tax required by this chapter.

3397 (b) A violation of this section is punishable as provided in Section 59-1-401.

3398 (c) Each person who fails to pay any tax to the state or any amount of tax required to
3399 be paid to the state, except amounts determined to be due by the commission under [~~Sections~~
3400 ~~59-12-110 and 59-12-111~~] Chapter 1, Part 14, Assessment, Collections, and Refunds Act, or
3401 Section 59-12-111, within the time required by this chapter, or who fails to file any return as
3402 required by this chapter, shall pay, in addition to the tax, penalties and interest as provided in
3403 Section [~~59-12-110~~] 59-1-401.

3404 (d) For purposes of prosecution under this section, each quarterly tax period in which
3405 a seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of
3406 the tax required to be remitted, constitutes a separate offense.

3407 Section 45. Section **59-12-110** is amended to read:

3408 **59-12-110. Refunds procedures.**

3409 [~~(1)(a) As soon as practicable after a return is filed, the commission shall examine the~~
3410 ~~return.~~]

3411 [~~(b) If the commission determines that the correct amount of tax to be remitted is~~
3412 ~~greater or less than the amount shown to be due on the return, the commission shall recompute~~
3413 ~~the tax.~~]

3414 [~~(c) If the amount paid exceeds the amount due, the excess, plus interest as provided in~~
3415 ~~Section 59-1-402, shall be credited or refunded to the taxpayer as provided in Subsection (2).~~]

3416 [~~(d) The commission may not credit or refund to the taxpayer interest on an~~
3417 ~~overpayment under Subsection (1)(c) if the commission determines that the overpayment was~~

3418 made for the purpose of investment.]

3419 ~~[(2) (a) If a taxpayer pays a tax, penalty, or interest more than once or the commission~~
3420 ~~erroneously receives, collects, or computes any tax, penalty, or interest, including an~~
3421 ~~overpayment described in Subsection (1)(c), the commission shall:]~~

3422 ~~[(i) credit the amount of tax, penalty, or interest paid by the taxpayer against any~~
3423 ~~amounts of tax, penalties, or interest the taxpayer owes; and]~~

3424 ~~[(ii) refund any balance to the taxpayer or the taxpayer's successors, administrators,~~
3425 ~~executors, or assigns.]~~

3426 ~~[(b) Except as provided in Subsections (2)(c) and (d) or Section 19-2-124, a taxpayer~~
3427 ~~shall file a claim with the commission to obtain a refund or credit under this Subsection (2)~~
3428 ~~within three years from the day on which the taxpayer overpaid the tax, penalty, or interest.]~~

3429 ~~[(c) Notwithstanding Subsection (2)(b), beginning on July 1, 1998, the commission~~
3430 ~~shall extend the period for a taxpayer to file a claim under Subsection (2)(b) if:]~~

3431 ~~[(i) the three-year period under Subsection (2)(b) has not expired; and]~~

3432 ~~[(ii) the commission and the taxpayer sign a written agreement:]~~

3433 ~~[(A) authorizing the extension; and]~~

3434 ~~[(B) providing for the length of the extension.]~~

3435 ~~[(d) Notwithstanding Subsection (2)(b), a]~~

3436 (1) A seller that files a claim for a refund under [Subsection 59-12-107(9)(c)] Section
3437 59-12-107 for bad debt shall file the claim with the commission within three years from the
3438 date on which the seller could first claim the refund for the bad debt.

3439 ~~[(e) A taxpayer may file a claim to obtain a refund or credit under this Subsection (2)~~
3440 ~~regardless of whether the taxpayer received or objected to a notice of deficiency or a notice of~~
3441 ~~assessment as provided in Subsection 59-12-114(1).]~~

3442 (2) A seller that files a claim for a refund for a repossessed item shall file the claim
3443 with the commission within three years from the date the item is repossessed.

3444 ~~[(f)]~~ (3) A taxpayer may obtain a refund under [this Subsection (2)] Section 59-1-1410
3445 of a tax paid under this chapter on a transaction that is taxable under Section 59-12-103 if:

3446 [(i) (a) the sale or use ~~[was]~~ is exempt from sales and use taxes under Section
3447 59-12-104 on the date of purchase; and

3448 ~~[(ii) except as provided in Subsection (2)(c);]~~

3449 (b) the taxpayer files a claim for a refund with the commission as provided in
3450 ~~[Subsections (2)(b) through (e)]~~ Section 59-1-1410.

3451 ~~[(g) If the commission denies a claim for a refund or credit under this Subsection (2);~~
3452 ~~the taxpayer may request a redetermination of the denial by filing a petition or request for~~
3453 ~~agency action with the commission as provided in Title 63G, Chapter 4, Administrative~~
3454 ~~Procedures Act.]~~

3455 ~~[(3) If the commission erroneously determines an amount to be due from a taxpayer;~~
3456 ~~the commission shall authorize the amounts to be cancelled upon its records.]~~

3457 ~~[(4) (a) Subject to the provisions of Subsection (4)(b), the commission may impose on~~
3458 ~~a deficiency under this section:]~~

3459 ~~[(i) a penalty as provided in Section 59-1-401; and]~~

3460 ~~[(ii) interest as provided in Section 59-1-402.]~~

3461 ~~[(b) The commission may impose a penalty and interest on the entire deficiency if any~~
3462 ~~part of the deficiency is due to:]~~

3463 ~~[(i) negligence;]~~

3464 ~~[(ii) intentional disregard of law or rule; or]~~

3465 ~~[(iii) fraud with intent to evade the tax.]~~

3466 ~~[(5) (a) Except as provided in Subsection (5)(b), a taxpayer shall pay a tax deficiency;~~
3467 ~~including penalties or interest under this section, within ten days after the commission~~
3468 ~~provides the taxpayer notice and demand of the deficiency, penalty, or interest.]~~

3469 ~~[(b) Notwithstanding Subsection (5)(a), a taxpayer may pay a tax deficiency, penalty;~~
3470 ~~or interest within 30 days after the commission provides the taxpayer notice and demand of~~
3471 ~~the deficiency, penalty, or interest if the commission determines:]~~

3472 ~~[(i) that a greater amount was due than was shown on the return; and]~~

3473 ~~[(ii) the tax is not in jeopardy.]~~

3474 ~~[(6) (a) Except as provided in Subsections (6)(c) through (f), the commission shall~~
3475 ~~assess the amount of taxes imposed by this chapter, and any penalties and interest, within~~
3476 ~~three years after a taxpayer files a return.]~~

3477 ~~[(b) Except as provided in Subsections (6)(c) through (f), if the commission does not~~
3478 ~~make an assessment under Subsection (6)(a) within three years, the commission may not~~
3479 ~~commence a proceeding for the collection of the taxes after the expiration of the three-year~~
3480 ~~period.]~~

3481 ~~[(c) Notwithstanding Subsections (6)(a) and (b), the commission may make an~~
3482 ~~assessment or commence a proceeding to collect a tax at any time if a deficiency is due to:]~~

3483 ~~[(i) fraud; or]~~

3484 ~~[(ii) failure to file a return.]~~

3485 ~~[(d) Notwithstanding Subsections (6)(a) and (b), beginning on July 1, 1998, the~~
3486 ~~commission may extend the period to make an assessment or to commence a proceeding to~~
3487 ~~collect the tax under this chapter if:]~~

3488 ~~[(i) the three-year period under this Subsection (6) has not expired; and]~~

