

Representative Wayne A. Harper proposes the following substitute bill:

STREAMLINED SALES TAX PROJECT

AMENDMENTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Lyle W. Hillyard

This act modifies the Municipal Energy Sales and Use Tax Act and the Sales and Use Tax Act. The act provides and amends definitions. This act authorizes the State Tax Commission to enter into an agreement with one or more states relating to sales and use taxes. The act provides the purposes of the agreement and prescribes the scope of the agreement. The act grants the State Tax Commission rulemaking authority. The act provides that the agreement may require each state that is a member of the agreement to abide by certain requirements and establishes those requirements. The act modifies state and local sales and use tax rates for taxes collected by certain sellers. The act provides and modifies effective dates for state and local sales and use taxes. The act modifies requirements for enacting, repealing, or changing the tax rate of a local sales and use tax. The act repeals obsolete language. The act provides that revenues in the Remote Sales Restricted Account shall be deposited into the General Fund on a certain date. The act provides, modifies, and repeals sales and use tax exemptions. The act provides income tax credits for certain hand tools used in a farming operation. The act modifies requirements to report certain sales and use tax information to the State Tax Commission. The act modifies requirements pertaining to exemption certificates. The act amends provisions relating to the voluntary collection of sales and use taxes by a seller. The act addresses for certain sellers registered under the agreement the due dates for paying certain sales and use tax obligations and the requirements for calculating certain sales and use tax obligations. The act permits a seller or a seller's certified service



26 provider to deduct or file a refund claim for bad debt under certain circumstances. The
27 act addresses the recovery of bad debt. The act authorizes the commission to issue a
28 direct payment permit to certain sellers and provides procedures and requirements for
29 the State Tax Commission to issue or revoke a direct payment permit and for sellers to
30 use direct payment permits. The act addresses the sales and use tax treatment of certain
31 goods or services that will be concurrently available for use in more than one location.
32 The act addresses the collection, remittance, and payment of sales and use taxes on direct
33 mail. The act modifies provisions relating to filing sales and use tax returns and
34 retaining a portion of sales and use taxes collected. The act provides procedures and
35 requirements for a seller to obtain a refund or credit for taxes erroneously charged to a
36 purchaser. The act requires the State Tax Commission to grant a seller amnesty under
37 certain circumstances and provides procedures and requirements for granting amnesty.
38 The act modifies the procedures and requirements for determining the location of
39 transactions for certain sales and use taxes imposed by a county, city, or town. The act
40 provides that a county, city, or town may impose a sales or use tax on transactions located
41 within the county, city, or town. The act limits a seller's sales and use tax liability if the
42 seller relies on a database created by the State Tax Commission. The act addresses the
43 collection and distribution of local sales and use taxes. The act makes technical changes.
44 The act requires the Revenue and Taxation Interim Committee to conduct a study and
45 prescribes the scope of that study. The act provides an effective date.

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

47 AMENDS:

48 **10-1-304**, as last amended by Chapter 138, Laws of Utah 2002

49 **10-1-307**, as last amended by Chapter 305, Laws of Utah 1997

50 **17A-2-1064**, as last amended by Chapter 253, Laws of Utah 2000

51 **59-1-403**, as last amended by Chapters 52 and 175, Laws of Utah 2002

52 **59-12-102**, as last amended by Chapters 77, 117, 192 and 320, Laws of Utah 2002

53 **59-12-103**, as last amended by Chapter 2, Laws of Utah 2002, Sixth Special Session

54 **59-12-103.1**, as enacted by Chapter 253, Laws of Utah 2000

55 **59-12-103.2**, as last amended by Chapter 104, Laws of Utah 2001

56 **59-12-104**, as last amended by Chapters 117, 138, 217 and 286, Laws of Utah 2002

- 57 **59-12-104.1**, as last amended by Chapter 291, Laws of Utah 1998
- 58 **59-12-104.2**, as enacted by Chapter 243, Laws of Utah 2001
- 59 **59-12-105**, as last amended by Chapter 262, Laws of Utah 2001
- 60 **59-12-106**, as last amended by Chapter 253, Laws of Utah 2000
- 61 **59-12-107**, as last amended by Chapter 104, Laws of Utah 2001
- 62 **59-12-108**, as last amended by Chapter 289, Laws of Utah 1998
- 63 **59-12-110**, as last amended by Chapter 253, Laws of Utah 2000
- 64 **59-12-113**, as renumbered and amended by Chapter 5, Laws of Utah 1987
- 65 **59-12-115**, as renumbered and amended by Chapter 5, Laws of Utah 1987
- 66 **59-12-117**, as last amended by Chapter 9, Laws of Utah 2001
- 67 **59-12-204**, as last amended by Chapters 2 and 253, Laws of Utah 2000
- 68 **59-12-205**, as last amended by Chapters 2, 253 and 318, Laws of Utah 2000
- 69 **59-12-208.1**, as enacted by Chapter 319, Laws of Utah 2000
- 70 **59-12-210**, as enacted by Chapter 259, Laws of Utah 1994
- 71 **59-12-301**, as last amended by Chapter 207, Laws of Utah 2002
- 72 **59-12-302**, as last amended by Chapter 305, Laws of Utah 1997
- 73 **59-12-354**, as last amended by Chapter 319, Laws of Utah 2000
- 74 **59-12-355**, as enacted by Chapter 319, Laws of Utah 2000
- 75 **59-12-401**, as last amended by Chapter 253, Laws of Utah 2000
- 76 **59-12-402**, as last amended by Chapters 253 and 319, Laws of Utah 2000
- 77 **59-12-403**, as enacted by Chapter 319, Laws of Utah 2000
- 78 **59-12-501**, as last amended by Chapter 253, Laws of Utah 2000
- 79 **59-12-502**, as last amended by Chapter 217, Laws of Utah 2001
- 80 **59-12-504**, as enacted by Chapter 319, Laws of Utah 2000
- 81 **59-12-603**, as last amended by Chapter 11, Laws of Utah 2001, First Special Session
- 82 **59-12-703**, as last amended by Chapter 192, Laws of Utah 2001
- 83 **59-12-802**, as last amended by Chapters 104 and 226, Laws of Utah 2001
- 84 **59-12-804**, as last amended by Chapter 104, Laws of Utah 2001
- 85 **59-12-806**, as enacted by Chapter 319, Laws of Utah 2000
- 86 **59-12-901**, as last amended by Chapter 162, Laws of Utah 2001
- 87 **59-12-902**, as last amended by Chapters 104 and 162, Laws of Utah 2001

- 88 **59-12-1001**, as last amended by Chapter 101, Laws of Utah 2002
- 89 **59-12-1102**, as last amended by Chapters 253 and 319, Laws of Utah 2000
- 90 **59-12-1302**, as last amended by Chapters 253 and 319, Laws of Utah 2000
- 91 **59-12-1402**, as enacted by Chapter 192, Laws of Utah 2001

92 ENACTS:

- 93 **59-7-614.1**, Utah Code Annotated 1953
- 94 **59-10-134.1**, Utah Code Annotated 1953
- 95 **59-12-102.1**, Utah Code Annotated 1953
- 96 **59-12-107.1**, Utah Code Annotated 1953
- 97 **59-12-107.2**, Utah Code Annotated 1953
- 98 **59-12-107.3**, Utah Code Annotated 1953
- 99 **59-12-110.1**, Utah Code Annotated 1953
- 100 **59-12-121**, Utah Code Annotated 1953
- 101 **59-12-207.1**, Utah Code Annotated 1953
- 102 **59-12-207.2**, Utah Code Annotated 1953
- 103 **59-12-207.3**, Utah Code Annotated 1953
- 104 **59-12-207.4**, Utah Code Annotated 1953
- 105 **59-12-207.5**, Utah Code Annotated 1953
- 106 **59-12-356**, Utah Code Annotated 1953
- 107 **59-12-404**, Utah Code Annotated 1953
- 108 **59-12-505**, Utah Code Annotated 1953
- 109 **59-12-604**, Utah Code Annotated 1953
- 110 **59-12-706**, Utah Code Annotated 1953
- 111 **59-12-807**, Utah Code Annotated 1953
- 112 **59-12-1003**, Utah Code Annotated 1953
- 113 **59-12-1103**, Utah Code Annotated 1953
- 114 **59-12-1303**, Utah Code Annotated 1953
- 115 **59-12-1404**, Utah Code Annotated 1953

116 REPEALS:

- 117 **59-12-207**, as last amended by Chapters 157 and 320, Laws of Utah 2002

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

119 Section 1. Section **10-1-304** is amended to read:

120 **10-1-304. Municipality may levy tax -- Rate -- Imposition or repeal of tax -- Tax**
121 **rate change -- Effective date -- Notice requirements -- Exemptions.**

122 (1) Except as provided in Subsection (4), a municipality may levy a municipal energy
123 sales and use tax on the sale or use of taxable energy within the municipality:

124 (a) by ordinance as provided in Section 10-1-305; and

125 (b) of up to 6% of the delivered value of the taxable energy.

126 (2) A municipal energy sales and use tax imposed under this part may be in addition to
127 any [~~local option~~] sales and use tax imposed by the municipality [~~as provided in~~] under Title
128 59, Chapter 12, [~~Part 2, Local Sales and Use Tax Act~~] Sales and Use Tax Act.

129 (3) (a) For purposes of this Subsection (3):

130 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
131 4, Annexation.

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

133 (b) (i) If, on or after May 1, 2000, a city or town enacts or repeals a tax or changes the
134 rate of a tax under this part, the enactment, repeal, or change shall take effect:

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

136 (B) after a [~~75-day~~] 90-day period beginning on the date the commission receives
137 notice meeting the requirements of Subsection (3)(b)(ii) from the city or town.

138 (ii) The notice described in Subsection (3)(b)(i)(B) shall state:

139 (A) that the city or town will enact or repeal a tax or change the rate of a tax under this
140 part;

141 (B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);

142 (C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and

143 (D) if the city or town enacts the tax or changes the rate of the tax described in
144 Subsection (3)(b)(ii)(A), the new rate of the tax.

145 (c) (i) If, for an annexation that occurs on or after May 1, 2000, the annexation will
146 result in a change in the rate of a tax under this part for an annexing area, the change shall take
147 effect:

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

149 (B) after a [~~75-day~~] 90-day period beginning on the date the commission receives

150 notice meeting the requirements of Subsection (3)(c)(ii) from the city or town that annexes the
151 annexing area.

152 (ii) The notice described in Subsection (3)(c)(i)(B) shall state:

153 (A) that the annexation described in Subsection (3)(c)(i) will result in a change in the
154 rate of a tax under this part for the annexing area;

155 (B) the statutory authority for the tax described in Subsection (3)(c)(ii)(A);

156 (C) the effective date of the tax described in Subsection (3)(c)(ii)(A); and

157 (D) the new rate of the tax described in Subsection (3)(c)(ii)(A).

158 (4) Notwithstanding Subsection (1), a sale or use of electricity within a municipality is
159 exempt from the tax authorized by this section if the sale or use is:

160 (a) made under a tariff adopted by the Public Service Commission of Utah only for
161 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
162 source, as designated in the tariff by the Public Service Commission of Utah; and

163 (b) for an amount of electricity that is:

164 (i) unrelated to the amount of electricity used by the person purchasing the electricity
165 under the tariff described in Subsection (4)(a); and

166 (ii) equivalent to the number of kilowatthours specified in the tariff described in
167 Subsection (4)(a) that may be purchased under the tariff described in Subsection (4)(a).

168 Section 2. Section **10-1-307** is amended to read:

169 **10-1-307. Collection of taxes by commission -- Distribution of revenues -- Charge**
170 **for services -- Collection of taxes by municipality.**

171 (1) Except for the direct payment provisions provided in Subsection (3), the
172 commission shall collect, enforce, and administer the municipal energy sales and use tax from
173 energy suppliers according to the procedures established in Title 59, Chapter 12, Part 1, Tax
174 Collection.

175 (2) (a) Except as provided in Subsections 10-1-203(3)(d), 10-1-305(5), and
176 10-1-310(2), the commission shall pay a municipality the difference between:

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

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

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

183 (ii) [~~minus~~] the administration fee charged in accordance with Subsection (2)(c).

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

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

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

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

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

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

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

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

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

202 (4) An energy supplier paying a tax under this part directly to a municipality may retain
203 the percentage of the tax authorized under Subsection 59-12-108[~~(3)~~] (2) for the energy
204 supplier's costs of collecting and remitting the tax.

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

208 Section 3. Section **17A-2-1064** is amended to read:

209 **17A-2-1064. Airport to University of Utah Light Rail Restricted Account --**
210 **Creation -- Use of revenues.**

211 (1) There is created within the General Fund a restricted account known as the "Airport

212 to University of Utah Light Rail Restricted Account."

213 (2) The account shall be funded from the portion of the sales and use tax under

214 [~~Sections~~] Section 59-12-204 [~~and 59-12-205~~] that is:

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

218 (b) equal to the revenues generated by a 1/64% tax rate on the taxable transactions
219 under Subsection 59-12-103(1).

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

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

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

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

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

227 (A) for the Airport to University of Utah Light Rail project described in the
228 Transportation Equity Act for the 21st Century, Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II),
229 112 Stat. 107; and

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

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

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

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

237 Section 4. Section **59-1-403** is amended to read:

238 **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

239 (1) (a) Except as provided in this section, any of the following may not divulge or make
240 known in any manner any information gained by that person from any return filed with the
241 commission:

242 (i) a tax commissioner;

243 (ii) an agent, clerk, or other officer or employee of the commission; or
244 (iii) a representative, agent, clerk, or other officer or employee of any county, city, or
245 town.

246 (b) Except as provided in Subsection (1)(c), an official charged with the custody of a
247 return filed with the commission is not required to produce the return or evidence of anything
248 contained in the return in any action or proceeding in any court, except:

249 (i) in accordance with judicial order;

250 (ii) on behalf of the commission in any action or proceeding under:

251 (A) this title; or

252 (B) other law under which persons are required to file returns with the commission;

253 (iii) on behalf of the commission in any action or proceeding to which the commission
254 is a party; or

255 (iv) on behalf of any party to any action or proceeding under this title if the report or
256 facts shown by the return are directly involved in the action or proceeding.

257 (c) Notwithstanding Subsection (1)(b), a court may require the production of, and may
258 admit in evidence, any portion of a return or of the facts shown by the return, as are specifically
259 pertinent to the action or proceeding.

260 (2) This section does not prohibit:

261 (a) a person or that person's duly authorized representative from receiving a copy of
262 any return or report filed in connection with that person's own tax;

263 (b) the publication of statistics as long as the statistics are classified to prevent the
264 identification of particular reports or returns; and

265 (c) the inspection by the attorney general or other legal representative of the state of the
266 report or return of any taxpayer:

267 (i) who brings action to set aside or review a tax based on the report or return;

268 (ii) against whom an action or proceeding is contemplated or has been instituted under
269 this title; or

270 (iii) against whom the state has an unsatisfied money judgment.

271 (3) (a) Notwithstanding Subsection (1) and for purposes of administration, the
272 commission may by rule, made in accordance with Title 63, Chapter 46a, Utah Administrative
273 Rulemaking Act, provide for a reciprocal exchange of information with:

274 (i) the United States Internal Revenue Service; or

275 (ii) the revenue service of any other state.

276 (b) Notwithstanding Subsection (1) and for all taxes except individual income tax and
277 corporate franchise tax, the commission may by rule, made in accordance with Title 63,
278 Chapter 46a, Utah Administrative Rulemaking Act, share information gathered from returns
279 and other written statements with the federal government, any other state, any of the political
280 subdivisions of another state, or any political subdivision of this state, except as limited by
281 Sections 59-12-209 and 59-12-210, if these political subdivisions or the federal government
282 grant substantially similar privileges to this state.

283 (c) Notwithstanding Subsection (1) and for all taxes except individual income tax and
284 corporate franchise tax, the commission may by rule, in accordance with Title 63, Chapter 46a,
285 Utah Administrative Rulemaking Act, provide for the issuance of information concerning the
286 identity and other information of taxpayers who have failed to file tax returns or to pay any tax
287 due.

288 (d) Notwithstanding Subsection (1), the commission shall provide to the Solid and
289 Hazardous Waste Control Board executive secretary, as defined in Section 19-6-102, as
290 requested by the executive secretary, any records, returns, or other information filed with the
291 commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5
292 regarding the environmental assurance program participation fee.

293 (e) Notwithstanding Subsection (1), at the request of any person the commission shall
294 provide that person sales and purchase volume data reported to the commission on a report,
295 return, or other information filed with the commission under:

296 (i) Chapter 13, Part 2, Motor Fuel; or

297 (ii) Chapter 13, Part 4, Aviation Fuel.

298 (f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer,
299 as defined in Section 59-22-202, the commission shall report to the manufacturer:

300 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
301 manufacturer and reported to the commission for the previous calendar year under Section
302 59-14-407; and

303 (ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
304 manufacturer for which a tax refund was granted during the previous calendar year under

305 Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

306 (g) Notwithstanding Subsection (1), the commission shall notify manufacturers,
307 distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited
308 from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

309 (h) Notwithstanding Subsection (1), the commission may:

310 (i) provide to the Division of Consumer Protection within the Department of
311 Commerce and the attorney general data:

312 (A) reported to the commission under Section 59-14-212; or

313 (B) related to a violation under Section 59-14-211; and

314 (ii) upon request provide to any person data reported to the commission under
315 Subsections 59-14-212(1)(a) through(c) and Subsection 59-14-212(1)(g).

316 (i) Notwithstanding Subsection (1), the commission shall, at the request of a committee
317 of the Legislature, Office of the Legislative Fiscal Analyst, or Governor's Office of Planning
318 and Budget, provide to the committee or office the total amount of revenues collected by the
319 commission under Chapter 24, Radioactive Waste Tax Act, for the time period specified by the
320 committee or office.

321 (j) Notwithstanding Subsection (1), the commission shall at the request of the
322 Legislature provide to the Legislature the total amount of sales or uses exempt under
323 Subsection 59-12-104[~~(52)~~] (51) reported to the commission in accordance with Section
324 59-12-105.

325 (k) Notwithstanding Subsection (1), the commission shall make the list required by
326 Subsection 59-14-408(3) available for public inspection.

327 (4) (a) Reports and returns shall be preserved for at least three years.

328 (b) After the three-year period provided in Subsection (4)(a) the commission may
329 destroy a report or return.

330 (5) (a) Any person who violates this section is guilty of a class A misdemeanor.

331 (b) If the person described in Subsection (5)(a) is an officer or employee of the state,
332 the person shall be dismissed from office and be disqualified from holding public office in this
333 state for a period of five years thereafter.

334 (6) This part does not apply to the property tax.

335 Section 5. Section **59-7-614.1** is enacted to read:

336 **59-7-614.1. Refundable tax credit for hand tools used in farming operations --**
337 **Procedures for refund -- Transfers from General Fund to Uniform School Fund.**

338 (1) For taxable years beginning on or after January 1, 2004, a taxpayer may claim a
339 refundable tax credit:

340 (a) as provided in this section;

341 (b) against taxes otherwise due under this chapter; and

342 (c) in an amount equal to the amount of tax the taxpayer pays:

343 (i) on a purchase of a hand tool:

344 (A) if the purchase is made on or after July 1, 2004;

345 (B) if the hand tool is used or consumed primarily and directly in a farming operation
346 in the state; and

347 (C) if the unit purchase price of the hand tool is more than \$250; and

348 (ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection
349 (1)(c)(i).

