

Senator Lyle W. Hillyard proposes to substitute the following bill:

SALES AND USE TAX MODIFICATIONS

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Lyle W. Hillyard

1 AN ACT RELATING TO THE SALES AND USE TAX ACT; CLARIFYING THE DUTY TO
2 COLLECT SALES AND USE TAXES; **§ MODIFYING TAX PENALTY PROVISIONS;** § AMENDING
3 PROVISIONS RELATING TO THE
4 SALES AND USE TAX BASE AND RATES; PROVIDING FOR THE DISTRIBUTION OF
5 CERTAIN SALES AND USE TAX REVENUES TO COUNTIES, CITIES, OR TOWNS;
6 CLARIFYING SALES AND USE TAX REVENUES TO BE DEPOSITED INTO THE
7 GENERAL FUND; **§ CREATING THE REMOTE SALES RESTRICTED ACCOUNT; REQUIRING**
8 **CERTAIN REVENUES GENERATED BY THE STATE PORTION OF THE SALES AND USE TAX TO BE**
9 **DEPOSITED INTO THE REMOTE SALES RESTRICTED ACCOUNT;** § AMENDING DEFINITIONS;
10 AUTHORIZING CERTAIN VENDORS TO
11 COLLECT A SALES OR USE TAX; REQUIRING THE STATE TAX COMMISSION TO
12 COLLECT A SALES OR USE TAX FROM CERTAIN VENDORS THAT ARE NOT
13 CURRENTLY REQUIRED TO COLLECT SALES OR USE TAXES IF PERMITTED BY
14 CONGRESS OR AUTHORIZED BY THE SUPREME COURT OF THE UNITED STATES;
15 REQUIRING THE STATE TAX COMMISSION TO MAKE A REPORT TO THE TAX
16 REVIEW COMMISSION UNDER CERTAIN CIRCUMSTANCES; REQUIRING THE TAX
17 REVIEW COMMISSION TO CONDUCT A STUDY UNDER CERTAIN CIRCUMSTANCES;
18 ADDRESSING THE AUTHORITY OF COUNTIES, CITIES, OR TOWNS TO COLLECT
19 SALES OR USE TAXES; MAKING TECHNICAL CHANGES; DELETING OBSOLETE
20 LANGUAGE; **h [AND] h PROVIDING AN EFFECTIVE DATE h ; AND PROVIDING A**
21 **COORDINATION CLAUSE h .**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

17A-2-1064, as enacted by Chapter 133, Laws of Utah 1999

§ 59-1-401, as last amended by Chapter 205, Laws of Utah 1995 §

59-12-102, as last amended by Chapters 63 and 362, Laws of Utah 1999

59-12-103, as last amended by Chapter 133, Laws of Utah 1999

- 26 **59-12-106**, as last amended by Chapter 16, Laws of Utah 1995
- 27 **59-12-107**, as last amended by Chapter 210, Laws of Utah 1999
- 28 **59-12-110**, as last amended by Chapter 71, Laws of Utah 1999
- 29 **59-12-204**, as last amended by Chapter 133, Laws of Utah 1999
- 30 **59-12-205**, as last amended by Chapter 133, Laws of Utah 1999
- 31 **59-12-401**, as last amended by Chapter 291, Laws of Utah 1998
- 32 **59-12-402**, as last amended by Chapter 291, Laws of Utah 1998
- 33 **59-12-501**, as last amended by Chapter 291, Laws of Utah 1998
- 34 **59-12-502**, as last amended by Chapter 291, Laws of Utah 1998
- 35 **59-12-703**, as last amended by Chapters 209 and 291, Laws of Utah 1998
- 36 **59-12-801**, as last amended by Chapter 261, Laws of Utah 1998
- 37 **59-12-802**, as last amended by Chapters 261 and 291, Laws of Utah 1998
- 38 **59-12-803**, as last amended by Chapter 261, Laws of Utah 1998
- 39 **59-12-804**, as enacted by Chapter 111, Laws of Utah 1994
- 40 **59-12-902**, as enacted by Chapter 264, Laws of Utah 1997
- 41 **59-12-1001**, as last amended by Chapter 291, Laws of Utah 1998
- 42 **59-12-1102**, as last amended by Chapter 13, Laws of Utah 1998
- 43 **59-12-1302**, as enacted by Chapter 243, Laws of Utah 1998

44 ENACTS:

45 **59-12-103.1**, Utah Code Annotated 1953

45a **§ 59-12-103.2, Utah Code Annotated 1953 §**

46 **59-12-805**, Utah Code Annotated 1953

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

48 Section 1. Section **17A-2-1064** is amended to read:

49 **17A-2-1064. Airport to University of Utah Light Rail Restricted Account -- Creation**
50 **-- Use of revenues.**

51 (1) There is created within the General Fund a restricted account known as the "Airport
52 to University of Utah Light Rail Restricted Account."

53 (2) The account shall be funded from the portion of the sales and use tax under Sections
54 59-12-204 and 59-12-205 that is:

55 (a) generated by a city or town that will have constructed within its boundaries the Airport
56 to University of Utah Light Rail described in the Transportation Equity Act for the 21st Century,

57 Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

58 (b) equal to the revenues generated by a 1/64% tax rate on the taxable [~~items and services~~]
59 transactions under Subsection 59-12-103(1).

60 (3) The Utah State Tax Commission shall deposit the revenues described in Subsection
61 (2) into the account.

62 (4) The account shall earn interest which shall be deposited into the account.

63 (5) (a) A district may use the revenues in the account for a purpose described in Subsection
64 (5)(b) if:

65 (i) more than 200,000 people reside within the district boundaries; and

66 (ii) the district receives a grant or a loan under 49 U.S.C. Sec. 5309:

67 (A) for the Airport to University of Utah Light Rail project described in the Transportation
68 Equity Act for the 21st Century, Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

69 (B) before the construction of the Airport to University of Utah Light Rail project
70 described in Subsection (5)(a)(ii)(A) is completed.

71 (b) Subsection (5)(a) applies to:

72 (i) maintaining the Airport to University of Utah Light Rail described in Subsection
73 (5)(a)(ii)(A); or

74 (ii) operating the Airport to University of Utah Light Rail described in Subsection
75 (5)(a)(ii)(A).

75a **§ Section 2. Section 59-1-401 is amended to read:**

75b **59-1-401. Penalties.**

75c **(1) (a) The penalty for failure to file a tax return within the time prescribed by law including**
75d **extensions is the greater of \$20 or 10% of the unpaid tax due on the return.**

75e **(b) Subsection (1) does not apply to amended returns.**

75f **(2) The penalty for failure to pay tax due shall be the greater of \$20 or 10% of the unpaid tax**
75g **for:**

75h **(a) failure to pay any tax, as reported on a timely filed return;**

75i **(b) failure to pay any tax within 90 days of the due date of the return, if there was a late filed**
75j **return subject to the penalty provided under Subsection (1)(a);**

75k **(c) failure to pay any tax within 30 days of the date of mailing any notice of deficiency of tax**
75l **unless a petition for redetermination or a request for agency action is filed within 30 days of the date**
75m **of mailing the notice of deficiency;**

75n **(d) failure to pay any tax within 30 days after the date the commission's order constituting**
75o **final agency action resulting from a timely filed petition for redetermination or request for agency**
75p **action is issued or is considered to have been issued under Subsection 63-46b-13(3)(b); and**

75q **(e) failure to pay any tax within 30 days after the date of a final judicial decision resulting**
75r **from**

75r **a timely filed petition for judicial review.**

75s **(3) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or**
75t **quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there shall be**
75u **added a penalty in an amount determined by applying the interest rate provided under Section**
75v **59-1-402 plus four percentage points to the amount of the underpayment for the period of the**
75w **underpayment. §**

- 75x § (b) (i) For purposes of Subsection (3)(a), the amount of the underpayment shall be the
 75y excess of the required installment over the amount, if any, of the installment paid on or before the
 due
 75z date for the installment.
- 75aa (ii) The period of the underpayment shall run from the due date for the installment to
 75ab whichever of the following dates is the earlier:
- 75ac (A) the original due date of the tax return, without extensions, for the taxable year; or
 75ad (B) with respect to any portion of the underpayment, the date on which that portion is paid.
- 75ae (iii) For purposes of this Subsection (3), a payment of estimated tax shall be credited against
 75af unpaid required installments in the order in which the installments are required to be paid.
- 75ag (4) (a) In case of an extension of time to file an individual income tax or corporate franchise
 75ah tax return, if the lesser of 90% of the total tax reported on the tax return or 100% of the prior year's
 tax
 75ai is not paid by the due date of the return, not including extensions, a 2% per month penalty shall apply
 75aj on the unpaid tax during the period of extension.
- 75ak (b) If a return is not filed within the extension time period as provided in Section 59-7-505 or
 75al 59-10-516, penalties as provided in Subsection (1) and Subsection (2)(b) shall be added in lieu of the
 75am penalty assessed under this subsection as if no extension of time for filing a return had been
 granted.
- 75an (5) (a) Additional penalties for underpayments of tax are as ~~follows:~~ PROVIDED IN
 75ao SUBSECTIONS (5)(a)(i) THROUGH (iv).
- 75ap (i) ~~[(f)] EXCEPT AS PROVIDED IN SUBSECTION (5)(c), IF~~ any underpayment of tax is due to
 75aq negligence, the penalty is 10% of the underpayment.
- 75ar (ii) ~~[(f)] EXCEPT AS PROVIDED IN SUBSECTION (5)(d), IF~~ any underpayment of tax is due to
 75as intentional disregard of law or rule, the penalty is 15% of the underpayment.
- 75at (iii) For intent to evade the tax, the penalty is the greater of \$500 per period or 50% of the tax
 75au due.
- 75av (iv) If the underpayment is due to fraud with intent to evade the tax, the penalty is the greater
 75aw of \$500 per period or 100% of the underpayment.
- 75ax (b) If the commission determines that a person is liable for a penalty imposed under
 75ay Subsection (ii), (iii), or (iv), the commission shall notify the taxpayer of the proposed penalty.
- 75az (i) The notice of proposed penalty shall:
- 75ba (A) set forth the basis of the assessment; and
 75bb (B) be mailed by registered mail, postage prepaid, to the person's last-known address.
- 75bc (ii) Upon receipt of the notice of proposed penalty, the person against whom the penalty is
 75bd proposed may:
- 75be (A) pay the amount of the proposed penalty at the place and time stated in the notice; or
 75bf (B) proceed in accordance with the review procedures of Subsection (iii).
- 75bg (iii) Any person against whom a penalty has been proposed in accordance with this
 75bh subsection may contest the proposed penalty by filing a petition for an adjudicative proceeding with
 75bi the commission.
- 75bj (iv) If the commission determines that a person is liable for a penalty under this subsection,
 75bk the commission shall assess the penalty and give notice and demand for payment. The notice and
 75bl demand for payment shall be mailed by registered mail, postage prepaid, to the person's last-known
 75bm address.
- 75bn (c) NOTWITHSTANDING SUBSECTION (5)(a)(i), A VENDOR THAT COLLECTS A TAX UNDER
 75bo SUBSECTION 59-12-107(1)(b) IS NOT SUBJECT TO THE PENALTY UNDER SUBSECTION (5)(a)(i) IF ON

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75bp OR AFTER JULY 1, 2001:

75bq (i) A COURT OF COMPETENT JURISDICTION ISSUES A FINAL UNAPPEALABLE JUDGMENT

75br OR ORDER DETERMINING THAT: §

75bs § _____

75bt **SUBSECTION 59-12-107(1)(a); AND**
(B) THE COMMISSION OR A COUNTY, CITY, OR TOWN MAY REQUIRE THE VENDOR TO

75bv _____

75bw **(ii) THE COMMISSION ISSUES A FINAL UNAPPEALABLE ADMINISTRATIVE ORDER**
DETERMINING THAT:

75by _____

75bz **59-12-107(1)(a); AND**
(B) THE COMMISSION OR A COUNTY, CITY, OR TOWN MAY REQUIRE THE VENDOR TO

75cb _____

75cc **(d) NOTWITHSTANDING SUBSECTION (5)(a)(ii), A VENDOR THAT COLLECTS A TAX UNDER**
SUBSECTION 59-12-107(1)(b) IS NOT SUBJECT TO THE PENALTY UNDER SUBSECTION (5)(a)(ii) IF:

75ce _____

75cf **JUDGMENT OR ORDER DETERMINING THAT:**
(I) THE VENDOR MEETS ONE OR MORE OF THE CRITERIA DESCRIBED IN SUBSECTION

75ch _____

75ci **(II) THE COMMISSION OR A COUNTY, CITY, OR TOWN MAY REQUIRE THE VENDOR TO**
COLLECT A TAX UNDER SUBSECTION _____ (2)(a) OR (b); OR

75ck _____

75cl **DETERMINING THAT:**
(I) THE VENDOR MEETS ONE OR MORE OF THE CRITERIA DESCRIBED IN SUBSECTION

75cn _____

75co **(II) THE COMMISSION OR A COUNTY, CITY, OR TOWN MAY REQUIRE THE VENDOR TO**
COLLECT A TAX UNDER SUBSECTION _____ (2)(a) OR (b); AND

75cq _____

75cr **EXISTING LAW OR BY A NONFRIVOLOUS ARGUMENT FOR THE EXTENSION, MODIFICATION, OR**
REVERSAL OF EXISTING LAW OR THE ESTABLISHMENT OF NEW LAW.