3489 ~~[(ii) the commission and the taxpayer sign a written agreement:]~~

3490 ~~[(A) authorizing the extension; and]~~

3491 ~~[(B) providing for the length of the extension.]~~

3492 ~~[(e) If the commission delays an audit at the request of a taxpayer, the commission~~
3493 ~~may make an assessment as provided in Subsection (6)(f) if:]~~

3494 ~~[(i) the taxpayer subsequently refuses to agree to an extension request by the~~
3495 ~~commission; and]~~

3496 ~~[(ii) the three-year period under this Subsection (6) expires before the commission~~
3497 ~~completes the audit.]~~

3498 ~~[(f) An assessment under Subsection (6)(e) shall be:]~~

3499 ~~[(i) for the time period for which the commission could not make an assessment~~
3500 ~~because of the expiration of the three-year period; and]~~

3501 ~~[(ii) in an amount equal to the difference between:]~~

3502 [~~(A) the commission's estimate of the amount of taxes the taxpayer would have been~~
3503 ~~assessed for the time period described in Subsection (6)(f)(i); and]~~

3504 [~~(B) the amount of taxes the taxpayer actually paid for the time period described in~~
3505 ~~Subsection (6)(f)(i).]~~

3506 Section 46. Section **59-12-110.1** is amended to read:

3507 **59-12-110.1. Refund or credit for taxes overpaid by a purchaser -- Seller**
3508 **reasonable business practice.**

3509 (1) Subject to the other provisions of this section, a purchaser may request from a
3510 seller a refund or credit of any amount that:

3511 (a) the purchaser overpaid in taxes under this chapter; and

3512 (b) was collected by the seller.

3513 (2) (a) Except as provided in Subsection (2)(b), the procedure described in Subsection
3514 (1) is in addition to the process for a taxpayer to file a claim for a refund or credit with the
3515 commission under Section [~~59-12-110~~] 59-1-1410.

3516 (b) Notwithstanding Subsection (2)(a):

3517 (i) the commission is not required to make a refund or credit of an amount for which
3518 as of the date the refund or credit is to be given the purchaser has requested or received a
3519 refund or credit from the seller; and

3520 (ii) a seller is not required to refund or credit an amount for which as of the date the
3521 refund is to be given the purchaser has requested or received a refund or credit from the
3522 commission.

3523 (3) A purchaser may not bring a cause of action against a seller for a refund or credit
3524 described in Subsection (1):

3525 (a) unless the purchaser provided the seller written notice that:

3526 (i) the purchaser requests the refund or credit described in Subsection (1); and

3527 (ii) contains the information necessary for the seller to determine the validity of the
3528 request; and

3529 (b) sooner than 60 days after the day on which the seller receives the written notice

3530 described in Subsection (3)(a).

3531 (4) A seller that collects a tax under this chapter that exceeds the amount the seller is
3532 required to collect under this chapter is presumed to have a reasonable business practice if the
3533 seller:

3534 (a) collects the tax under this chapter that exceeds the amount the seller is required to
3535 collect under this chapter through the use of:

3536 (i) a certified service provider; or

3537 (ii) a system certified by the state, including a proprietary system certified by the state;

3538 and

3539 (b) remits to the commission all taxes the seller is required to remit to the commission
3540 under this chapter.

3541 Section 47. Section **59-12-111** is amended to read:

3542 **59-12-111. Penalty for certain purchasers that fail to file a return or pay a tax**
3543 **due -- Commission rulemaking authority.**

3544 [~~(1) Each person engaging or continuing in any business in this state for the~~
3545 ~~transaction of which a license is required under this chapter shall:]~~

3546 [~~(a) keep and preserve suitable records of all sales made by the person and other books~~
3547 ~~or accounts necessary to determine the amount of tax for the collection of which the person is~~
3548 ~~liable under this chapter in a form prescribed by the commission;]~~

3549 [~~(b) keep and preserve for a period of three years all such books, invoices, and other~~
3550 ~~records; and]~~

3551 [~~(c) open such records for examination at any time by the commission or its duly~~
3552 ~~authorized agent.]~~

3553 [~~(2) If no return is made by any person required to make returns as provided in this~~
3554 ~~chapter, the commission shall give written notice to the person to make the return within a~~
3555 ~~reasonable time to be designated by the commission or, alternatively, the commission may~~
3556 ~~make an estimate for the period or periods or any part thereof in respect to which the person~~
3557 ~~failed to make a return, based upon any information in its possession or that may come into its~~

3558 possession of the total sales subject to the tax imposed by this chapter. Upon the basis of this
 3559 estimate the commission may compute and determine the amount of tax required to be paid to
 3560 the state. The return shall be prima facie correct for the purposes of this chapter and the
 3561 amount of the tax due thereon shall be subject to the penalties and interest as provided in
 3562 Sections 59-1-401 and 59-1-402. Promptly thereafter the commission shall give to the person
 3563 written notice of the estimate, determination, penalty, and interest.]

3564 [~~(3) If any person not holding a sales tax license under Section 59-12-106 or a valid
 3565 use tax registration certificate makes a purchase of tangible personal property for storage, use,
 3566 or other consumption in this state and fails to file a return or pay the tax due within 170 days
 3567 from the time the return is due, this]~~

3568 A person shall pay a penalty as provided in Section 59-1-401, plus interest at the rate
 3569 and in the manner prescribed in Section 59-1-402, and all other penalties and interest as
 3570 provided by this title~~[-]~~ if the person:

3571 (1) does not hold:

3572 (a) a license under Section 59-12-106; or

3573 (b) a valid use tax registration certificate;

3574 (2) purchases tangible personal property subject to taxation under Subsection
 3575 59-12-103(1) for storage, use, or other consumption in this state; and

3576 (3) fails to file a return or pay the tax due as prescribed by the commission by rule
 3577 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

3578 Section 48. Section **59-12-128** is amended to read:

3579 **59-12-128. Amnesty.**

3580 (1) As used in this section, "amnesty" means that a seller is not required to pay the
 3581 following amounts that the seller would otherwise be required to pay:

3582 (a) a tax, fee, or charge under:

3583 (i) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

3584 (ii) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

3585 [~~(ii)~~] (iii) Section 19-6-714;

3586 [~~(iii)~~] (iv) Section 19-6-805;
3587 [~~(iv)~~] (v) Section 69-2-5;
3588 [~~(v)~~] (vi) Section 69-2-5.5;
3589 [~~(vi)~~] (vii) Section 69-2-5.6; or
3590 [~~(vii)~~] (viii) this chapter;
3591 (b) a penalty on a tax, fee, or charge described in Subsection (1)(a); or
3592 (c) interest on a tax, fee, or charge described in Subsection (1)(a).
3593 (2) The commission shall grant a seller amnesty under this section if the seller:
3594 (a) was not licensed under Section 59-12-106 at any time during the 12-month period
3595 prior to the effective date of the state's participation in the agreement;
3596 (b) obtains a license under Section 59-12-106 within a 12-month period after the
3597 effective date of the state's participation in the agreement; and
3598 (c) is registered under the agreement.
3599 (3) A seller may not receive amnesty under this section for a tax, fee, or charge:
3600 (a) the seller collects;
3601 (b) the seller remits to the commission;
3602 (c) that the seller is required to remit to the commission on the seller's purchase; or
3603 (d) arising from a transaction that occurs within a time period that is under audit by
3604 the commission if:
3605 (i) the seller receives notice of the commencement of the audit prior to obtaining a
3606 license under Section 59-12-106; and
3607 (ii) (A) the audit described in Subsection (3)(d)(i) is not complete; or
3608 (B) the seller has not exhausted all administrative and judicial remedies in connection
3609 with the audit described in Subsection (3)(d)(i).
3610 (4) (a) Except as provided in Subsection (4)(b), amnesty the commission grants to a
3611 seller under this section:
3612 (i) applies to the time period during which the seller is not licensed under Section
3613 59-12-106; and

3614 (ii) remains in effect if, for a period of three years, the seller:

3615 (A) remains registered under the agreement;

3616 (B) collects a tax, fee, or charge on a transaction subject to a tax, fee, or charge

3617 described in Subsection (1)(a); and

3618 (C) remits to the commission the taxes, fees, and charges the seller collects in

3619 accordance with Subsection (4)(a)(ii)(B).