350 (2) A taxpayer:

351 (a) shall retain the following to establish the amount of tax the resident or nonresident
352 individual paid under Chapter 12, Sales and Use Tax Act, on the purchase described in
353 Subsection (1)(c)(i):

354 (i) a receipt;

355 (ii) an invoice; or

356 (iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and

357 (b) may not carry forward or carry back a tax credit under this section.

358 (3) (a) In accordance with any rules prescribed by the commission under Subsection
359 (3)(b), the commission shall:

360 (i) make a refund to a taxpayer that claims a tax credit under this section if the amount
361 of the tax credit exceeds the taxpayer's tax liability under this chapter; and

362 (ii) transfer at least annually from the General Fund into the Uniform School Fund an
363 amount equal to the amount of tax credit claimed under this section.

364 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
365 commission may make rules providing procedures for making:

366 (i) a refund to a taxpayer as required by Subsection (3)(a)(i); or

367 (ii) transfers from the General Fund into the Uniform School Fund as required by
368 Subsection (3)(a)(ii).

369 Section 6. Section **59-10-134.1** is enacted to read:

370 **59-10-134.1. Refundable tax credit for hand tools used in farming operations --**

371 **Procedures for refund -- Transfers from General Fund to Uniform School Fund.**

372 (1) For taxable years beginning on or after January 1, 2004, a resident or nonresident
373 individual may claim a refundable tax credit:

374 (a) as provided in this section;

375 (b) against taxes otherwise due under this chapter; and

376 (c) in an amount equal to the amount of tax the resident or nonresident individual pays:

377 (i) on a purchase of a hand tool:

378 (A) if the purchase is made on or after July 1, 2004;

379 (B) if the hand tool is used or consumed primarily and directly in a farming operation
380 in the state; and

381 (C) if the unit purchase price of the hand tool is more than \$250; and

382 (ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection
383 (1)(c)(i).

384 (2) A resident or nonresident individual:

385 (a) shall retain the following to establish the amount of tax the resident or nonresident
386 individual paid under Chapter 12, Sales and Use Tax Act, on the purchase described in

387 Subsection (1)(c)(i):

388 (i) a receipt;

389 (ii) an invoice; or

390 (iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and

391 (b) may not carry forward or carry back a tax credit under this section.

392 (3) (a) In accordance with any rules prescribed by the commission under Subsection
393 (3)(b), the commission shall:

394 (i) make a refund to a resident or nonresident individual who claims a tax credit under
395 this section if the amount of the tax credit exceeds the resident or nonresident individual's tax
396 liability under this chapter; and

397 (ii) transfer at least annually from the General Fund into the Uniform School Fund an

398 amount equal to the amount of tax credit claimed under this section.

399 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
400 commission may make rules providing procedures for making:

401 (i) a refund to a resident or nonresident individual as required by Subsection (3)(a)(i);

402 or

403 (ii) transfers from the General Fund into the Uniform School Fund as required by
404 Subsection (3)(a)(ii).

405 Section 7. Section **59-12-102** is amended to read:

406 **59-12-102. Definitions.**

407 As used in this chapter:

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

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

411 (2) "Agreement" means the Streamlined Sales and Use Tax agreement described in
412 Section 59-12-102.1.

413 (3) "Agreement combined tax rate" means the sum of the tax rates:

414 (a) listed under Subsection (4); and

415 (b) that are imposed within a local taxing jurisdiction.

416 (4) "Agreement sales and use tax" means a tax imposed under:

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

418 (b) Section 59-12-204;

419 (c) Section 59-12-401;

420 (d) Section 59-12-402;

421 (e) Section 59-12-501;

422 (f) Section 59-12-502;

423 (g) Section 59-12-703;

424 (h) Section 59-12-802;

425 (i) Section 59-12-804;

426 (j) Section 59-12-1001;

427 (k) Section 59-12-1102;

428 (l) Section 59-12-1302; or

429 (m) Section 59-12-1402.

430 (5) "Alcoholic beverage" means a beverage that:

431 (a) is suitable for human consumption; and

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

433 [~~2~~] (6) "Area agency on aging" is as defined in Section 62A-3-101.

434 [~~3~~] (7) "Authorized carrier" means:

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

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

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

442 (8) "Certified automated system" means software certified by the governing board of
443 the agreement in accordance with Section 59-12-102.1 that:

444 (a) calculates the agreement sales and use tax imposed within a local taxing
445 jurisdiction:

446 (i) on a transaction; and

447 (ii) in the states that are members of the agreement;

448 (b) determines the amount of agreement sales and use tax to remit to a state that is a
449 member of the agreement; and

450 (c) maintains a record of the transaction described in Subsection (8)(a)(i).

451 (9) "Certified service provider" means an agent certified:

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

453 and

454 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
455 use tax.

456 (10) (a) Subject to Subsection (10)(b), "clothing" means all human wearing apparel
457 suitable for general use.

458 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
459 commission shall make rules:

460 (i) listing the items that constitute "clothing"; and
461 (ii) that are consistent with the list of items that constitute "clothing" under the
462 agreement.

463 [~~(4)~~] (11) (a) For purposes of Subsection 59-12-104[~~(43)~~] (42), "coin-operated
464 amusement device" means:
465 (i) a coin-operated amusement, skill, or ride device;
466 (ii) that is not controlled through [~~vendor-assisted~~] seller-assisted, over-the-counter,
467 sales of tokens; and
468 (iii) includes a music machine, pinball machine, billiard machine, video game machine,
469 arcade machine, and a mechanical or electronic skill game or ride.

470 (b) For purposes of Subsection 59-12-104[~~(43)~~] (42), "coin-operated amusement
471 device" does not mean a coin-operated amusement device possessing a coinage mechanism
472 that:
473 (i) accepts and registers multiple denominations of coins; and
474 (ii) allows the [~~vendor~~] seller to collect the sales and use tax at the time an amusement
475 device is activated and operated by a person inserting coins into the device.

476 [~~(5)~~] (12) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or
477 other fuels that does not constitute industrial use under Subsection [~~(13)~~] (30) or residential use
478 under Subsection [~~(23)~~] (52).

479 [~~(6)~~] (13) (a) "Common carrier" means a person engaged in or transacting the business
480 of transporting passengers, freight, merchandise, or other property for hire within this state.
481 (b) (i) "Common carrier" does not include a person who, at the time the person is
482 traveling to or from that person's place of employment, transports a passenger to or from the
483 passenger's place of employment.
484 (ii) For purposes of Subsection [~~(6)~~] (13)(b)(i), in accordance with Title 63, Chapter
485 46a, Utah Administrative Rulemaking Act, the commission may make rules defining what
486 constitutes a person's place of employment.

487 [~~(7)~~] (14) "Component part" includes:
488 (a) poultry, dairy, and other livestock feed, and their components;
489 (b) baling ties and twine used in the baling of hay and straw;
490 (c) fuel used for providing temperature control of orchards and commercial

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

493 (d) feed, seeds, and seedlings.

494 (15) "Computer" means an electronic device that accepts information:

495 (a) (i) in digital form; or

496 (ii) in a form similar to digital form; and

497 (b) manipulates that information for a result based on a sequence of instructions.

498 (16) "Computer software" means a set of coded instructions designed to cause:

499 (a) a computer to perform a task; or

500 (b) automatic data processing equipment to perform a task.

501 ~~(8)~~ (17) "Construction materials" means any tangible personal property that will be
502 converted into real property.

503 (18) "Delivered electronically" means delivered to a purchaser by means other than
504 tangible storage media.

505 (19) (a) "Delivery charge" means a charge:

506 (i) by a seller of:

507 (A) tangible personal property; or

508 (B) services; and

509 (ii) for preparation and delivery of the tangible personal property or services described
510 in Subsection (19)(a)(i) to a location designated by the purchaser.

511 (b) "Delivery charge" includes a charge for the following:

512 (i) transportation;

513 (ii) shipping;

514 (iii) postage;

515 (iv) handling;

516 (v) crating; or

517 (vi) packing.

518 (20) "Dietary supplement" means a product, other than tobacco, that:

519 (a) is intended to supplement the diet;

520 (b) contains one or more of the following dietary ingredients:

521 (i) a vitamin;

- 522 (ii) a mineral;
- 523 (iii) an herb or other botanical;
- 524 (iv) an amino acid;
- 525 (v) a dietary substance for use by humans to supplement the diet by increasing the total
526 dietary intake; or
- 527 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
528 described in Subsections (20)(b)(i) through (v);
- 529 (c) (i) except as provided in Subsection (20)(c)(ii), is intended for ingestion in:
- 530 (A) tablet form;
- 531 (B) capsule form;
- 532 (C) powder form;
- 533 (D) softgel form;
- 534 (E) gelcap form; or
- 535 (F) liquid form; or
- 536 (ii) notwithstanding Subsection (20)(c)(i), if the product is not intended for ingestion in
537 a form described in Subsections (20)(c)(i)(A) through (F), is not represented:
- 538 (A) as conventional food; and
- 539 (B) for use as a sole item of:
- 540 (I) a meal; or
- 541 (II) the diet; and
- 542 (d) is required to be labeled as a dietary supplement:
- 543 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 544 (ii) as required by 21 C.F.R. Sec. 101.36.
- 545 (21) (a) "Direct mail" means printed material delivered or distributed by United States
546 mail or other delivery service:
- 547 (i) to:
- 548 (A) a mass audience; or
- 549 (B) addressees on a mailing list provided by a purchaser of the mailing list; and
- 550 (ii) if the cost of the printed material is not billed directly to the recipients.
- 551 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
552 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

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

555 (22) (a) "Drug" means a compound, substance, or preparation, or a component of a
556 compound, substance, or preparation that is:

557 (i) recognized in:

558 (A) the official United States Pharmacopoeia;

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

560 (C) the official National Formulary; or

561 (D) a supplement to a publication listed in Subsections (22)(a)(i)(A) through (C);

562 (ii) intended for use in the:

563 (A) diagnosis of disease;

564 (B) cure of disease;

565 (C) mitigation of disease;

566 (D) treatment of disease; or

567 (E) prevention of disease; or

568 (iii) intended to affect:

569 (A) the structure of the body; or

570 (B) any function of the body.

571 (b) "Drug" does not include:

572 (i) food and food ingredients;

573 (ii) a dietary supplement;

574 (iii) an alcoholic beverage; or

575 (iv) a prosthetic device.

576 (23) (a) Except as provided in Subsection (23)(c), "durable medical equipment" means
577 equipment that:

578 (i) can withstand repeated use;

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

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

581 (iv) is not worn in or on the body; and

582 (v) is listed as eligible for payment under:

583 (A) Title XVIII of the federal Social Security Act; or

584 (B) the state plan for medical assistance under Title XIX of the federal Social Security
585 Act.

586 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
587 equipment described in Subsection (23)(a).

588 (c) Notwithstanding Subsection (23)(a), "durable medical equipment" does not include
589 mobility enhancing equipment.

590 (24) "Electronic" means:

591 (a) relating to technology; and

592 (b) having:

593 (i) electrical capabilities;

594 (ii) digital capabilities;

595 (iii) magnetic capabilities;

596 (iv) wireless capabilities;

597 (v) optical capabilities;

598 (vi) electromagnetic capabilities; or

599 (vii) capabilities similar to Subsections (24)(b)(i) through (vi).

600 (25) (a) "Food and food ingredients" means substances:

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

602 (A) liquid form;

603 (B) concentrated form;

604 (C) solid form;

605 (D) frozen form;

606 (E) dried form; or

607 (F) dehydrated form; and

608 (ii) that are:

609 (A) sold for:

610 (I) ingestion by humans; or

611 (II) chewing by humans; and

612 (B) consumed for the substance's:

613 (I) taste; or

614 (II) nutritional value.

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

616 (i) an alcoholic beverage;

617 (ii) tobacco; or

618 (iii) prepared food.

619 [~~9~~] (26) (a) "Fundraising sales" means sales:

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

621 (B) made by a school student;

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

623 materials, or provide transportation; and

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

625 (b) For purposes of Subsection [~~9~~] (26)(a)(iii), "officially sanctioned school activity"
626 means a school activity:

627 (i) that is conducted in accordance with a formal policy adopted by the school or school
628 district governing the authorization and supervision of fundraising activities;

629 (ii) that does not directly or indirectly compensate an individual teacher or other
630 educational personnel by direct payment, commissions, or payment in kind; and

631 (iii) the net or gross revenues from which are deposited in a dedicated account
632 controlled by the school or school district.

633 (27) "Governing board of the agreement" means the governing board of the agreement
634 that is:

635 (a) authorized to administer the agreement; and

636 (b) established in accordance with the agreement.

637 [~~10~~] (28) (a) "Hearing aid" means:

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

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

640 (II) correct impaired human hearing; and

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

642 (II) affixed behind the human ear;

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

644 (iii) a telephone amplifying device.

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

646 (i) except as provided in Subsection [~~(10)~~] (28)(a)(i)(B) or [~~(10)~~] (28)(a)(ii), an
647 instrument or device having an electronic component that is designed to be worn on the body;

648 (ii) except as provided in Subsection [~~(10)~~] (28)(a)(iii), an assistive listening device or
649 system designed to be used by one individual, including:

650 (A) a personal amplifying system;

651 (B) a personal FM system;

652 (C) a television listening system; or

653 (D) a device or system similar to a device or system described in Subsections [~~(10)~~]

654 (28)(b)(ii)(A) through (C); or

655 (iii) an assistive listening device or system designed to be used by more than one
656 individual, including:

657 (A) a device or system installed in:

658 (I) an auditorium;

659 (II) a church;

660 (III) a conference room;

661 (IV) a synagogue; or

662 (V) a theater; or

663 (B) a device or system similar to a device or system described in Subsections [~~(10)~~]

664 (28)(b)(iii)(A)(I) through (V).

665 [~~(11)~~] (29) (a) "Hearing aid accessory" means a hearing aid:

666 (i) component;

667 (ii) attachment; or

668 (iii) accessory.

669 (b) "Hearing aid accessory" includes:

670 (i) a hearing aid neck loop;

671 (ii) a hearing aid cord;

672 (iii) a hearing aid ear mold;

673 (iv) hearing aid tubing;

674 (v) a hearing aid ear hook; or

675 (vi) a hearing aid remote control.

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

677 (i) a component, attachment, or accessory designed to be used only with an:
678 (A) instrument or device described in Subsection ~~[(10)]~~ (28)(b)(i); or
679 (B) assistive listening device or system described in Subsection ~~[(10)]~~ (28)(b)(ii) or
680 (iii); or
681 (ii) a hearing aid battery.
682 ~~[(12)(a) Except as provided in Subsection (12)(c), "home medical equipment or~~
683 ~~supplies" means equipment or supplies that:]~~
684 ~~[(i) a licensed physician prescribes or authorizes in writing as necessary:]~~
685 ~~[(A) for the treatment of a medical illness or injury; or]~~
686 ~~[(B) to mitigate an impairment resulting from illness or injury;]~~
687 ~~[(ii) are used exclusively by the person for whom they are prescribed to serve a medical~~
688 ~~purpose; and]~~
689 ~~[(iii) are listed as eligible for payment under:]~~
690 ~~[(A) Title XVIII of the federal Social Security Act; or]~~
691 ~~[(B) the state plan for medical assistance under Title XIX of the federal Social Security~~
692 ~~Act;]~~
693 ~~[(b) "Home medical equipment or supplies" includes parts used in the repairs or~~
694 ~~renovations of equipment or supplies described in Subsection (12)(a).]~~
695 ~~[(c) Notwithstanding Subsection (12)(a), "home medical equipment or supplies" does~~
696 ~~not include:]~~
697 ~~[(i) equipment or supplies purchased by, for, or on behalf of any:]~~
698 ~~[(A) health care facility, as defined in Subsection (12)(d); or]~~
699 ~~[(B) one or more of the following for use in a professional practice:]~~
700 ~~[(I) a doctor;]~~
701 ~~[(H) a nurse; or]~~
702 ~~[(H) another health care provider;]~~
703 ~~[(ii) eyeglasses, contact lenses, or equipment to correct impaired vision; or]~~
704 ~~[(iii) hearing aids or hearing aid accessories.]~~
705 ~~[(d) For purposes of Subsection (12)(c)(i)(A), "health care facility" includes:]~~
706 ~~[(i) a clinic;]~~
707 ~~[(ii) a doctor's office; or]~~

708 [~~(iii)~~ a health care facility as defined in Section 26-21-2.]

709 [~~(13)~~] (30) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
710 or other fuels:

711 (a) in mining or extraction of minerals;

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

714 (i) commercial greenhouses;

715 (ii) irrigation pumps;

716 (iii) farm machinery;

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

719 (v) other farming activities;

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

723 (d) by a scrap recycler if:

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

727 (A) iron;

728 (B) steel;

729 (C) nonferrous metal;

730 (D) paper;

731 (E) glass;

732 (F) plastic;

733 (G) textile; or

734 (H) rubber; and

735 (ii) the new products under Subsection [~~(13)~~] (30)(d)(i) would otherwise be made with
736 nonrecycled materials.

737 (31) (a) "Lease" or "rental" means a transfer of possession or control of tangible
738 personal property for:

- 739 (i) (A) a fixed term; or
740 (B) an indeterminate term; and
741 (ii) consideration.
- 742 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
743 amount of consideration may be increased or decreased by reference to the amount realized
744 upon sale or disposition of the property as defined in 26 U.S.C. Sec. 7701(h)(1).
- 745 (c) "Lease" or "rental" does not include:
- 746 (i) a transfer of possession or control of property under a security agreement or
747 deferred payment plan that requires the transfer of title upon completion of the required
748 payments;
- 749 (ii) a transfer of possession or control of property under an agreement:
- 750 (A) that requires the transfer of title upon completion of required payments; and
751 (B) in which the payment of an option price does not exceed the greater of:
- 752 (I) \$100; or
753 (II) 1% of the total required payments; or
- 754 (iii) providing tangible personal property along with an operator for a fixed period of
755 time or an indeterminate period of time if the operator is necessary for equipment to perform as
756 designed.
- 757 (d) For purposes of Subsection (31)(c)(iii), an operator is necessary for equipment to
758 perform as designed if the operator's duties exceed the:
- 759 (i) set-up of tangible personal property;
760 (ii) maintenance of tangible personal property; or
761 (iii) inspection of tangible personal property.
- 762 (32) "Local taxing jurisdiction" means a:
- 763 (a) county that is authorized to impose an agreement sales and use tax;
764 (b) city that is authorized to impose an agreement sales and use tax; or
765 (c) town that is authorized to impose an agreement sales and use tax.
- 766 [~~(14)~~] (33) "Manufactured home" means any manufactured home or mobile home as
767 defined in Title 58, Chapter 56, Utah Uniform Building Standards Act.
- 768 [~~(15)~~] (34) For purposes of Subsection 59-12-104(14), "manufacturing facility" means:
- 769 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard

770 Industrial Classification Manual of the federal Executive Office of the President, Office of
771 Management and Budget; or

772 (b) a scrap recycler if:

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

776 (A) iron;

777 (B) steel;

778 (C) nonferrous metal;

779 (D) paper;

780 (E) glass;

781 (F) plastic;

782 (G) textile; or

783 (H) rubber; and

784 (ii) the new products under Subsection ~~[(15)]~~ (34)(b)(i) would otherwise be made with
785 nonrecycled materials.