75ct _____

75cu **\$50 for each return or schedule up to a maximum of \$1,000.**
(7) If any taxpayer, in furtherance of a frivolous position, has a prima facie intent to delay or

75cw **from**

75cx _____

75cy **liability shown must be substantially incorrect, the penalty is \$500.**
(8) For monthly payment of sales and use taxes under Section 59-12-108, in addition to any

75da _____

75db **collected as otherwise allowable under Section 59-12-108.**
(9) As provided in Section 76-8-1101, the following are criminal penalties:

75dd _____

75de **regulates to register with or obtain a license or permit from the commission, or who operates without**
having registered or secured a license or permit, or who operates when the registration, license, or

75dg _____

75dh **Section 76-3-301, the fine is not less than \$500 nor more than \$1,000.**
(b) Any person who, with intent to evade any tax or requirement of this title or any lawful

75dj _____

75dk **information within the time required under this title, or who makes, renders, signs, or verifies any**

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75dl or fraudulent return or statement, or who supplies any false or fraudulent information, is guilty of a §

75dm § third degree felony, except that, notwithstanding Section 76-3-301, the fine is not less than \$1,000
nor

75dn more than \$5,000.

75do (c) Any person who willfully attempts to evade or defeat any tax or the payment thereof is, in
75dp addition to other penalties provided by law, guilty of a second degree felony, except that,
75dq notwithstanding Section 76-3-301, the fine is not less than \$1,500 nor more than \$25,000.

75dr (d) The statute of limitations for prosecution for a violation of this section is six years from
75ds the date the tax should have been remitted.

75dt (10) Upon making a record of its actions, and upon reasonable cause shown, the commission
75du may waive, reduce, or compromise any of the penalties or interest imposed under this part. §

76 Section 2. Section 59-12-102 is amended to read:

77 **59-12-102. Definitions.**

78 As used in this chapter:

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

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

82 (2) "Area agency on aging" is as defined in Section 62A-3-101.

83 (3) "Authorized carrier" means:

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

87 (b) in the case of aircraft, the holder of a Federal Aviation Administration (FAA) operating

88 certificate or air carrier's operating certificate; or

89 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock,
90 the holder of a certificate issued by the United States Interstate Commerce Commission.

91 (4) (a) For purposes of Subsection 59-12-104(43), "coin-operated amusement device"
92 means:

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

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

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

97 (b) For purposes of Subsection 59-12-104(43), "coin-operated amusement device" does
98 not mean a coin-operated amusement device possessing a coinage mechanism that:

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

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

102 (5) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels
103 that does not constitute industrial use under Subsection (13) or residential use under Subsection
104 (21).

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

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

110 (ii) For purposes of Subsection (6)(b)(i), in accordance with Title 63, Chapter 46a, Utah
111 Administrative Rulemaking Act, the commission may make rules defining what constitutes a
112 person's place of employment.

113 (7) "Component part" includes:

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

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

116 (c) fuel used for providing temperature control of orchards and commercial greenhouses

117 doing a majority of their business in wholesale sales, and for providing power for off-highway type
118 farm machinery; and

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- 119 (d) feed, seeds, and seedlings.
120 (8) "Construction materials" means any tangible personal property that will be converted
121
122 (9) (a) "Fundraising sales" means sales:
123 (i) (A) made by a public or private elementary or secondary school; or
124
125 kindergarten through 12;
126 (ii) that are for the purpose of raising funds for the school to purchase equipment,
127
128 (iii) that are part of an officially sanctioned school activity.
129 (b) For purposes of Subsection (9)(a)(iii), "officially sanctioned school activity" means a
130
131 (i) that is conducted in accordance with a formal policy adopted by the school or school
132 district governing the authorization and supervision of fundraising activities;
133
134 educational personnel by direct payment, commissions, or payment in kind; and
135 (iii) the net or gross revenues from which are deposited in a dedicated account controlled
136
137 (10) (a) "Hearing aid" means:
138 (i) an instrument or device having an electronic component that is designed to:
139
140 (II) correct impaired human hearing; and
141 (B) (I) be worn in the human ear; or
142
143 (ii) an instrument or device that is surgically implanted into the cochlea; or
144 (iii) a telephone amplifying device.
145
146 (i) except as provided in Subsection (10)(a)(i)(B) or (10)(a)(ii), an instrument or device
147 having an electronic component that is designed to be worn on the body;
148
149 designed to be used by one individual, including:

- 150 (A) a personal amplifying system;
- 151 (B) a personal FM system;
- 152 (C) a television listening system; or
- 153 (D) a device or system similar to a device or system described in Subsections
- 154 (10)(b)(ii)(A) through (C); or
- 155 (iii) an assistive listening device or system designed to be used by more than one
- 156 individual, including:
 - 157 (A) a device or system installed in:
 - 158 (I) an auditorium;
 - 159 (II) a church;
 - 160 (III) a conference room;
 - 161 (IV) a synagogue; or
 - 162 (V) a theater; or
 - 163 (B) a device or system similar to a device or system described in Subsections
 - 164 (10)(b)(iii)(A)(I) through (V).
- 165 (11) (a) "Hearing aid accessory" means a hearing aid:
 - 166 (i) component;
 - 167 (ii) attachment; or
 - 168 (iii) accessory.
- 169 (b) "Hearing aid accessory" includes:
 - 170 (i) a hearing aid neck loop;
 - 171 (ii) a hearing aid cord;
 - 172 (iii) a hearing aid ear mold;
 - 173 (iv) hearing aid tubing;
 - 174 (v) a hearing aid ear hook; or
 - 175 (vi) a hearing aid remote control.
- 176 (c) "Hearing aid accessory" does not include:
 - 177 (i) a component, attachment, or accessory designed to be used only with an:
 - 178 (A) instrument or device described in Subsection (10)(b)(i); or
 - 179 (B) assistive listening device or system described in Subsection (10)(b)(ii) or (iii); or
 - 180 (ii) a hearing aid battery.

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181 (12) (a) "Home medical equipment and supplies" means equipment and supplies that:
182 (i) a licensed physician prescribes or authorizes in writing as necessary for the treatment

183
184 injury;

185 (ii) are used exclusively by the person for whom they are prescribed to serve a medical

186
187 (iii) are listed as eligible for payment under Title 18 of the federal Social Security Act or
188 under the state plan for medical assistance under Title 19 of the federal Social Security Act.

189
190 (i) equipment and supplies purchased by, for, or on behalf of any health care facility, as
191 defined in Subsection (12)(c), doctor, nurse, or other health care provider for use in their

192
193 (ii) eyeglasses, contact lenses, or equipment to correct impaired vision; or
194 (iii) hearing aids or hearing aid accessories.

195
196 (i) a clinic;
197 (ii) a doctor's office; and

198
199 (13) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other
200 fuels in:

201
202 (b) agricultural operations to produce an agricultural product up to the time of harvest or
203 placing the agricultural product into a storage facility, including:

204
205 (ii) irrigation pumps;
206 (iii) farm machinery;

207
208 registered under Title 41, Chapter 1a, Part 2, Registration; and
209 (v) other farming activities; and

210
211 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office

212 of the President, Office of Management and Budget.

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

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

216 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial
217 Classification Manual of the federal Executive Office of the President, Office of Management and
218 Budget; or

219 (b) a scrap recycler if:

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

222 (A) iron;

223 (B) steel;

224 (C) nonferrous metal;

225 (D) paper;

226 (E) glass;

227 (F) plastic;

228 (G) textile; or

229 (H) rubber; and

230 (ii) the new products under Subsection (15)(b)(i) would otherwise be made with
231 nonrecycled materials.

232 (16) (a) "Medicine" means:

233 (i) insulin, syringes, and any medicine prescribed for the treatment of human ailments by
234 a person authorized to prescribe treatments and dispensed on prescription filled by a registered
235 pharmacist, or supplied to patients by a physician, surgeon, or podiatric physician;

236 (ii) any medicine dispensed to patients in a county or other licensed hospital if prescribed
237 for that patient and dispensed by a registered pharmacist or administered under the direction of a
238 physician; and

239 (iii) any oxygen or stoma supplies prescribed by a physician or administered under the
240 direction of a physician or paramedic.

241 (b) "Medicine" does not include:

242 (i) any auditory, prosthetic, ophthalmic, or ocular device or appliance; or

- 243
- 244 (17) "Olympic merchandise" means tangible personal property bearing an Olympic
- 246 designation, emblem, insignia, mark, logo, service mark, symbol, terminology, trademark, or other
- 247 (a) one or more of the following terms:
- 249 (i) "Olympic [; ;
- 250 ;]"_ or
- † ;
- (b) the symbol of the International Olympic Committee, consisting of five interlocking rings;
- (c) the emblem of the International Olympic Committee Corporation;
- (d) a United States Olympic Committee designation, emblem, insignia, mark, logo, service mark, symbol, terminology, trademark, or other copyrighted or protected material;
- (e) any emblem of the Winter Olympic Games of 2002 that is officially designated by the Salt Lake Organizing Committee of the Winter Olympic Games of 2002; or
- (f) the mascot of the Winter Olympic Games of 2002.
- (18) (a) "Other fuels" means products that burn independently to produce heat or energy.
- (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.
- (19) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.
- (20) "Purchase price" means the amount paid or charged for tangible personal property or any other taxable [—————] _____ under Subsection 59-12-103(1), excluding only cash discounts taken or any excise tax imposed on the purchase price by the federal government.
- (21) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.
- (22) (a) "Retail sale" means any sale within the state of tangible personal property or any other taxable [—————] _____ under Subsection 59-12-103(1), other than resale of such property, item, or service by a retailer or wholesaler to a user or consumer.

274 (b) "Retail sale" includes sales by any farmer or other agricultural producer of poultry,
275 eggs, or dairy products to consumers if the sales have an average monthly sales value of \$125 or
276 more.

277 (c) "Retail sale" does not include, and no additional sales or use tax shall be assessed
278 against, those transactions where a purchaser of tangible personal property pays applicable sales
279 or use taxes on its initial nonexempt purchases of property and then enters into a sale-leaseback
280 transaction by which title to such property is transferred by the purchaser-lessee to a lessor for
281 consideration, provided:

282 (i) the transaction is intended as a form of financing for the property to the
283 purchaser-lessee; and

284 (ii) pursuant to generally accepted accounting principles, the purchaser-lessee is required
285 to capitalize the subject property for financial reporting purposes, and account for the lease
286 payments as payments made under a financing arrangement.

287 (23) (a) "Retailer" means any person engaged in a regularly organized retail business in
288 tangible personal property or any other taxable ~~[item or service]~~ transaction under Subsection
289 59-12-103(1), and who is selling to the user or consumer and not for resale.

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

292 ~~[(c) "Retailer" includes any person who engages in regular or systematic solicitation of a
293 consumer market in this state by the distribution of catalogs, periodicals, advertising flyers, or
294 other advertising, or by means of print, radio or television media, by mail, telegraphy, telephone,
295 computer data base, cable, optic, microwave, or other communication system.]~~

296 ~~[(d)]~~ (c) "Retailer" does not include farmers, gardeners, stockmen, poultrymen, or other
297 growers or agricultural producers producing and doing business on their own premises, except
298 those who are regularly engaged in the business of buying or selling for a profit.

299 ~~[(e)]~~ (d) For purposes of this chapter the commission may regard as retailers the following
300 if they determine it is necessary for the efficient administration of this chapter: salesmen,
301 representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, or
302 employers under whom they operate or from whom they obtain the tangible personal property sold
303 by them, irrespective of whether they are making sales on their own behalf or on behalf of these
304 dealers, distributors, supervisors, or employers, except that:

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305 (i) a printer's facility with which a retailer has contracted for printing shall not be
306 considered to be a salesman, representative, peddler, canvasser, or agent of the retailer; and

307
308 which the retailer has contracted for printing and that consists of the final printed product, property
309 that becomes a part of the final printed product, or copy from which the printed product is

310
311 house, sales house, warehouse, service enterprise, or other place of business, or to maintain a stock
312 of goods, within this state.