3620 (b) The commission may not grant a seller amnesty under this section if, with respect

3621 to a tax, fee, or charge for which the seller would otherwise be granted amnesty under this

3622 section, the seller commits:

3623 (i) fraud; or

3624 (ii) an intentional misrepresentation of a material fact.

3625 (5) (a) If a seller does not meet a requirement of Subsection (4)(a)(ii), the commission

3626 shall require the seller to pay the amounts described in Subsection (1) that the seller would

3627 have otherwise been required to pay.

3628 (b) Notwithstanding Section [~~59-12-110~~] 59-1-1410, for purposes of requiring a seller

3629 to pay an amount in accordance with Subsection (5)(a), the time period for the commission to

3630 make an assessment under Section [~~59-12-110~~] 59-1-1410 is extended for a time period

3631 beginning on the date the seller does not meet a requirement of Subsection (4)(a)(ii) and ends

3632 three years after that date.

3633 Section 49. Section **59-12-209** is amended to read:

3634 **59-12-209. Participation of counties, cities, and towns in administration and**

3635 **enforcement of local option sales and use tax.**

3636 (1) Notwithstanding [~~the provisions of~~] Title 63G, Chapter 4, Administrative

3637 Procedures Act, a county, city, or town [~~shall~~] does not have the right to any of the following,

3638 except as specifically allowed by Subsection (2) and Section 59-12-210:

3639 (a) to inspect, review, or have access to any taxpayer sales and use tax records; or

3640 (b) to be informed of, participate in, intervene in, or appeal from any adjudicative

3641 proceeding commenced pursuant to Section 63G-4-201 to determine the liability of any

3642 taxpayer for sales and use ~~[tax]~~ taxes imposed pursuant to ~~[Title 59, Chapter 12, Sales and Use~~
3643 ~~Tax Act]~~ this chapter.

3644 (2) (a) Counties, cities, and towns shall have access to records and information on file
3645 with the commission, and shall have the right to notice of, and ~~[such]~~ rights to intervene in or
3646 to appeal from, a proposed final agency action of the commission as ~~[follows:]~~ provided in this
3647 Subsection (2).

3648 ~~[(a)]~~ (b) If the commission, following a formal adjudicative proceeding commenced
3649 pursuant to Title 63G, Chapter 4, Administrative Procedures Act, proposes to take final
3650 agency action that would reduce the amount of sales and use tax liability alleged in the notice
3651 of deficiency, the commission shall provide notice of a proposed agency action to each
3652 qualified county, city, and town.

3653 ~~[(b)]~~ (c) For purposes of this ~~[section]~~ Subsection (2), a county, city, or town is a
3654 qualified county, city, or town if a proposed final agency action reduces the local option sales
3655 and use tax distributable to that county, city, or town by more than \$10,000 below the amount
3656 of the tax that would have been distributable to that county, city, or town had a notice of
3657 deficiency, as described in Section ~~[59-12-110]~~ 59-1-1405, not been reduced.

3658 ~~[(c)]~~ (d) A qualified county, city, or town may designate a representative who shall
3659 have the right to review the record of the formal hearing and any other commission records
3660 relating to a proposed final agency action, subject to the confidentiality provisions of Section
3661 59-1-403.

3662 ~~[(d)]~~ (e) No later than ten days after receiving the notice of the commission's proposed
3663 final agency action, a qualified county, city, or town may file a notice of intervention with the
3664 commission.

3665 ~~[(e)]~~ (f) No later than 20 days after filing a notice of intervention, if a qualified county,
3666 city, or town objects to the proposed final agency action, that qualified county, city, or town
3667 may file a petition for reconsideration with the commission and shall serve copies of the
3668 petition on the taxpayer and the appropriate division in the commission.

3669 ~~[(f)]~~ (g) The taxpayer and appropriate division in the commission may each file a

3670 response to the petition for reconsideration within 20 days of receipt of the petition for
3671 reconsideration.

3672 [~~(g)~~] (h) After consideration of the petition for reconsideration and any response, and
3673 any additional proceeding the commission considers appropriate, the commission may affirm,
3674 modify, or amend its proposed final agency action.

3675 (i) The taxpayer and any qualified county, city, or town that has filed a petition for
3676 reconsideration may appeal the final agency action.

3677 Section 50. Section **59-13-209** is amended to read:

3678 **59-13-209. Due date -- Delinquency -- Penalties -- Interest -- Collection**
3679 **procedure.**

3680 (1) (a) The motor fuel tax is due and payable by the distributor on or before the last
3681 day of each month to the commission for the number of gallons of motor fuel sold, used, or
3682 received for sale or use by the distributor during the preceding calendar month.

3683 (b) The commission shall receipt the distributor for taxes paid and shall promptly
3684 deposit all revenue with the state treasurer.

3685 (2) (a) If any distributor fails or refuses to pay any tax when it becomes due and
3686 payable, the tax is delinquent.

3687 (b) If a distributor is delinquent in tax payments, the commission shall impose a
3688 penalty as provided under Section 59-1-401.

3689 (c) The amount of the tax shall bear interest at the rate and in the manner prescribed in
3690 Section 59-1-402.

3691 (3) [~~No~~] (a) A report or payment of tax is not considered delinquent if the envelope in
3692 which the report or remittance is enclosed bears a post office cancellation mark dated on or
3693 before the date on which the report or payment [~~was~~] is due.

3694 (b) The commission, upon receipt of [~~the~~] a report or remittance described in
3695 Subsection (3)(a), shall treat the report or payment as if it had been received on the date it was
3696 due.

3697 (4) If any part of [~~the~~] a tax due is deficient or delinquent because of negligence or

3698 disregard of this part, or in the case of false or fraudulent monthly reports, or intent to evade
3699 the tax, a penalty shall be added to the tax due as provided in Section 59-1-401.

3700 (5) (a) A tax due and unpaid under this part constitutes a debt due the state and may
3701 be collected, together with interest, penalty, and costs, by appropriate judicial proceeding.

3702 [~~This remedy~~]

3703 (b) The remedy described in Subsection (5)(a) is in addition to all other remedies.

3704 (6) If the tax imposed by this part is not paid when it is due, collection may be made

3705 [~~as provided in Sections 59-7-526 and 59-7-527~~] in accordance with Chapter 1, Part 14,

3706 Assessment, Collections, and Refunds Act.

3707 Section 51. Section **59-13-210** is amended to read:

3708 **59-13-210. Commission rulemaking authority.**

3709 [~~(1) The~~] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
3710 Act, the commission may [~~promulgate~~] make rules to administer and enforce this part.