786 ~~[(16) (a) "Medicine" means:]~~

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

790 ~~[(ii) any medicine dispensed to patients in a county or other licensed hospital if~~
791 ~~prescribed for that patient and dispensed by a registered pharmacist or administered under the~~
792 ~~direction of a physician; and]~~

793 ~~[(iii) any oxygen or stoma supplies prescribed by a physician or administered under the~~
794 ~~direction of a physician or paramedic;]~~

795 ~~[(b) "Medicine" does not include:]~~

796 ~~[(i) any auditory, prosthetic, ophthalmic, or ocular device or appliance; or]~~

797 ~~[(ii) any alcoholic beverage;]~~

798 ~~[(17)]~~ (35) "Mobile telecommunications service" is as defined in the Mobile
799 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

800 (36) (a) Except as provided in Subsection (36)(c), "mobility enhancing equipment"

801 means equipment that is:

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

804 (ii) appropriate for use in a:

805 (A) home; or

806 (B) motor vehicle;

807 (iii) not generally used by persons with normal mobility; and

808 (iv) listed as eligible for payment under:

809 (A) Title XVIII of the federal Social Security Act; or

810 (B) the state plan for medical assistance under Title XIX of the federal Social Security
811 Act.

812 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
813 the equipment described in Subsection (36)(a).

814 (c) Notwithstanding Subsection (36)(a), "mobility enhancing equipment" does not
815 include:

816 (i) a motor vehicle;

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

819 (iii) durable medical equipment; or

820 (iv) a prosthetic device.

821 (37) "Model 1 seller" means a seller that has selected a certified service provider as the
822 seller's agent to perform all of the seller's sales tax functions for agreement sales and use taxes.

823 (38) "Model 2 seller" means a seller that:

824 (a) except as provided in Subsection (38)(b), has selected a certified automated system
825 to perform the seller's sales tax functions for agreement sales and use taxes; and

826 (b) notwithstanding Subsection (38)(a), retains responsibility for remitting all of the
827 sales tax:

828 (i) collected by the seller; and

829 (ii) to the appropriate local taxing jurisdiction.

830 (39) (a) Subject to Subsection (39)(b), "model 3 seller" means a seller that has:

831 (i) sales in at least five states that are members of the agreement;

- 832 (ii) total annual sales revenues of at least \$500,000,000;
- 833 (iii) a proprietary system that calculates the amount of tax:
- 834 (A) for an agreement sales and use tax; and
- 835 (B) due to each local taxing jurisdiction; and
- 836 (iv) entered into a performance agreement with the governing board of the agreement.
- 837 (b) For purposes of Subsection (39)(a), "model 3 seller" includes an affiliated group of
- 838 sellers using the same proprietary system.

839 ~~[(18)]~~ (40) "Olympic merchandise" means tangible personal property bearing an
840 Olympic designation, emblem, insignia, mark, logo, service mark, symbol, terminology,
841 trademark, or other copyrighted or protected material, including:

- 842 (a) one or more of the following terms:
 - 843 (i) "Olympic";
 - 844 (ii) "Olympiad"; or
 - 845 (iii) "Citius Altius Fortius";
- 846 (b) the symbol of the International Olympic Committee, consisting of five interlocking
- 847 rings;
- 848 (c) the emblem of the International Olympic Committee Corporation;
- 849 (d) a United States Olympic Committee designation, emblem, insignia, mark, logo,
- 850 service mark, symbol, terminology, trademark, or other copyrighted or protected material;
- 851 (e) any emblem of the Olympic Winter Games of 2002 that is officially designated by
- 852 the Salt Lake Organizing Committee of the Olympic Winter Games of 2002; or
- 853 (f) the mascot of the Olympic Winter Games of 2002.

854 ~~[(19)]~~ (41) (a) "Other fuels" means products that burn independently to produce heat or
855 energy.

856 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
857 personal property.

858 ~~[(20)]~~ (42) "Person" includes any individual, firm, partnership, joint venture,
859 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
860 city, municipality, district, or other local governmental entity of the state, or any group or
861 combination acting as a unit.

862 ~~[(21)]~~ "Purchase price" means the amount paid or charged for tangible personal property

863 ~~or any other taxable transaction under Subsection 59-12-103(1), excluding only cash discounts~~
864 ~~taken or any excise tax imposed on the purchase price by the federal government.]~~

865 (43) (a) "Prepared food" means:

866 (i) food:

867 (A) sold in a heated state; or

868 (B) heated by a seller;

869 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
870 item; or

871 (iii) except as provided in Subsection (43)(c), food sold with an eating utensil provided
872 by the seller, including a:

873 (A) plate;

874 (B) knife;

875 (C) fork;

876 (D) spoon;

877 (E) glass;

878 (F) cup;

879 (G) napkin; or

880 (H) straw.

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

882 (i) food that a seller only:

883 (A) cuts;

884 (B) repackages; or

885 (C) pasteurizes; or

886 (ii) (A) the following:

887 (I) raw egg;

888 (II) raw fish;

889 (III) raw meat;

890 (IV) raw poultry; or

891 (V) a food containing an item described in Subsections (43)(b)(ii)(A)(I) through (IV);

892 and

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

894 Food and Drug Administration's Food Code that a consumer cook the items described in
895 Subsection (43)(b)(ii)(A) to prevent food borne illness.

896 (c) Notwithstanding Subsection (43)(a)(iii), an eating utensil provided by the seller
897 does not include the following used to transport the food:

898 (i) a container; or

899 (ii) packaging.

900 (44) "Prescription" means an order, formula, or recipe that is issued:

901 (a) (i) orally;

902 (ii) in writing;

903 (iii) electronically; or

904 (iv) by any other manner of transmission; and

905 (b) by a licensed practitioner authorized by the laws of a state.

906 (45) (a) Except as provided in Subsection (45)(b)(ii) or (iii), "prewritten computer
907 software" means computer software that is not designed and developed:

908 (i) by the author or other creator of the computer software; and

909 (ii) to the specifications of a specific purchaser.

910 (b) "Prewritten computer software" includes:

911 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
912 software is not designed and developed:

913 (A) by the author or other creator of the computer software; and

914 (B) to the specifications of a specific purchaser;

915 (ii) notwithstanding Subsection (45)(a), computer software designed and developed by
916 the author or other creator of the computer software to the specifications of a specific purchaser
917 if the computer software is sold to a person other than the purchaser; or

918 (iii) notwithstanding Subsection (45)(a) and except as provided in Subsection (45)(c),
919 prewritten computer software or a prewritten portion of prewritten computer software:

920 (A) that is modified or enhanced to any degree; and

921 (B) if the modification or enhancement described in Subsection (45)(b)(iii)(A) is
922 designed and developed to the specifications of a specific purchaser.

923 (c) Notwithstanding Subsection (45)(b)(iii), "prewritten computer software" does not
924 include a modification or enhancement described in Subsection (45)(b)(iii) if the charges for

925 the modification or enhancement are:

926 (i) reasonable; and

927 (ii) separately stated on the invoice or other statement of price provided to the
928 purchaser.

929 (46) (a) "Prosthetic device" means a device that is:

930 (i) worn on or in the body to:

931 (A) artificially replace a missing portion of the body;

932 (B) prevent or correct a physical deformity or physical malfunction; or

933 (C) support a weak or deformed portion of the body; and

934 (ii) listed as eligible for payment under:

935 (A) Title XVIII of the federal Social Security Act; or

936 (B) the state plan for medical assistance under Title XIX of the federal Social Security
937 Act.

938 (b) "Prosthetic device" includes:

939 (i) parts used in the repairs or renovation of a prosthetic device; or

940 (ii) replacement parts for a prosthetic device.

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

942 (i) corrective eyeglasses;

943 (ii) contact lenses;

944 (iii) hearing aids; or

945 (iv) dental prostheses.

946 (47) (a) "Protective equipment" means an item:

947 (i) for human wear; and

948 (ii) that is:

949 (A) designed as protection:

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

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

952 (B) not suitable for general use.

953 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
954 commission shall make rules:

955 (i) listing the items that constitute "protective equipment"; and

956 (ii) that are consistent with the list of items that constitute "protective equipment"
957 under the agreement.

958 (48) (a) "Purchase price" and "sales price" mean the total amount of consideration:

959 (i) valued in money; and

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

961 (A) sold;

962 (B) leased; or

963 (C) rented.

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

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

966 (ii) expenses of the seller, including:

967 (A) the cost of materials used;

968 (B) a labor cost;

969 (C) a service cost;

970 (D) interest;

971 (E) a loss;

972 (F) the cost of transportation to the seller; or

973 (G) a tax imposed on the seller;

974 (iii) a charge by the seller for any service necessary to complete the sale;

975 (iv) a delivery charge; or

976 (v) an installation charge.

977 (c) "Purchase price" and "sales price" do not include:

978 (i) a discount:

979 (A) in a form including:

980 (I) cash;

981 (II) term; or

982 (III) coupon;

983 (B) that is allowed by a seller;

984 (C) taken by a purchaser on a sale; and

985 (D) that is not reimbursed by a third party; or

986 (ii) the following if separately stated on an invoice, bill of sale, or similar document

987 provided to the purchaser:

988 (A) the amount of a trade-in;

989 (B) the following from credit extended on the sale of tangible personal property or
990 services:

991 (I) interest charges;

992 (II) financing charges; or

993 (III) carrying charges; or

994 (C) a tax or fee legally imposed directly on the consumer.

995 (49) "Purchaser" means a person to whom:

996 (a) a sale of tangible personal property is made; or

997 (b) a service is furnished.

998 ~~[(22)]~~ (50) "Regularly rented" means:

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

1000 (b) advertised or held out to the public as a place that is regularly rented to guests for
1001 value.

1002 (51) "Rental" is as defined in Subsection (31).

1003 ~~[(23)]~~ (52) "Residential use" means the use in or around a home, apartment building,
1004 sleeping quarters, and similar facilities or accommodations.

1005 ~~[(24) (a) "Retail sale" means any sale within the state of tangible personal property or~~
1006 ~~any other taxable transaction under Subsection 59-12-103(1), other than resale of such~~
1007 ~~property, item, or service by a retailer or wholesaler to a user or consumer.]~~

1008 ~~[(b) "Retail sale" includes sales by any farmer or other agricultural producer of poultry,~~
1009 ~~eggs, or dairy products to consumers if the sales have an average monthly sales value of \$125~~
1010 ~~or more.]~~

1011 ~~[(c) "Retail sale" does not include, and no additional sales or use tax shall be assessed~~
1012 ~~against, those transactions where a purchaser of tangible personal property pays applicable~~
1013 ~~sales or use taxes on its initial nonexempt purchases of property and then enters into a~~
1014 ~~sale-leaseback transaction by which title to such property is transferred by the purchaser-lessee~~
1015 ~~to a lessor for consideration, provided:]~~

1016 ~~[(i) the transaction is intended as a form of financing for the property to the~~
1017 ~~purchaser-lessee; and]~~

1018 ~~[(ii) pursuant to generally accepted accounting principles, the purchaser-lessee is~~
1019 ~~required to capitalize the subject property for financial reporting purposes, and account for the~~
1020 ~~lease payments as payments made under a financing arrangement.]~~

1021 (53) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1022 than:

1023 (a) resale;

1024 (b) sublease; or

1025 (c) subrent.

1026 ~~[(25)]~~ (54) (a) "Retailer" means any person engaged in a regularly organized [retail]
1027 business in tangible personal property or any other taxable transaction under Subsection
1028 59-12-103(1), and who is selling to the user or consumer and not for resale.

1029 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1030 engaged in the business of selling to users or consumers within the state.

1031 ~~[(c) "Retailer" does not include farmers, gardeners, stockmen, poultrymen, or other~~
1032 ~~growers or agricultural producers producing and doing business on their own premises, except~~
1033 ~~those who are regularly engaged in the business of buying or selling for a profit.]~~

1034 ~~[(d) For purposes of this chapter the commission may regard as retailers the following~~
1035 ~~if they determine it is necessary for the efficient administration of this chapter: salesmen,~~
1036 ~~representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, or~~
1037 ~~employers under whom they operate or from whom they obtain the tangible personal property~~
1038 ~~sold by them, irrespective of whether they are making sales on their own behalf or on behalf of~~
1039 ~~these dealers, distributors, supervisors, or employers, except that:]~~

1040 ~~[(i) a printer's facility with which a retailer has contracted for printing shall not be~~
1041 ~~considered to be a salesman, representative, peddler, canvasser, or agent of the retailer; and]~~

1042 ~~[(ii) the ownership of property that is located at the premises of a printer's facility with~~
1043 ~~which the retailer has contracted for printing and that consists of the final printed product,~~
1044 ~~property that becomes a part of the final printed product, or copy from which the printed~~
1045 ~~product is produced, shall not result in the retailer being deemed to have or maintain an office,~~
1046 ~~distribution house, sales house, warehouse, service enterprise, or other place of business, or to~~
1047 ~~maintain a stock of goods, within this state.]~~

1048 ~~[(26)]~~ (55) (a) "Sale" means any transfer of title, exchange, or barter, conditional or

1049 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1050 Subsection 59-12-103(1), for consideration. [H]

1051 (b) "Sale" includes:

1052 [~~a~~] (i) installment and credit sales;

1053 [~~b~~] (ii) any closed transaction constituting a sale;

1054 [~~c~~] (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1055 chapter;

1056 [~~d~~] (iv) any transaction if the possession of property is transferred but the seller
1057 retains the title as security for the payment of the price; and

1058 [~~e~~] (v) any transaction under which right to possession, operation, or use of any
1059 article of tangible personal property is granted under a lease or contract and the transfer of
1060 possession would be taxable if an outright sale were made.

1061 (56) "Sale at retail" is as defined in Subsection (53).

1062 (57) "Sale-leaseback transaction" means a transaction by which title to tangible
1063 personal property that is subject to a tax under this chapter is transferred:

1064 (a) by a purchaser-lessee;

1065 (b) to a lessor;

1066 (c) for consideration; and

1067 (d) if:

1068 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1069 of the tangible personal property;

1070 (ii) the sale of the tangible personal property to the lessor is intended as a form of
1071 financing:

1072 (A) for the property; and

1073 (B) to the purchaser-lessee; and

1074 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1075 is required to:

1076 (A) capitalize the property for financial reporting purposes; and

1077 (B) account for the lease payments as payments made under a financing arrangement.

1078 (58) "Sales price" is as defined in Subsection (48).

1079 [~~27~~] (59) (a) "Sales relating to schools" means the following sales by, amounts paid

1080 to, or amounts charged by a school:

1081 (i) sales that are directly related to the school's educational functions or activities

1082 including:

1083 (A) the sale of:

1084 (I) textbooks;

1085 (II) textbook fees;

1086 (III) laboratory fees;

1087 (IV) laboratory supplies; or

1088 (V) safety equipment;

1089 (B) the sale of ~~clothing~~ a uniform, protective equipment, or sports or recreational

1090 equipment that:

1091 (I) a student is specifically required to wear as a condition of participation in a

1092 school-related event or school-related activity; and

1093 (II) is not readily adaptable to general or continued usage to the extent that it takes the

1094 place of ordinary clothing;

1095 (C) sales of ~~food~~ the following if the net or gross revenues generated by the ~~food~~

1096 sales are deposited into a school district fund or school fund dedicated to school meals~~;~~ or:

1097 (I) food and food ingredients; or

1098 (II) prepared food; or

1099 (D) transportation charges for official school activities; or

1100 (ii) amounts paid to or amounts charged by a school for admission to a school-related

1101 event or school-related activity.

1102 (b) "Sales relating to schools" does not include:

1103 (i) bookstore sales of items that are not educational materials or supplies;

1104 (ii) except as provided in Subsection ~~[(27)]~~ (59)(a)(i)(B)~~[-clothing; or]~~:

1105 (A) clothing;

1106 (B) clothing accessories or equipment;

1107 (C) protective equipment; or

1108 (D) sports or recreational equipment; or

1109 (iii) amounts paid to or amounts charged by a school for admission to a school-related

1110 event or school-related activity if the amounts paid or charged are passed through to a person:

- 1111 (A) other than a:
- 1112 (I) school;
- 1113 (II) nonprofit organization authorized by a school board or a governing body of a
- 1114 private school to organize and direct a competitive secondary school activity; or
- 1115 (III) nonprofit association authorized by a school board or a governing body of a
- 1116 private school to organize and direct a competitive secondary school activity; and
- 1117 (B) that is required to collect sales and use taxes under this chapter.
- 1118 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1119 commission may make rules defining the term "passed through."
- 1120 [~~(28)~~] (60) For purposes of this section and Section 59-12-104, "school" means:
- 1121 (a) an elementary school or a secondary school that:
- 1122 (i) is a:
- 1123 (A) public school; or
- 1124 (B) private school; and
- 1125 (ii) provides instruction for one or more grades kindergarten through 12; or
- 1126 (b) a public school district.
- 1127 (61) "Seller" means a person that makes a sale, lease, or rental of:
- 1128 (a) tangible personal property; or
- 1129 (b) a service.
- 1130 [~~(29)~~] (62) (a) "Semiconductor fabricating or processing materials" means tangible
- 1131 personal property:
- 1132 (i) used primarily in the process of:
- 1133 (A) (I) manufacturing a semiconductor; or
- 1134 (II) fabricating a semiconductor; or
- 1135 (B) maintaining an environment suitable for a semiconductor; or
- 1136 (ii) consumed primarily in the process of:
- 1137 (A) (I) manufacturing a semiconductor; or
- 1138 (II) fabricating a semiconductor; or
- 1139 (B) maintaining an environment suitable for a semiconductor.
- 1140 (b) "Semiconductor fabricating or processing materials" includes:
- 1141 (i) parts used in the repairs or renovations of tangible personal property described in

1142 Subsection [~~(29)~~] (62)(a); or
1143 (ii) a chemical, catalyst, or other material used to:
1144 (A) produce or induce in a semiconductor a:
1145 (I) chemical change; or
1146 (II) physical change;
1147 (B) remove impurities from a semiconductor; or
1148 (C) improve the marketable condition of a semiconductor.
1149 [~~(30)~~] (63) "Senior citizen center" means a facility having the primary purpose of
1150 providing services to the aged as defined in Section 62A-3-101.
1151 (64) (a) "Sports or recreational equipment" means an item:
1152 (i) designed for human use; and
1153 (ii) that is:
1154 (A) worn in conjunction with:
1155 (I) an athletic activity; or
1156 (II) a recreational activity; and
1157 (B) not suitable for general use.
1158 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1159 commission shall make rules:
1160 (i) listing the items that constitute "sports or recreational equipment"; and
1161 (ii) that are consistent with the list of items that constitute "sports or recreational
1162 equipment" under the agreement.
1163 [~~(31)~~] (65) "State" means the state of Utah, its departments, and agencies.
1164 [~~(32)~~] (66) "Storage" means any keeping or retention of tangible personal property or
1165 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
1166 except sale in the regular course of business.
1167 [~~(33)~~] (67) (a) "Tangible personal property" means[:] personal property that:
1168 (i) may be:
1169 (A) seen;
1170 (B) weighed;
1171 (C) measured;
1172 (D) felt; or