313 (24) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any
314 manner, of tangible personal property or any other taxable [~~item or service~~] transaction under
315 Subsection 59-12-103(1), for [a] consideration. It includes:

316 (a) installment and credit sales;

317 (b) any closed transaction constituting a sale;

318 (c) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

319 (d) any transaction if the possession of property is transferred but the seller retains the title
320 as security for the payment of the price; and

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

324 (25) (a) "Sales relating to schools" means sales by a public school district or public or
325 private elementary or secondary school, grades kindergarten through 12, that are directly related
326 to the school's or school district's educational functions or activities and include:

327 (i) the sale of textbooks, textbook fees, laboratory fees, laboratory supplies, and safety
328 equipment;

329 (ii) the sale of clothing that:

330 (A) a student is specifically required to wear as a condition of participation in a
331 school-related event or activity; and

332 (B) is not readily adaptable to general or continued usage to the extent that it takes the
333 place of ordinary clothing;

334 (iii) sales of food if the net or gross revenues generated by the food sales are deposited into
335 a school district fund or school fund dedicated to school meals; and

- 336 (iv) transportation charges for official school activities.
- 337 (b) "Sales relating to schools" does not include:
- 338 (i) gate receipts;
- 339 (ii) special event admission fees;
- 340 (iii) bookstore sales of items that are not educational materials or supplies; and
- 341 (iv) except as provided in Subsection (25)(a)(ii), clothing.
- 342 (26) "Senior citizen center" means a facility having the primary purpose of providing
- 343 services to the aged as defined in Section 62A-3-101.
- 344 (27) "State" means the state of Utah, its departments, and agencies.
- 345 (28) "Storage" means any keeping or retention of tangible personal property or any other
- 346 taxable ~~[item or service]~~ transaction under Subsection 59-12-103(1), in this state for any purpose
- 347 except sale in the regular course of business.
- 348 (29) (a) "Tangible personal property" means:
- 349 (i) all goods, wares, merchandise, produce, and commodities;
- 350 (ii) all tangible or corporeal things and substances which are dealt in or capable of being
- 351 possessed or exchanged;
- 352 (iii) water in bottles, tanks, or other containers; and
- 353 (iv) all other physically existing articles or things, including property severed from real
- 354 estate.
- 355 (b) "Tangible personal property" does not include:
- 356 (i) real estate or any interest or improvements in real estate;
- 357 (ii) bank accounts, stocks, bonds, mortgages, notes, and other evidence of debt;
- 358 (iii) insurance certificates or policies;
- 359 (iv) personal or governmental licenses;
- 360 (v) water in pipes, conduits, ditches, or reservoirs;
- 361 (vi) currency and coinage constituting legal tender of the United States or of a foreign
- 362 nation; and
- 363 (vii) all gold, silver, or platinum ingots, bars, medallions, or decorative coins, not
- 364 constituting legal tender of any nation, with a gold, silver, or platinum content of not less than
- 365 80%.
- 366 (30) (a) "Use" means the exercise of any right or power over tangible personal property

367 under Subsection 59-12-103(1), incident to the ownership or the leasing of that property, item, or
368 service.

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

371 (31) "Vehicle" means any aircraft, as defined in Section 72-10-102; any vehicle, as defined
372 in Section 41-1a-102; any off-highway vehicle, as defined in Section 41-22-2; and any vessel, as
373 defined in Section 41-1a-102; that is required to be titled, registered, or both. "Vehicle" for
374 purposes of Subsection 59-12-104(36) only, also includes any locomotive, freight car, railroad
375 work equipment, or other railroad rolling stock.

376 (32) "Vehicle dealer" means a person engaged in the business of buying, selling, or
377 exchanging vehicles as defined in Subsection (31).

378 (33) (a) "Vendor" means~~[-(i)]~~ any person receiving any payment or consideration upon
379 a sale of tangible personal property or any other taxable ~~[item or service]~~ transaction under
380 Subsection 59-12-103(1), or to whom ~~[such]~~ the payment or consideration is payable~~[-and]~~.

381 ~~[(ii) any person who engages in regular or systematic solicitation of a consumer market
382 in this state by the distribution of catalogs, periodicals, advertising flyers, or other advertising, or
383 by means of print, radio or television media, by mail, telegraphy, telephone, computer data base,
384 cable, optic, microwave, or other communication system.]~~

385 (b) "Vendor" does not mean a printer's facility described in Subsection (23)(e).

386 Section 3. Section **59-12-103** is amended to read:

387 **59-12-103. Sales and use tax base -- Rate -- Use of sales and use tax revenues.**

388 (1) ~~[There is levied a]~~ A tax is imposed on the purchaser as provided in this part for ~~[the~~
389 amount] amounts paid or charged for the following transactions:

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

391 (b) ~~[amount]~~ amounts paid to common carriers or to telephone or telegraph corporations,
392 whether the corporations are municipally or privately owned, for:

393 (i) all transportation;

394 (ii) intrastate telephone service; or

395 (iii) telegraph service;

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

397 (i) gas[-];

- 398 (ii) electricity[;];
- 399 (iii) heat[;];
- 400 (iv) coal[;];
- 401 (v) fuel oil[;]; or
- 402 (vi) other fuels [~~sold for commercial use~~];
- 403 (d) sales of the following for residential use:
- 404 (i) gas[;];
- 405 (ii) electricity[;];
- 406 (iii) heat[;];
- 407 (iv) coal[;];
- 408 (v) fuel oil[;]; or
- 409 (vi) other fuels [~~sold for residential use~~];
- 410 (e) sales of meals [~~sold~~];
- 411 (f) amounts paid or charged as admission or user fees for theaters, movies, operas,
- 412 museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement
- 413 parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances,
- 414 boxing [~~and~~] matches, wrestling matches, closed circuit television broadcasts, billiard [~~or~~] parlors,
- 415 pool parlors, bowling lanes, golf [~~and~~], miniature golf, golf driving ranges, batting cages, skating
- 416 rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides,
- 417 river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other
- 418 amusement, entertainment, recreation, exhibition, cultural, or athletic activity;
- 419 (g) amounts paid or charged for services;
- 420 (i) for repairs or renovations of tangible personal property; or [~~services~~]
- 421 (ii) to install tangible personal property in connection with other tangible personal
- 422 property;
- 423 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for cleaning
- 424 or washing of tangible personal property;
- 425 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations
- 426 and services for less than 30 consecutive days;
- 427 (j) amounts paid or charged for laundry [~~and~~] or dry cleaning services;
- 428 (k) amounts paid or charged for leases [~~and~~] or rentals of tangible personal property if;

- 429 (i) the ~~[property]~~ tangible personal property's situs is in this state~~[-if]~~;
- 430 (ii) the lessee took possession of the tangible personal property in this state~~[-];~~ or ~~[if the]~~
- 431 (iii) within this state the tangible personal property is:
- 432 (A) stored~~[-];~~
- 433 (B) used~~[-];~~ or
- 434 (C) otherwise consumed ~~[in this state]~~;
- 435 (l) amounts paid or charged for tangible personal property if within this state the tangible
- 436 personal property is:
- 437 (i) stored~~[-];~~
- 438 (ii) used~~[-];~~ or
- 439 (iii) consumed ~~[in this state]~~; and
- 440 (m) amounts paid or charged for prepaid telephone calling cards.
- 441 (2) (a) Except [for Subsection (1)(d), the rates of the tax levied under] as provided in
- 442 Subsections (2)(b) and (c), beginning on July 1, 2001, a state tax and a local tax is imposed on a
- 443 transaction described in Subsection (1) [shall be:] equal to the sum of:
- 444 ~~[(a) 5% through June 30, 1994;]~~
- 445 ~~[(b) 4.875% beginning on July 1, 1994 through June 30, 1997; and]~~
- 446 ~~[(c) 4.75% beginning on July 1, 1997.]~~
- 447 (i) a state tax imposed on the transaction at a rate of 4.75%; and
- 448 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
- 449 transaction under this chapter other than this part.
- 450 ~~[(3)] (b) [The rates of the tax levied under] Notwithstanding Subsection (2)(a), beginning~~
- 451 on July 1, 2001, a state tax and a local tax is imposed on a transaction described in Subsection
- 452 (1)(d) [shall be 2% from and after January 1, 1990] equal to the sum of:
- 453 (i) a state tax imposed on the transaction at a rate of 2%; and
- 454 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
- 455 transaction under this chapter other than this part.
- 456 (c) Notwithstanding Subsections (2)(a) and (b), beginning on July 1, 2001, if a vendor
- 457 collects a tax under Subsection 59-12-107(1)(b) on a transaction described in Subsection (1), a
- 458 state tax and a local tax is imposed on the transaction equal to the sum of:
- 459 (i) a state tax imposed on the transaction at a rate of:

460 (A) 4.75% for a transaction other than a transaction described in Subsection (1)(d); or
461 (B) 2% for a transaction described in Subsection (1)(d); and
462 (ii) except as provided in Subsection (2)(d), a local tax imposed on the transaction at a rate
463 equal to the sum of the following tax rates:
464 (A) the lowest tax rate imposed by a county, city, or town under Section 59-12-204, but
465 only if all of the counties, cities, and towns in the state impose the tax under Section 59-12-204;
466 (B) the lowest tax rate imposed by a county, city, or town under Section 59-12-205, but
467 only if all of the counties, cities, and towns in the state impose the tax under Section 59-12-205;
468 and
469 (C) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the
470 state impose the tax under Section 59-12-1102.
471 (d) Tax rates authorized under the following do not apply to Subsection (2)(c)(ii):
472 (i) Subsection (2)(a)(i);
473 (ii) Subsection (2)(b)(i);
474 (iii) Subsection (2)(c)(i);
475 (iv) Section 59-12-301;
476 (v) Section 59-12-352;
477 (vi) Section 59-12-353;
478 (vii) Section 59-12-401;
479 (viii) Section 59-12-402;
480 (ix) Section 59-12-501;
481 (x) Section 59-12-502;
482 (xi) Section 59-12-603;
483 (xii) Section 59-12-703;
484 (xiii) Section 59-12-802;
485 (xiv) Section 59-12-804;
486 (xv) Section 59-12-1001;
487 (xvi) Section 59-12-1201; or
488 (xvii) Section 59-12-1302.
489 (3) (a) Except as provided in Subsections (4) through § ~~(7)~~ (8) § , the state taxes described in
490 Subsections (2)(a)(i), (2)(b)(i), and (2)(c)(i) shall be deposited into the General Fund.

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

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

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

498 (A) dividing the population of the county, city, or town by the total population of the state;
499 and

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

503 (iii) (A) Except as provided in Subsection (3)(c)(iii)(B), for purposes of this section, the
504 commission shall calculate the population of a county, city, or town on the basis of the most recent
505 official census or census estimate of the United States Census Bureau.

506 (B) Notwithstanding Subsection (3)(c)(iii)(A), if population estimates are not made for a
507 county, city, or town by the United States Bureau of the Census, the commission shall calculate
508 the population estimates according to the biennial estimate of the population of the county, city,
509 or town from the Utah Population Estimates Committee created by executive order of the
510 governor.

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

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

517 (i) from January 1, 1990, through December 31, 1999, the amount of sales and use tax
518 generated by a 1/64% tax rate on the taxable [~~items and services~~] transactions under Subsection
519 (1);

520 (ii) from January 1, 1990, through June 30, 1999, the amount of revenue generated by a
521 1/64% tax rate under Section 59-12-204 or Section 59-12-205 on the taxable [~~items and services~~]

522 transactions under Subsection (1); and

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

524 (b) These funds shall be used:

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

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

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

532 (C) unless the Legislature appropriates additional funds from the Olympics Special
533 Revenue Fund to the Utah Sports Authority, the Utah Sports Authority may not expend, loan, or
534 pledge in the aggregate more than:

535 (I) \$59,000,000 of sales and use tax deposited into the Olympics special revenue fund
536 under Subsection (4)(a);

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

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

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

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

546 (d) If the Legislature appropriates additional funds under Subsection (4)(b)(i)(C), the
547 authority may not expend, loan, pledge, or enter into any agreement to expend, loan, or pledge the
548 appropriated funds unless the authority:

549 (i) contracts in writing for the full reimbursement of the monies to the Olympics special
550 revenue fund by a public sports entity or other person benefitting from the expenditure; and

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

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

554 (5) (a) [~~From~~] Notwithstanding Subsection (3)(a), beginning on July 1, 1997, the annual
555 amount of sales and use tax generated by a 1/8% tax rate on the taxable items and services under
556 Subsection (1) shall be used as follows:

557 (i) 50% shall be used for water and wastewater projects as provided in Subsections (5)(b)
558 through (f); and

559 (ii) 50% shall be used for transportation projects as provided in Subsections (5)(g) through
560 (h).

561 (b) Five hundred thousand dollars each year shall be transferred to the Agriculture
562 Resource Development Fund created in Section 4-18-6.

563 (c) Fifty percent of the remaining amount generated by 50% of the 1/8% tax rate shall be
564 transferred to the Water Resources Conservation and Development Fund created in Section
565 73-10-24 for use by the Division of Water Resources. In addition to the uses allowed of the fund
566 under Section 73-10-24, the fund may also be used to:

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

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

575 (iii) fund state required dam safety improvements; and

576 (iv) protect the state's interest in interstate water compact allocations, including the hiring
577 of technical and legal staff.

578 (d) Twenty-five percent of the remaining amount generated by 50% of the 1/8% tax rate
579 shall be transferred to the Utah Wastewater Loan Program subaccount created in Section 73-10c-5
580 for use by the Water Quality Board to fund wastewater projects as defined in Section 73-10b-2.

581 (e) Twenty-five percent of the remaining amount generated by 50% of the 1/8% tax rate
582 shall be transferred to the Drinking Water Loan Program subaccount created in Section 73-10c-5
583 for use by the Division of Drinking Water to:

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

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

587 (iii) develop surface water sources.