3711 [~~(2) The commission may examine the monthly reports of sales, recompute the tax due~~
3712 ~~on them, or, if no monthly report is filed, estimate the amount of tax due. The estimate may be~~
3713 ~~based upon information either in its possession or that comes into its possession, and is prima~~
3714 ~~facie correct for purposes of this part.]~~

3715 [~~(3) If the amount determined due is greater than the amount paid, the difference,~~
3716 ~~together with penalty and interest, as provided under Sections 59-1-401 and 59-1-402, shall be~~
3717 ~~due and payable 30 days after notice by the commission. Any distributor aggrieved by the tax~~
3718 ~~adjustment may petition for redetermination, hearing, and review by the commission. A~~
3719 ~~taxpayer who is dissatisfied with a final decision received from the commission may seek~~
3720 ~~judicial review.]~~

3721 [~~(4) If the commission finds an overpayment has been made, the amount of~~
3722 ~~overpayment shall be credited or refunded to the person who made the overpayment, or the~~
3723 ~~person's successors, administrators, executors, or assigns.]~~

3724 [~~(5) Interest at the rate and in the manner prescribed in Section 59-1-402 shall be~~
3725 ~~added to any delinquency or refund determined by the commission.]~~

3726 ~~[(6) (a) Except as provided in Subsections (6)(c) through (f), the commission shall~~
3727 ~~assess the amount of taxes imposed under this part, and any penalties and interest, within three~~
3728 ~~years after a taxpayer files a return.]~~

3729 ~~[(b) Except as provided in Subsections (6)(c) through (f), if the commission does not~~
3730 ~~make an assessment under Subsection (6)(a) within three years, the commission may not~~
3731 ~~commence a proceeding for the collection of the taxes after the expiration of the three-year~~
3732 ~~period.]~~

3733 ~~[(c) Notwithstanding Subsections (6)(a) and (b), the commission may make an~~
3734 ~~assessment or commence a proceeding to collect a tax at any time if a deficiency is due to:]~~

3735 ~~[(i) fraud; or]~~

3736 ~~[(ii) failure to file a return.]~~

3737 ~~[(d) Notwithstanding Subsections (6)(a) and (b), beginning on July 1, 1998, the~~
3738 ~~commission may extend the period to make an assessment or to commence a proceeding to~~
3739 ~~collect the tax under this part if:]~~

3740 ~~[(i) the three-year period under this Subsection (6) has not expired; and]~~

3741 ~~[(ii) the commission and the taxpayer sign a written agreement:]~~

3742 ~~[(A) authorizing the extension; and]~~

3743 ~~[(B) providing for the length of the extension.]~~

3744 ~~[(e) If the commission delays an audit at the request of a taxpayer, the commission~~
3745 ~~may make an assessment as provided in Subsection (6)(f) if:]~~

3746 ~~[(i) the taxpayer subsequently refuses to agree to an extension request by the~~
3747 ~~commission; and]~~

3748 ~~[(ii) the three-year period under this Subsection (6) expires before the commission~~
3749 ~~completes the audit.]~~

3750 ~~[(f) An assessment under Subsection (6)(e) shall be:]~~

3751 ~~[(i) for the time period for which the commission could not make an assessment~~
3752 ~~because of the expiration of the three-year period; and]~~

3753 ~~[(ii) in an amount equal to the difference between:]~~

3754 [~~(A) the commission's estimate of the amount of taxes the taxpayer would have been~~
3755 ~~assessed for the time period described in Subsection (6)(f)(i); and]~~

3756 [~~(B) the amount of taxes the taxpayer actually paid for the time period described in~~
3757 ~~Subsection (6)(f)(i).]~~

3758 [~~(7)(a) Except as provided in Subsection (7)(b), a refund may not be made unless a~~
3759 ~~claim has been filed within three years of the date of overpayment.]~~

3760 [~~(b) Notwithstanding Subsection (7)(a), beginning on July 1, 1998, the commission~~
3761 ~~shall extend the period for a taxpayer to file a claim under Subsection (7)(a) if:]~~

3762 [~~(i) the three-year period under Subsection (7)(a) has not expired; and]~~

3763 [~~(ii) the commission and the taxpayer sign a written agreement:]~~

3764 [~~(A) authorizing the extension; and]~~

3765 [~~(B) providing for the length of the extension.]~~

3766 Section 52. Section **59-13-211** is amended to read:

3767 **59-13-211. Distributor's records -- Audit requirements -- Deposit of revenues**
3768 **with treasurer -- Dedicated credits.**

3769 [~~(1) Every distributor shall keep a record, in a manner prescribed by the commission,~~
3770 ~~of all purchases, receipts, sales, and distribution of motor fuel. The records shall include~~
3771 ~~copies of all invoices or bills of all sales, and shall at all times during business hours of the day~~
3772 ~~be subject to inspection by the commission or its deputies or other persons duly authorized by~~
3773 ~~the commission. All records shall be preserved for a period of three years.]~~

3774 [~~(2) Any~~] (1) A distributor who does not maintain adequate motor fuel records at one
3775 location in this state so that an audit of the records may be made, may be required to:

3776 (a) forward the necessary records to Salt Lake City; or

3777 (b) pay the necessary expenses of an auditor to make the examination at the proper
3778 division office. [~~Any funds]~~

3779 (2) Funds collected under this section:

3780 (a) shall be deposited with the state treasurer; and

3781 (b) are dedicated credits for the commission.

3782 Section 53. Section **59-13-312** is amended to read:

3783 **59-13-312. Special fuel user records -- Auditing requirements -- Deposit of funds**
3784 **with treasurer as dedicated credits.**

3785 ~~[(1) Each user, supplier, and any other person importing, manufacturing, refining,~~
3786 ~~dealing in, transporting, or storing fuel shall keep a record, in the form prescribed by the~~
3787 ~~commission, of all deliveries, removals, purchases, receipts, sales, meter readings, inventories,~~
3788 ~~and distribution of special fuel. The records shall include copies of all invoices or bills of all~~
3789 ~~sales, and are subject to inspection by the commission or its authorized representative during~~
3790 ~~regular business hours. All records shall be preserved for a period of three years.]~~

3791 ~~[(2) Any]~~ (1) (a) A user claiming a refund for taxes paid to a supplier shall retain on
3792 file a receipt or invoice, or a microfilm or microfiche of the receipt or invoice, evidencing the
3793 purchase of special fuel and the payment of the tax.

3794 (b) The commission may require the user to furnish summaries or copies of original
3795 documentation substantiating the amount of refund claimed.

3796 ~~[(3) (a) The commission or its authorized representative may examine the books,~~
3797 ~~papers, records, and equipment of any supplier, user, or person dealing in, transporting, or~~
3798 ~~storing special fuel and may investigate the character of the disposition which any person~~
3799 ~~makes of special fuel in order to determine whether all taxes due are being properly reported~~
3800 ~~and paid.]~~

3801 ~~[(b) The fact that the books, papers, records, and equipment are not maintained in this~~
3802 ~~state at the time of demand does not cause the commission to lose any right of examination~~
3803 ~~under this part when and where the records become available.]~~

3804 ~~[(4)]~~ (2) If the payer of this tax or the person dealing in special fuel does not maintain
3805 records in this state so that an audit of the records may be made by the commission or its
3806 representative, that person may be required to:

3807 (a) forward the necessary records to the commission for examination; or

3808 (b) pay the necessary expenses for an auditor of the commission to travel to the
3809 location of the records outside of this state to make an examination.