1173 (E) touched; or
1174 (ii) is in any manner perceptible to the senses.
1175 (b) "Tangible personal property" includes:
1176 (i) electricity;
1177 (ii) water;
1178 (iii) gas;
1179 (iv) steam; or
1180 (v) prewritten computer software.
1181 [~~(i) all goods, wares, merchandise, produce, and commodities;~~]
1182 [~~(ii) all tangible or corporeal things and substances which are dealt in or capable of~~
1183 ~~being possessed or exchanged;]~~
1184 [~~(iii) water in bottles, tanks, or other containers; and]~~
1185 [~~(iv) all other physically existing articles or things, including property severed from~~
1186 ~~real estate.]~~
1187 ~~[(b) "Tangible personal property" does not include:]~~
1188 ~~[(i) real estate or any interest or improvements in real estate;]~~
1189 ~~[(ii) bank accounts, stocks, bonds, mortgages, notes, and other evidence of debt;]~~
1190 ~~[(iii) insurance certificates or policies;]~~
1191 ~~[(iv) personal or governmental licenses;]~~
1192 ~~[(v) water in pipes, conduits, ditches, or reservoirs;]~~
1193 ~~[(vi) currency and coinage constituting legal tender of the United States or of a foreign~~
1194 ~~nation; and]~~
1195 ~~[(vii) all gold, silver, or platinum ingots, bars, medallions, or decorative coins, not~~
1196 ~~constituting legal tender of any nation, with a gold, silver, or platinum content of not less than~~
1197 ~~80%.]~~
1198 ~~[(34)] (68) (a) For purposes of Subsection [~~(35)] (69) and Section 59-12-103,~~~~
1199 "telephone service" means a two-way transmission:
1200 (i) by:
1201 (A) wire;
1202 (B) radio;
1203 (C) lightwave; or

- 1204 (D) other electromagnetic means; and
1205 (ii) of one or more of the following:
1206 (A) a sign;
1207 (B) a signal;
1208 (C) writing;
1209 (D) an image;
1210 (E) sound;
1211 (F) a message;
1212 (G) data; or
1213 (H) other information of any nature.
1214 (b) "Telephone service" includes:
1215 (i) ~~cellular telephone~~ mobile telecommunications service;
1216 (ii) private communications service; or
1217 (iii) automated digital telephone answering service.
1218 (c) "Telephone service" does not include a service or a transaction that a state or a
1219 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
1220 Tax Freedom Act, Pub. L. No. 105-277.
1221 ~~(35)~~ (69) (a) "Telephone service provider" means a person that:
1222 (i) owns, controls, operates, or manages a telephone service; and
1223 (ii) engages in an activity described in Subsection ~~(35)~~ (69)(a)(i) for the shared use
1224 with or resale to any person of the telephone service.
1225 (b) A person described in Subsection ~~(35)~~ (69)(a) is a telephone service provider
1226 whether or not the Public Service Commission of Utah regulates:
1227 (i) that person; or
1228 (ii) the telephone service that the person owns, controls, operates, or manages.
1229 (70) "Tobacco" means:
1230 (a) a cigarette;
1231 (b) a cigar;
1232 (c) chewing tobacco;
1233 (d) pipe tobacco; or
1234 (e) any other item that contains tobacco.

1235 ~~[(36)]~~ (71) (a) "Use" means the exercise of any right or power over tangible personal
1236 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that
1237 property, item, or service.

1238 (b) "Use" does not include the sale, display, demonstration, or trial of that property in
1239 the regular course of business and held for resale.

1240 ~~[(37)]~~ (72) "Vehicle" means any aircraft, as defined in Section 72-10-102; any vehicle,
1241 as defined in Section 41-1a-102; any off-highway vehicle, as defined in Section 41-22-2; and
1242 any vessel, as defined in Section 41-1a-102; that is required to be titled, registered, or both.
1243 "Vehicle," for purposes of Subsection 59-12-104~~[(36)]~~ (35) only, also includes any locomotive,
1244 freight car, railroad work equipment, or other railroad rolling stock.

1245 ~~[(38)]~~ (73) "Vehicle dealer" means a person engaged in the business of buying, selling,
1246 or exchanging vehicles as defined in Subsection ~~[(37)]~~ (72).

1247 ~~[(39)]~~ (a) "Vendor" means any person receiving any payment or consideration upon a
1248 sale of tangible personal property or any other taxable transaction under Subsection
1249 59-12-103(1), or to whom the payment or consideration is payable.]

1250 ~~[(b)]~~ "Vendor" does not mean a printer's facility described in Subsection (25)(d).]

1251 Section 8. Section **59-12-102.1** is enacted to read:

1252 **59-12-102.1. Authority to enter into agreement.**

1253 (1) The commission may:

1254 (a) enter into the agreement described in Subsection (2) with one or more states to:

1255 (i) simplify and modernize agreement sales and use tax administration in order to
1256 substantially reduce the burden of sales and use tax compliance for all sellers and for all types
1257 of commerce;

1258 (ii) establish standards for certification of a:

1259 (A) certified service provider; and

1260 (B) certified automated system; and

1261 (iii) act jointly with other states that are members of the agreement to establish
1262 performance standards for multistate sellers; and

1263 (b) take other actions reasonably required to implement the provisions of the
1264 agreement:

1265 (i) if those actions are not in conflict with statute; and

- 1266 (ii) subject to Subsection (1)(b)(i), including:
1267 (A) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
1268 adopting administrative rules; and
1269 (B) in furtherance of the agreement, jointly procuring goods or services with other
1270 states that are members of the agreement.
1271 (2) The agreement the commission may enter into under Subsection (1), may require
1272 each state that is a member of the agreement to abide by the following requirements:
1273 (a) establish restrictions to achieve over time more uniform state sales and use tax rates
1274 by:
1275 (i) limiting the number of sales and use tax rates within the state;
1276 (ii) limiting the application of maximums on the amount of sales and use tax that is due
1277 on a transaction; and
1278 (iii) limiting the application of thresholds on the application of sales and use taxes;
1279 (b) establish uniform standards for:
1280 (i) the sourcing of transactions to local taxing jurisdictions;
1281 (ii) the administration of exempt sales;
1282 (iii) the allowance a seller may take for bad debts; and
1283 (iv) agreement sales and use tax:
1284 (A) returns; and
1285 (B) remittances;
1286 (c) develop and adopt uniform definitions:
1287 (i) of sales and use tax terms; and
1288 (ii) that enable each state to preserve the state's ability to make policy choices
1289 consistent with the uniform definitions;
1290 (d) provide a central, electronic registration system that allows a seller to register to
1291 collect and remit agreement sales and use tax for all states that are members of the agreement;
1292 (e) require that the following may not be used as a factor in determining whether a
1293 seller has sufficient contacts with a state to be required to collect a sales or use tax:
1294 (i) registration with a central registration system; or
1295 (ii) the collection of sales or use taxes in the states that are members of the agreement;
1296 (f) reduce the burdens of collecting and remitting local sales and use taxes by:

- 1297 (i) restricting variances between transactions that are subject to state sales and use tax
1298 and transactions that are subject to local sales and use taxes;
- 1299 (ii) requiring states to administer any agreement sales and use tax imposed by a local
1300 taxing jurisdiction within the state so that a seller that collects or remits the agreement sales
1301 and use tax will not have to:
- 1302 (A) register with the local taxing jurisdiction;
1303 (B) file a return with the local taxing jurisdiction;
1304 (C) remit funds to the local taxing jurisdiction; or
1305 (D) be subject to an independent audit by a local taxing jurisdiction;
- 1306 (iii) restricting the frequency of changes in sales and use tax rates for an agreement
1307 sales and use tax imposed by a local taxing jurisdiction;
- 1308 (iv) establishing effective dates for the application of a change in a local taxing
1309 jurisdiction boundary to an agreement sales and use tax imposed by the local taxing
1310 jurisdiction; and
- 1311 (v) providing notice of a change in:
- 1312 (A) a sales and use tax rate for an agreement sales and use tax imposed by a local
1313 taxing jurisdiction; and
- 1314 (B) a boundary of a local taxing jurisdiction;
- 1315 (g) provide a monetary allowance to a seller or certified service provider;
- 1316 (h) (i) certify compliance with the terms of the agreement prior to entering into the
1317 agreement; and
- 1318 (ii) maintain compliance with all of the provisions of the agreement:
- 1319 (A) during the time period that the state is a member of the agreement; and
1320 (B) under the laws of the state entering into the agreement;
- 1321 (i) adopt a uniform policy for certified service providers that:
- 1322 (i) protects the privacy of consumers; and
1323 (ii) maintains the confidentiality of tax information;
- 1324 (j) appoint the following advisory councils:
- 1325 (i) a council consisting of private sector representatives to consult with in the
1326 administration of the agreement; and
- 1327 (ii) a council consisting of state government representatives to consult with in the

1328 administration of the agreement;

1329 (k) (i) require that a certified service provider is the agent of a seller with whom the
1330 certified service provider has contracted for the collection and remittance of agreement sales
1331 and use tax; and

1332 (ii) except as provided in Subsection (2)(l), require that the certified service provider
1333 that is the seller's agent is liable for agreement sales and use tax due:

1334 (A) to each state that is a member of the agreement; and

1335 (B) on all agreement sales and use tax transactions that the certified service provider
1336 processes for the seller;

1337 (l) notwithstanding Subsection (2)(k), require that:

1338 (i) a seller that contracts with a certified service provider is not liable to the state for
1339 agreement sales and use tax due on a transaction processed by the certified service provider or
1340 subject to audit on a transaction processed by the certified service provider unless the seller:

1341 (A) misrepresented the type of items the seller sells; or

1342 (B) committed fraud;

1343 (ii) a seller is subject to audit for transactions not processed by the certified service
1344 provider; and

1345 (iii) the states that are members of the agreement acting jointly may perform a system
1346 check of a seller or review a seller's procedures to determine:

1347 (A) if a certified service provider's system is functioning properly; or

1348 (B) the extent to which a seller's transactions are being processed by a certified service
1349 provider;

1350 (m) require that:

1351 (i) a person that provides a certified automated system is:

1352 (A) responsible for the proper functioning of that certified automated system; and

1353 (B) liable to the state for underpayments of agreement sales and use tax attributable to
1354 errors in the functioning of the certified automated system; and

1355 (ii) a seller that uses a certified automated system remains responsible for and is liable
1356 to the state for reporting, collecting, and remitting agreement sales and use tax; and

1357 (n) require that a seller that has a proprietary system for determining the amount of
1358 agreement sales and use tax due on a transaction and has signed an agreement with the

1359 commission establishing a performance standard for that proprietary system is liable for the
1360 failure of the proprietary system to meet the performance standard.

1361 (3) The agreement described in this section:

1362 (a) is an accord among individual cooperating sovereigns in furtherance of the
1363 cooperating sovereigns' governmental functions; and

1364 (b) provides a mechanism among the states that are members of the agreement to
1365 establish and maintain a cooperative, simplified system for the application and administration
1366 of sales and use tax under laws adopted by each state that is a member of the agreement.

1367 (4) (a) The agreement described in this section may bind and inure only to the benefit
1368 of this state and other states that are members of the agreement.

1369 (b) A person, other than a state that is a member of the agreement, is not an intended
1370 beneficiary of the agreement.

1371 (c) Any benefit of the agreement to a person other than a state is established by the law
1372 of this state and the laws of other states that are members of the agreement and not by the terms
1373 of the agreement.

1374 (5) (a) Subject to Subsection (4), a person may not have a cause of action or defense:

1375 (i) under the agreement; or

1376 (ii) as a result of this state's approval of the agreement.

1377 (b) A person may not challenge, in any action brought under any provision of law, an
1378 action or inaction:

1379 (i) by:

1380 (A) a department;

1381 (B) an agency;

1382 (C) a commission;

1383 (D) an entity of the state other than an entity described in Subsections (5)(b)(i)(A)
1384 through (C); or

1385 (E) a political subdivision of the state; and

1386 (ii) on the ground that the action or inaction is inconsistent with the agreement.

1387 (c) A law of this state, or the application of a law of this state, may not be declared
1388 invalid as to any person or circumstance on the ground that the law or application is
1389 inconsistent with the agreement.

1390 Section 9. Section **59-12-103** is amended to read:

1391 **59-12-103. Sales and use tax base -- Rate -- Use of sales and use tax revenues.**

1392 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
1393 charged for the following transactions:

1394 (a) retail sales of tangible personal property made within the state;

1395 (b) amounts paid:

1396 (i) (A) to a common carrier; or

1397 (B) whether the following are municipally or privately owned, to a:

1398 (I) telephone service provider; or

1399 (II) telegraph corporation as defined in Section 54-2-1; and

1400 (ii) for:

1401 (A) all transportation;

1402 (B) telephone service, other than mobile telecommunications service, that originates
1403 and terminates within the boundaries of this state;

1404 (C) mobile telecommunications service that originates and terminates within the
1405 boundaries of one state only to the extent permitted by the Mobile Telecommunications

1406 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

1407 (D) telegraph service;

1408 (c) sales of the following for commercial use:

1409 (i) gas;

1410 (ii) electricity;

1411 (iii) heat;

1412 (iv) coal;

1413 (v) fuel oil; or

1414 (vi) other fuels;

1415 (d) sales of the following for residential use:

1416 (i) gas;

1417 (ii) electricity;

1418 (iii) heat;

1419 (iv) coal;

1420 (v) fuel oil; or

- 1421 (vi) other fuels;
- 1422 (e) sales of [~~meats~~] prepared food;
- 1423 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
1424 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
1425 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
1426 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
1427 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
1428 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
1429 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
1430 horseback rides, sports activities, or any other amusement, entertainment, recreation,
1431 exhibition, cultural, or athletic activity;
- 1432 (g) amounts paid or charged for services:
- 1433 (i) for repairs or renovations of tangible personal property, unless Section 59-12-104
1434 provides for an exemption from sales and use tax for:
- 1435 (A) the tangible personal property; and
- 1436 (B) parts used in the repairs or renovations of the tangible personal property described
1437 in Subsection (1)(g)(i)(A), whether or not any parts are actually used in the repairs or
1438 renovations of that tangible personal property; or
- 1439 (ii) to install tangible personal property in connection with other tangible personal
1440 property, unless the tangible personal property being installed is exempt from sales and use tax
1441 under Section 59-12-104;
- 1442 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
1443 cleaning or washing of tangible personal property;
- 1444 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
1445 accommodations and services that are regularly rented for less than 30 consecutive days;
- 1446 (j) amounts paid or charged for laundry or dry cleaning services;
- 1447 (k) amounts paid or charged for leases or rentals of tangible personal property if:
- 1448 (i) the tangible personal property's situs is in this state;
- 1449 (ii) the lessee took possession of the tangible personal property in this state; or
- 1450 (iii) within this state the tangible personal property is:
- 1451 (A) stored;

1452 (B) used; or
1453 (C) otherwise consumed;
1454 (l) amounts paid or charged for tangible personal property if within this state the
1455 tangible personal property is:
1456 (i) stored;
1457 (ii) used; or
1458 (iii) consumed; and
1459 (m) amounts paid or charged for prepaid telephone calling cards.
1460 (2) (a) Except as provided in [~~Subsections~~] Subsection (2)(b) [~~and (c)~~], beginning on
1461 July 1, 2001, a state tax and a local tax is imposed on a transaction described in Subsection (1)
1462 equal to the sum of:
1463 (i) a state tax imposed on the transaction at a rate of 4.75%; and
1464 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1465 transaction under this chapter other than this part.
1466 (b) Notwithstanding Subsection (2)(a), beginning on July 1, 2001, a state tax and a
1467 local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:
1468 (i) a state tax imposed on the transaction at a rate of 2%; and
1469 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1470 transaction under this chapter other than this part.
1471 [~~(c) Notwithstanding Subsections (2)(a) and (b), beginning on July 1, 2001, if a vendor~~
1472 ~~collects a tax under Subsection 59-12-107(1)(b) on a transaction described in Subsection (1), a~~
1473 ~~state tax and a local tax is imposed on the transaction equal to the sum of:]
1474 [~~(i) a state tax imposed on the transaction at a rate of:]~~
1475 [~~(A) 4.75% for a transaction other than a transaction described in Subsection (1)(d); or]~~
1476 [~~(B) 2% for a transaction described in Subsection (1)(d); and]~~
1477 [~~(ii) except as provided in Subsection (2)(d), a local tax imposed on the transaction at a~~
1478 ~~rate equal to the sum of the following tax rates:]~~
1479 [~~(A) (I) the lowest tax rate imposed by a county, city, or town under Section 59-12-204,~~
1480 ~~but only if all of the counties, cities, and towns in the state impose the tax under Section~~
1481 ~~59-12-204; or]~~
1482 [~~(H) the lowest tax rate imposed by a county, city, or town under Section 59-12-205,~~~~

1483 but only if all of the counties, cities, and towns in the state impose the tax under Section
1484 59-12-205; and]

1485 [~~(B) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the~~
1486 ~~state impose the tax under Section 59-12-1102.~~]

1487 [~~(d) Tax rates authorized under the following do not apply to Subsection (2)(c)(ii):~~

1488 [~~(i) Subsection (2)(a)(i);~~

1489 [~~(ii) Subsection (2)(b)(i);~~

1490 [~~(iii) Subsection (2)(c)(i);~~

1491 [~~(iv) Section 59-12-301;~~

1492 [~~(v) Section 59-12-352;~~

1493 [~~(vi) Section 59-12-353;~~

1494 [~~(vii) Section 59-12-401;~~

1495 [~~(viii) Section 59-12-402;~~

1496 [~~(ix) Section 59-12-501;~~

1497 [~~(x) Section 59-12-502;~~

1498 [~~(xi) Section 59-12-603;~~

1499 [~~(xii) Section 59-12-703;~~

1500 [~~(xiii) Section 59-12-802;~~

1501 [~~(xiv) Section 59-12-804;~~

1502 [~~(xv) Section 59-12-1001;~~

1503 [~~(xvi) Section 59-12-1201; or~~

1504 [~~(xvii) Section 59-12-1302.~~]

1505 (c) Subject to Subsections (2)(d) and (e), a tax rate change for a tax rate imposed under
1506 the following shall take effect on the first day of a calendar quarter:

1507 (i) Subsection (2)(a)(i); or

1508 (ii) Subsection (2)(b)(i).