588 (f) Notwithstanding Subsections (5)(b), (c), (d), and (e), \$100,000 of the remaining amount
589 generated by 50% of the 1/8% tax rate each year shall be transferred as dedicated credits to the
590 Division of Water Rights to cover the costs incurred in hiring legal and other technical staff for the
591 adjudication of water rights. Any remaining balance at the end of each fiscal year shall lapse back
592 to the contributing funds on a prorated basis.

593 (g) Fifty percent of the 1/8% tax rate shall be transferred to the class B and class C roads
594 account to be expended as provided in Title 72, Chapter 2, Transportation Finances Act, for the
595 use of class B and C road funds except as provided in Subsection (5)(h).

596 (h) (i) If H.B. 53, "Transportation Corridor Preservation," passes in the 1996 General
597 Session, \$500,000 each year shall be transferred to the Transportation Corridor Preservation
598 Revolving Loan Fund, and if H.B. 121, "State Park Access Roads," passes in the 1996 General
599 Session, from July 1, 1997, through June 30, 2006, \$500,000 shall be transferred to the Department
600 of Transportation for the State Park Access Highways Improvement Program. The remaining
601 amount generated by 50% of the 1/8% tax rate shall be transferred to the class B and class C roads
602 account.

603 (ii) At least 50% of the money transferred to the Transportation Corridor Preservation
604 Revolving Loan Fund under Subsection (5)(h)(i) shall be used to fund loan applications made by
605 the Department of Transportation at the request of local governments.

606 (6) (a) [~~Beginning~~] Notwithstanding Subsection (3)(a), beginning on January 1, 2000, the
607 Division of Finance shall deposit into the Centennial Highway Fund created in Section 72-2-118
608 a portion of the state sales and use tax under [~~Subsections~~] Subsection (2) [~~and (3)~~] equal to the
609 revenues generated by a 1/64% tax rate on the taxable [~~items and services~~] transactions under
610 Subsection (1).

611 (b) Except for sales and use taxes deposited under Subsection (7), beginning on July 1,
612 1999, the revenues generated by the 1/64% tax rate:

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

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

617 (7) ~~[Beginning]~~ Notwithstanding Subsection (3)(a), beginning on July 1, 1999, the
618 commission shall deposit into the Airport to University of Utah Light Rail Restricted Account
619 created in Section 17A-2-1064 the portion of the sales and use tax under Sections 59-12-204 and
620 59-12-205 that is:

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

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

625a **§ (8)(a) NOTWITHSTANDING SUBSECTION (3)(a), FOR FISCAL YEARS BEGINNING ON OR AFTER**
625b **FISCAL YEAR 2002-03, THE COMMISSION SHALL ON OR BEFORE SEPTEMBER 30 OF EACH YEAR**
625c **DEPOSIT THE DIFFERENCE DESCRIBED IN SUBSECTION (8)(b) INTO THE REMOTE SALES**
625d **RESTRICTED ACCOUNT CREATED IN SECTION 59-12-103.2 IF THAT DIFFERENCE IS GREATER THAN**
625e **\$0.**

625f **(b) THE DIFFERENCE DESCRIBED IN SUBSECTION (8)(a) IS EQUAL TO THE DIFFERENCE**
625g **BETWEEN:**

625h **(i) THE TOTAL AMOUNT OF REVENUES THE COMMISSION RECEIVED FROM VENDORS**
625i **COLLECTING A TAX UNDER SUBSECTION 59-12-107(1)(b) FOR THE PREVIOUS FISCAL YEAR; AND**

625j **(ii) THE TOTAL AMOUNT OF REVENUES THE COMMISSION RECEIVED FROM VENDORS**
625k **COLLECTING A TAX UNDER SUBSECTION 59-12-107(1)(b) FOR FISCAL YEAR 2000-01. §**

626 Section 4. Section **59-12-103.1** is enacted to read:

627 **59-12-103.1. Action by Supreme Court of the United States authorizing or action by**
628 **Congress permitting a state to require certain vendors to collect a sales or use tax --**
629 **Collection of tax by commission -- Tax Review Commission study.**

630 **(1) A vendor shall remit to the commission a tax as provided in Subsection**
631 **59-12-103(2)(c) and Section 59-12-107 if:**

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

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

637 **(2) The commission shall:**

638 **(a) collect the tax described in Subsection (1) from the vendor:**

639 **(i) to the extent:**

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

641 **(B) permitted by Congress;**

642 **(ii) beginning on the first day of a calendar quarter as prescribed by the Utah Tax Review**
643 **Commission; and**

644 **(b) make a report to the Utah Tax Review Commission:**

645 **(i) regarding the actions taken by:**

646 (A) the Supreme Court of the United States; or
 647 (B) Congress; and
 648 (ii) at the Utah Tax Review Commission meeting immediately following the day on which
 649 the Supreme Court of the United States' or Congress' actions become effective.

650 (3) The Utah Tax Review Commission shall after hearing the commission's report under
 651 Subsection (2)(b):

652 (a) review the actions taken by:

653 (i) the Supreme Court of the United States; or

654 (ii) Congress;

655 (b) direct the commission regarding the day on which the commission is required to collect
 656 the tax described in Subsection (1); and

657 (c) make recommendations to the Revenue and Taxation Interim Committee:

658 (i) regarding whether as a result of the Supreme Court of the United States' or Congress'
 659 actions any provisions of this chapter should be amended or repealed; and

660 (ii) within a one-year period after the day on which the commission makes a report under
 661 Subsection (2)(b).

661a **§ Section 5. Section 59-12-103.2 is enacted to read:**

661b **59-12-103.2. Remote Sales Restricted Account – Creation – Use of revenues.**

661c **(1) THERE IS CREATED WITHIN THE GENERAL FUND A RESTRICTED ACCOUNT KNOWN AS**
 661d **THE "REMOTE SALES RESTRICTED ACCOUNT."**

661e **(2) THE ACCOUNT SHALL BE FUNDED FROM THE PORTION OF THE SALES AND USE TAX**
 661f **DEPOSITED BY THE COMMISSION AS PROVIDED IN SUBSECTION 59-12-103(8).**

661g **h̄ ~~(3) IT IS THE INTENT OF THE LEGISLATURE THAT THE REVENUES DEPOSITED INTO THE~~**
 661h **ACCOUNT BE EXPENDED AS APPROPRIATED BY THE LEGISLATURE TO REDUCE THE BURDEN**
 661i **OF**

SALES AND USE TAXES IMPOSED ON FOOD.] h̄

662 Section § [5]6_§ . Section 59-12-106 is amended to read:

663 **59-12-106. Sales and use tax license -- No fee -- Exemption certificate license number**
 664 **to accompany contract bids.**

665 (1) It is unlawful for any person required by this chapter to collect sales or use tax, to
 666 engage in business within the state without first having obtained a license to do so. This license
 667 shall be granted and issued by the commission. The license is not assignable and is valid only for
 668 the person in whose name it is issued until that person ceases to do business or changes his
 669 business address, or until the license is revoked by the commission. Such license shall be granted
 670 only upon application stating the name and address of the applicant and other information the
 671 commission may require. At the time of application, the commission shall notify the applicant of
 672 the responsibilities and liability of a business owner successor under Section 59-12-112. If
 673 business is transacted at two or more separate places by one person, a separate license for each
 674 place of business shall be required. The commission shall, on a reasonable notice and after a
 675 hearing, revoke the license of any person violating any provisions of this chapter and no license
 676 may be issued to such person until the taxpayer has complied with the requirements of this chapter.

677 Any person required by this chapter to collect sales or use tax within this state without having
678 secured a license to do so, is guilty of a criminal violation as provided in Section 59-1-401. No
679 license is required for any person engaged exclusively in the business of selling commodities
680 which are exempt from taxation under this chapter. A license shall be issued to the applicant by
681 the commission without a license fee.

682 (2) For the purpose of the proper administration of this chapter and to prevent evasion of
683 the tax and the duty to collect the tax, it shall be presumed that tangible personal property or any
684 other taxable ~~[item or service]~~ transaction under Subsection 59-12-103 (1), sold by any person for
685 delivery in this state is sold for storage, use, or other consumption in this state unless the person
686 selling such property, item, or service has taken from the purchaser an exemption certificate signed
687 by and bearing the name and address of the purchaser to the effect that the property, item, or
688 service was exempted under Section 59-12-104. The exemption certificates shall contain
689 information as prescribed by the commission.

690 (3) All persons filing contract bids with the state or any of its political subdivisions for sale
691 of tangible personal property or any other taxable ~~[item or service]~~ transaction under Subsection
692 59-12-103 (1), shall include with the bid the sales tax license number issued to them under
693 Subsection (1).

694 Section 6. Section **59-12-107** is amended to read:

695 **59-12-107. Collection, remittance, and payment of tax by vendors or other persons**
696 **-- Returns -- Direct payment by purchaser of vehicle -- Other liability for collection -- Credits**
697 **-- Deposit and sale of security -- Penalties.**

698 (1) (a) Each vendor shall pay or collect and remit the sales and use taxes imposed by this
699 chapter if within this state the vendor:

700 (i) has or utilizes;

701 (A) an office[;];

702 (B) a distribution house[;];

703 (C) a sales house[;];

704 (D) a warehouse[;];

705 (E) a service enterprise[;]; or ~~[other]~~

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

707 (ii) maintains a stock of goods;

708 ~~[(iii) engages in regular or systematic solicitation of sale of tangible personal property,~~
709 ~~whether or not accepted in this state, by the distribution of catalogs, periodicals, advertising flyers,~~
710 ~~or other advertising by means of print, radio, or television, or by mail, telegraphy, telephone,~~
711 ~~computer data base, optic, microwave, or other communication system for the purpose of selling,~~
712 ~~at retail, tangible personal property;]~~

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

715 (A) advertising; or

716 (B) solicitation by:

717 (I) direct mail;

718 (II) electronic mail;

719 (III) the Internet;

720 (IV) telephone; or

721 (V) a means similar to Subsections (1)(a)(iii)(A) or (B);

722 (iv) regularly engages in the delivery of property in ~~[this]~~ the state other than by:

723 (A) common carrier; or

724 (B) United States mail; or

725 (v) regularly engages in ~~[any]~~ an activity ~~[in connection with]~~ directly related to the leasing
726 or servicing of property located within ~~[this]~~ the state.

727 (b) If ~~[none of the conditions listed under]~~ a vendor does not meet one or more of the
728 criteria provided for in Subsection (1)(a) [exist], the vendor [is not responsible for the collection
729 of the use tax but each person storing, using, or consuming];

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

731 (A) collect a tax as provided in Subsection 59-12-103(2)(c) on a transaction described in
732 Subsection 59-12-103(1); and

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

734 (ii) notwithstanding Subsection (1)(b)(i), shall collect a tax as provided in Subsection
735 59-12-103(2)(c) on a transaction described in Subsection 59-12-103(1) if Section 59-12-103.1
736 requires the vendor to collect the tax.

737 (c) A person shall pay a use tax imposed by this chapter on a transaction if:

738 (i) the vendor did not collect a use tax imposed by this chapter on the transaction; and

739 (ii) the person:
740 (A) stores the tangible personal property in the state;
741 (B) uses the tangible personal property in the state; or
742 (C) consumes the tangible personal property [is responsible for remitting the use tax] in
743 the state.

744 [~~(c)~~] (d) Notwithstanding the provisions of Subsection (1)(a), the ownership of property
745 that is located at the premises of a printer's facility with which the retailer has contracted for
746 printing and that consists of the final printed product, property that becomes a part of the final
747 printed product, or copy from which the printed product is produced, shall not result in the retailer
748 being considered to have or maintain an office, distribution house, sales house, warehouse, service
749 enterprise, or other place of business, or to maintain a stock of goods, within this state.

750 (2) (a) Each vendor shall collect the sales or use tax from the purchaser.

751 (b) A vendor may not collect as tax an amount, without regard to fractional parts of one
752 cent, in excess of the tax computed at the rates prescribed by this chapter.

753 (c) (i) Each vendor shall:

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

755 (B) bill the use tax as a separate item and declare the name of this state and the vendor's
756 use tax license number on the invoice for the sale.

757 (ii) The receipt or invoice is prima facie evidence that the vendor has collected the use tax
758 and relieves the purchaser of the liability for reporting the use tax to the commission as a
759 consumer.

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

762 (e) Taxes collected by a vendor pursuant to this chapter shall be held in trust for the benefit
763 of the state and for payment to the commission in the manner and at the time provided for in this
764 chapter.

765 (f) If any vendor, during any reporting period, collects as a tax an amount in excess of the
766 lawful state and local percentage of total taxable sales allowed under this part and Part 2, the
767 vendor shall remit to the commission the full amount of the tax imposed under this part and Part
768 2 plus any excess.

769 (g) If the accounting methods regularly employed by the vendor in the transaction of the

770 vendor's business are such that reports of sales made during a calendar month or quarterly period
771 will impose unnecessary hardships, the commission may accept reports at intervals that will, in its
772 opinion, better suit the convenience of the taxpayer or vendor and will not jeopardize collection
773 of the tax.

774 ~~[(3) Each person storing, using, or consuming tangible personal property under Subsection~~
775 ~~59-12-103(1) is liable for the use tax imposed under this chapter.]~~

776 ~~[(4)]~~ (3) (a) Except as provided in Subsection ~~[(5)]~~ (4) and in Section 59-12-108, the sales
777 or use tax imposed by this chapter is due and payable to the commission quarterly on or before the
778 last day of the month next succeeding each calendar quarterly period.

