

1 **PENALTY AND INTEREST MODIFICATIONS**

2 2002 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Curtis S. Bramble**

5 **This act amends the Revenue and Taxation Code to modify penalty provisions related to the**
6 **failure to file a return on or before the return filing due date or to pay certain taxes, charges,**
7 **or fees, or other similar amounts when due. This act addresses the filing of returns for**
8 **certain taxes, charges, fees, or other similar amounts administered by the commission. The**
9 **act addresses the imposition of interest on certain taxes, charges, fees, or other similar**
10 **amounts. This act makes technical changes. This act takes effect on January 1, 2003, and**
11 **for certain returns takes effect for taxable years beginning on or after January 1, 2003.**

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

13 AMENDS:

14 **19-6-715**, as enacted by Chapter 283, Laws of Utah 1993

15 **19-6-808**, as renumbered and amended by Chapter 51, Laws of Utah 2000

16 **59-1-401**, as last amended by Chapters 104 and 177, Laws of Utah 2001

17 **59-1-402**, as last amended by Chapter 93, Laws of Utah 1994

18 **69-2-5.5**, as enacted by Chapter 354, Laws of Utah 1998

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

20 Section 1. Section **19-6-715** is amended to read:

21 **19-6-715. Recycling fee collection procedures.**

22 (1) The lubricating oil vendor shall pay the fee collected under Section 19-6-714 to the
23 commission on or before the last day of the month following the calendar quarter in which the sale
24 occurs.

25 (2) The lubricating oil vendor may retain a maximum of 2% of the recycling fee it collects
26 under Section 19-6-714 for the costs of collecting the fee.

27 (3) The payment of the fee to the commission shall be accompanied by a [form provided]



28 return developed by the commission.

29 Section 2. Section **19-6-808** is amended to read:

30 **19-6-808. Payment of recycling fee.**

31 (1) The recycling fee shall be paid by the tire retailer to the commission:

32 (a) on or before the last day of the month following the calendar quarter in which the sale
33 occurs for quarterly return filers; and

34 (b) the last day of January following the end of the calendar year for annual return filers.

35 (2) The payment shall be accompanied by [~~the form prescribed~~] a return developed by the
36 commission.

37 (3) (a) The proceeds of the fee shall be transferred by the commission to the trust fund for
38 payment of partial reimbursement.

39 (b) The commission may retain an amount not to exceed 2-1/2% of the recycling fee
40 collected under this part for the cost to it of rendering its services.

41 (4) (a) (i) The commission shall administer, collect, and enforce the fee authorized under
42 this part pursuant to the same procedures used in the administration, collection, and enforcement
43 of the general state sales and use tax under Title 59, Chapter 12, and the provisions of Title 59,
44 Chapter 1.

45 (ii) The tire retailer may retain 2-1/2% of the recycling fee collected under this part for the
46 cost of collecting the fee.

47 (b) The exemptions from the general state sales and use tax provided for in Section
48 59-12-104 do not apply to this part.

49 (5) The fee imposed by this part is in addition to all other state, county, or municipal fees
50 and taxes imposed on the sale of new tires.

51 Section 3. Section **59-1-401** is amended to read:

52 **59-1-401. Offenses and penalties -- Statute of limitations -- Commission authority**
53 **to waive, reduce, or compromise penalty or interest.**

54 (1) (a) [~~The~~] Except as provided in Subsections (1)(b) and (2), the penalty for failure to
55 file a [tax] return within the time prescribed by law, including extensions, is the greater of:

56 (i) \$20; or

57 (ii) 10% of the unpaid tax, charge, or fee due on the return.

58 (b) Subsection (1)(a) does not apply to an amended [~~returns~~] return.