3810 [~~(5) Any funds~~] (3) Funds collected under this section;

3811 (a) shall be deposited with the state treasurer; and

3812 (b) are dedicated credits for the commission.

3813 Section 54. Section **59-13-313** is amended to read:

3814 **59-13-313. Commission to enforce the laws -- Estimations of tax -- Penalties --**

3815 **Notice of determinations -- Information sharing with other states.**

3816 (1) (a) The commission is charged with the enforcement of this part and may prescribe
3817 rules relating to administration and enforcement of this part.

3818 (b) The commission may coordinate with state and federal agencies in the enforcement
3819 of this part.

3820 (c) Enforcement procedures may include checking diesel fuel dye compliance of
3821 storage facilities and tanks of vehicles, in a manner consistent with state and federal law.

3822 (2) (a) If the commission has reason to question the report filed or the amount of
3823 special fuel tax paid to the state by [~~any~~] a user or supplier, [~~it~~] the commission may compute
3824 and determine the amount to be paid based upon the best information available to [~~it~~] the
3825 commission.

3826 (b) Any added amount of special fuel tax determined to be due under this section
3827 shall:

3828 (i) have added to it a penalty as provided under Section 59-1-401[~~;~~]; and [~~shall~~]

3829 (ii) bear interest at the rate and in the manner prescribed in Section 59-1-402.

3830 (c) (i) The commission shall give to the user or supplier written notice of [~~its~~] the
3831 commission's determination. [~~The notice may be served personally or sent~~]

3832 (ii) The commission may:

3833 (A) serve the notice described in Subsection (2)(c)(i) personally; or

3834 (B) send the notice described in Subsection (2)(c)(i) to the user or supplier at the user
3835 or supplier's last-known address as it appears in the records of the commission.

3836 (3) The commission may, upon the duly received request of the officials to whom the
3837 enforcement of the special fuel laws of any other state are entrusted, forward to those officials

3838 any information which the commission may have in its possession relative to the delivery,
3839 removal, production, manufacture, refining, compounding, receipt, sale, use, transportation, or
3840 shipment of special fuel by any person.

3841 ~~[(4) (a) Except as provided in Subsections (4)(c) through (f), the commission shall~~
3842 ~~assess the amount of taxes imposed under this part, and any penalties and interest, within three~~
3843 ~~years after a taxpayer files a return.]~~

3844 ~~[(b) Except as provided in Subsections (4)(c) through (f), if the commission does not~~
3845 ~~make an assessment under Subsection (4)(a) within three years, the commission may not~~
3846 ~~commence a proceeding for the collection of the taxes after the expiration of the three-year~~
3847 ~~period.]~~

3848 ~~[(c) Notwithstanding Subsections (4)(a) and (b), the commission may make an~~
3849 ~~assessment or commence a proceeding to collect a tax at any time if a deficiency is due to:]~~

3850 ~~[(i) fraud; or]~~

3851 ~~[(ii) failure to file a return.]~~

3852 ~~[(d) Notwithstanding Subsections (4)(a) and (b), beginning on July 1, 1998, the~~
3853 ~~commission may extend the period to make an assessment or to commence a proceeding to~~
3854 ~~collect the tax under this part if:]~~

3855 ~~[(i) the three-year period under this Subsection (4) has not expired; and]~~

3856 ~~[(ii) the commission and the taxpayer sign a written agreement:]~~

3857 ~~[(A) authorizing the extension; and]~~

3858 ~~[(B) providing for the length of the extension.]~~

3859 ~~[(e) If the commission delays an audit at the request of a taxpayer, the commission~~
3860 ~~may make an assessment as provided in Subsection (4)(f) if:]~~

3861 ~~[(i) the taxpayer subsequently refuses to agree to an extension request by the~~
3862 ~~commission; and]~~

3863 ~~[(ii) the three-year period under this Subsection (4) expires before the commission~~
3864 ~~completes the audit.]~~

3865 ~~[(f) An assessment under Subsection (4)(e) shall be:]~~

3866 ~~[(i) for the time period for which the commission could not make an assessment~~
3867 ~~because of the expiration of the three-year period; and]~~
3868 ~~[(ii) in an amount equal to the difference between:]~~
3869 ~~[(A) the commission's estimate of the amount of taxes the taxpayer would have been~~
3870 ~~assessed for the time period described in Subsection (4)(f)(i); and]~~

3871 ~~[(B) the amount of taxes the taxpayer actually paid for the time period described in~~
3872 ~~Subsection (4)(f)(i).]~~

3873 Section 55. Section **59-13-318** is amended to read:

3874 **59-13-318. Refunds.**

3875 ~~[(1) (a) If the commission, through error, collects or receives any special fuel tax,~~
3876 ~~penalty, or interest imposed by this part, the amount of tax, penalty, or interest, upon written~~
3877 ~~application, shall be refunded to the person paying it. The application shall state the specific~~
3878 ~~grounds on which it is founded and whether the sums were paid voluntarily or under protest.]~~

3879 ~~[(b) Except as provided in Subsection (1)(c), a refund may not be made unless a claim~~
3880 ~~has been filed within three years of the date of the overpayment.]~~

3881 ~~[(c) Notwithstanding Subsection (1)(b), beginning on July 1, 1998, the commission~~
3882 ~~shall extend the period for a taxpayer to file a claim under Subsection (1)(b) if:]~~

3883 ~~[(i) the three-year period under Subsection (1)(b) has not expired; and]~~

3884 ~~[(ii) the commission and the taxpayer sign a written agreement:]~~

3885 ~~[(A) authorizing the extension; and]~~

3886 ~~[(B) providing for the length of the extension.]~~

3887 ~~[(d) A refund may not be made to successors or assigns in business of the person~~
3888 ~~making the payment but shall be made to an estate or heir of the person if written application~~
3889 ~~is made within the time limit, accompanied by proper authority from a probate court.]~~

3890 ~~[(e) Refunds to which taxpayers are entitled]~~

3891 A refund that a taxpayer is allowed under this chapter shall be paid from the
3892 Transportation Fund.

3893 ~~[(2) Any user who has paid taxes on purchases in the state which exceed the amount~~

3894 due based on the special fuel reported to be used in the state shall receive a refund of taxes
3895 overpaid in a timely manner.]

3896 [~~(3) Interest shall be applied to refunds given under this section as prescribed in~~
3897 ~~Section 59-1-402.~~]

3898 Section 56. Section **59-14-205** is amended to read:

3899 **59-14-205. Stamping procedure -- Rules -- Exceptions -- Penalty -- Collection**
3900 **procedure.**

3901 (1) In the case of manufacturers, jobbers, importers, distributors, wholesalers, and
3902 retailers, the taxes imposed on cigarettes by this chapter shall be paid by affixing stamps in the
3903 manner and at the time prescribed in this section.

3904 (2) All manufacturers, importers, distributors, wholesalers, and retailers shall securely
3905 affix the stamps to each individual package or container of cigarettes sold in the state, and
3906 may not sell or provide cigarette stamps to any other person.

3907 (3) (a) Stamps shall be securely affixed to each individual package of cigarettes within
3908 72 hours after the cigarettes are received within the state.