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

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

783 (c) Each return shall contain information and be in a form the commission prescribes by
784 rule.

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

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

790 (f) The commission may by rule extend the time for making returns and paying the taxes.
791 No extension may be for more than 90 days.

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

795 ~~[(5)]~~ (4) On each vehicle sale made by other than a regular licensed vehicle dealer, the
796 purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to titling
797 or registration under the laws of this state. The commission shall collect the tax when the vehicle
798 is titled or registered.

799 ~~[(6)]~~ (5) If any sale of tangible personal property or any other taxable ~~[item or service]~~
800 transaction under Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler

801 is not responsible for the collection or payment of the tax imposed on the sale if the retailer
802 represents that the personal property is purchased by the retailer for resale and the personal
803 property thereafter is not resold. Instead, the retailer is solely liable for the tax.

804 ~~[(7)]~~ (6) If any sale of property or service subject to the tax is made to a person prepaying
805 sales or use tax in accordance with Title 63, Chapter 51, Resource Development, or to a contractor
806 or subcontractor of that person, the person to whom such payment or consideration is payable is
807 not responsible for the collection or payment of the sales or use tax if the person prepaying the
808 sales or use tax represents that the amount prepaid as sales or use tax has not been fully credited
809 against sales or use tax due and payable under the rules promulgated by the commission. Instead,
810 the person prepaying the sales or use tax is solely liable for the tax.

811 ~~[(8)]~~ (7) Credit is allowed for prepaid taxes and for taxes paid on that portion of an account
812 determined to be worthless and actually charged off for income tax purposes or on the portion of
813 the purchase price remaining unpaid at the time of a repossession made under the terms of a
814 conditional sales contract.

815 ~~[(9)]~~ (8) (a) The commission may require any person subject to the tax imposed under this
816 chapter to deposit with it security as the commission determines, if the commission considers it
817 necessary to ensure compliance with this chapter.

818 (b) The commission may sell the security at public sale if it becomes necessary to do so
819 in order to recover any tax, interest, or penalty due.

820 (c) (i) The commission shall serve notice of the sale upon the person who deposited the
821 securities either personally or by mail.

822 (ii) If the notice under Subsection (8)(c)(i) is by mail, notice sent to the last-known address
823 as it appears in the records of the commission is sufficient for the purposes of this requirement.

824 (d) The commission shall return to the person who deposited the security any amount of
825 the sale proceeds that exceed the amounts due under this chapter.

826 ~~[(10)]~~ (9) (a) A vendor may not, with intent to evade any tax, fail to timely remit the full
827 amount of tax required by this chapter.

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

829 ~~[(b)]~~ (c) Each person who fails to pay any tax to the state or any amount of tax required
830 to be paid to the state, except amounts determined to be due by the commission under Sections
831 59-12-110 and 59-12-111, within the time required by this chapter, or who fails to file any return

832 as required by this chapter, shall pay, in addition to the tax, penalties and interest as provided in
833 Section 59-12-110.

834 ~~[(e)]~~ (d) For purposes of prosecution under this section, each quarterly tax period in which
835 a vendor, with intent to evade any tax, collects a tax and fails to timely remit the full amount of
836 the tax required to be remitted, constitutes a separate offense.

837 Section 7. Section **59-12-110** is amended to read:

838 **59-12-110. Overpayments, deficiencies, and refunds procedures.**

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

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

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

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

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

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

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

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

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

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

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

862 (A) authorizing the extension; and

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

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

867 (e) A taxpayer may obtain a refund under this Subsection (2) of a tax paid under this
868 chapter on a [~~sale or use~~] transaction that is taxable under Section 59-12-103 if:

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

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

873 (f) If the commission denies a claim for a refund or credit under this Subsection (2), the
874 taxpayer may request a redetermination of the denial by filing a petition or request for agency
875 action with the commission as provided in Title 63, Chapter 46b, Administrative Procedures Act.

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

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

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

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

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

884 (i) negligence;

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

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

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

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

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

894 (ii) the tax is not in jeopardy.

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

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

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

903 (i) fraud; or

904 (ii) failure to file a return.

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

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

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

910 (A) authorizing the extension; and

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

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

914 (i) the taxpayer subsequently refuses to agree to an extension request by the commission;
915 and

916 (ii) the three-year period under this Subsection (6) expires before the commission
917 completes the audit.

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

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

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

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

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

925 Subsection (6)(f)(i).

926 Section 8. Section **59-12-204** is amended to read:

927 **59-12-204. Sales and use tax ordinance provisions -- Tax rate -- Distribution of tax**
928 **revenues.**

929 (1) The tax ordinance adopted pursuant to this part shall impose a tax upon those [~~items~~]
930 transactions listed in [~~Section~~] Subsection 59-12-103(1).

931 (2) (a) Except as provided in [~~Subsection~~] Subsections (2)(b) and (c), (6)(b) and (c), and
932 59-12-205(2), such tax ordinance shall include a provision imposing a tax upon every [~~retail sale~~
933 of items] transaction listed in [~~Section~~] Subsection 59-12-103(1) made within a county, including
934 areas contained within the cities and towns thereof at the rate of 3/4% or any fractional part of such
935 3/4% of the purchase price paid or charged.

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

938 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
939 exempt from taxation under Section 59-12-104; and

940 (B) subject to Subsection (2)(b)(ii), any amounts paid or charged by a vendor that collects
941 a tax under Subsection 59-12-107(1)(b) unless all of the counties, cities, and towns in the state
942 impose the tax under this section.

943 (ii) Notwithstanding Subsection (2)(a), if a county, city, or town imposes a tax under
944 Subsection (2)(b)(i)(B), the tax ordinance under this Subsection (2) shall include a provision that
945 the tax rate is equal to the lowest tax rate imposed by a county, city, or town under this section.

946 (c) (i) Notwithstanding Section 59-12-205, a tax ordinance under this Subsection (2) shall
947 include a provision prohibiting a county, city, or town from imposing a tax under Section
948 59-12-205 on:

949 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
950 exempt from taxation under Section 59-12-104; and

951 (B) subject to Subsection (2)(c)(ii), any amounts paid or charged by a vendor that collects
952 a tax under Subsection 59-12-107(1)(b) unless all of the counties, cities, and towns in the state
953 impose the tax under Section 59-12-205.

954 (ii) Notwithstanding Section 59-12-205, if a county, city, or town imposes a tax under
955 Subsection (2)(c)(i)(B), the tax ordinance under this Subsection (2) shall include a provision that

956 the tax rate is equal to the lowest tax rate imposed by a county, city, or town under Section
957 59-12-205.

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

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

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

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

974 (a) a provision imposing a tax upon every ~~[retail sale of items]~~ transaction listed in Section
975 59-12-103 made within the city or town at the rate imposed by the county in which it is situated
976 pursuant to Subsection (2);

977 (b) (i) notwithstanding Subsection (2)(a), and subject to Subsection (6)(b)(ii), a provision
978 prohibiting the city or town from imposing a tax under this section on any amounts paid or charged
979 by a vendor that collects a tax under Subsection 59-12-107(1)(b) unless all of the counties, cities,
980 and towns in the state impose a tax under this section; and

981 (ii) notwithstanding Subsection (2)(a), if a city or town imposes a tax under Subsection
982 (6)(b)(i), a provision that the tax rate is equal to the lowest tax rate imposed by a county, city, or
983 town under this section;

984 (c) (i) notwithstanding Section 59-12-205 and subject to Subsection (6)(c)(ii), a provision
985 prohibiting the city or town from imposing a tax under Section 59-12-205 on any amounts paid
986 or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b) unless all of the

987 counties, cities, and towns in the state impose a tax under Section 59-12-205; and

988 (ii) notwithstanding Section 59-12-205, if a city or town imposes a tax under Subsection
989 (6)(c)(i), a provision that the tax rate is equal to the lowest tax rate imposed by a county, city, or
990 town under Section 59-12-205;

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

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

997 [~~(d)~~] (f) a provision that the sale, storage, use, or other consumption of tangible personal
998 property, the gross receipts from the sale of or the cost of which has been subject to sales or use
999 tax under a sales and use tax ordinance enacted in accordance with this part by any county other
1000 than the county in which the city or town is located, or city or town in this state, shall be exempt
1001 from the tax; and

1002 [~~(e)~~] (g) a provision that the amount of any tax paid under Part 1, Tax Collection, shall not
1003 be included as a part of the purchase price paid or charged for a taxable item.

1004 (7) (a) Notwithstanding any other provision of this section, from January 1, 1990, through
1005 June 30, 1999, the commission shall determine and retain the amount of revenue generated by a
1006 1/64% tax rate and deposit it in the Olympics Special Revenue Fund or funds provided for in
1007 Subsection 59-12-103(4) for the purposes of the Utah Sports Authority described in Title 63A,
1008 Chapter 7, Utah Sports Authority Act.

1009 (b) Except for sales and use taxes deposited under Subsection (7)(c), beginning on July 1,
1010 1999, the amount of revenue generated by the 1/64% tax rate under Subsection (7)(a) shall be
1011 retained by the county, city, or town levying a tax under this section.

1012 (c) Notwithstanding any other provision of this section, beginning on July 1, 1999, the
1013 commission shall:

1014 (i) determine and retain the portion of the sales and use tax imposed under this section:

1015 (A) by a city or town that will have constructed within its boundaries the Airport to
1016 University of Utah Light Rail described in the Transportation Equity Act for the 21st Century, Pub.
1017 L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

1018 (B) that is equal to the revenues generated by a 1/64% tax rate; and
1019 (ii) deposit the revenues described in Subsection (7)(c)(i) in the Airport to University of
1020 Utah Light Rail Restricted Account created in Section 17A-2-1064 for the purposes described in
1021 Section 17A-2-1064.

1022 (8) If a county, city, or town imposes a tax under this section on any amounts paid or
1023 charged by a vendor that collects a tax under Subsection 59-12-107(1)(b), the revenues generated
1024 by the tax shall be distributed as provided in Subsection 59-12-103(3)(c).

1025 Section 9. Section **59-12-205** is amended to read:

1026 **59-12-205. Ordinances to conform with statutory amendments -- Distribution of tax**
1027 **revenues.**

1028 (1) Each county, city, and town, in order to maintain in effect sales and use tax ordinances
1029 adopted pursuant to [this part] Section 59-12-204, shall, within 30 days of any amendment of any
1030 applicable provisions of Part 1, Tax Collection, adopt amendments of their respective sales and
1031 use tax ordinances to conform with the amendments to Part 1, Tax Collection, insofar as they relate
1032 to sales and use taxes.

1033 (2) (a) Any county, city, or town may distribute its sales or use tax revenues by means
1034 other than point of sale or use by notifying the commission in writing of such decision, no later
1035 than 30 days before commencement of the next tax accrual period. ~~[After]~~

1036 (b) Except as provided in Subsections 59-12-204(2)(b) and (c) and (6)(b) and (c), after
1037 such notice is given, a county, city, or town may increase the tax authorized by this part to a total
1038 of 1% [from and after] beginning on January 1, 1990, of the purchase price paid or charged[;
1039 excluding a public transit sales and use tax as provided in Section 59-12-501 and a resort
1040 communities sales tax as provided in Section 59-12-401. This tax shall be collected and
1041 distributed as follows:].

1042 ~~[(a) from July 1, 1992, through June 30, 1993, 45% of each dollar collected from the sales~~
1043 ~~and use tax authorized by this part shall be paid to each county, city, and town providing notice~~
1044 ~~under this section, based upon the percentage that the population of the county, city, or town bears~~
1045 ~~to the total population of all such entities providing notice under this section, and 55% based upon~~
1046 ~~the point of sale or use of the transaction; and (b) from and after July 1, 1993;]~~

1047 (c) Except as provided in Subsections (2)(d), (3), and (4):

1048 (i) 50% of each dollar collected from the sales and use tax authorized by this part shall be

1049 paid to each county, city, and town providing notice under this section, based upon the percentage
1050 that the population of the county, city, or town bears to the total population of all such entities
1051 providing notice under this section[-]; and

1052 (ii) 50% of each dollar collected from the sales and use tax authorized by this part shall
1053 be paid to each county, city, and town providing notice under this section, based upon the point
1054 of sale or use of the transaction.

1055 (d) Notwithstanding Subsection (2)(c), if a county, city, or town imposes a tax under this
1056 section on any amounts paid or charged by a vendor that collects a tax under Subsection
1057 59-12-107(1)(b), the revenues generated by the tax shall be distributed as provided in Subsection
1058 59-12-103(3)(c).

1059 (3) (a) Notwithstanding any provision of Subsection (2), a county, city, or town that has
1060 given notice under this section may not receive a tax revenue distribution less than 3/4 of 1% of
1061 the taxable sales within its boundaries.

1062 (b) The commission shall proportionally reduce quarterly distributions to any county, city,
1063 or town, which, but for the reduction, would receive a distribution in excess of 1% beginning
1064 January 1, 1990, of the sales and use tax revenue collected within its boundaries.