1509 (d) (i) For a transaction described in Subsection (2)(d)(iii), a tax rate increase shall take
1510 effect on the first day of the first billing period:

1511 (A) that begins after the effective date of the tax rate increase; and

1512 (B) if the billing period for the transaction begins before the effective date of a tax rate
1513 increase imposed under:

- 1514 (I) Subsection (2)(a)(i); or
1515 (II) Subsection (2)(b)(i).
1516 (ii) For a transaction described in Subsection (2)(d)(iii), a tax rate decrease shall take
1517 effect on the first day of the last billing period:
1518 (A) that began before the effective date of the tax rate decrease; and
1519 (B) if the billing period for the transaction begins before the effective date of a tax rate
1520 decrease imposed under:
1521 (I) Subsection (2)(a)(i); or
1522 (II) Subsection (2)(b)(i).
1523 (iii) Subsections (2)(d)(i) and (ii) apply to transactions subject to a tax under:
1524 (A) Subsection 59-12-103(1)(b);
1525 (B) Subsection 59-12-103(1)(c);
1526 (C) Subsection 59-12-103(1)(d);
1527 (D) Subsection 59-12-103(1)(e);
1528 (E) Subsection 59-12-103(1)(f);
1529 (F) Subsection 59-12-103(1)(g);
1530 (G) Subsection 59-12-103(1)(h);
1531 (H) Subsection 59-12-103(1)(i);
1532 (I) Subsection 59-12-103(1)(j); or
1533 (J) Subsection 59-12-103(1)(k).
1534 (e) (i) If a tax due under Subsection (2)(a)(i) on a catalogue sale is computed on the
1535 basis of sales and use tax rates published in the catalogue, a change in a tax rate imposed under
1536 Subsection (2)(a)(i) takes effect:
1537 (A) on the first day of a calendar quarter; and
1538 (B) beginning 60 days after the effective date of the tax rate change under Subsection
1539 (2)(a)(i).
1540 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
1541 the commission may by rule define the term "catalogue sale."
1542 (3) (a) Except as provided in Subsections (4) through (7) and (9), the following state
1543 taxes shall be deposited into the General Fund:
1544 (i) the tax imposed by Subsection (2)(a)(i); or

1545 (ii) the tax imposed by Subsection (2)(b)(i)[; and].

1546 [~~(iii) the tax imposed by Subsection (2)(c)(i).~~]

1547 (b) The local taxes described in Subsections (2)(a)(ii) and (2)(b)(ii) shall be distributed
1548 to a county, city, or town as provided in this chapter.

1549 [~~(c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the
1550 state shall receive the county's, city's, or town's proportionate share of the revenues generated
1551 by the local tax described in Subsection (2)(c)(ii) as provided in Subsection (3)(c)(ii).~~]

1552 [~~(ii) The commission shall determine a county's, city's, or town's proportionate share of
1553 the revenues under Subsection (3)(c)(i) by:~~]

1554 [~~(A) calculating an amount equal to:~~]

1555 [~~(I) the population of the county, city, or town; divided by]~~

1556 [~~(H) the total population of the state; and]~~

1557 [~~(B) multiplying the amount determined under Subsection (3)(c)(ii)(A) by the total
1558 amount of revenues generated by the local tax under Subsection (2)(c)(ii) for all counties,
1559 cities, and towns.~~]

1560 [~~(iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for
1561 purposes of this section shall be derived from the most recent official census or census estimate
1562 of the United States Census Bureau.~~]

1563 [~~(B) Notwithstanding Subsection (3)(c)(iii)(A), if a needed population estimate is not
1564 available from the United States Census Bureau, population figures shall be derived from the
1565 estimate from the Utah Population Estimates Committee created by executive order of the
1566 governor.~~]

1567 [~~(C) For purposes of this section, the population of a county may only include the
1568 population of the unincorporated areas of the county.~~]

1569 [~~(4) (a) Notwithstanding Subsection (3)(a), there shall be deposited in an Olympics
1570 special revenue fund or funds as determined by the Division of Finance under Section 51-5-4,
1571 for the use of the Utah Sports Authority created under Title 63A, Chapter 7, Utah Sports
1572 Authority Act.~~]

1573 [~~(i) from January 1, 1990, through December 31, 1999, the amount of sales and use tax
1574 generated by a 1/64% tax rate on the taxable transactions under Subsection (1);]~~

1575 [~~(ii) from January 1, 1990, through June 30, 1999, the amount of revenue generated by~~

1576 a 1/64% tax rate under Section 59-12-204 or Section 59-12-205 on the taxable transactions
1577 under Subsection (1); and]

1578 [(iii) interest earned on the amounts under Subsections (4)(a)(i) and (ii).]
1579 [(b) These funds shall be used:]
1580 [(i) by the Utah Sports Authority as follows:]
1581 [(A) to the extent funds are available, to transfer directly to a debt service fund or to
1582 otherwise reimburse to the state any amount expended on debt service or any other cost of any
1583 bonds issued by the state to construct any public sports facility as defined in Section
1584 63A-7-103;]
1585 [(B) to pay for the actual and necessary operating, administrative, legal, and other
1586 expenses of the Utah Sports Authority, but not including protocol expenses for seeking and
1587 obtaining the right to host the Winter Olympic Games;]
1588 [(C) as otherwise appropriated by the Legislature; and]
1589 [(D) unless the Legislature appropriates additional funds from the Olympics Special
1590 Revenue Fund to the Utah Sports Authority, the Utah Sports Authority may not expend, loan,
1591 or pledge in the aggregate more than:]
1592 [(I) \$59,000,000 of sales and use tax deposited into the Olympics Special Revenue
1593 Fund under Subsection (4)(a);]
1594 [(H) the interest earned on the amount described in Subsection (4)(b)(i)(D)(I); and]
1595 [(III) the revenues deposited into the Olympics Special Revenue Fund that are not sales
1596 and use taxes deposited under Subsection (4)(a) or interest on the sales and use taxes;]
1597 [(ii) to pay salary, benefits, or administrative costs associated with the State Olympic
1598 Officer under Subsection 63A-10-103(3), except that the salary, benefits, or administrative
1599 costs may not be paid from the sales and use tax revenues generated by municipalities or
1600 counties and deposited under Subsection (4)(a)(ii).]
1601 [(c) A payment of salary, benefits, or administrative costs under Subsection
1602 63A-10-103(3) is not considered an expenditure of the Utah Sports Authority.]
1603 [(d) If the Legislature appropriates additional funds under Subsection (4)(b)(i)(D), the
1604 authority may not expend, loan, pledge, or enter into any agreement to expend, loan, or pledge
1605 the appropriated funds unless the authority:]
1606 [(i) contracts in writing for the full reimbursement of the monies to the Olympics

1607 ~~Special Revenue Fund by a public sports entity or other person benefitting from the~~
1608 ~~expenditure; and]~~

1609 ~~[(ii) obtains a security interest that secures payment or performance of the obligation to~~
1610 ~~reimburse;]~~

1611 ~~[(e) A contract or agreement entered into in violation of Subsection (4)(d) is void.]~~

1612 ~~[(5)]~~ (4) (a) (i) Notwithstanding Subsection (3)(a) and except as provided in Subsection
1613 ~~[(H)]~~ (9), for fiscal year 2002-03 only, the lesser of the following amounts shall be transferred
1614 or deposited as provided in Subsections ~~[(5)]~~ (4)(a)(ii) through (vii):

1615 (A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1616 (I) by a 1/16% tax rate on the transactions described in Subsection (1); and

1617 (II) for fiscal year 2002-03; or

1618 (B) \$18,743,000.

1619 (ii) (A) For fiscal year 2002-03 only, \$2,300,000 of the amount described in Subsection
1620 ~~[(5)]~~ (4)(a)(i) shall be transferred as dedicated credits to the Department of Natural Resources
1621 to:

1622 (I) implement the measures described in Subsections 63-34-14(4)(a) through (d) to
1623 protect sensitive plant and animal species; or

1624 (II) award grants, up to the amount authorized by the Legislature in an appropriations
1625 act, to political subdivisions of the state to implement the measures described in Subsections
1626 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

1627 (B) Money transferred to the Department of Natural Resources under Subsection ~~[(5)]~~
1628 (4)(a)(ii)(A) may not be used to assist the United States Fish and Wildlife Service or any other
1629 person to list or attempt to have listed a species as threatened or endangered under the
1630 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

1631 (C) At the end of fiscal year 2002-03:

1632 (I) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1633 Conservation and Development Fund created in Section 73-10-24;

1634 (II) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1635 Program Subaccount created in Section 73-10c-5; and

1636 (III) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1637 Program Subaccount created in Section 73-10c-5.

1638 (iii) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection [~~(5)~~]
1639 (4)(a)(i) shall be deposited in the Agriculture Resource Development Fund created in Section
1640 4-18-6.

1641 (iv) (A) For fiscal year 2002-03 only, \$100,000 of the amount described in Subsection
1642 [~~(5)~~] (4)(a)(i) shall be transferred as dedicated credits to the Division of Water Rights to cover
1643 the costs incurred in hiring legal and technical staff for the adjudication of water rights.

1644 (B) At the end of fiscal year 2002-03:

1645 (I) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1646 Conservation and Development Fund created in Section 73-10-24;

1647 (II) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1648 Program Subaccount created in Section 73-10c-5; and

1649 (III) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1650 Program Subaccount created in Section 73-10c-5.

1651 (v) (A) For fiscal year 2002-03 only, 50% of the amount described in Subsection [~~(5)~~]
1652 (4)(a)(i) that remains after making the transfers and deposits required by Subsections [~~(5)~~]
1653 (4)(a)(ii) through (iv) shall be deposited in the Water Resources Conservation and
1654 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

1655 (B) In addition to the uses allowed of the Water Resources Conservation and
1656 Development Fund under Section 73-10-24, the Water Resources Conservation and
1657 Development Fund may also be used to:

1658 (I) provide a portion of the local cost share, not to exceed in fiscal year 2002-03 50%
1659 of the funds made available to the Division of Water Resources under this section, of potential
1660 project features of the Central Utah Project;

1661 (II) conduct hydrologic and geotechnical investigations by the Department of Natural
1662 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
1663 quantifying surface and ground water resources and describing the hydrologic systems of an
1664 area in sufficient detail so as to enable local and state resource managers to plan for and
1665 accommodate growth in water use without jeopardizing the resource;

1666 (III) fund state required dam safety improvements; and

1667 (IV) protect the state's interest in interstate water compact allocations, including the
1668 hiring of technical and legal staff.

1669 (vi) For fiscal year 2002-03 only, 25% of the amount described in Subsection [~~(5)~~
1670 ~~(4)~~(a)(i) that remains after making the transfers and deposits required by Subsections [~~(5)~~
1671 ~~(4)~~(a)(ii) through (iv) shall be deposited in the Utah Wastewater Loan Program Subaccount
1672 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1673 (vii) For fiscal year 2002-03 only, 25% of the amount described in Subsection [~~(5)~~
1674 ~~(4)~~(a)(i) that remains after making the transfers and deposits required by Subsections [~~(5)~~
1675 ~~(4)~~(a)(ii) through (iv) shall be deposited in the Drinking Water Loan Program Subaccount
1676 created in Section 73-10c-5 for use by the Division of Drinking Water to:

1677 (A) provide for the installation and repair of collection, treatment, storage, and
1678 distribution facilities for any public water system, as defined in Section 19-4-102;

1679 (B) develop underground sources of water, including springs and wells; and

1680 (C) develop surface water sources.

1681 (b) (i) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1682 2003, the lesser of the following amounts shall be used as provided in Subsections [~~(5)~~

1683 ~~(4)~~(b)(ii) through (vii):

1684 (A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1685 (I) by a 1/16% tax rate on the transactions described in Subsection (1); and

1686 (II) for the fiscal year; or

1687 (B) \$17,500,000.

1688 (ii) (A) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
1689 described in Subsection [~~(5)~~ ~~(4)~~(b)(i) shall be transferred each year as dedicated credits to the
1690 Department of Natural Resources to:

1691 (I) implement the measures described in Subsections 63-34-14(4)(a) through (d) to
1692 protect sensitive plant and animal species; or

1693 (II) award grants, up to the amount authorized by the Legislature in an appropriations
1694 act, to political subdivisions of the state to implement the measures described in Subsections
1695 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

1696 (B) Money transferred to the Department of Natural Resources under Subsection [~~(5)~~
1697 ~~(4)~~(b)(ii)(A) may not be used to assist the United States Fish and Wildlife Service or any other
1698 person to list or attempt to have listed a species as threatened or endangered under the
1699 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

1700 (C) At the end of each fiscal year:
1701 (I) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1702 Conservation and Development Fund created in Section 73-10-24;
1703 (II) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1704 Program Subaccount created in Section 73-10c-5; and
1705 (III) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1706 Program Subaccount created in Section 73-10c-5.
1707 (iii) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
1708 Subsection [~~5~~] (4)(b)(i) shall be deposited each year in the Agriculture Resource
1709 Development Fund created in Section 4-18-6.
1710 (iv) (A) For a fiscal year beginning on or after July 1, 2003, 1% of the amount
1711 described in Subsection [~~5~~] (4)(b)(i) shall be transferred each year as dedicated credits to the
1712 Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the
1713 adjudication of water rights.
1714 (B) At the end of each fiscal year:
1715 (I) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1716 Conservation and Development Fund created in Section 73-10-24;
1717 (II) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1718 Program Subaccount created in Section 73-10c-5; and
1719 (III) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1720 Program Subaccount created in Section 73-10c-5.
1721 (v) (A) For a fiscal year beginning on or after July 1, 2003, 41% of the amount
1722 described in Subsection [~~5~~] (4)(b)(i) shall be deposited in the Water Resources Conservation
1723 and Development Fund created in Section 73-10-24 for use by the Division of Water
1724 Resources.
1725 (B) In addition to the uses allowed of the Water Resources Conservation and
1726 Development Fund under Section 73-10-24, the Water Resources Conservation and
1727 Development Fund may also be used to:
1728 (I) provide a portion of the local cost share, not to exceed in any fiscal year 50% of the
1729 funds made available to the Division of Water Resources under this section, of potential project
1730 features of the Central Utah Project;

1731 (II) conduct hydrologic and geotechnical investigations by the Department of Natural
1732 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
1733 quantifying surface and ground water resources and describing the hydrologic systems of an
1734 area in sufficient detail so as to enable local and state resource managers to plan for and
1735 accommodate growth in water use without jeopardizing the resource;

1736 (III) fund state required dam safety improvements; and

1737 (IV) protect the state's interest in interstate water compact allocations, including the
1738 hiring of technical and legal staff.

1739 (vi) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1740 in Subsection [~~(5)~~] (4)(b)(i) shall be deposited in the Utah Wastewater Loan Program
1741 Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater
1742 projects.

1743 (vii) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount
1744 described in Subsection [~~(5)~~] (4)(b)(i) shall be deposited in the Drinking Water Loan Program
1745 Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

1746 (A) provide for the installation and repair of collection, treatment, storage, and
1747 distribution facilities for any public water system, as defined in Section 19-4-102;

1748 (B) develop underground sources of water, including springs and wells; and

1749 (C) develop surface water sources.

1750 [~~(6)~~] (5) (a) (i) Notwithstanding Subsection (3)(a), for fiscal year 2002-03 only, the
1751 lesser of the following amounts shall be transferred or deposited as provided in Subsections
1752 [~~(6)~~] (5)(a)(ii) through (iv):

1753 (A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1754 (I) by a 1/16% tax rate on the transactions described in Subsection (1); and

1755 (II) for the fiscal year; or

1756 (B) \$18,743,000.

1757 (ii) (A) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection
1758 [~~(6)~~] (5)(a)(i) shall be deposited in the Transportation Corridor Preservation Revolving Loan
1759 Fund created in Section 72-2-117.

1760 (B) At least 50% of the money deposited in the Transportation Corridor Preservation
1761 Revolving Loan Fund under Subsection [~~(6)~~] (5)(a)(ii)(A) shall be used to fund loan

1762 applications made by the Department of Transportation at the request of local governments.

1763 (iii) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection [~~(6)~~]
1764 (5)(a)(i) shall be transferred as nonlapsing dedicated credits to the Department of
1765 Transportation for the State Park Access Highways Improvement Program created in Section
1766 72-3-207.

1767 (iv) For fiscal year 2002-03 only, the amount described in Subsection [~~(6)~~] (5)(a)(i) that
1768 remains after making the transfers and deposits required by Subsections [~~(6)~~] (5)(a)(ii) and (iii)
1769 shall be deposited in the class B and class C roads account to be expended as provided in Title
1770 72, Chapter 2, Transportation Finances Act, for the use of class B and C roads.

1771 (b) (i) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1772 2003, the lesser of the following amounts shall be used as provided in Subsections [~~(6)~~]
1773 (5)(b)(ii) through (iv):

1774 (A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1775 (I) by a 1/16% tax rate on the transactions described in Subsection (1); and

1776 (II) for the fiscal year; or

1777 (B) \$18,743,000.

1778 (ii) (A) For a fiscal year beginning on or after July 1, 2003, 3% of the amount
1779 described in Subsection [~~(6)~~] (5)(b)(i) shall be deposited each year in the Transportation
1780 Corridor Preservation Revolving Loan Fund created in Section 72-2-117.

1781 (B) At least 50% of the money deposited in the Transportation Corridor Preservation
1782 Revolving Loan Fund under Subsection [~~(6)~~] (5)(b)(ii)(A) shall be used to fund loan
1783 applications made by the Department of Transportation at the request of local governments.

1784 (iii) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
1785 Subsection [~~(6)~~] (5)(b)(i) shall be transferred each year as nonlapsing dedicated credits to the
1786 Department of Transportation for the State Park Access Highways Improvement Program
1787 created in Section 72-3-207.

1788 (iv) For a fiscal year beginning on or after July 1, 2003, 94% of the amount described
1789 in Subsection [~~(6)~~] (5)(b)(i) shall be deposited in the class B and class C roads account to be
1790 expended as provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class
1791 B and C roads.

1792 [~~(7)~~-(a)] (6) Notwithstanding Subsection (3)(a), beginning on January 1, 2000, the

1793 Division of Finance shall deposit into the Centennial Highway Fund created in Section
1794 72-2-118 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
1795 by a 1/64% tax rate on the taxable transactions under Subsection (1).

1796 ~~[(b) Except for sales and use taxes deposited under Subsection (8), beginning on July~~
1797 ~~1, 1999, the revenues generated by the 1/64% tax rate:]~~

1798 ~~[(i) retained under Subsection 59-12-204(7)(a) shall be retained by the counties, cities,~~
1799 ~~or towns as provided in Section 59-12-204; and]~~

1800 ~~[(ii) retained under Subsection 59-12-205(4)(a) shall be distributed to each county, city,~~
1801 ~~and town as provided in Section 59-12-205:]~~

1802 ~~[(8)]~~ (7) Notwithstanding Subsection (3)(a), beginning on July 1, 1999, the
1803 commission shall deposit into the Airport to University of Utah Light Rail Restricted Account
1804 created in Section 17A-2-1064 the portion of the sales and use tax under ~~[Sections]~~ Section
1805 59-12-204 ~~[and 59-12-205]~~ that is:

1806 (a) generated by a city or town that will have constructed within its boundaries the
1807 Airport to University of Utah Light Rail described in the Transportation Equity Act for the 21st
1808 Century, Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

1809 (b) equal to the revenues generated by a 1/64% tax rate on the taxable items and
1810 services under Subsection (1).