3909 (b) All cigarettes shall be stamped before sale within the state.

3910 (c) Cigarettes manufactured within the state shall be stamped by the manufacturer
3911 when and as sold.

3912 (4) The commission may, [~~where~~] if it is practical and reasonable for the enforcement
3913 of the collection of taxes, [~~promulgate rules~~] make rules in accordance with Title 63G, Chapter
3914 3, Utah Administrative Rulemaking Act, to permit cigarettes to remain unstamped until the
3915 original case or crate is broken, unpacked, or sold.

3916 (5) The commission may permit a person to sell and export cigarettes to a regular
3917 dealer in cigarettes outside the state without affixing stamps.

3918 (6) (a) If cigarettes are allowed to remain unstamped under Subsection (4) or (5), the
3919 commission may require the person holding the unstamped cigarettes to secure a surety bond
3920 from a surety company authorized to do business in this state. [~~The bond~~]

3921 (b) The surety bond described in Subsection (6)(a) shall be conditioned to secure the

3922 payment of all taxes and penalties provided in this chapter.

3923 (7) ~~[No]~~ A manufacturer, jobber, importer, distributor, wholesaler, or retailer may not
 3924 remove, conceal, or obscure a cigarette package:

3925 (a) notice described under Subsection 59-14-210(1)(a)(i); or

3926 (b) warning label that is placed on the package in compliance with ~~[15 U.S.C. 1333 of~~
 3927 ~~the Federal Cigarette Labeling and Advertising Act]~~ the Federal Cigarette Labeling and
 3928 Advertising Act, 15 U.S.C. Sec. 1333.

3929 (8) (a) Any person failing to properly affix and cancel stamps to the cigarettes, under
 3930 this section and rules promulgated by the commission, may be required by the commission to
 3931 pay as part of the tax, and in addition to any other penalty provided in this chapter, a penalty
 3932 of \$25 for each offense, to be assessed and collected by the commission ~~[as provided in~~
 3933 ~~Section 59-14-405]~~ in accordance with Chapter 1, Part 14, Assessment, Collections, and
 3934 Refunds Act.

3935 (b) Each article, package, or container found not having proper stamps affixed to [it
 3936 ~~shall be considered]~~ the article, package, or container is a separate offense.

3937 (c) The presence of any package or container in a place of business conducting retail
 3938 sales shall be prima facie evidence that it is intended for sale and subject to taxes under this
 3939 chapter.

3940 Section 57. Section **62A-11-304.1** is amended to read:

3941 **62A-11-304.1. Expedited procedures for establishing paternity or establishing,**
 3942 **modifying, or enforcing a support order.**

3943 (1) The office may, without the necessity of initiating an adjudicative proceeding or
 3944 obtaining an order from any other judicial or administrative tribunal, take the following
 3945 actions related to the establishment of paternity or the establishment, modification, or
 3946 enforcement of a support order, and to recognize and enforce the authority of state agencies of
 3947 other states to take the following actions:

3948 (a) require a child, mother, and alleged father to submit to genetic testing;

3949 (b) subpoena financial or other information needed to establish, modify, or enforce a

3950 support order, including:

3951 (i) the name, address, and employer of a person who owes or is owed support that
3952 appears on the customer records of public utilities and cable television companies; and

3953 (ii) information held by financial institutions on such things as the assets and
3954 liabilities of a person who owes or is owed support;

3955 (c) require a public or private employer to promptly disclose information to the office
3956 on the name, address, date of birth, social security number, employment status, compensation,
3957 and benefits, including health insurance, of any person employed as an employee or contractor
3958 by the employer;

3959 (d) require an insurance organization subject to Title 31A, Insurance Code, or an
3960 insurance administrator of a self-insured employer to promptly disclose to the office health
3961 insurance information pertaining to an insured or an insured's dependents, if known;

3962 (e) obtain access to information in the records and automated databases of other state
3963 and local government agencies, including:

3964 (i) marriage, birth, and divorce records;

3965 (ii) state and local tax and revenue records providing information on such things as
3966 residential and mailing addresses, employers, income, and assets;

3967 (iii) real and titled personal property records;

3968 (iv) records concerning occupational and professional licenses and the ownership and
3969 control of corporations, partnerships, and other business entities;

3970 (v) employment security records;

3971 (vi) records of agencies administering public assistance programs;

3972 (vii) motor vehicle department records; and

3973 (viii) corrections records;

3974 (f) upon providing notice to the obligor and obligee, direct an obligor or other payor to
3975 change the payee to the office if support has been assigned to the office under Section
3976 35A-7-108 or if support is paid through the office pursuant to the Social Security Act, 42
3977 U.S.C. Sec. 654B;

3978 (g) order income withholding in accordance with Part 4 [~~of this chapter~~], Income
 3979 Withholding in IV-D Cases;

3980 (h) secure assets to satisfy past-due support by:

3981 (i) intercepting or seizing periodic or lump-sum payments from:

3982 (A) a state or local government agency, including unemployment compensation,
 3983 workers' compensation, and other benefits; and

3984 (B) judgments, settlements, and lotteries;

3985 (ii) attaching and seizing assets of an obligor held in financial institutions;

3986 (iii) attaching public and private retirement funds, if the obligor presently:

3987 (A) receives periodic payments; or

3988 (B) has the authority to withdraw some or all of the funds; and

3989 (iv) imposing liens against real and personal property in accordance with this section
 3990 and Section 62A-11-312.5; and

3991 (i) increase monthly payments in accordance with Section 62A-11-320.

3992 (2) (a) When taking action under Subsection (1), the office shall send notice under this
 3993 Subsection (2)(a) to the person or entity who is required to comply with the action if not a
 3994 party to a case receiving IV-D services.

3995 (b) The notice described in Subsection (2)(a) shall include:

3996 (i) the authority of the office to take the action;

3997 (ii) the response required by the recipient;

3998 (iii) the opportunity to provide clarifying information to the office under Subsection
 3999 (2)[~~(b)~~](c);

4000 (iv) the name and telephone number of a person in the office who can respond to
 4001 inquiries; and

4002 (v) the protection from criminal and civil liability extended under Subsection (7).

4003 [~~(b)~~] (c) The recipient of a notice sent under this Subsection (2)[~~(a)~~] shall promptly
 4004 comply with the terms of the notice and may, if the recipient believes the office's request is in
 4005 error, send clarifying information to the office setting forth the basis for the recipient's belief.

4006 (3) The office shall in any case in which it requires genetic testing under Subsection
4007 (1)(a):

- 4008 (a) consider clarifying information if submitted by the obligee and alleged father;
- 4009 (b) proceed with testing as the office considers appropriate;
- 4010 (c) pay the cost of the tests, subject to recoupment from the alleged father if paternity
4011 is established;
- 4012 (d) order a second test if the original test result is challenged, and the challenger pays
4013 the cost of the second test in advance; and
- 4014 (e) require that the genetic test is:
 - 4015 (i) of a type generally acknowledged as reliable by accreditation bodies designated by
4016 the federal Secretary of Health and Human Services; and
 - 4017 (ii) performed by a laboratory approved by such an accreditation body.

4018 (4) The office may impose a penalty against an entity for failing to provide
4019 information requested in a subpoena issued under Subsection (1) as follows:

- 4020 (a) \$25 for each failure to provide requested information; or
- 4021 (b) \$500 if the failure to provide requested information is the result of a conspiracy
4022 between the entity and the obligor to not supply the requested information or to supply false or
4023 incomplete information.