1065 (4) (a) Notwithstanding any other provision of this section, from January 1, 1990, through
1066 June 30, 1999, the commission shall determine and retain the amount of revenue generated by a
1067 1/64% tax rate and deposit it in the Olympics Special Revenue Fund or funds provided for in
1068 Subsection 59-12-103(4) for the purposes of the Utah Sports Authority described in Title 63A,
1069 Chapter 7, Utah Sports Authority Act.

1070 (b) Except for sales and use taxes deposited under Subsection (4)(c), beginning on July 1,
1071 1999, the amount of revenue generated by the 1/64% tax rate under Subsection (4)(a) shall be
1072 distributed to each county, city, and town as provided in this section.

1073 (c) Notwithstanding any other provision of this section, beginning on July 1, 1999, the
1074 commission shall:

1075 (i) determine and retain the portion of the sales and use tax imposed under this section:

1076 (A) by a city or town that will have constructed within its boundaries the Airport to

1077 University of Utah Light Rail described in the Transportation Equity Act for the 21st Century, Pub.
1078 L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

1079 (B) that is equal to the revenues generated by a 1/64% tax rate; and

1080 (ii) deposit the revenues described in Subsection (4)(c)(i) in the Airport to University of
1081 Utah Light Rail Restricted Account created in Section 17A-2-1064 for the purposes described in
1082 Section 17A-2-1064.

1083 (5) (a) Population figures for purposes of this section shall be based on the most recent
1084 official census or census estimate of the United States Census Bureau ~~[of the Census]~~.

1085 (b) If population estimates are not made for any county, city, or town by the United States
1086 Bureau of Census, population figures shall be determined according to the biennial estimate from
1087 the Utah Population Estimates Committee created by executive order of the governor.

1088 (6) The population of a county for purposes of this section shall be determined solely from
1089 the unincorporated area of the county.

1090 Section 10. Section **59-12-401** is amended to read:

1091 **59-12-401. Resort communities tax -- Rate -- Collection fees.**

1092 (1) (a) ~~[In]~~ Except as provided in Subsection (1)(b), and in addition to other sales taxes,
1093 a city or town in which the transient room capacity is greater than or equal to 66% of the
1094 permanent census population may impose a sales tax of up to 1% on the ~~[sales and uses]~~
1095 transactions described in Subsection 59-12-103(1) ~~[- subject to exemptions provided for in Section~~
1096 ~~59-12-104, and shall exempt from that additional tax wholesale sales and sales of single items for~~
1097 ~~which consideration paid is \$2,500 or more]~~.

1098 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
1099 section on:

1100 (i) wholesale sales;

1101 (ii) the sale of a single item for which consideration paid is \$2,500 or more;

1102 (iii) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
1103 exempt from taxation under Section 59-12-104; and

1104 (iv) any amounts paid or charged by a vendor that collects a tax under Subsection
1105 59-12-107(1)(b).

1106 (2) (a) An amount equal to the total of any costs incurred by the state in connection with
1107 the implementation of Subsection (1) which exceed, in any year, the revenues received by the state
1108 from its collection fees received in connection with the implementation of Subsection (1) shall be
1109 paid over to the state General Fund by the cities and towns which impose the tax provided for in
1110 Subsection (1). ~~[Payment costs]~~

1111 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those
1112 cities and towns according to the amount of revenue the respective cities and towns generate in that
1113 year through imposition of that tax.

1114 Section 11. Section **59-12-402** is amended to read:

1115 **59-12-402. Additional resort communities sales tax -- Rate -- Collection fees --**
1116 **Resolution and voter approval requirements -- Election requirements -- Notice requirements**
1117 **-- Ordinance requirements.**

1118 (1) (a) [Subject] Except as provided in Subsection (1)(b), and subject to the limitations of
1119 Subsections (2) through (6), the governing body of a municipality in which the transient room
1120 capacity is greater than or equal to 66% of the permanent census population may, in addition to
1121 the sales tax authorized under Section 59-12-401, impose an additional resort communities sales
1122 tax in an amount that is less than or equal to 1/2% on the ~~[sales and uses]~~ transactions described
1123 in Subsection 59-12-103(1)~~[-subject to the exemptions provided for in Section 59-12-104, and~~
1124 ~~shall exempt from that additional tax wholesale sales and sales of single items for which~~
1125 ~~consideration paid is \$2,500 or more].~~

1126 (b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not
1127 impose a tax under this section on:

1128 (i) wholesale sales;

1129 (ii) the sale of a single item for which consideration paid is \$2,500 or more;

1130 (iii) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
1131 exempt from taxation under Section 59-12-104; and

1132 (iv) any amounts paid or charged by a vendor that collects a tax under Subsection
1133 59-12-107(1)(b).

1134 (2) (a) An amount equal to the total of any costs incurred by the state in connection with
1135 the implementation of Subsection (1) which exceed, in any year, the revenues received by the state
1136 from its collection fees received in connection with the implementation of Subsection (1) shall be
1137 paid over to the state General Fund by the cities and towns which impose the tax provided for in
1138 Subsection (1). ~~[Payment costs]~~

1139 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those
1140 cities and towns according to the amount of revenue the respective cities and towns generate in that
1141 year through imposition of that tax.

1142 (3) To impose an additional resort communities sales tax under this section, the governing
1143 body of the municipality shall:

1144 (a) pass a resolution approving the tax; and

1145 (b) except as provided in Subsection (6), obtain voter approval for the tax as provided in
1146 Subsection (4).

1147 (4) To obtain voter approval for an additional resort communities sales tax under
1148 Subsection (3)(b), a municipality shall:

1149 (a) hold the additional resort communities sales tax election during:

1150 (i) a regular general election; or

1151 (ii) a municipal general election; and

1152 (b) publish notice of the election:

1153 (i) 15 days or more before the day on which the election is held; and

1154 (ii) in a newspaper of general circulation in the municipality.

1155 (5) (a) An ordinance approving an additional resort communities sales tax under this
1156 section shall provide an effective date for the tax.

1157 (b) A municipality imposing a tax under this section shall:

1158 (i) collect the tax on the first day of a calendar quarter; and

1159 (ii) notify the commission at least 30 days before the day on which the commission is
1160 required to collect the tax.

1161 (6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the voter
1162 approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the municipality
1163 imposed a license fee or tax on businesses based on gross receipts pursuant to Section 10-1-203.

1164 (b) The exception from the voter approval requirements in Subsection (6)(a) does not
1165 apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only one
1166 class of businesses based on gross receipts pursuant to Section 10-1-203.

1167 Section 12. Section **59-12-501** is amended to read:

1168 **59-12-501. Public transit tax -- Rate -- Voter approval.**

1169 (1) (a) (i) ~~[It]~~ Except as provided in Subsection (1)(a)(ii), in addition to other sales and
1170 use taxes, any county, city, or town within a transit district organized under Title 17A, Chapter 2,
1171 Part 10, may impose a sales and use tax of 1/4 of 1% on the ~~[sales and uses]~~ transactions described
1172 in Subsection 59-12-103(1), ~~[subject to the exemptions provided for in Section 59-12-104,]~~ to fund

1173 a public transportation system.

1174 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax
1175 under this section on:

1176 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
1177 exempt from taxation under Section 59-12-104; and

1178 (B) any amounts paid or charged by a vendor that collects a tax under Subsection
1179 59-12-107(1)(b).

1180 (b) A county, city, or town may impose a tax under this section only if the governing body
1181 of the county, city, or town, by resolution, submits the proposal to all the qualified voters within
1182 the county, city, or town for approval at a general or special election conducted in the manner
1183 provided by statute.

1184 (2) (a) If only a portion of a county is included within a public transit district, the proposal
1185 may be submitted only to the qualified voters residing within the boundaries of the proposed or
1186 existing public transit district.

1187 (b) Notice of any such election shall be given by the county, city, or town governing body
1188 15 days in advance in the manner prescribed by statute.

1189 (c) If a majority of the voters voting in such election approve the proposal, it shall become
1190 effective on the date provided by the county, city, or town governing body.

1191 (3) This section may not be construed to require an election in jurisdictions where voters
1192 have previously approved a public transit sales or use tax.

1193 Section 13. Section **59-12-502** is amended to read:

1194 **59-12-502. Additional public transit tax for expanded system and fixed guideway**
1195 **and interstate improvements -- Rate -- Voter approval.**

1196 (1) (a) (i) ~~[It]~~ Except as provided in Subsection (1)(a)(ii), and in addition to other sales
1197 and use taxes, [and] including the public transit district tax authorized by Section 59-12-501, [any]
1198 a county, city, or town within a transit district organized under Title 17A, Chapter 2, Part 10, may
1199 impose a sales and use tax of 1/4 of 1% on the [sales and uses] transactions described in
1200 Subsection 59-12-103(1), [subject to the exemptions provided in Section 59-12-104,] to fund a
1201 fixed guideway and expanded public transportation system.

1202 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax
1203 under this section on:

1204 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
1205 exempt from taxation under Section 59-12-104; and

1206 (B) any amounts paid or charged by a vendor that collects a tax under Subsection
1207 59-12-107(1)(b).

1208 (b) A county, city, or town may impose the tax under this section only if the governing
1209 body of the county, city, or town submits, by resolution, the proposal to all the qualified voters
1210 within the county, city, or town for approval at a general or special election conducted in the
1211 manner provided by statute. Notice of the election shall be given by the county, city, or town
1212 governing body 15 days in advance in the manner prescribed by statute.

1213 (2) If the majority of the voters voting in this election approve the proposal, it shall
1214 become effective on the date provided by the county, city, or town governing body.

1215 (3) (a) This section may not be construed to require an election in jurisdictions where
1216 voters have previously approved a public transit sales or use tax.

1217 (b) This section shall be construed to require an election to impose the sales and use tax
1218 authorized by this section, including jurisdictions where the voters have previously approved the
1219 [~~transit district~~] sales and use tax authorized by Section 59-12-501, but this section may not be
1220 construed to affect the sales and use tax authorized by Section 59-12-501.

1221 (4) No public funds shall be spent to promote the required election.

1222 (5) Notwithstanding the designated use of revenues in Subsection (1), of the revenues
1223 generated by the tax imposed under this section by any county of the first class, 75% shall be
1224 allocated to fund a fixed guideway and expanded public transportation system and 25% shall be
1225 allocated to fund renovations, repairs, and improvements to Interstate 15.

1226 Section 14. Section **59-12-703** is amended to read:

1227 **59-12-703. Opinion question election -- Imposition of tax -- Uses of tax monies.**

1228 (1) (a) (i) [~~Any~~] Except as provided in Subsection (1)(a)(ii), a county legislative body may,
1229 by majority vote of all members, submit an opinion question to the residents of that county so that
1230 each resident has an opportunity to express the resident's opinion on the imposition of a local sales
1231 and use tax of 1/10 of 1% on the [~~sales and uses~~] transactions described in Subsection
1232 59-12-103(1), [~~subject to the exemptions provided for in Section 59-12-104,~~] to fund recreational
1233 and zoological facilities and botanical, cultural, and zoological organizations in that county.

1234 (ii) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a tax

1235 under this section on:

1236 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
1237 exempt from taxation under Section 59-12-104; and

1238 (B) any amounts paid or charged by a vendor that collects a tax under Subsection
1239 59-12-107(1)(b).

1240 (b) The election shall follow the procedures outlined in Title 11, Chapter 14, Utah
1241 Municipal Bond Act.

1242 (2) (a) If the county legislative body determines that a majority of the qualified electors
1243 voting on the opinion question has assented to the imposition of a local sales and use tax as
1244 prescribed in Subsection (1)(a), the county legislative body may, by a majority vote of all
1245 members, impose such a tax.

1246 (b) If the county legislative body imposes a tax under Subsection (2)(a), the tax shall be
1247 imposed at the beginning of the quarter following the county legislative body's decision to impose
1248 such a tax.

1249 (3) The monies generated from any tax imposed under Subsection (2) shall be used for
1250 financing recreational and zoological facilities and ongoing operating expenses of botanical,
1251 cultural, and zoological organizations within the county.

1252 (4) Taxes imposed under this part shall be:

1253 (a) levied at the same time and collected in the same manner as provided in Title 59,
1254 Chapter 12, Part 2, The Local Sales and Use Tax Act, except that the collection and distribution
1255 of the tax revenue is not subject to Subsection 59-12-205(2); and

1256 (b) levied for a period of ten years and may be reauthorized at the end of the ten-year
1257 period in accordance with this section.

1258 Section 15. Section **59-12-801** is amended to read:

1259 **59-12-801. Definitions.**

1260 As used in this part:

1261 (1) "Nursing care facility" is as defined in Section 26-21-2.

1262 (2) "Rural city hospital" means a hospital owned by a city that is located within a third,
1263 fourth, fifth, or sixth class county.

1264 [~~2~~] (3) "Rural county health care facility" means a rural county hospital or a rural county
1265 nursing care facility.

1266 ~~[(3)]~~ (4) "Rural county hospital" means a hospital owned by a third, fourth, fifth, or sixth
1267 class county, as defined in Section 17-16-13, which is located outside of a standard metropolitan
1268 statistical area, as designated by the United States Bureau of the Census.