59 (2) (a) For purposes of this Subsection (2) and Subsection (4), "return filing due date"
60 means:

61 (i) for purposes of a return filed under Chapter 6, Mineral Production Tax Withholding,
62 the later of:

63 (A) the day on which the return is due under Chapter 6, Mineral Production Tax
64 Withholding; or

65 (B) if the commission in accordance with Chapter 6, Mineral Production Tax Withholding,
66 grants one or more extensions of time for filing the return, the last day of the last extension of time
67 granted by the commission;

68 (ii) for purposes of a return filed under Chapter 10, Individual Income Tax Act, the later
69 of:

70 (A) the day on which the return is due under Chapter 10, Individual Income Tax Act; or

71 (B) if the commission in accordance with Chapter 10, Individual Income Tax Act, grants
72 one or more extensions of time for filing the return, the last day of the last extension of time
73 granted by the commission; or

74 (iii) for purposes of a return filed under Chapter 12, Sales and Use Tax Act, Section
75 19-6-715, 19-6-808, or 69-2-5.5, the later of:

76 (A) the day on which the return is due under Chapter 12, Sales and Use Tax Act, Section
77 19-6-715, 19-6-808, or 69-2-5.5; or

78 (B) if the commission in accordance with Chapter 12, Sales and Use Tax Act, Section
79 19-6-715, 19-6-808, or 69-2-5.5, grants one or more extensions of time for filing the return, the
80 last day of the last extension of time granted by the commission.

81 (b) Notwithstanding Subsection (1) and except as provided in Subsection (2)(d), the
82 penalty for failure to file a return on or before the return filing due date shall be determined in
83 accordance with Subsection (2)(c) for purposes of a return filed under:

84 (i) Chapter 6, Mineral Production Tax Withholding;

85 (ii) Chapter 10, Individual Income Tax Act; or

86 (iii) Chapter 12, Sales and Use Tax Act, Section 19-6-715, 19-6-808, or 69-2-5.5, for a tax,
87 charge, or fee that is collected by the commission.

88 (c) Notwithstanding Subsection (1) and except as provided in Subsection (2)(d), for
89 purposes of a return described in Subsection (2)(b), the penalty for failure to file the return on or

90 before the return filing due date is:

91 (i) if the return is filed one or more days after the return filing due date but within 15 days
92 after the return filing due date, the greater of:

93 (A) \$20; or

94 (B) 2% of the unpaid tax, charge, or fee due on the return;

95 (ii) if the return is filed 16 or more days after the return filing due date but within 30 days
96 after the return filing due date, the greater of:

97 (A) \$20; or

98 (B) 5% of the unpaid tax, charge, or fee due on the return; or

99 (iii) if the return is filed 31 or more days after the return filing due date, the greater of:

100 (A) \$20; or

101 (B) 10% of the unpaid tax, charge, or fee due on the return.

102 (d) Notwithstanding Subsections (2)(b) and (c), the penalty imposed under this Subsection
103 (2) does not apply to an amended return.

104 [(2)] (3) [The] Except as provided in Subsection (4), the penalty for failure to pay a tax,
105 charge, or fee due shall be the greater of \$20 or 10% of the unpaid tax, charge, or fee for:

106 (a) failure to pay any tax, charge, or fee, as reported on a timely filed return;

107 (b) failure to pay any tax, charge, or fee within 90 days of the due date of the return, if
108 there was a late filed return subject to the penalty provided under Subsection (1)(a) or Subsection
109 (2);

110 (c) failure to pay any tax, charge, or fee within 30 days of the date of mailing any notice
111 of deficiency [of tax] unless a petition for redetermination or a request for agency action is filed
112 within 30 days of the date of mailing the notice of deficiency;

113 (d) failure to pay any tax, charge, or fee within 30 days after the date the commission's
114 order constituting final agency action resulting from a timely filed petition for redetermination or
115 request for agency action is issued or is considered to have been denied under Subsection
116 63-46b-13(3)(b); and

117 (e) failure to pay any tax, charge, or fee within 30 days after the date of a final judicial
118 decision resulting from a timely filed petition for judicial review.

119 (4) (a) Notwithstanding Subsection (3), the penalty for a failure to pay a tax, charge, or fee
120 due that is described in Subsection (3)(a) or (3)(b) shall be determined in accordance with