4024 (5) (a) Unless a court or administrative agency has reduced past-due support to a sum
4025 certain judgment, the office shall provide concurrent notice to an obligor in accordance with
4026 Section 62A-11-304.4 of:

- 4027 (i) any action taken pursuant to Subsections (1)(h)(i)(B), (1)(h)(ii), (1)(h)(iii), or
4028 Subsection 62A-11-304.5(1)(b) if Subsection (5)(b)(iii) does not apply; and
- 4029 (ii) the opportunity of the obligor to contest the action and the amount claimed to be
4030 past-due by filing a written request for an adjudicative proceeding with the office within 15
4031 days of notice being sent.

- 4032 (b) (i) Upon receipt of a notice of levy from the office for an action taken pursuant to
4033 Subsections (1)(h)(i)(B), (1)(h)(ii), (1)(h)(iii), or Subsection 62A-11-304.5(1)(b), a person in

4034 possession of personal property of the obligor shall:

4035 (A) secure the property from unauthorized transfer or disposition as required by
4036 Section 62A-11-313; and

4037 (B) surrender the property to the office after 21 days of receiving the notice unless the
4038 office has notified the person to release all or part of the property to the obligor.

4039 (ii) Unless released by the office, a notice of levy upon personal property shall be:

4040 (A) valid for 60 days; and

4041 (B) effective against any additional property which the obligor may deposit or transfer
4042 into the possession of the person up to the amount of the levy.

4043 (iii) If the property upon which the office imposes a levy is insufficient to satisfy the
4044 specified amount of past-due support and the obligor fails to contest that amount under
4045 Subsection (5)(a)(ii), the office may proceed under Subsections (1)(h)(i)(B), (1)(h)(ii),
4046 (1)(h)(iii), or Subsection 62A-11-304.5(1)(b) against additional property of the obligor until
4047 the amount specified and the reasonable costs of collection are fully paid.

4048 (c) Except as provided in Subsection (5)(b)(iii), the office may not disburse funds
4049 resulting from action requiring notice under Subsection (5)(a)(i) until:

4050 (i) 21 days after notice was sent to the obligor; and

4051 (ii) the obligor, if the obligor contests the action under Subsection (5)(a)(ii), has
4052 exhausted the obligor's administrative remedies and, if appealed to a district court, the district
4053 court has rendered a final decision.

4054 (d) Before intercepting or seizing any periodic or lump-sum payment under Subsection
4055 (1)(h)(i)(A), the office shall:

4056 (i) comply with Subsection [~~59-10-529(2)(a)~~] 59-10-529(4)(a); and

4057 (ii) include in the notice required by Subsection [~~59-10-529(2)(a)~~] 59-10-529(4)(a)
4058 reference to Subsection (1)(h)(i)(A).

4059 (e) If Subsection (5)(a) or (5)(d) does not apply, an action against the real or personal
4060 property of the obligor shall be in accordance with Section 62A-11-312.5.

4061 (6) All information received under this section is subject to Title 63G, Chapter 2,

4062 Government Records Access and Management Act.

4063 (7) No employer, financial institution, public utility, cable company, insurance
4064 organization, its agent or employee, or related entity may be civilly or criminally liable for
4065 providing information to the office or taking any other action requested by the office pursuant
4066 to this section.

4067 (8) The actions the office may take under Subsection (1) are in addition to the actions
4068 the office may take pursuant to Part 4, Income Withholding in IV-D Cases.

4069 Section 58. Section **69-2-5.5** is amended to read:

4070 **69-2-5.5. Emergency services telecommunications charge to fund the Poison**
4071 **Control Center.**

4072 (1) Subject to Subsection [~~(13)~~] (7), there is imposed an emergency services
4073 telecommunications charge of 7 cents per month on each local exchange service switched
4074 access line and each revenue producing radio communications access line that is subject to an
4075 emergency services telecommunications charge levied by a county, city, or town under Section
4076 69-2-5.

4077 (2) The emergency services telecommunications charge imposed under this section
4078 shall be:

4079 (a) subject to Subsection [~~(13)~~] (7), billed and collected by the person that provides:

4080 (i) local exchange service switched access line services; or

4081 (ii) radio communications access line services;

4082 (b) remitted to the State Tax Commission at the same time as the person remits to the
4083 State Tax Commission monies collected by the person under Title 59, Chapter 12, Sales and
4084 Use Tax Act; and

4085 (c) deposited into the General Fund as dedicated credits to pay for:

4086 (i) costs of establishing, installing, maintaining, and operating the University of Utah
4087 Poison Control Center; and

4088 (ii) expenses of the State Tax Commission to administer and enforce the collection of
4089 the emergency services telecommunications charges.

4090 (3) Funds for the University of Utah Poison Control Center program are nonlapsing.

4091 (4) Emergency services telecommunications charges remitted to the State Tax
4092 Commission pursuant to Subsection (2) shall be accompanied by the form prescribed by the
4093 ~~[commission.]~~ State Tax Commission.

4094 (5) (a) The State Tax Commission shall administer, collect, and enforce the charge
4095 imposed under Subsection (1) according to the same procedures used in the administration,
4096 collection, and enforcement of the state sales and use tax under:

- 4097 (i) Title 59, Chapter 1, General Taxation Policies; and
- 4098 (ii) Title 59, Chapter 12, Part 1, Tax Collection, except for:
 - 4099 (A) Section 59-12-104;
 - 4100 (B) Section 59-12-104.1;
 - 4101 (C) Section 59-12-104.2; and
 - 4102 (D) Section 59-12-107.1.

4103 ~~[(5) The]~~ (b) In accordance with Title 63G, Chapter 3, Utah Administrative
4104 Rulemaking Act, the State Tax Commission may make rules to administer, collect, and
4105 enforce the [collection of] emergency services telecommunications charges imposed under this
4106 section.

4107 (6) A provider of local exchange service switched access line services or radio
4108 communications access line services who fails to comply with this section is subject to
4109 penalties and interest as provided in Sections 59-1-401 and 59-1-402.

4110 ~~[(7) (a) Except as provided in Subsections (8) through (11), and subject to Subsection~~
4111 ~~(13), the State Tax Commission shall assess a charge imposed under this section within three~~
4112 ~~years after a provider of local exchange service switched access line services or radio~~
4113 ~~communications access line services files a return.]~~

4114 ~~[(b) Except as provided in Subsections (8) through (11), if the commission does not~~
4115 ~~assess a charge imposed under this section within the three-year period provided in Subsection~~
4116 ~~(7)(a), the commission may not commence a proceeding to collect the charge.]~~

4117 ~~[(8) Notwithstanding Subsection (7), and subject to Subsection (13), the State Tax~~

4118 ~~Commission may assess a charge at any time if a provider of local exchange service switched~~
4119 ~~access line services or radio communications access line services:]~~

4120 ~~[(a) files a false or fraudulent return with intent to evade; or]~~

4121 ~~[(b) does not file a return.]~~

4122 ~~[(9) Notwithstanding Subsection (7), beginning on July 1, 1998, the State Tax~~
4123 ~~Commission may extend the period to make an assessment or commence a proceeding to~~
4124 ~~collect the charge imposed under this section if:]~~