1811 ~~[(9) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal~~
1812 ~~year 2002-03, the commission shall on or before September 30 of each year deposit the~~
1813 ~~difference described in Subsection (9)(b) into the Remote Sales Restricted Account created in~~
1814 ~~Section 59-12-103.2 if that difference is greater than \$0:]~~

1815 ~~[(b) The difference described in Subsection (9)(a) is equal to the difference between:]~~

1816 ~~[(i) the total amount of revenues under Subsection (2)(c)(i) the commission received~~
1817 ~~from vendors collecting a tax under Subsection 59-12-107(1)(b) for the fiscal year immediately~~
1818 ~~preceding the September 30 described in Subsection (9)(a); and]~~

1819 ~~[(ii) the total amount of revenues under Subsection (2)(c)(i) the commission estimates~~
1820 ~~that the commission received from vendors described in Subsection 59-12-107(1)(b) for fiscal~~
1821 ~~year 2000-01:]~~

1822 ~~[(10)]~~ (8) (a) For purposes of amounts paid or charged as admission or user fees
1823 relating to the Olympic Winter Games of 2002, the amounts are considered to be paid or

1824 charged on the day on which the Salt Lake Organizing Committee for the Olympic Winter
1825 Games of 2002 or a person designated by the Salt Lake Organizing Committee for the Olympic
1826 Winter Games of 2002 sends a purchaser confirmation of the purchase of an admission or user
1827 fee described in Subsection (1)(f).

1828 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1829 commission shall make rules defining what constitutes sending a purchaser confirmation under
1830 Subsection [~~(10)~~] (8)(a).

1831 [~~(11)~~] (9) (a) For fiscal year 2002-03 only, the following amounts shall be subtracted
1832 from the total amount required to be deposited or transferred in accordance with Subsection
1833 [~~(5)~~] (4):

1834 (i) \$25,000 shall be subtracted from the total amount required to be transferred to the
1835 Division of Water Rights in accordance with Subsection [~~(5)~~] (4)(a)(iv);

1836 (ii) \$385,000 shall be subtracted from the total amount required to be deposited into the
1837 Agriculture Resource Development Fund in accordance with Subsection [~~(5)~~] (4)(a)(iii);

1838 (iii) \$350,000 shall be subtracted from the total amount required to be transferred to the
1839 Department of Natural Resources in accordance with Subsection [~~(5)~~] (4)(a)(ii);

1840 (iv) \$3,012,500 shall be subtracted from the total amount required to be deposited into
1841 the Drinking Water Loan Program Subaccount in accordance with Subsection [~~(5)~~] (4)(a)(vii);

1842 (v) \$3,012,500 shall be subtracted from the total amount required to be deposited into
1843 the Utah Wastewater Loan Program Subaccount in accordance with Subsection [~~(5)~~] (4)(a)(vi);

1844 and

1845 (vi) \$5,715,000 shall be subtracted from the total amount required to be deposited into
1846 the Water Resources Conservation and Development Fund in accordance with Subsection [~~(5)~~]
1847 (4)(a)(v).

1848 (b) The amounts subtracted under Subsection [~~(11)~~] (9)(a) shall be deposited into the
1849 General Fund.

1850 Section 10. Section **59-12-103.1** is amended to read:

1851 **59-12-103.1. Action by Supreme Court of the United States authorizing or action**
1852 **by Congress permitting a state to require certain sellers to collect a sales or use tax --**
1853 **Collection of tax by commission -- Commission report to Utah Tax Review Commission --**
1854 **Utah Tax Review Commission study.**

1855 (1) [~~A vendor~~] Except as provided in Sections 59-12-107.1 through 59-12-107.3, a
1856 seller shall remit to the commission a tax as provided in [~~Subsection 59-12-103(2)(c) and~~
1857 Section 59-12-107 if:

1858 (a) the Supreme Court of the United States issues a decision authorizing a state to
1859 require a [~~vendor~~] seller that does not meet one or more of the criteria described in Subsection
1860 59-12-107(1)(a) to collect a sales or use tax; or

1861 (b) Congress permits the state to require a [~~vendor~~] seller that does not meet one or
1862 more of the criteria described in Subsection 59-12-107(1)(a) to collect a sales or use tax.

1863 (2) The commission shall:

1864 (a) collect the tax described in Subsection (1) from the [~~vendor~~] seller:

1865 (i) to the extent:

1866 (A) authorized by the Supreme Court of the United States; or

1867 (B) permitted by Congress;

1868 (ii) beginning on the first day of a calendar quarter as prescribed by the Utah Tax

1869 Review Commission; and

1870 (b) make a report to the Utah Tax Review Commission:

1871 (i) regarding the actions taken by:

1872 (A) the Supreme Court of the United States; or

1873 (B) Congress; and

1874 (ii) at the Utah Tax Review Commission meeting immediately following the day on

1875 which the Supreme Court of the United States' or Congress' actions become effective.

1876 (3) The Utah Tax Review Commission shall after hearing the commission's report
1877 under Subsection (2)(b):

1878 (a) review the actions taken by:

1879 (i) the Supreme Court of the United States; or

1880 (ii) Congress;

1881 (b) direct the commission regarding the day on which the commission is required to
1882 collect the tax described in Subsection (1); and

1883 (c) make recommendations to the Revenue and Taxation Interim Committee:

1884 (i) regarding whether as a result of the Supreme Court of the United States' or

1885 Congress' actions any provisions of this chapter should be amended or repealed; and

1886 (ii) within a one-year period after the day on which the commission makes a report
1887 under Subsection (2)(b).

1888 Section 11. Section **59-12-103.2** is amended to read:

1889 **59-12-103.2. Remote Sales Restricted Account -- Creation.**

1890 (1) There is created within the General Fund a restricted account known as the
1891 "Remote Sales Restricted Account."

1892 [~~2) The account shall be funded from the portion of the sales and use tax deposited by~~
1893 ~~the commission as provided in Subsection 59-12-103(9).]~~

1894 (2) On or before December 1, 2004, the Division of Finance shall deposit any revenues
1895 in the Remote Sales Restricted Account into the General Fund.

1896 Section 12. Section **59-12-104** is amended to read:

1897 **59-12-104. Exemptions.**

1898 The following sales and uses are exempt from the taxes imposed by this chapter:

1899 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
1900 under Chapter 13, Motor and Special Fuel Tax Act;

1901 (2) sales to the state, its institutions, and its political subdivisions; however, this
1902 exemption does not apply to sales of:

1903 (a) construction materials except:

1904 (i) construction materials purchased by or on behalf of institutions of the public
1905 education system as defined in Utah Constitution Article X, Section 2, provided the
1906 construction materials are clearly identified and segregated and installed or converted to real
1907 property which is owned by institutions of the public education system; and

1908 (ii) construction materials purchased by the state, its institutions, or its political
1909 subdivisions which are installed or converted to real property by employees of the state, its
1910 institutions, or its political subdivisions; or

1911 (b) tangible personal property in connection with the construction, operation,
1912 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
1913 providing additional project capacity, as defined in Section 11-13-103;

1914 (3) (a) sales of [food, beverage, and dairy products] an item described in Subsection
1915 (3)(b) from a vending [machines in which] machine if:

1916 (i) the proceeds of each sale do not exceed \$1 [if]; and

1917 (ii) the [~~vendor~~] seller or operator of the vending machine reports an amount equal to
1918 150% of the cost of [~~items~~] the item described in Subsection (3)(a) as goods consumed; and
1919 (b) Subsection (3)(a) applies to:
1920 (i) food and food ingredients; or
1921 (ii) prepared food;
1922 (4) sales of [~~food, beverage, dairy products, similar confections, and related services~~]
1923 the following to a commercial airline [~~carriers~~] carrier for in-flight consumption[;]:
1924 (a) food and food ingredients;
1925 (b) prepared food; or
1926 (c) services related to Subsection (4)(a) or (b);
1927 (5) sales of parts and equipment for installation in aircraft operated by common carriers
1928 in interstate or foreign commerce;
1929 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
1930 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
1931 exhibitor, distributor, or commercial television or radio broadcaster;
1932 (7) sales of cleaning or washing of tangible personal property by a coin-operated
1933 laundry or dry cleaning machine;
1934 (8) (a) except as provided in Subsection (8)(b), sales made to or by religious or
1935 charitable institutions in the conduct of their regular religious or charitable functions and
1936 activities, if the requirements of Section 59-12-104.1 are fulfilled;
1937 (b) the exemption provided for in Subsection (8)(a) does not apply to the following
1938 sales, uses, leases, or rentals relating to the Olympic Winter Games of 2002 made to or by an
1939 organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue
1940 Code:
1941 (i) retail sales of Olympic merchandise;
1942 (ii) except as provided in Subsection [~~(51)~~] (50), admissions or user fees described in
1943 Subsection 59-12-103(1)(f);
1944 (iii) sales of accommodations and services as provided in Subsection 59-12-103(1)(i),
1945 except for accommodations and services:
1946 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter
1947 Games of 2002;

1948 (B) exclusively used by:
1949 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
1950 Olympic Winter Games of 2002; or
1951 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic
1952 Winter Games of 2002; and
1953 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of
1954 2002 does not receive reimbursement; or
1955 (iv) a lease or rental of a vehicle as defined in Section 41-1a-102, except for a lease or
1956 rental of a vehicle:
1957 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter
1958 Games of 2002;
1959 (B) exclusively used by:
1960 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
1961 Olympic Winter Games of 2002; or
1962 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic
1963 Winter Games of 2002; and
1964 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of
1965 2002 does not receive reimbursement;
1966 (9) sales of vehicles of a type required to be registered under the motor vehicle laws of
1967 this state which are made to bona fide nonresidents of this state and are not afterwards
1968 registered or used in this state except as necessary to transport them to the borders of this state;
1969 [~~(10) sales of medicine;~~]
1970 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
1971 (i) the item is intended for human use; and
1972 (ii) the purchaser presents a prescription for the item; and
1973 (b) (i) Subsection (10)(a) applies to:
1974 (A) a drug;
1975 (B) a syringe; or
1976 (C) a stoma supply; and
1977 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1978 commission may by rule define the terms:

- 1979 (A) "syringe"; or
- 1980 (B) "stoma supply";
- 1981 (11) sales or use of property, materials, or services used in the construction of or
- 1982 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
- 1983 (12) (a) sales of [~~meats~~] an item described in Subsection (12)(c) served by:
- 1984 (i) the following if the [~~meats are~~] item described in Subsection (12)(c) is not available
- 1985 to the general public:
- 1986 (A) a church; or
- 1987 (B) a charitable institution;
- 1988 (ii) an institution of higher education if:
- 1989 (A) the [~~meats are~~] item described in Subsection (12)(c) is not available to the general
- 1990 public; or
- 1991 (B) the [~~meats are~~] item described in Subsection (12)(c) is prepaid as part of a student
- 1992 meal plan offered by the institution of higher education; or
- 1993 (b) [~~inpatient meals~~] sales of an item described in Subsection (12)(c) provided at:
- 1994 (i) a medical facility; or
- 1995 (ii) a nursing facility; and
- 1996 (c) Subsections (12)(a) and (b) apply to:
- 1997 (i) food and food ingredients;
- 1998 (ii) prepared food; or
- 1999 (iii) alcoholic beverages;
- 2000 (13) isolated or occasional sales by persons not regularly engaged in business, except
- 2001 the sale of vehicles or vessels required to be titled or registered under the laws of this state in
- 2002 which case the tax is based upon:
- 2003 (a) the bill of sale or other written evidence of value of the vehicle or vessel being sold;
- 2004 or
- 2005 (b) in the absence of a bill of sale or other written evidence of value, the then existing
- 2006 fair market value of the vehicle or vessel being sold as determined by the commission;
- 2007 (14) (a) the following purchases or leases by a manufacturer on or after July 1, 1995:
- 2008 (i) machinery and equipment:
- 2009 (A) used in the manufacturing process;

- 2010 (B) having an economic life of three or more years; and
- 2011 (C) used:
- 2012 (I) to manufacture an item sold as tangible personal property; and
- 2013 (II) in new or expanding operations in a manufacturing facility in the state; and
- 2014 (ii) subject to the provisions of Subsection (14)(b), normal operating replacements that:
- 2015 (A) have an economic life of three or more years;
- 2016 (B) are used in the manufacturing process in a manufacturing facility in the state;
- 2017 (C) are used to replace or adapt an existing machine to extend the normal estimated
- 2018 useful life of the machine; and
- 2019 (D) do not include repairs and maintenance;
- 2020 (b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:
- 2021 (i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in
- 2022 Subsection (14)(a)(ii) is exempt;
- 2023 (ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described in
- 2024 Subsection (14)(a)(ii) is exempt; and
- 2025 (iii) beginning July 1, 1998, 100% of the sale or lease described in Subsection
- 2026 (14)(a)(ii) is exempt;
- 2027 (c) for purposes of this Subsection (14), the commission shall by rule define the terms
- 2028 "new or expanding operations" and "establishment"; and
- 2029 (d) on or before October 1, 1991, and every five years after October 1, 1991, the
- 2030 commission shall:
- 2031 (i) review the exemptions described in Subsection (14)(a) and make recommendations
- 2032 to the Revenue and Taxation Interim Committee concerning whether the exemptions should be
- 2033 continued, modified, or repealed; and
- 2034 (ii) include in its report:
- 2035 (A) the cost of the exemptions;
- 2036 (B) the purpose and effectiveness of the exemptions; and
- 2037 (C) the benefits of the exemptions to the state;
- 2038 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
- 2039 (i) tooling;
- 2040 (ii) special tooling;

- 2041 (iii) support equipment;
- 2042 (iv) special test equipment; or
- 2043 (v) parts used in the repairs or renovations of tooling or equipment described in
- 2044 Subsections (15)(a)(i) through (iv); and
- 2045 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
- 2046 (i) the tooling, equipment, or parts are used or consumed exclusively in the
- 2047 performance of any aerospace or electronics industry contract with the United States
- 2048 government or any subcontract under that contract; and
- 2049 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
- 2050 title to the tooling, equipment, or parts is vested in the United States government as evidenced
- 2051 by:
- 2052 (A) a government identification tag placed on the tooling, equipment, or parts; or
- 2053 (B) listing on a government-approved property record if placing a government
- 2054 identification tag on the tooling, equipment, or parts is impractical;
- 2055 (16) intrastate movements of:
- 2056 (a) freight by common carriers; or
- 2057 (b) passengers:
- 2058 (i) by taxicabs as described in SIC Code 4121 of the 1987 Standard Industrial
- 2059 Classification Manual of the federal Executive Office of the President, Office of Management
- 2060 and Budget;
- 2061 (ii) transported by an establishment described in SIC Code 4111 of the 1987 Standard
- 2062 Industrial Classification Manual of the federal Executive Office of the President, Office of
- 2063 Management and Budget, if the transportation originates and terminates within a county of the
- 2064 first, second, or third class; or
- 2065 (iii) transported by the following described in SIC Code 4789 of the 1987 Standard
- 2066 Industrial Classification Manual of the federal Executive Office of the President, Office of
- 2067 Management and Budget:
- 2068 (A) a horse-drawn cab; or
- 2069 (B) a horse-drawn carriage[-];
- 2070 (17) sales of newspapers or newspaper subscriptions;
- 2071 (18) (a) except as provided in Subsection (18)(b), tangible personal property~~[-other~~

2072 ~~than money,~~] traded in as full or part payment of the purchase price, except that for purposes of
2073 calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to
2074 other vehicles only, and the tax is based upon:

2075 ~~(a)~~ (i) the bill of sale or other written evidence of value of the vehicle being sold and
2076 the vehicle being traded in; or

2077 ~~(b)~~ (ii) in the absence of a bill of sale or other written evidence of value, the then
2078 existing fair market value of the vehicle being sold and the vehicle being traded in, as
2079 determined by the commission; and

2080 (b) notwithstanding Subsection (18)(a), Subsection (18)(a) does not apply to the
2081 following items of tangible personal property traded in as full or part payment of the purchase
2082 price:

2083 (i) money;

2084 (ii) electricity;

2085 (iii) water;

2086 (iv) gas; or

2087 (v) steam;

2088 (19) sprays and insecticides used to control insects, diseases, and weeds for
2089 commercial production of fruits, vegetables, feeds, seeds, and animal products, but not those
2090 sprays and insecticides used in the processing of the products;

2091 (20) (a) (i) sales of tangible personal property used or consumed primarily and directly
2092 in farming operations, including sales of irrigation equipment and supplies used for agricultural
2093 production purposes, whether or not they become part of real estate and whether or not
2094 installed by farmer, contractor, or subcontractor, but not sales of:

2095 (A) machinery, equipment, materials, and supplies used in a manner that is incidental
2096 to farming, such as hand tools [~~with a unit purchase price not in excess of \$250,~~] and
2097 maintenance and janitorial equipment and supplies;

2098 (B) tangible personal property used in any activities other than farming, such as office
2099 equipment and supplies, equipment and supplies used in sales or distribution of farm products,
2100 in research, or in transportation; or

2101 (C) any vehicle required to be registered by the laws of this state, without regard to the
2102 use to which the vehicle is put; or

- 2103 (ii) sales of parts used in the repairs or renovations of tangible personal property if the
 2104 tangible personal property is exempt under Subsection (20)(a); or
 2105 (b) sales of hay;
- 2106 (21) exclusive sale of locally grown seasonal crops, seedling plants, or garden, farm, or
 2107 other agricultural produce if sold by a producer during the harvest season;
- 2108 (22) purchases [~~of food as defined in 7 U.S.C. Sec. 2012(g)~~] made using ^h **[food stamps]** ^A
 2108a **COUPON AS DEFINED IN 7 U.S.C. SEC. 2012 THAT IS** ^h
 2109 issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 2110 (23) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
 2111 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
 2112 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
 2113 manufacturer, processor, wholesaler, or retailer;
- 2114 (24) property stored in the state for resale;
- 2115 (25) property brought into the state by a nonresident for his or her own personal use or
 2116 enjoyment while within the state, except property purchased for use in Utah by a nonresident
 2117 living and working in Utah at the time of purchase;
- 2118 (26) property purchased for resale in this state, in the regular course of business, either
 2119 in its original form or as an ingredient or component part of a manufactured or compounded
 2120 product;
- 2121 (27) property upon which a sales or use tax was paid to some other state, or one of its
 2122 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
 2123 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
 2124 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
 2125 Act;
- 2126 (28) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
 2127 person for use in compounding a service taxable under the subsections;
- 2128 (29) purchases [~~of supplemental foods as defined in 42 U.S.C. Sec. 1786(b)(14) under~~]
 2129 made in accordance with the special supplemental nutrition program for women, infants, and
 2130 children established in 42 U.S.C. Sec. 1786;
- 2131 (30) beginning on July 1, 1999, through June 30, 2004, sales or leases of rolls, rollers,
 2132 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
 2133 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification

2134 Manual of the federal Executive Office of the President, Office of Management and Budget;
2135 (31) sales of boats of a type required to be registered under Title 73, Chapter 18, State
2136 Boating Act, boat trailers, and outboard motors which are made to bona fide nonresidents of
2137 this state and are not thereafter registered or used in this state except as necessary to transport
2138 them to the borders of this state;

2139 ~~[(32) sales of tangible personal property to persons within this state that is~~
2140 ~~subsequently shipped outside the state and incorporated pursuant to contract into and becomes~~
2141 ~~a part of real property located outside of this state, except to the extent that the other state or~~
2142 ~~political entity imposes a sales, use, gross receipts, or other similar transaction excise tax on it~~
2143 ~~against which the other state or political entity allows a credit for taxes imposed by this~~
2144 ~~chapter;]~~