121 Subsection (4)(b) or (4)(c) for purposes of a return filed under:
122 (i) Chapter 6, Mineral Production Tax Withholding;
123 (ii) Chapter 10, Individual Income Tax Act; or
124 (iii) Chapter 12, Sales and Use Tax Act, Section 19-6-715, 19-6-808, or 69-2-5.5, for a tax,
125 charge, or fee that is collected by the commission.
126 (b) Notwithstanding Subsection (3), for purposes of a return described in Subsection
127 (4)(a), the penalty for failure to pay a tax, charge, or fee described in Subsection (3)(a) is:
128 (i) if the tax, charge, or fee is paid one or more days after the return filing due date but
129 within 15 days after the return filing due date, the greater of:
130 (A) \$20; or
131 (B) 2% of the unpaid tax, charge, or fee due on the return;
132 (ii) if the tax, charge, or fee is paid 16 or more days after the return filing due date but
133 within 30 days after the return filing due date, the greater of:
134 (A) \$20; or
135 (B) 5% of the unpaid tax, charge, or fee due on the return; or
136 (iii) if the tax, charge, or fee is paid 31 or more days after the return filing due date, the
137 greater of:
138 (A) \$20; or
139 (B) 10% of the unpaid tax, charge, or fee due on the return.
140 (c) Notwithstanding Subsection (3), for purposes of a return described in Subsection (4)(a),
141 the penalty for failure to pay a tax, charge, or fee due described in Subsection (3)(b) is:
142 (i) if the tax, charge, or fee is paid 91 or more days after the return filing due date but
143 within 105 days after the return filing due date, the greater of:
144 (A) \$20; or
145 (B) 2% of the unpaid tax, charge, or fee due on the return;
146 (ii) if the tax, charge, or fee is paid 106 or more days after the return filing due date but
147 within 120 days after the return filing due date, the greater of:
148 (A) \$20; or
149 (B) 5% of the unpaid tax, charge, or fee due on the return; or
150 (iii) if the tax, charge, or fee is paid 121 or more days after the return filing due date, the
151 greater of:

152 (A) \$20; or

153 (B) 10% of the unpaid tax, charge, or fee due on the return.

154 [~~3~~] (5) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax
155 or quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there
156 shall be added a penalty in an amount determined by applying the interest rate provided under
157 Section 59-1-402 plus four percentage points to the amount of the underpayment for the period of
158 the underpayment.

159 (b) (i) For purposes of Subsection [~~3~~] (5)(a), the amount of the underpayment shall be
160 the excess of the required installment over the amount, if any, of the installment paid on or before
161 the due date for the installment.

162 (ii) [~~The~~] For purposes of Subsection (5)(a), the period of the underpayment shall run from
163 the due date for the installment to whichever of the following dates is the earlier:

164 (A) the original due date of the [~~tax~~] return, without extensions, for the taxable year; or

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

166 (iii) For purposes of this Subsection [~~3~~] (5), a payment of estimated tax shall be credited
167 against unpaid required installments in the order in which the installments are required to be paid.

168 [~~4~~] (6) (a) In case of an extension of time to file [~~an individual income tax or corporate~~
169 ~~franchise tax~~] a return under Chapter 7, Corporate Franchise and Income Taxes, Chapter 8, Gross
170 Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax
171 Act, Chapter 8a, Gross Receipts Tax on Electrical Corporations Act, or Chapter 10, Individual
172 Income Tax Act, if the lesser of 90% of the total tax reported on the [~~tax~~] return or 100% of the
173 prior year's tax is not paid by the due date of the return, not including extensions, a 2% per month
174 penalty shall apply on the unpaid tax during the period of extension.

175 (b) If a return is not filed within the extension time period as provided in Section 59-7-505
176 or 59-10-516, penalties as provided in Subsection (1) [~~and~~], Subsection (2)(c), Subsection [~~2~~]
177 (3)(b), and Subsection (4)(c) shall be added in lieu of the penalty assessed under this Subsection
178 [~~4~~] (6) as if no extension of time for filing [~~a~~] the return had been granted.

179 [~~5~~] (7) (a) Additional penalties for underpayments of a tax, charge, or fee are as provided
180 in Subsections [~~5~~] (7)(a)(i) through (iv).

181 (i) Except as provided in Subsection [~~5~~] (7)(c), if any underpayment of a tax, charge, or
182 fee is due to negligence, the penalty is 10% of the underpayment.

183 (ii) Except as provided in Subsection [~~(5)~~] (7)(d), if any underpayment of a tax, charge, or
184 fee is due to intentional disregard of law or rule, the penalty is 15% of the underpayment.

185 (iii) For intent to evade [~~the~~] a tax, charge, or fee, the penalty is the greater of:

186 (A) \$500 per period; or

187 (B) 50% of the tax, charge, or fee due.