1269 ~~[(4)]~~ (5) "Rural county nursing care facility" means a nursing care facility owned by a
1270 third, fourth, fifth, or sixth class county, as defined in Section 17-16-13, which is located outside
1271 of a standard metropolitan statistical area, as designated by the United States Bureau of the Census.

1272 Section 16. Section **59-12-802** is amended to read:

1273 **59-12-802. Imposition of rural county health care facilities tax -- Base -- Rates.**

1274 (1) (a) ~~[Any]~~ A county legislative body may~~[- by a majority vote of all members, submit~~
1275 ~~an opinion question to the residents of that county so that each resident has an opportunity to~~
1276 ~~express the resident's opinion on the imposition of a local]~~ impose a sales and use tax of up to 1%;

1277 (i) except as provided in Subsection (1)(b), on the [sales and uses] transactions described
1278 in Subsection 59-12-103(1)[, subject to the exemptions provided for in Section 59-12-104,]; and
1279 (ii) to fund rural county health care facilities in that county.

1280 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a tax
1281 under this section on:

1282 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
1283 exempt from taxation under Section 59-12-104; and

1284 (ii) any amounts paid or charged by a vendor that collects a tax under Subsection
1285 59-12-107(1)(b).

1286 (2) (a) Before imposing or increasing a tax under Subsection (1)(a), a county legislative
1287 body shall obtain approval to impose or increase the tax from a majority of the:

1288 (i) members of the county's legislative body; and

1289 (ii) county's registered voters voting on the imposition of the tax.

1290 (b) The county legislative body shall conduct the election [shall follow] according to the
1291 procedures [outlined in] and requirements of Title 11, Chapter 14, Utah Municipal Bond Act.

1292 ~~[(2) If the legislative governing body determines that a majority of the qualified electors~~
1293 ~~voting on the opinion question has assented to the imposition of a local sales and use tax as~~
1294 ~~prescribed in Subsection (1)(a), the county legislative body may, by majority vote of all members,~~
1295 ~~impose such a tax.]~~

1296 (3) The monies generated ~~[from]~~ by a tax imposed under Subsection (1) may only be used

1297 for the financing of:

1298 (a) ongoing operating expenses of a rural county health care facility; ~~[and]~~

1299 (b) the acquisition of land for~~;~~ ~~[and]~~ a rural county health care facility; or

1300 (c) the design, construction, equipping, [and] or furnishing of a rural county health care
1301 facility.

1302 (4) Taxes imposed under this ~~[part]~~ section shall be:

1303 (a) levied at the same time and collected in the same manner as provided in ~~[Title 59,~~
1304 ~~Chapter 12,]~~ Part 2, The Local Sales and Use Tax Act, except that the collection and distribution
1305 of the tax revenue is not subject to Subsection 59-12-205(2); and

1306 (b) levied for a period of ten years and may be reauthorized at the end of the ten-year
1307 period by the county legislative body as provided in Section (1).

1308 (5) The ~~[tax]~~ commission may retain an amount not to exceed 1-1/2% of the ~~[county~~
1309 ~~option funding]~~ tax collected under this ~~[part]~~ section for the cost of administering this tax.

1310 Section 17. Section **59-12-803** is amended to read:

1311 **59-12-803. Distribution of revenues generated by rural county health care facilities**
1312 **tax.**

1313 ~~[A]~~ (1) Except as provided in Subsection 59-12-802(5) and Subsection (2), all revenues
1314 collected by a county under ~~[this part]~~ Section 59-12-802 shall be distributed quarterly by the
1315 county legislative body to rural county health care facilities. ~~[F]~~

1316 (2) Notwithstanding Subsection (1), if there is more than one rural county health care
1317 facility in a county, the revenues collected by a county under Section 59-12-802 shall be distributed
1318 as determined by the county legislative body.

1319 Section 18. Section **59-12-804** is amended to read:

1320 **59-12-804. Imposition of rural city hospital tax -- Base -- Rates.**

1321 ~~[(1) As used in this section, "rural city hospital" means any hospital owned by a city which~~
1322 ~~is located within a third, fourth, fifth, or sixth class county.]~~

1323 ~~[(2) Any]~~ (1) (a) A city legislative body may~~[, by a majority vote of all members submit~~
1324 ~~an opinion question to the residents of that city so that each resident has an opportunity to express~~
1325 ~~his opinion on the imposition of a local]~~ impose a sales and use tax of up to 1%:

1326 (i) except as provided in Subsection (1)(b), on the transactions described in Subsection
1327 59-12-103(1); and

1328 (ii) to fund rural city hospitals in that city.

1329 [~~(3) The city legislative body and the tax commission shall follow the procedures and~~
1330 ~~requirements established in Sections 59-12-802 and 59-12-803 for the tax imposed under this~~
1331 ~~section.]~~

1332 (b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax
1333 under this section on:

1334 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
1335 exempt from taxation under Section 59-12-104; and

1336 (ii) any amounts paid or charged by a vendor that collects a tax under Subsection
1337 59-12-107(1)(b).

1338 (2) (a) Before imposing or increasing a tax under Subsection (1)(a), a city legislative body
1339 shall obtain approval to impose the tax from a majority of the:

1340 (i) members of the city legislative body; and

1341 (ii) city's registered voters voting on the imposition of the tax.

1342 (b) The city legislative body shall conduct the election according to the procedures and
1343 requirements of Title 11, Chapter 14, Utah Municipal Bond Act.

1344 (3) The monies generated by a tax imposed under Subsection (1) may only be used for the
1345 financing of:

1346 (a) ongoing operating expenses of a rural city hospital;

1347 (b) the acquisition of land for a rural city hospital; or

1348 (c) the design, construction, equipping, or furnishing of a rural city hospital.

1349 (4) Taxes imposed under this section shall be:

1350 (a) levied at the same time and collected in the same manner as provided in Part 2, The

1351 Local Sales and Use Tax Act, except that the collection and distribution of the tax revenue is not
1352 subject to Subsection 59-12-205; and

1353 (b) levied for a period of ten years and may be reauthorized at the end of the ten-year
1354 period by the city legislative body as provided in Subsection (1).

1355 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected under
1356 this section for the cost of administering the tax.

1357 Section 19. Section **59-12-805** is enacted to read:

1358 **59-12-805. Distribution of revenues generated by rural city hospital tax.**

1359 (1) Except as provided in Subsection 59-12-804(5) and Subsection (2), all revenues
1360 collected by a city under Section 59-12-804 shall be distributed quarterly by the city legislative
1361 body to rural city hospitals.

1362 (2) Notwithstanding Subsection (1), if there is more than one rural city hospital in a city,
1363 the revenues collected by the city under Section 59-12-804 shall be distributed as determined by
1364 the city legislative body.

1365 Section 20. Section **59-12-902** is amended to read:

1366 **59-12-902. Sales tax refund for qualified emergency food agencies -- Administration**
1367 **-- Rulemaking authority.**

1368 (1) Beginning on January 1, 1998, a qualified emergency food agency may claim a sales
1369 tax refund as provided in this section on the pounds of food donated to the qualified emergency
1370 food agency.

1371 (2) (a) Subject to the adjustments provided for in Subsection (2)(b), a qualified emergency
1372 food agency may claim a refund in an amount equal to the pounds of food donated to the qualified
1373 emergency food agency multiplied by:

1374 (i) \$1.70; and

1375 (ii) [~~the lowest percentage of combined state and local sales and use taxes collected by a~~
1376 ~~municipality in the state under this chapter, except that the lowest percentage of combined state~~
1377 ~~and local sales and use taxes does not include the levy under Subsection 59-12-103(3).] the sum
1378 of:~~

1379 (A) 4.75%; and

1380 (B) except as provided in Subsection (2)(c), the sum of the tax rates provided for in
1381 Subsection (2)(b).

1382 (b) Tax rates authorized under the following apply to Subsection (2)(a)(ii)(B):

1383 (i) the lowest tax rate imposed by a county, city, or town under Section 59-12-204, but
1384 only if all of the counties, cities, and towns in the state impose the tax under Section 59-12-204;

1385 (ii) the lowest tax rate imposed by a county, city, or town under Section 59-12-205, but
1386 only if all of the counties, cities, and towns in the state impose the tax under Section 59-12-205;

1387 (iii) the tax rate authorized by Section 59-12-501 or Section 59-12-1001, but only if all of
1388 the counties, cities, and towns in the state impose the tax:

1389 (A) under Section 59-12-501; or

- 1390 (B) under Section 59-12-1001;
1391 (iv) the tax rate authorized by Section 59-12-502, but only if all of the counties, cities, and
1392 towns in the state impose the tax under Section 59-12-502;
1393 (v) the tax rate authorized by Section 59-12-703, but only if all of the counties in the state
1394 impose the tax under Section 59-12-703; and
1395 (vi) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the
1396 state impose the tax under Section 59-12-1102.
1397 (c) Tax rates authorized under the following do not apply to Subsection (2)(a)(ii)(B):
1398 (i) Subsection 59-12-103(2)(a)(i);
1399 (ii) Subsection 59-12-103(2)(b)(i);
1400 (iii) Subsection 59-12-103(2)(c)(i);
1401 (iv) Section 59-12-301;
1402 (v) Section 59-12-352;
1403 (vi) Section 59-12-353;
1404 (vii) Section 59-12-401;
1405 (viii) Section 59-12-402;
1406 (ix) Section 59-12-603;
1407 (x) Section 59-12-802;
1408 (xi) Section 59-12-804;
1409 (xii) Section 59-12-1201; or
1410 (xiii) Section 59-12-1302.
1411 ~~(b)~~ (d) Beginning on January 1, 1999, the commission shall annually adjust on or before
1412 the second Monday of February the \$1.70 provided in Subsection (2)(a)(i) by a percentage equal
1413 to the percentage difference between the food at home category of the Consumer Price Index for:
1414 (i) the preceding calendar year; and
1415 (ii) calendar year 1997.
1416 (3) To claim a sales tax refund under this section, a qualified emergency food agency shall
1417 file an application with the commission.
1418 (4) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1419 commission may make rules providing procedures for implementing the sales tax refund under this
1420 section, including:

1421 (a) procedures for an organization to apply for recognition as a qualified emergency food
1422 agency;

1423 (b) standards for determining and verifying the amount of the sales tax refund; and

1424 (c) procedures for a qualified emergency food agency to apply for a sales tax refund,
1425 including the frequency with which a qualified emergency food agency may apply for a sales tax
1426 refund.

1427 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1428 Division of Community Development may establish rules providing for the certification of
1429 emergency food agencies to claim a refund under this part.

1430 Section 21. Section **59-12-1001** is amended to read:

1431 **59-12-1001. Authority to impose highways tax -- Resolution and voter approval**
1432 **requirements -- Election requirements -- Notice requirements -- Ordinance requirements.**

1433 (1) (a) ~~[A] Except as provided in Subsection (1)(b), a municipality in which [sales and~~
1434 ~~uses] the transactions described in Subsection 59-12-103(1) are not subject to a sales and use tax~~
1435 ~~under Section 59-12-501 may as provided in this part impose a sales and use tax of 1/4% on the~~
1436 ~~[sales and uses] transactions described in Subsection 59-12-103(1)[, subject to the exemptions~~
1437 ~~provided for in Section 59-12-104].~~

1438 (b) Notwithstanding Subsection (1)(a), a municipality may not impose a tax under this
1439 section on:

1440 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
1441 exempt from taxation under Section 59-12-104; and

1442 (ii) any amounts paid or charged by a vendor that collects a tax under Subsection
1443 59-12-107(1)(b).

1444 (2) A tax imposed under this part by a municipality shall be used for the construction and
1445 maintenance of highways under the jurisdiction of the municipality imposing the tax.

1446 (3) To impose a highways tax under this part, the governing body of the municipality shall:

1447 (a) pass an ordinance approving the tax; and

1448 (b) except as provided in Subsection (7), obtain voter approval for the tax as provided in
1449 Subsection (4).

1450 (4) To obtain voter approval for a highways tax under Subsection (3)(b), a municipality
1451 shall:

- 1452 (a) hold the highways tax election during:
1453 (i) a regular general election; or
1454 (ii) a municipal general election; and
1455 (b) publish notice of the election:
1456 (i) 15 days or more before the day on which the election is held; and
1457 (ii) in a newspaper of general circulation in the municipality.

1458 (5) An ordinance approving a highways tax under this part shall provide an effective date
1459 for the tax.

1460 (6) A municipality imposing a tax under this part shall:

- 1461 (a) begin collecting the tax on the first day of a calendar quarter; and
1462 (b) notify the commission at least 30 days before the day on which the commission is
1463 required to collect the tax.

1464 (7) (a) Except as provided in Subsection (7)(b), a municipality is not subject to the voter
1465 approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the municipality
1466 imposed a licensee fee or tax on businesses based on gross receipts pursuant to Section 10-1-203.

1467 (b) The exception from the voter approval requirements in Subsection (7)(a) does not
1468 apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only one
1469 class of businesses based on gross receipts pursuant to Section 10-1-203.