2145 ~~[(33)]~~ (32) sales of aircraft manufactured in Utah if sold for delivery and use outside
2146 Utah where a sales or use tax is not imposed, even if the title is passed in Utah;

2147 ~~[(34)]~~ (33) amounts paid for the purchase of telephone service for purposes of
2148 providing telephone service;

2149 ~~[(35)]~~ (34) fares charged to persons transported directly by a public transit district
2150 created under the authority of Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;

2151 ~~[(36)]~~ (35) sales or leases of vehicles to, or use of vehicles by an authorized carrier;

2152 ~~[(37)]~~ (36) (a) 45% of the sales price of any new manufactured home; and

2153 (b) 100% of the sales price of any used manufactured home;

2154 ~~[(38)]~~ (37) sales relating to schools and fundraising sales;

2155 ~~[(39)]~~ (38) sales or rentals of ~~[home]~~ durable medical equipment ~~[or supplies;]~~ if a
2156 person presents a prescription for the durable medical equipment;

2157 ~~[(40)]~~ (39) (a) sales to a ski resort of electricity to operate a passenger ropeway as
2158 defined in Section 72-11-102; and

2159 (b) the commission shall by rule determine the method for calculating sales exempt
2160 under Subsection ~~[(40)]~~ (39)(a) that are not separately metered and accounted for in utility
2161 billings;

2162 ~~[(41)]~~ (40) sales to a ski resort of:

2163 (a) snowmaking equipment;

2164 (b) ski slope grooming equipment;

2165 (c) passenger ropeways as defined in Section 72-11-102; or
2166 (d) parts used in the repairs or renovations of equipment or passenger ropeways
2167 described in Subsections [~~(41)~~] (40)(a) through (c);
2168 [~~(42)~~] (41) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for
2169 industrial use;
2170 [~~(43)~~] (42) sales or rentals of the right to use or operate for amusement, entertainment,
2171 or recreation a coin-operated amusement device as defined in Section 59-12-102;
2172 [~~(44)~~] (43) sales of cleaning or washing of tangible personal property by a
2173 coin-operated car wash machine;
2174 [~~(45)~~] (44) sales by the state or a political subdivision of the state, except state
2175 institutions of higher education as defined in Section 53B-3-102, of:
2176 (a) photocopies; or
2177 (b) other copies of records held or maintained by the state or a political subdivision of
2178 the state;
2179 [~~(46)~~] (45) (a) amounts paid:
2180 (i) to a person providing intrastate transportation to an employer's employee to or from
2181 the employee's primary place of employment;
2182 (ii) by an:
2183 (A) employee; or
2184 (B) employer; and
2185 (iii) pursuant to a written contract between:
2186 (A) the employer; and
2187 (B) (I) the employee; or
2188 (II) a person providing transportation to the employer's employee; and
2189 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2190 commission may for purposes of Subsection [~~(46)~~] (45)(a) make rules defining what constitutes
2191 an employee's primary place of employment;
2192 [~~(47)~~] (46) amounts paid for admission to an athletic event at an institution of higher
2193 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
2194 20 U.S.C. Sec. 1681 et seq.;;
2195 [~~(48)~~] (47) sales of telephone service charged to a prepaid telephone calling card;

2196 [~~(49)~~] (48) (a) sales of:
2197 (i) hearing aids;
2198 (ii) hearing aid accessories; or
2199 (iii) except as provided in Subsection [~~(49)~~] (48)(b), parts used in the repairs or
2200 renovations of hearing aids or hearing aid accessories; and
2201 (b) for purposes of this Subsection [~~(49)~~] (48), notwithstanding Subsection [~~(49)~~]
2202 (48)(a)(iii), "parts" does not include batteries;
2203 [~~(50)~~] (49) (a) sales made to or by:
2204 (i) an area agency on aging; or
2205 (ii) a senior citizen center owned by a county, city, or town; or
2206 (b) sales made by a senior citizen center that contracts with an area agency on aging;
2207 [~~(51)~~] (50) (a) beginning on July 1, 2000, through June 30, 2002, amounts paid or
2208 charged as admission or user fees described in Subsection 59-12-103(1)(f) relating to the
2209 Olympic Winter Games of 2002 if the amounts paid or charged are established by the Salt Lake
2210 Organizing Committee for the Olympic Winter Games of 2002 in accordance with
2211 requirements of the International Olympic Committee; and
2212 (b) the State Olympic Officer and the Salt Lake Organizing Committee for the Olympic
2213 Winter Games of 2002 shall make at least two reports during the 2000 interim:
2214 (i) to the:
2215 (A) Olympic Coordination Committee; and
2216 (B) Revenue and Taxation Interim Committee; and
2217 (ii) regarding the status of:
2218 (A) agreements relating to the funding of public safety services for the Olympic Winter
2219 Games of 2002;
2220 (B) agreements relating to the funding of services, other than public safety services, for
2221 the Olympic Winter Games of 2002;
2222 (C) other agreements relating to the Olympic Winter Games of 2002 as requested by
2223 the Olympic Coordination Committee or the Revenue and Taxation Interim Committee;
2224 (D) other issues as requested by the Olympic Coordination Committee or the Revenue
2225 and Taxation Interim Committee; or
2226 (E) a combination of Subsections [~~(51)~~] (50)(b)(ii)(A) through (D);

2227 ~~[(52)]~~ (51) (a) beginning on July 1, 2001, through June 30, 2004, and subject to
2228 Subsection ~~[(52)]~~ (51)(b), a sale or lease of semiconductor fabricating or processing materials
2229 regardless of whether the semiconductor fabricating or processing materials:
2230 (i) actually come into contact with a semiconductor; or
2231 (ii) ultimately become incorporated into real property;
2232 (b) (i) beginning on July 1, 2001, through June 30, 2002, 10% of the sale or lease
2233 described in Subsection ~~[(52)]~~ (51)(a) is exempt;
2234 (ii) beginning on July 1, 2002, through June 30, 2003, 50% of the sale or lease
2235 described in Subsection ~~[(52)]~~ (51)(a) is exempt; and
2236 (iii) beginning on July 1, 2003, through June 30, 2004, the entire amount of the sale or
2237 lease described in Subsection ~~[(52)]~~ (51)(a) is exempt; and
2238 (c) each year on or before the November interim meeting, the Revenue and Taxation
2239 Interim Committee shall:
2240 (i) review the exemption described in this Subsection ~~[(52)]~~ (51) and make
2241 recommendations concerning whether the exemption should be continued, modified, or
2242 repealed; and
2243 (ii) include in the review under this Subsection ~~[(52)]~~ (51)(c):
2244 (A) the cost of the exemption;
2245 (B) the purpose and effectiveness of the exemption; and
2246 (C) the benefits of the exemption to the state;
2247 ~~[(53)]~~ (52) an amount paid by or charged to a purchaser for accommodations and
2248 services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under
2249 Section 59-12-104.2;
2250 ~~[(54)]~~ (53) beginning on September 1, 2001, the lease or use of a vehicle issued a
2251 temporary sports event registration certificate in accordance with Section 41-3-306 for the
2252 event period specified on the temporary sports event registration certificate; ~~[or]~~
2253 ~~[(55)]~~ (54) sales or uses of electricity, if the sales or uses are:
2254 (a) made under a tariff adopted by the Public Service Commission of Utah only for
2255 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
2256 source, as designated in the tariff by the Public Service Commission of Utah; and
2257 (b) for an amount of electricity that is:

2258 (i) unrelated to the amount of electricity used by the person purchasing the electricity
2259 under the tariff described in Subsection [~~(55)~~] (54)(a); and

2260 (ii) equivalent to the number of kilowatthours specified in the tariff described in
2261 Subsection [~~(55)~~] (54)(a) that may be purchased under the tariff described in Subsection [~~(55)~~]
2262 (54)(a)[-];

2263 (55) sales or rentals of mobility enhancing equipment if a person presents a
2264 prescription for the mobility enhancing equipment;

2265 (56) sales of water in a:

2266 (a) pipe;

2267 (b) conduit;

2268 (c) ditch; or

2269 (d) reservoir;

2270 (57) sales of currency or coinage that constitute legal tender of the United States or of a
2271 foreign nation;

2272 (58) (a) sales of an item described in Subsection (58)(b) if the item:

2273 (i) does not constitute legal tender of any nation; and

2274 (ii) has a gold, silver, or platinum content of 80% or more; and

2275 (b) Subsection (58)(a) applies to a gold, silver, or platinum:

2276 (i) ingot;

2277 (ii) bar;

2278 (iii) medallion; or

2279 (iv) decorative coin;

2280 (59) amounts paid on a sale-leaseback transaction; and

2281 (60) sales of a prosthetic device:

2282 (a) for use on or in a human;

2283 (b) for which a prescription is issued; and

2284 (c) to a person that presents a prescription for the prosthetic device.

2285 Section 13. Section **59-12-104.1** is amended to read:

2286 **59-12-104.1. Exemptions for religious or charitable institutions.**

2287 (1) Except as provided in Section 59-12-104, sales made by religious or charitable

2288 institutions or organizations are exempt from the sales and use tax imposed by this chapter if

2289 the sale is made in the conduct of the institution's or organization's regular religious or
2290 charitable functions or activities.

2291 (2) (a) Except as provided in Section 59-12-104, sales made to a religious or charitable
2292 institution or organization are exempt from the sales and use tax imposed by this chapter if the
2293 sale is made in the conduct of the institution's or organization's regular religious or charitable
2294 functions and activities.

2295 (b) In order to facilitate the efficient administration of the exemption granted by this
2296 section, the exemption shall be administered as follows:

2297 (i) ~~[The]~~ the exemption shall be at point of sale if the sale is in the amount of at least
2298 \$1,000~~[-];~~;

2299 (ii) ~~[If]~~ except as provided in Subsection (2)(b)(iii), if the sale is less than \$1,000, the
2300 exemption shall be in the form of a refund of sales or use taxes paid at the point of sale~~[-]; and~~

2301 (iii) ~~[Notwithstanding]~~ notwithstanding Subsection (2)(b)(ii), the exemption under this
2302 ~~[subsection]~~ section shall be at point of sale if the sale is:

2303 (A) made pursuant to a contract between the ~~[vendor]~~ seller and the charitable or
2304 religious institution or organization; or

2305 (B) made by a public utility, as defined in Section 54-2-1, to a religious or charitable
2306 institution or organization.

2307 (3) (a) Religious or charitable institutions or organizations entitled to a refund under
2308 Subsection (2)(b)(ii) may apply to the commission for the refund of sales or use taxes paid.

2309 (b) The commission shall designate the following by commission rule adopted in
2310 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

2311 (i) procedures for applying for a sales and use tax refund;

2312 (ii) standards for determining and verifying the amount of purchase at the point of sale;

2313 (iii) procedures for submitting a request for refund on a monthly basis anytime the
2314 taxpayer has accumulated \$100 or more in sales tax payments; and

2315 (iv) procedures for submitting a request for refund on a quarterly basis for any
2316 cumulative amount of sales tax payments.

2317 Section 14. Section **59-12-104.2** is amended to read:

2318 **59-12-104.2. Exemption for accommodations and services taxed by the Navajo**
2319 **Nation.**

- 2320 (1) As used in this section "tribal taxing area" means the geographical area that:
- 2321 (a) is subject to the taxing authority of the Navajo Nation; and
- 2322 (b) consists of:
- 2323 (i) notwithstanding the issuance of a patent, all land:
- 2324 (A) within the limits of an Indian reservation under the jurisdiction of the federal
- 2325 government; and
- 2326 (B) including any rights-of-way running through the reservation; and
- 2327 (ii) all Indian allotments the Indian titles to which have not been extinguished,
- 2328 including any rights-of-way running through an Indian allotment.
- 2329 (2) (a) Beginning July 1, 2001, amounts paid by or charged to a purchaser for
- 2330 accommodations and services described in Subsection 59-12-103(1)(i) are exempt from the tax
- 2331 imposed by Subsection 59-12-103(2)(a)(i) to the extent permitted under Subsection (2)(b) if:
- 2332 (i) the accommodations and services described in Subsection 59-12-103(1)(i) are
- 2333 provided within:
- 2334 (A) the state; and
- 2335 (B) a tribal taxing area;
- 2336 (ii) the Navajo Nation imposes and collects a tax on the amounts paid by or charged to
- 2337 the purchaser for the accommodations and services described in Subsection 59-12-103(1)(i);
- 2338 (iii) the Navajo Nation imposes the tax described in Subsection (2)(a)(ii) without
- 2339 regard to whether or not the purchaser that pays or is charged for the accommodations and
- 2340 services is an enrolled member of the Navajo Nation; and
- 2341 (iv) the requirements of Subsection (4) are met.
- 2342 (b) If but for Subsection (2)(a) the amounts paid by or charged to a purchaser for
- 2343 accommodations and services described in Subsection (2)(a) are subject to a tax imposed by
- 2344 Subsection 59-12-103(2)(a)(i):
- 2345 (i) the [~~vendor~~] seller shall collect and pay to the state the difference described in
- 2346 Subsection (3) if that difference is greater than \$0; and
- 2347 (ii) a person may not require the state to provide a refund, a credit, or similar tax relief
- 2348 if the difference described in Subsection (3) is equal to or less than \$0.
- 2349 (3) The difference described in Subsection (2)(b) is equal to the difference between:
- 2350 (a) the amount of tax imposed by Subsection 59-12-103(2)(a)(i) on the amounts paid

2351 by or charged to a purchaser for accommodations and services described in Subsection
2352 59-12-103(1)(i); less

2353 (b) the tax imposed and collected by the Navajo Nation on the amounts paid by or
2354 charged to a purchaser for the accommodations and services described in Subsection
2355 59-12-103(1)(i).

2356 (4) (a) If, on or after July 1, 2001, the Navajo Nation changes the tax rate of a tax
2357 imposed on amounts paid by or charged to a purchaser for accommodations and services
2358 described in Subsection 59-12-103(1)(i), any change in the amount of the exemption under
2359 Subsection (2) as a result of the change in the tax rate is not effective until the first day of the
2360 calender quarter after a 90-day period beginning on the date the commission receives notice
2361 meeting the requirements of Subsection (4)(b) from the Navajo Nation.

2362 (b) The notice described in Subsection (4)(a) shall state:

2363 (i) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
2364 amounts paid by or charged to a purchaser for accommodations and services described in
2365 Subsection 59-12-103(1)(i);

2366 (ii) the effective date of the rate change on the tax described in Subsection (4)(b)(i);
2367 and

2368 (iii) the new rate of the tax described in Subsection (4)(b)(i).

2369 (5) Beginning with the 2006 interim, the Revenue and Taxation Interim Committee:

2370 (a) shall review the exemption provided for in this section one or more times every five
2371 years;

2372 (b) shall determine on or before the November interim meeting of the year in which the
2373 Revenue and Taxation Interim Committee reviews the exemption provided for in this section
2374 whether the exemption should be:

2375 (i) continued;

2376 (ii) modified; or

2377 (iii) repealed; and

2378 (c) may review any other issue related to the exemption provided for in this section as
2379 determined by the Revenue and Taxation Interim Committee.

2380 Section 15. Section **59-12-105** is amended to read:

2381 **59-12-105. Certain exempt sales to be reported -- Penalties.**

2382 (1) (a) An owner~~[-vendor,]~~ or purchaser shall report to the commission the amount of
2383 sales or uses exempt under Subsection 59-12-104(14), ~~[(20);]~~ (39), (40), ~~[(41);]~~ or ~~[(52)]~~ (51).

2384 (b) The report required by Subsection (1)(a) shall be filed:

2385 (i) with the commission; and

2386 (ii) on a form prescribed by the commission.

2387 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2388 commission shall make rules providing:

2389 (i) the information required to be included in the report described in Subsection (1)(a);

2390 and

2391 (ii) one or more due dates for filing the report described in Subsection (1)(a).

2392 (2) Except as provided in Subsections (3) and (4), if the owner~~[-vendor,]~~ or purchaser
2393 fails to report the full amount of the exemptions granted under Subsection 59-12-104(14),
2394 ~~[(20);]~~ (39), (40), ~~[(41);]~~ or ~~[(52)]~~ (51) on the ~~[owner's, vendor's, or purchaser's original filed~~
2395 ~~return]~~ report required by Subsection (1)(a), the commission shall impose a penalty equal to the
2396 lesser of:

2397 (a) 10% of the sales and use tax that would have been imposed if the exemption had not
2398 applied; or

2399 (b) \$1,000.

2400 (3) Notwithstanding Subsection (2), the commission may not impose a penalty under
2401 Subsection (2) if the owner~~[-vendor,]~~ or purchaser files an amended ~~[return]~~ report:

2402 (a) containing the amount of the exemption [prior to]; and

2403 (b) before the owner~~[-vendor,]~~ or purchaser [receiving] receives a notice of audit from
2404 the commission.

2405 (4) (a) Notwithstanding Subsection (2), the commission may waive, reduce, or
2406 compromise a penalty imposed under this section if the commission finds there are reasonable
2407 grounds for the waiver, reduction, or compromise.

2408 (b) If the commission waives, reduces, or compromises a penalty under Subsection
2409 (4)(a), the commission shall make a record of the grounds for waiving, reducing, or
2410 compromising the penalty.

2411 Section 16. Section **59-12-106** is amended to read:

2412 **59-12-106. Sales and use tax license -- No fee -- Presumption of taxability --**

2413 **Exemption certificates -- Exemption certificate license number to accompany contract**
2414 **bids.**

2415 (1) (a) It is unlawful for any person required [~~by this chapter~~] to collect [~~sales or use~~
2416 ~~tax,~~] a tax under this chapter to engage in business within the state without first having
2417 obtained a license to do so. [~~This~~]

2418 (b) The license described in Subsection (1)(a):

2419 (i) shall be granted and issued by the commission[~~-. The license~~];

2420 (ii) is not assignable [~~and~~];

2421 (iii) is valid only for the person in whose name [~~it~~] the license is issued;

2422 (iv) is valid until [~~that~~];

2423 (A) the person described in Subsection (1)(b)(iii):

2424 (I) ceases to do business; or

2425 (II) changes [~~his~~] that person's business address[~~;~~]; or [~~until~~]

2426 (B) the license is revoked by the commission[~~-. Such license~~]; and

2427 (v) shall be granted by the commission only upon an application [~~stating~~] that:

2428 (A) states the name and address of the applicant; and

2429 (B) provides other information the commission may require.

2430 (c) At the time [~~of~~] a person makes an application under Subsection (1)(b)(v), the
2431 commission shall notify the applicant of the responsibilities and liability of a business owner
2432 successor under Section 59-12-112.

2433 (d) If business is transacted at two or more separate places by one person, a separate
2434 license for each place of business [~~shall be~~] is required.

2435 (e) (i) The commission shall, on a reasonable notice and after a hearing, revoke the
2436 license of any person violating any provisions of this chapter [~~and no~~].

2437 (ii) A license may not be issued to [~~such~~] a person described in Subsection (1)(e)(i)
2438 until the [~~taxpayer~~] person has complied with the requirements of this chapter.