188 (iv) If the underpayment is due to fraud with intent to evade [~~the~~] a tax, charge, or fee, the
189 penalty is the greater of:

190 (A) \$500 per period; or

191 (B) 100% of the underpayment.

192 (b) If the commission determines that a person is liable for a penalty imposed under
193 Subsection [~~(5)~~] (7)(a)(ii), (iii), or (iv), the commission shall notify the taxpayer of the proposed
194 penalty.

195 (i) The notice of proposed penalty shall:

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

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

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

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

201 (B) proceed in accordance with the review procedures of Subsection [~~(5)~~] (7)(b)(iii).

202 (iii) Any person against whom a penalty has been proposed in accordance with this
203 Subsection [~~(5)~~] (7) may contest the proposed penalty by filing a petition for an adjudicative
204 proceeding with the commission.

205 (iv) (A) If the commission determines that a person is liable for a penalty under this
206 Subsection [~~(5)~~] (7), the commission shall:

207 (I) assess the penalty; and

208 (II) give notice and demand for payment.

209 (B) The notice and demand for payment under Subsection (7)(b)(iv)(A) shall be mailed
210 by registered mail, postage prepaid, to the person's last-known address.

211 (c) Notwithstanding Subsection [~~(5)~~] (7)(a)(i), a vendor that voluntarily collects a tax
212 under Subsection 59-12-107(1)(b) is not subject to the penalty under Subsection [~~(5)~~] (7)(a)(i) if
213 on or after July 1, 2001:

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

216 (A) the vendor meets one or more of the criteria described in Subsection 59-12-107(1)(a);
217 and

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

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

221 (A) the vendor meets one or more of the criteria described in Subsection 59-12-107(1)(a);
222 and

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

225 (d) Notwithstanding Subsection [~~(5)~~] (7)(a)(ii), a vendor that voluntarily collects a tax
226 under Subsection 59-12-107(1)(b) is not subject to the penalty under Subsection [~~(5)~~] (7)(a)(ii) if:

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

229 (I) the vendor meets one or more of the criteria described in Subsection 59-12-107(1)(a);
230 and

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

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

234 (I) the vendor meets one or more of the criteria described in Subsection 59-12-107(1)(a);
235 and

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

238 (ii) the vendor's intentional disregard of law or rule is warranted by existing law or by a
239 nonfrivolous argument for the extension, modification, or reversal of existing law or the
240 establishment of new law.

241 [~~(6)~~] (8) The penalty for failure to file an information return or a complete supporting
242 schedule is \$50 for each information return or supporting schedule up to a maximum of \$1,000.

243 [~~(7)~~] (9) If any [~~taxpayer~~] person, in furtherance of a frivolous position, has a prima facie
244 intent to delay or impede administration of the [~~tax~~] law and files a purported return that fails to

245 contain information from which the correctness of reported [~~tax~~] liability [~~can~~] for a tax, charge,
246 or fee may be determined or that clearly indicates that the [~~tax~~] liability shown for a tax, charge,
247 or fee must be substantially incorrect, the penalty is \$500.

248 [~~(8)~~] (10) For monthly payment of sales and use taxes under Section 59-12-108, in addition
249 to any other penalties for late payment, a vendor may not retain a percentage of sales and use taxes
250 collected as otherwise allowable under Section 59-12-108.

251 [~~(9)~~] (11) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as
252 provided in Subsections [~~(9)~~] (11)(b) through (d).

253 (b) (i) Any person who is required by this title or any laws the commission administers or
254 regulates to register with or obtain a license or permit from the commission, who operates without
255 having registered or secured a license or permit, or who operates when the registration, license, or
256 permit is expired or not current, is guilty of a class B misdemeanor.

257 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection [~~(9)~~] (11)(b)(i), the fine
258 may not:

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

260 (B) exceed \$1,000.

261 (c) (i) Any person who, with intent to evade any tax, charge, or fee or requirement of this
262 title or any lawful requirement of the commission, fails to make, render, sign, or verify any return
263 or to supply any information within the time required by law, or who makes, renders, signs, or
264 verifies any false or fraudulent return or statement, or who supplies any false or fraudulent
265 information, is guilty of a third degree felony.

266 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection [~~(9)~~] (11)(c)(i), the fine
267 may not:

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

269 (B) exceed \$5,000.