1470 Section 22. Section **59-12-1102** is amended to read:

1471 **59-12-1102. Base -- Rate -- Imposition of tax -- Distribution of revenue --**
1472 **Administration.**

1473 (1) (a) (i) ~~[Subject] Except as provided in Subsection (1)(a)(ii), subject to the provisions~~
1474 ~~of Subsections (2) through (4), and in addition to any other tax authorized by this chapter, a county~~
1475 ~~may impose by ordinance a county option sales and use tax of 1/4% upon the [sales and uses]~~
1476 ~~transactions described in Subsection 59-12-103(1)[, subject to the exemptions provided for in~~
1477 ~~Section 59-12-104].~~

1478 (ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this section
1479 on:

1480 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
1481 exempt from taxation under Section 59-12-104; and

1482 (B) any amounts paid or charged by a vendor that collects a tax under Subsection

1483 59-12-107(1)(b) unless all of the counties in the state impose a tax under this section.
1484 (b) The county option sales and use tax under this section shall be imposed:
1485 (i) upon sales and uses made in the county, including sales and uses made within
1486 municipalities in the county; and
1487 (ii) except as provided in Subsection (1)(c), beginning on the first day of January:
1488 (A) of the next calendar year after adoption of the ordinance imposing the tax if the
1489 ordinance is adopted on or before May 25; or
1490 (B) of the second calendar year after adoption of the ordinance imposing the tax if the
1491 ordinance is adopted after May 25.
1492 (c) Notwithstanding Subsection (1)(b)(ii), the county option sales and use tax under this
1493 section shall be imposed:
1494 (i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before
1495 September 4, 1997; or
1496 (ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997
1497 but after September 4, 1997.
1498 (2) (a) Before imposing a county option sales and use tax under Subsection (1), a county
1499 shall:
1500 (i) hold two public hearings on separate days in geographically diverse locations in the
1501 county; and
1502 (ii) notify the commission at least 30 days prior to the adoption of the ordinance.
1503 (b) (i) At least one of the hearings required by Subsection (2)(a)(i) shall have a starting
1504 time of no earlier than ~~[6:00]~~ 6 p.m.
1505 (ii) The earlier of the hearings required by Subsection (2)(a)(i) shall be no less than seven
1506 days after the day the first advertisement required by Subsection (2)(c) is published.
1507 (c) (i) Before holding the public hearings required by Subsection (2)(a)(i), the county shall
1508 advertise in a newspaper of general circulation in the county:
1509 (A) its intent to adopt a county option sales and use tax;
1510 (B) the date, time, and location of each public hearing; and
1511 (C) a statement that the purpose of each public hearing is to obtain public comments
1512 regarding the proposed tax.
1513 (ii) The advertisement shall be published once each week for the two weeks preceding the

1514 earlier of the two public hearings.

1515 (iii) The advertisement shall be no less than 1/8 page in size, and the type used shall be no
1516 smaller than 18 point and surrounded by a 1/4-inch border.

1517 (iv) The advertisement may not be placed in that portion of the newspaper where legal
1518 notices and classified advertisements appear.

1519 (v) Whenever possible:

1520 (A) the advertisement shall appear in a newspaper that is published at least five days a
1521 week, unless the only newspaper in the county is published less than five days a week; and

1522 (B) the newspaper selected shall be one of general interest and readership in the
1523 community, and not one of limited subject matter.

1524 (d) The adoption of an ordinance imposing a county option sales and use tax is subject to
1525 a local referendum election as provided in Title 20A, Chapter 7, Part 6, Local Referenda -
1526 Procedures, except that:

1527 (i) notwithstanding Subsection 20A-7-609(2)(a), the county clerk shall hold a referendum
1528 election that qualifies for the ballot on the earlier of the next regular general election date or the
1529 next municipal general election date more than 155 days after adoption of an ordinance under this
1530 section;

1531 (ii) for 1997 only, the 120-day period in Subsection 20A-7-606(1) shall be 30 days; and

1532 (iii) the deadlines in Subsection 20A-7-606(2) and (3) do not apply, and the clerk shall
1533 take the actions required by those subsections before the referendum election.

1534 (3) (a) [~~H~~] Except as provided in Subsection (4), if the aggregate population of the counties
1535 imposing a county option sales and use tax under Subsection (1) is less than 75% of the state
1536 population, the tax levied under Subsection (1) shall be distributed to the county in which the tax
1537 was collected.

1538 (b) [~~H~~] Except as provided in Subsection (4), if the aggregate population of the counties
1539 imposing a county option sales and use tax under Subsection (1) is greater than or equal to 75%
1540 of the state population:

1541 (i) 50% of the tax collected under Subsection (1) in each county shall be distributed to the
1542 county in which the tax was collected; and

1543 (ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection (1)
1544 in each county shall be distributed proportionately among all counties imposing the tax, based on

1545 the total population of each county.

1546 (c) If the amount to be distributed annually to a county under Subsection (3)(b)(ii), when
1547 combined with the amount distributed to the county under Subsection (3)(b)(i), does not equal at
1548 least \$75,000, then:

1549 (i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall
1550 be increased so that, when combined with the amount distributed to the county under Subsection
1551 (3)(b)(i), the amount distributed annually to the county is \$75,000; and

1552 (ii) the amount to be distributed annually to all other counties under Subsection (3)(b)(ii)
1553 shall be reduced proportionately to offset the additional amount distributed under Subsection
1554 (3)(c)(i).

1555 (d) The commission shall establish rules to implement the distribution of the tax under
1556 Subsections (3)(a), (b), and (c).

1557 (4) Notwithstanding Subsections (3)(a) and (b), if a county imposes a tax under this section
1558 on any amounts paid or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b),
1559 the revenues generated by the tax shall be distributed as provided in Subsection 59-12-103(3)(c).

1560 [~~4~~] (5) (a) Except as provided in Subsections [~~4~~] (5)(b) and (c), a county option sales
1561 and use tax under Subsection (1) shall be imposed and administered in the same manner as a tax
1562 imposed under Title 59, Chapter 12, Part 2, The Local Sales and Use Tax Act.

1563 (b) A county option sales and use tax imposed under this part is not subject to:

1564 (i) the distribution provisions of Subsections 59-12-205(2) and (3); and

1565 (ii) the earmarking provisions of Subsection 59-12-205(4).

1566 (c) The fee charged by the commission under Section 59-12-206 shall be based on the
1567 distribution amounts resulting after all the applicable distribution calculations under Subsection
1568 (3) have been made.

1569 Section 23. Section **59-12-1302** is amended to read:

1570 **59-12-1302. Authority to impose -- Base -- Rate.**

1571 (1) Beginning on or after January 1, 1998, the governing body of a town may impose a tax
1572 as provided in this part in an amount that does not exceed 1%.

1573 (2) A town may impose a tax as provided in this part if the town imposed a license fee or
1574 tax on businesses based on gross receipts under Section 10-1-203 on or before January 1, 1996.

1575 (3) A town imposing a tax under this section shall:

1576 (a) adopt an ordinance:

1577 (i) except as provided in Subsection (4), imposing the tax on the [sales and uses]

1578 transactions described in [Section] Subsection 59-12-103(1); and

1579 [(ii) exempting from the tax the sales and uses described in Section 59-12-104; and]

1580 [(iii)] (ii) providing an effective date for the tax;

1581 (b) impose the tax on the first day of a calendar quarter; and

1582 (c) notify the commission at least 30 days before the day on which the commission is
1583 required to collect the tax.

1584 (4) Notwithstanding Subsection (3)(a)(i), a town may not impose a tax under this section
1585 on:

1586 (a) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
1587 exempt from taxation under Section 59-12-104; and

1588 (b) any amounts paid or charged by a vendor that collects a tax under Subsection
1589 59-12-107(1)(b).

1590 ~~[(4)]~~ (5) The commission shall:

1591 (a) except as provided in Subsection ~~[(4)]~~ (5)(c), distribute the revenues generated by the
1592 tax under this section to the town imposing the tax;

1593 (b) administer, collect, and enforce the tax authorized under this section pursuant to:

1594 (i) the same procedures used to administer, collect, and enforce the sales and use tax under
1595 Title 59, Chapter 12, Part 1, Tax Collection; and

1596 (ii) Title 59, Chapter 1, General Taxation Policies; and

1597 (c) deduct from the distribution under Subsection ~~[(4)]~~ (5)(a) an administrative charge for
1598 collecting the tax as provided in Section 59-12-206.

1599 Section 24. **Effective date.**

1600 This act takes effect on July 1, 2001.

1600a **h Section 25. Coordination clause.**

1600b **(1) IF THIS BILL AND S.B. 206, STATE AND LOCAL AMENDMENTS, BOTH PASS, IT IS THE**
1600c **INTENT OF THE LEGISLATURE THAT SUBSECTION 59-12-103(3)(c)(iii) OF THE ENROLLED VERSION**
1600d **OF THIS BILL SHALL READ AS FOLLOWS:**

1600e **(iii)(A) EXCEPT AS PROVIDED IN SUBSECTION (3)(c)(iii)(B), POPULATION FIGURES FOR**
1600f **PURPOSES OF THIS SECTION SHALL BE DERIVED FROM THE MOST RECENT OFFICIAL CENSUS**
1600g **OR CENSUS ESTIMATE OF THE UNITED STATES CENSUS BUREAU.**

1600h **(B) NOTWITHSTANDING SUBSECTION (3)(c)(iii)(A), IF A NEEDED POPULATION ESTIMATE IS**
1600i **NOT AVAILABLE FROM THE UNITED STATES CENSUS BUREAU, POPULATION FIGURES SHALL BE**
1600j **DERIVED FROM THE ESTIMATE FROM THE UTAH POPULATION ESTIMATES COMMITTEE CREATED**
1600k **BY EXECUTIVE ORDER OF THE GOVERNOR.**

1600l **(C) FOR PURPOSES OF THIS SECTION, THE POPULATION OF A COUNTY MAY ONLY**
1600m **INCLUDE THE POPULATION OF THE UNINCORPORATED AREAS OF THE COUNTY.**

1600n **(2) IF THIS BILL AND H.B. 275, SALES AND USE TAX ALLOCATION FOR SPECIES**
1600o **PROTECTION, BOTH PASS, IT IS THE INTENT OF THE LEGISLATURE THAT IN PREPARING THE**
1600p **DATABASE FOR PUBLICATION, THE OFFICE OF LEGISLATIVE RESEARCH AND GENERAL**
1600q **COUNSEL SHALL REVISE SUBSECTION 59-12-103(5)(a) TO READ AS FOLLOWS: h**

1600r h (5)(a) ~~[From]~~ **NOTWITHSTANDING SUBSECTION (3)(a), BEGINNING ON July 1, [1997] 2001,**
1600s **the [annual] amount of sales and use tax generated ANNUALLY by a [1/8%] 1/16% tax rate on the**
1600t **taxable [items and services] TRANSACTIONS under Subsection (1) shall be used [as follows:]**
1600u ~~[(i) 50% shall be used for water and wastewater projects]~~ **as provided in Subsections (5)(b)**
1600v **through [(f); and] (g).**
1600w ~~[(ii) 50% shall be used for transportation projects as provided in Subsections (5)(g) through~~
1600x ~~(h).]~~
1600y **(3) IF THIS BILL AND H.B. 275, SALES AND USE TAX ALLOCATION FOR SPECIES**
1600z **PROTECTION, BOTH PASS, IT IS THE INTENT OF THE LEGISLATURE THAT IN PREPARING THE**
1600aa **DATABASE FOR PUBLICATION, THE OFFICE OF LEGISLATIVE RESEARCH AND GENERAL**
1600ab **COUNSEL SHALL REVISE SUBSECTION 59-12-103(6)(a) TO READ AS FOLLOWS:**
1600ac **(6)(a) NOTWITHSTANDING SUBSECTION (3)(a), BEGINNING ON JULY 1, 2001, THE AMOUNT**
1600ad **OF SALES AND USE TAX GENERATED ANNUALLY BY A 1/16% TAX RATE ON THE TAXABLE**
1600ae **TRANSACTIONS UNDER SUBSECTION (1) SHALL BE USED AS PROVIDED IN SUBSECTIONS (6)(b)**
1600af **THROUGH (d).** h

Legislative Review Note
as of 2-18-00 2:01 PM

This legislation raises the following constitutional or statutory concerns:

Courts have interpreted the commerce clause of the Constitution of the United States to require that before a state can impose sales and use tax obligations on a person, the person must first have sufficient connections or "nexus" with the state. This legislation modifies the requirements necessary for a vendor to have nexus with the state and to be obligated to collect sales and use taxes. Because case law is still developing in this area, it is unclear whether a court would find that these requirements fall within parameters allowed by the federal constitution. The legislation also authorizes vendors not having nexus with the state to voluntarily collect sales and use taxes. However, if the Supreme Court of the United States authorizes or Congress permits a state to impose collection obligations on these vendors, the vendors would be required to collect sales and use taxes under the legislation. The legislation provides that a vendor not having nexus with the state that collects sales and use taxes would collect the taxes from its Utah customers at a lower rate than a vendor with nexus collecting sales and use taxes on its Utah transactions. Under equal protection principles of the Constitution of the United States and the uniform operation of the laws provisions of the Utah Constitution, there are limits on a legislature's ability to make distinctions between taxpayers. In examining the permissibility of taxpayer classes, courts look to factors such as the relationship between the class and the legislative objective being pursued.

Office of Legislative Research and General Counsel