4125 ~~[(a) the three-year period under Subsection (7) has not expired; and]~~

4126 ~~[(b) the commission and the provider of local exchange service switched access line~~
4127 ~~services or radio communications access line services sign a written agreement:]~~

4128 ~~[(i) authorizing the extension; and]~~

4129 ~~[(ii) providing for the length of the extension.]~~

4130 ~~[(10) If the State Tax Commission delays an audit at the request of a provider of local~~
4131 ~~exchange service switched access line services or radio communications access line services,~~
4132 ~~the commission may make an assessment as provided in Subsection (11) if:]~~

4133 ~~[(a) the provider of local exchange service switched access line services or radio~~
4134 ~~communications access line services subsequently refuses to agree to an extension request by~~
4135 ~~the commission; and]~~

4136 ~~[(b) the three-year period under Subsection (7) expires before the commission~~
4137 ~~completes the audit.]~~

4138 ~~[(11) An assessment under Subsection (10) shall be:]~~

4139 ~~[(a) for the time period for which the State Tax Commission could not make an~~
4140 ~~assessment because of the expiration of the three-year period; and]~~

4141 ~~[(b) in an amount equal to the difference between:]~~

4142 ~~[(i) the commission's estimate of the amount of the charge the provider of local~~
4143 ~~exchange service switched access line services or radio communications access line services~~
4144 ~~would have been assessed for the time period described in Subsection (11)(a); and]~~

4145 ~~[(ii) the amount of the charge the provider of local exchange service switched access~~

4146 ~~line services or radio communications access line services actually paid for the time period~~
4147 ~~described in Subsection (11)(a).]~~

4148 ~~[(12)(a) Except as provided in Subsection (12)(b), the State Tax Commission may not~~
4149 ~~make a credit or refund unless the provider of local exchange service switched access line~~
4150 ~~services or radio communications access line services files a claim with the commission within~~
4151 ~~three years of the date of overpayment.]~~

4152 ~~[(b) Notwithstanding Subsection (12)(a), beginning on July 1, 1998, the commission~~
4153 ~~shall extend the period for a provider of local exchange service switched access line services or~~
4154 ~~radio communications access line services to file a claim under Subsection (12)(a) if:]~~

4155 ~~[(i) the three-year period under Subsection (12)(a) has not expired; and]~~

4156 ~~[(ii) the commission and the provider of local exchange service switched access line~~
4157 ~~services or radio communications access line services sign a written agreement:]~~

4158 ~~[(A) authorizing the extension; and]~~

4159 ~~[(B) providing for the length of the extension.]~~

4160 ~~[(13)]~~ (7) An emergency services telecommunications charge under this section on a
4161 mobile telecommunications service may be imposed, billed, and collected only to the extent
4162 permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

4163 ~~[(14)(a)(i) For purposes of this Subsection (14) and except as provided in Subsection~~
4164 ~~(14)(a)(ii), "bad debt" is as defined in Section 166, Internal Revenue Code.]~~

4165 ~~[(ii) "Bad debt" does not include:]~~

4166 ~~[(A) amounts not subject to the charge imposed under this section that are included in~~
4167 ~~the purchase price for:]~~

4168 ~~[(I) local exchange service switched access line service; or]~~

4169 ~~[(H) radio communications access line service;]~~

4170 ~~[(B) financing charges or interest;]~~

4171 ~~[(C) the charge imposed under this section on:]~~

4172 ~~[(I) a local exchange service switched access line; or]~~

4173 ~~[(H) a radio communications access line;]~~

4174 ~~[(D) uncollectible amounts on tangible personal property that remains in the~~
4175 ~~possession of the vendor until the full purchase price is paid;]~~
4176 ~~[(E) expenses incurred in attempting to collect any debt, and]~~
4177 ~~[(F) amounts uncollected on repossessed property.]~~
4178 ~~[(b) The State Tax Commission shall allow a credit for amounts remitted to the State~~
4179 ~~Tax Commission under this section that constitute bad debt.]~~

4180 Section 59. **Repealer.**

4181 This bill repeals:

4182 Section **59-1-302.1, Lien for taxes.**

4183 Section **59-1-706, Rules prescribing method and time for assessments and**
4184 **collections.**

4185 Section **59-5-105, Failure to file statement -- Ascertaining correct tax due.**

4186 Section **59-5-112, Failure to pay tax -- Warrant.**

4187 Section **59-5-113, Collection by warrant.**

4188 Section **59-5-205, Failure to file statement.**

4189 Section **59-5-212, Failure to pay tax -- Warrant.**

4190 Section **59-5-213, Collection by warrant.**

4191 Section **59-5-214, Limitation of actions.**

4192 Section **59-7-506, Corporations to keep records -- Special returns.**

4193 Section **59-7-516, "Deficiency" defined.**

4194 Section **59-7-517, Notice of deficiency -- Petition for redetermination.**

4195 Section **59-7-518, Sufficiency of notice.**

4196 Section **59-7-520, Limitation for enforcing collection.**

4197 Section **59-7-521, Suspension of running of statute of limitations.**

4198 Section **59-7-523, Period of limitation for claiming refund.**

4199 Section **59-7-524, Collection agents -- Bond.**

4200 Section **59-7-525, Further powers of commission.**

4201 Section **59-7-526, Collection of tax by warrant.**

- 4202 Section **59-7-527, Duties of sheriff.**
- 4203 Section **59-9-106, Assessment of taxes -- Action for collection of tax -- Limit for**
- 4204 **refund or credit of tax.**
- 4205 Section **59-10-506, Returns prepared for or executed by commission.**
- 4206 Section **59-10-521, Payment on notice and demand.**
- 4207 Section **59-10-523, Definition of deficiency.**
- 4208 Section **59-10-524, Notice of deficiency.**
- 4209 Section **59-10-525, Date notice of deficiency is final.**
- 4210 Section **59-10-526, Mathematical errors.**
- 4211 Section **59-10-528, Collection, levy, and liens.**
- 4212 Section **59-10-532, Effect of commission action on claim for refund.**
- 4213 Section **59-10-533, Petition for redetermination of commission action on claim for**
- 4214 **refund.**
- 4215 Section **59-10-535, Finality of action by commission on claim for refund.**
- 4216 Section **59-10-540, Transferees.**
- 4217 Section **59-10-542, Venue of offenses -- Evidence.**
- 4218 Section **59-10-543, Burden of proof.**
- 4219 Section **59-12-113, Collection of tax by warrant.**
- 4220 Section **59-12-114, Taxpayer objections -- Available remedies.**
- 4221 Section **59-12-115, Delinquent payment -- Sufficiency of notice -- Limitation.**
- 4222 Section **59-13-316, Neglect or refusal to report -- Estimations -- Penalties -- Notice**
- 4223 **to user or supplier.**
- 4224 Section **59-13-317, Delinquency -- Collection procedures.**
- 4225 Section **59-14-405, Collection of delinquent taxes.**
- 4226 Section **59-15-103, Overpayment and deficiency.**
- 4227 Section **59-23-6, Action for collection of royalty -- Action for refund or credit of**
- 4228 **royalty.**
- 4229 Section **59-24-107, Action for collection of tax -- Action for refund or credit of tax.**

- 4230 Section **59-25-107**, Action for collection of tax -- Action for refund or credit of tax.
- 4231 Section **59-26-107**, Action for collection of tax -- Action for refund or credit of tax.
- 4232 Section **59-27-107**, Action for collection of tax -- Action for refund or credit of tax.