270 (d) (i) Any person who intentionally or willfully attempts to evade or defeat any tax,
271 charge, or fee or the payment of a tax, charge, or fee is, in addition to other penalties provided by
272 law, guilty of a second degree felony.

273 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection [~~(9)~~] (11)(d)(i), the fine
274 may not:

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

276 (B) exceed \$25,000.

277 (e) The statute of limitations for prosecution for a violation of this Subsection [~~(9)~~] (11)

278 is the later of six years:

279 (i) from the date the tax, charge, or fee should have been remitted; or

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

281 [~~(10)~~] (12) Upon making a record of its actions, and upon reasonable cause shown, the
282 commission may waive, reduce, or compromise any of the penalties or interest imposed under this
283 part.

284 (13) For purposes of this section, a tax, charge, or fee includes an amount similar to a tax,
285 charge, or fee that is administered by the commission.

286 Section 4. Section **59-1-402** is amended to read:

287 **59-1-402. Interest.**

288 (1) Notwithstanding Subsections (2) and (3), the rate of interest applicable to certain
289 installment sales for the purposes of the corporate franchise tax shall be determined pursuant to
290 Section 453A, Internal Revenue Code, as provided in Section 59-7-112.

291 (2) Except as otherwise provided for by law, the interest rate for a calendar year for all
292 taxes [~~and~~], charges, or fees administered by the commission shall be calculated based on the
293 federal short-term rate determined by the Secretary of the Treasury under Section 6621, Internal
294 Revenue Code, and in effect for the preceding fourth calendar quarter.

295 (3) The interest rate calculation shall be as follows:

296 (a) [~~It~~] in the case of overpayments and refunds, except as otherwise provided in
297 Subsection (6), simple interest shall be calculated at the rate of two percentage points above the
298 federal short-term rate[-]; or

299 (b) [~~It~~] in the case of underpayments, deficiencies, and delinquencies, simple interest shall
300 be calculated at the rate of two percentage points above the federal short-term rate.

301 (4) (a) If any overpayment of a tax, charge, or fee administered by the commission is
302 refunded within 90 days after the last date prescribed for filing the return of [~~such~~] the tax, charge,
303 or fee, no interest shall be allowed on the overpayment.

304 (b) If the return is filed after the last date prescribed for filing the return, no interest shall
305 be allowed on the overpayment if the overpayment is refunded within 90 days after the date the
306 return is filed.

307 (c) If a refund of an overpayment is requested, and if interest may be calculated in
308 accordance with this section, interest shall be calculated forward from the preparation date of the
309 refund document to allow for processing.

310 (5) Interest on any underpayment, deficiency, or delinquency of any tax, charge, or fee
311 administered by the [~~tax~~] commission shall be computed from the time the original return is due,
312 excluding any filing or payment extensions, to the date the payment is received.

313 (6) (a) Interest on refunds may not be paid on any overpayment which arises from a statute
314 which is determined to be invalid under state or federal law or declared unconstitutional under the
315 constitution of the United States or Utah if the basis for the refund is the retroactive application
316 of a judicial decision upholding the claim of unconstitutionality or the invalidation of a statute.

317 (b) For purposes of this Subsection (6):

318 (i) "Final judicial decision" means a final ruling by a court of this state or the United States
319 for which the time for any further review or proceeding has expired.

320 (ii) "Retroactive application of a judicial decision" means the application of a final judicial
321 decision which invalidates a state or federal taxation statute and which requires the state to provide
322 refunds for overpayments that were made prior to the final judicial decision or for overpayments
323 made during the 180-day period after the final judicial decision.

324 (7) This section does not apply to:

325 (a) Title 59, Chapter 2, except for Section 59-2-1309, Title 59, Chapter 3 or 4, or Chapter
326 13, Part 5;

327 (b) Title 41, Chapter 1a, except for Section 41-1a-301, or Title 41, Chapter 3.

328 (8) For purposes of this section, a tax, charge, or fee includes an amount similar to a tax,
329 charge, or fee that is administered by the commission.

330 Section 5. Section **69-2-5.5** is amended to read:

331 **69-2-5.5. Emergency services telephone charge to fund the Poison Control Center.**

332 (1) There is imposed an emergency services telephone charge of 7 cents per month on each
333 local exchange service switched access line and each revenue producing radio communications
334 access line that is subject to an emergency services telephone charge levied by a public agency
335 under Section 69-2-5.

336 (2) The emergency services telephone charge imposed under this section shall be:

337 (a) billed and collected by the corporation, person, or entity that provides local exchange

338 service switched access line services or radio communications access line services and remitted
339 monthly to the State Tax Commission; and

340 (b) deposited into the General Fund as dedicated credits to pay for:

341 (i) costs of establishing, installing, maintaining, and operating the University of Utah
342 Poison Control Center; and

343 (ii) expenses of the State Tax Commission to administer and enforce the collection of the
344 emergency services telephone charges.

345 (3) Funds for the University of Utah Poison Control Center program are nonlapsing.

346 (4) Emergency services telephone charges remitted to the State Tax Commission pursuant
347 to Subsection (2) shall be accompanied by ~~[the form prescribed]~~ a return developed by the
348 commission.

349 (5) The State Tax Commission may make rules to administer and enforce the collection
350 of emergency services telephone charges imposed under this section.

351 (6) A provider of local exchange service switched access line services or radio
352 communications access line services who fails to comply with this section is subject to penalties
353 and interest as provided in Sections 59-1-401 and 59-1-402.

354 (7) (a) Except as provided in Subsections (8) through (11), the State Tax Commission shall
355 assess a charge imposed under this section within three years after a provider of local exchange
356 service switched access line services or radio communications access line services files a return.

357 (b) Except as provided in Subsections (8) through (11), if the commission does not assess
358 a charge imposed under this section within the three-year period provided in Subsection (7)(a), the
359 commission may not commence a proceeding to collect the charge.

360 (8) Notwithstanding Subsection (7), the State Tax Commission may assess a charge at any
361 time if a provider of local exchange service switched access line services or radio communications
362 access line services:

363 (a) files a false or fraudulent return with intent to evade; or

364 (b) does not file a return.

365 (9) Notwithstanding Subsection (7), beginning on July 1, 1998, the State Tax Commission
366 may extend the period to make an assessment or commence a proceeding to collect the charge
367 imposed under this section if:

368 (a) the three-year period under Subsection (7) has not expired; and

369 (b) the commission and the provider of local exchange service switched access line
370 services or radio communications access line services sign a written agreement:

371 (i) authorizing the extension; and

372 (ii) providing for the length of the extension.

373 (10) If the State Tax Commission delays an audit at the request of a provider of local
374 exchange service switched access line services or radio communications access line services, the
375 commission may make an assessment as provided in Subsection (11) if:

376 (a) the provider of local exchange service switched access line services or radio
377 communications access line services subsequently refuses to agree to an extension request by the
378 commission; and

379 (b) the three-year period under Subsection (7) expires before the commission completes
380 the audit.

381 (11) An assessment under Subsection (10) shall be:

382 (a) for the time period for which the State Tax Commission could not make an assessment
383 because of the expiration of the three-year period; and

384 (b) in an amount equal to the difference between:

385 (i) the commission's estimate of the amount of the charge the provider of local exchange
386 service switched access line services or radio communications access line services would have
387 been assessed for the time period described in Subsection (11)(a); and

388 (ii) the amount of the charge the provider of local exchange service switched access line
389 services or radio communications access line services actually paid for the time period described
390 in Subsection (11)(a).

391 (12) (a) Except as provided in Subsection (12)(b), the State Tax Commission may not
392 make a credit or refund unless the provider of local exchange service switched access line services
393 or radio communications access line services files a claim with the commission within three years
394 of the date of overpayment.

395 (b) Notwithstanding Subsection (12)(a), beginning on July 1, 1998, the commission shall
396 extend the period for a provider of local exchange service switched access line services or radio
397 communications access line services to file a claim under Subsection (12)(a) if:

398 (i) the three-year period under Subsection (12)(a) has not expired; and

399 (ii) the commission and the provider of local exchange service switched access line

400 services or radio communications access line services sign a written agreement:

401 (A) authorizing the extension; and

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

403 Section 6. **Effective date.**

404 (1) Except as provided in Subsection (2), this act takes effect on January 1, 2003.

405 (2) Notwithstanding Subsection (1), this act takes effect for taxable years beginning on or
406 after January 1, 2003 for a return that is filed for a taxable year.

Legislative Review Note
as of 2-27-02 12:59 PM

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

Office of Legislative Research and General Counsel