2439 (f) Any person required [~~by this chapter~~] to collect [~~sales or use tax~~] a tax under this
2440 chapter within this state without having secured a license to do so[~~;~~] is guilty of a criminal
2441 violation as provided in Section 59-1-401. [~~No~~]

2442 (g) A license:

2443 (i) is not required for any person engaged exclusively in the business of selling

2444 commodities ~~[which]~~ that are exempt from taxation under this chapter~~[- A license]; and~~
2445 (ii) shall be issued to the [applicant] person by the commission without a license fee.
2446 (2) (a) For the purpose of the proper administration of this chapter and to prevent
2447 evasion of the tax and the duty to collect the tax, it shall be presumed that tangible personal
2448 property or any other taxable transaction under Subsection 59-12-103(1)[;] sold by any person
2449 for delivery in this state is sold for storage, use, or other consumption in this state unless the
2450 person selling [such] the property, item, or service has taken from the purchaser an exemption
2451 certificate [signed by and]:
2452 (i) bearing the name and address of the purchaser [to the effect]; and
2453 (ii) providing that the property, item, or service was exempted under Section
2454 59-12-104. [The exemption certificates]
2455 (b) An exemption certificate described in Subsection (2)(a):
2456 (i) shall contain information as prescribed by the commission[-]; and
2457 (ii) if a paper exemption certificate is used, shall be signed by the purchaser.
2458 (c) Except as provided in Subsection (2)(d), a seller that has taken an exemption
2459 certificate from a purchaser in accordance with this Subsection (2) with respect to a transaction
2460 is not liable to collect a tax under this chapter:
2461 (i) on that transaction; and
2462 (ii) if the commission or a court of competent jurisdiction subsequently determines that
2463 the purchaser improperly claimed the exemption.
2464 (d) Notwithstanding Subsection (2)(c), Subsection (2)(c) does not apply to a seller that:
2465 (i) fraudulently fails to collect a tax under this chapter; or
2466 (ii) solicits a purchaser to participate in improperly claiming an exemption from a tax
2467 under this chapter.
2468 (3) [All persons] A person filing a contract [bids] bid with the state or [any of its] a
2469 political [subdivisions] subdivision of the state for the sale of tangible personal property or any
2470 other taxable transaction under Subsection 59-12-103(1)[;] shall include with the bid the [sales
2471 tax license] number of the license issued to [them] that person under Subsection (1).
2472 Section 17. Section **59-12-107** is amended to read:
2473 **59-12-107. Collection, remittance, and payment of tax by sellers or other persons**
2474 **-- Returns -- Direct payment by purchaser of vehicle -- Other liability for collection --**

2475 **Credits -- Treatment of bad debt -- Deposit and sale of security -- Penalties.**

2476 (1) (a) [~~Each vendor~~] Except as provided in Sections 59-12-107.1 through 59-12-107.3,
2477 each seller shall pay or collect and remit the sales and use taxes imposed by this chapter if
2478 within this state the [~~vendor~~] seller:

2479 (i) has or utilizes:

2480 (A) an office;

2481 (B) a distribution house;

2482 (C) a sales house;

2483 (D) a warehouse;

2484 (E) a service enterprise; or

2485 (F) a place of business similar to Subsections (1)(a)(i)(A) through (E);

2486 (ii) maintains a stock of goods;

2487 (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the
2488 state, unless the [~~vendor's~~] seller's only activity in the state is:

2489 (A) advertising; or

2490 (B) solicitation by:

2491 (I) direct mail;

2492 (II) electronic mail;

2493 (III) the Internet;

2494 (IV) telephone; or

2495 (V) a means similar to Subsections (1)(a)(iii)(A) or (B);

2496 (iv) regularly engages in the delivery of property in the state other than by:

2497 (A) common carrier; or

2498 (B) United States mail; or

2499 (v) regularly engages in an activity directly related to the leasing or servicing of
2500 property located within the state.

2501 (b) If a [~~vendor~~] seller does not meet one or more of the criteria provided for in
2502 Subsection (1)(a), the [~~vendor~~] seller:

2503 (i) except as provided in Subsection (1)(b)(ii), may voluntarily:

2504 (A) collect a tax [~~as provided in Subsection 59-12-103(2)(c)]~~ on a transaction
2505 described in Subsection 59-12-103(1); and

2506 (B) remit the tax to the commission as provided in this part; or
2507 (ii) notwithstanding Subsection (1)(b)(i), shall collect a tax [~~as provided in Subsection~~
2508 ~~59-12-103(2)(c)~~] on a transaction described in Subsection 59-12-103(1) if Section 59-12-103.1
2509 requires the [~~vendor~~] seller to collect the tax.

2510 (c) The voluntary collection and remittance of a tax under this chapter may not be used
2511 as a factor in determining whether a seller is required by Subsection (1)(a) to:

2512 (i) pay a tax, fee, or charge under:

2513 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

2514 (B) Section 19-6-716;

2515 (C) Section 19-6-805;

2516 (D) Section 69-2-5.5; or

2517 (E) this title; or

2518 (ii) collect and remit a tax, fee, or charge under:

2519 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

2520 (B) Section 19-6-716;

2521 (C) Section 19-6-805;

2522 (D) Section 69-2-5.5; or

2523 (E) this title.

2524 [~~(c)~~] (d) A person shall pay a use tax imposed by this chapter on a transaction
2525 described in Subsection 59-12-103(1) if:

2526 (i) the [~~vendor~~] seller did not collect a use tax imposed by this chapter on the
2527 transaction; and

2528 (ii) the person:

2529 (A) stores the tangible personal property in the state;

2530 (B) uses the tangible personal property in the state; or

2531 (C) consumes the tangible personal property in the state.

2532 [~~(d)~~] (e) Notwithstanding the provisions of Subsection (1)(a), the ownership of
2533 property that is located at the premises of a printer's facility with which the retailer has
2534 contracted for printing and that consists of the final printed product, property that becomes a
2535 part of the final printed product, or copy from which the printed product is produced, shall not
2536 result in the retailer being considered to have or maintain an office, distribution house, sales

2537 house, warehouse, service enterprise, or other place of business, or to maintain a stock of
2538 goods, within this state.

2539 (2) (a) ~~[Each vendor]~~ Except as provided in Sections 59-12-107.1 through 59-12-107.3,
2540 a seller shall collect ~~[the sales or use tax]~~ a tax under this chapter from ~~[the]~~ a purchaser.

2541 (b) A ~~[vendor]~~ seller may not collect as tax an amount, without regard to fractional
2542 parts of one cent, in excess of the tax computed at the rates prescribed by this chapter.

2543 (c) (i) Each ~~[vendor]~~ seller shall:

2544 (A) give the purchaser a receipt for the use tax collected; or

2545 (B) bill the use tax as a separate item and declare the name of this state and the
2546 ~~[vendor's]~~ seller's use tax license number on the invoice for the sale.

2547 (ii) The receipt or invoice is prima facie evidence that the ~~[vendor]~~ seller has collected
2548 the use tax and relieves the purchaser of the liability for reporting the use tax to the
2549 commission as a consumer.

2550 (d) A ~~[vendor]~~ seller is not required to maintain a separate account for the tax
2551 collected, but is considered to be a person charged with receipt, safekeeping, and transfer of
2552 public moneys.

2553 (e) Taxes collected by a ~~[vendor]~~ seller pursuant to this chapter shall be held in trust
2554 for the benefit of the state and for payment to the commission in the manner and at the time
2555 provided for in this chapter.

2556 (f) If any ~~[vendor]~~ seller, during any reporting period, collects as a tax an amount in
2557 excess of the lawful state and local percentage of total taxable sales allowed under this ~~[part~~
2558 ~~and Part 2, Local Sales and Use Tax Act]~~ chapter, the ~~[vendor]~~ seller shall remit to the
2559 commission the full amount of the tax imposed under this ~~[part and Part 2, Local Sales and Use~~
2560 ~~Tax Act]~~ chapter, plus any excess.

2561 (g) If the accounting methods regularly employed by the ~~[vendor]~~ seller in the
2562 transaction of the ~~[vendor's]~~ seller's business are such that reports of sales made during a
2563 calendar month or quarterly period will impose unnecessary hardships, the commission may
2564 accept reports at intervals that will, in ~~[its]~~ the commission's opinion, better suit the
2565 convenience of the taxpayer or ~~[vendor]~~ seller and will not jeopardize collection of the tax.

2566 (3) (a) Except as provided in ~~[Subsection]~~ Subsections (4) and (5) and in Section
2567 59-12-108, the sales or use tax imposed by this chapter is due and payable to the commission

2568 quarterly on or before the last day of the month next succeeding each calendar quarterly period.

2569 (b) (i) Each [~~vendor~~] seller shall, on or before the last day of the month next
2570 succeeding each calendar quarterly period, file with the commission a return for the preceding
2571 quarterly period.

2572 (ii) The [~~vendor~~] seller shall remit with the return under Subsection (3)(b)(i) the
2573 amount of the tax required under this chapter to be collected or paid for the period covered by
2574 the return.

2575 (c) Each return shall contain information and be in a form the commission prescribes
2576 by rule.

2577 (d) The sales tax as computed in the return shall be based upon the total nonexempt
2578 sales made during the period, including both cash and charge sales.

2579 (e) The use tax as computed in the return shall be based upon the total amount of sales
2580 [~~or~~] and purchases for storage, use, or other consumption in this state made during the period,
2581 including both by cash and by charge.

2582 (f) The commission may by rule extend the time for making returns and paying the
2583 taxes. No extension may be for more than 90 days.

2584 (g) The commission may require returns and payment of the tax to be made for other
2585 than quarterly periods if [~~it~~] the commission considers it necessary in order to ensure the
2586 payment of the tax imposed by this chapter.

2587 (h) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2588 commission may make rules requiring a seller to file an information return:

2589 (i) for information required by this chapter that is not included in any sales and use tax
2590 return developed in accordance with the agreement; and

2591 (ii) not more frequently than every six months.

2592 (4) (a) (i) Notwithstanding Subsection (3) and except as provided in Subsection
2593 (4)(a)(ii), a tax collected in accordance with Subsection (1)(b) by a seller described in
2594 Subsection (4)(d) shall be due and payable:

2595 (A) to the commission;

2596 (B) annually; and

2597 (C) on or before the last day of the month immediately following the last day of each
2598 calendar year.

2599 (ii) Notwithstanding Subsection (4)(a)(i), the commission may require that a tax
2600 collected in accordance with Subsection (1)(b) by a seller described in Subsection (4)(d) be due
2601 and payable:

2602 (A) to the commission; and
2603 (B) on the last day of the month immediately following any month in which the seller
2604 has accumulated a total of at least \$1,000 in agreement sales and use tax.

2605 (b) (i) A tax remitted to the commission under Subsection (4)(a) shall be accompanied
2606 by a return that:

2607 (A) contains information prescribed by the commission; and
2608 (B) is in a form prescribed by the commission.

2609 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
2610 the commission shall make rules prescribing:

2611 (A) the information required to be contained in a return described in Subsection
2612 (4)(b)(i); and

2613 (B) the form of the return described in Subsection (4)(b)(i).

2614 (c) The tax collected in accordance with this Subsection (4) calculated in the return
2615 described in Subsection (4)(b) shall be calculated on the basis of the total amount of taxable
2616 transactions described in Subsection 59-12-103(1) conducted by a seller described in
2617 Subsection (4)(d), including:

2618 (i) a cash transaction; and
2619 (ii) a charge transaction.

2620 (d) This Subsection (4) applies to a seller that is:

2621 (i) registered under the agreement;
2622 (ii) does not meet one or more of the criteria provided for in Subsection (1)(a) to be
2623 required to collect a tax under this chapter; and

2624 (iii) not a:

2625 (A) model 1 seller;
2626 (B) model 2 seller; or
2627 (C) model 3 seller.

2628 ~~[(4) On]~~ (5) (a) Notwithstanding Subsection (3), on each vehicle sale made by other
2629 than a regular licensed vehicle dealer, the purchaser shall pay the sales or use tax directly to the

2630 commission if the vehicle is subject to titling or registration under the laws of this state.

2631 (b) The commission shall collect the tax described in Subsection (5)(a) when the
2632 vehicle is titled or registered.

2633 ~~[(5)]~~ (6) If any sale of tangible personal property or any other taxable transaction under
2634 Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not
2635 responsible for the collection or payment of the tax imposed on the sale and the retailer is
2636 responsible for the collection or payment of the tax imposed on the sale if:

2637 (a) the retailer represents that the personal property is purchased by the retailer for
2638 resale; and

2639 (b) the personal property ~~[thereafter]~~ is not subsequently resold. ~~[Instead, the retailer is~~
2640 ~~solely liable for the tax.]~~

2641 ~~[(6)]~~ (7) If any sale of property or service subject to the tax is made to a person
2642 prepaying sales or use tax in accordance with Title 63, Chapter 51, Resource Development, or
2643 to a contractor or subcontractor of that person, the person to whom such payment or
2644 consideration is payable is not responsible for the collection or payment of the sales or use tax
2645 and the person prepaying the sales or use tax is responsible for the collection or payment of the
2646 sales or use tax if the person prepaying the sales or use tax represents that the amount prepaid
2647 as sales or use tax has not been fully credited against sales or use tax due and payable under the
2648 rules promulgated by the commission. ~~[Instead, the person prepaying the sales or use tax is~~
2649 ~~solely liable for the tax.]~~

2650 ~~[(7) Credit is allowed for prepaid taxes and for taxes paid on that portion of an account~~
2651 ~~determined to be worthless and actually charged off for income tax purposes or on the portion~~
2652 ~~of the purchase price remaining unpaid at the time of a repossession made under the terms of a~~
2653 ~~conditional sales contract.]~~

2654 (8) (a) For purposes of this Subsection (8):

2655 (i) Except as provided in Subsection (8)(a)(ii), "bad debt" is as defined in Section 166,
2656 Internal Revenue Code.

2657 (ii) Notwithstanding Subsection (8)(a)(i), "bad debt" does not include:

2658 (A) an amount included in the purchase price of tangible personal property or a service
2659 that is:

2660 (I) not a transaction described in Subsection 59-12-103(1); or

- 2661 (II) exempt under Section 59-12-104;
2662 (B) a financing charge;
2663 (C) interest;
2664 (D) a tax imposed under this chapter on the purchase price of tangible personal
2665 property or a service;
2666 (E) an uncollectible amount on tangible personal property that:
2667 (I) is subject to a tax under this chapter; and
2668 (II) remains in the possession of a seller until the full purchase price is paid;
2669 (F) an expense incurred in attempting to collect any debt; or
2670 (G) an amount that a seller does not collect on repossessed property.
2671 (b) A seller may deduct bad debt from the total amount from which a tax under this
2672 chapter is calculated on a return.
2673 (c) A seller may file a refund claim with the commission if:
2674 (i) the amount of bad debt for the time period described in Subsection (8)(e) exceeds
2675 the amount of the seller's sales that are subject to a tax under this chapter for that same time
2676 period; and
2677 (ii) as provided in Section 59-12-110.
2678 (d) A bad debt deduction under this section may not include interest.
2679 (e) A bad debt may be deducted under this Subsection (8) on a return for the time
2680 period during which the bad debt:
2681 (i) is written off as uncollectible in the seller's books and records; and
2682 (ii) would be eligible for a bad debt deduction:
2683 (A) for federal income tax purposes; and
2684 (B) if the seller were required to file a federal income tax return.
2685 (f) If a seller recovers any portion of bad debt for which the seller makes a deduction or
2686 claims a refund under this Subsection (8), the seller shall report and remit a tax under this
2687 chapter:
2688 (i) on the portion of the bad debt the seller recovers; and
2689 (ii) on a return filed for the time period for which the portion of the bad debt is
2690 recovered.
2691 (g) For purposes of reporting a recovery of a portion of bad debt under Subsection

- 2692 (8)(f), a seller shall apply amounts received on the bad debt in the following order:
- 2693 (A) in a proportional amount:
- 2694 (I) to the purchase price of the tangible personal property or service; and
- 2695 (II) to the tax due under this chapter on the tangible personal property or service; and
- 2696 (B) to:
- 2697 (I) interest charges;
- 2698 (II) service charges; and
- 2699 (III) other charges.
- 2700 (h) A seller's certified service provider may make a deduction or claim a refund for bad
- 2701 debt on behalf of the seller:
- 2702 (i) in accordance with this Subsection (8); and
- 2703 (ii) if the certified service provider credits or refunds the full amount of the bad debt
- 2704 deduction or refund to the seller.
- 2705 (i) A bad debt may be allocated among the states that are members of the agreement if
- 2706 a seller's books and records support that allocation.
- 2707 ~~[(8)]~~ (9) (a) The commission may require any person subject to the tax imposed under
- 2708 this chapter to deposit with ~~[it]~~ the commission security as the commission determines, if the
- 2709 commission considers it necessary to ensure compliance with this chapter.
- 2710 (b) The commission may sell the security at public sale if it becomes necessary to do so
- 2711 in order to recover any tax, interest, or penalty due.
- 2712 (c) (i) The commission shall serve notice of the sale upon the person who deposited the
- 2713 securities.
- 2714 (ii) Notice under Subsection ~~[(8)]~~ (9)(c)(i) sent to the last-known address as it appears
- 2715 in the records of the commission is sufficient for the purposes of this requirement.
- 2716 (d) The commission shall return to the person who deposited the security any amount
- 2717 of the sale proceeds that exceed the amounts due under this chapter.
- 2718 ~~[(9)]~~ (10) (a) A ~~[vendor]~~ seller may not, with intent to evade any tax, fail to timely remit
- 2719 the full amount of tax required by this chapter.
- 2720 (b) A violation of this section is punishable as provided in Section 59-1-401.
- 2721 (c) Each person who fails to pay any tax to the state or any amount of tax required to be
- 2722 paid to the state, except amounts determined to be due by the commission under Sections

2723 59-12-110 and 59-12-111, within the time required by this chapter, or who fails to file any
2724 return as required by this chapter, shall pay, in addition to the tax, penalties and interest as
2725 provided in Section 59-12-110.

2726 (d) For purposes of prosecution under this section, each quarterly tax period in which a
2727 [~~vendor~~] seller, with intent to evade any tax, collects a tax and fails to timely remit the full
2728 amount of the tax required to be remitted, constitutes a separate offense.

2729 Section 18. Section **59-12-107.1** is enacted to read:

2730 **59-12-107.1. Direct payment permit.**

2731 (1) The commission may issue a direct payment permit to a seller that:

2732 (a) obtains a license under Section 59-12-106;

2733 (b) is required to remit taxes under this chapter by electronic funds transfer in
2734 accordance with Section 59-12-108;

2735 (c) has a record of timely payment of taxes under this chapter as determined by the
2736 commission; and

2737 (d) demonstrates to the commission that the seller has the ability to determine the
2738 appropriate location of a transaction:

2739 (i) under:

2740 (A) Section 59-12-205;

2741 (B) Section 59-12-207.1; and

2742 (C) Section 59-12-207.3; and

2743 (ii) for each transaction for which the seller makes a purchase using the direct payment
2744 permit.

2745 (2) A direct payment permit may not be used in connection with the following
2746 transactions:

2747 (a) a purchase of the following purchased in the same transaction:

2748 (i) prepared food; and

2749 (ii) food and food ingredients;

2750 (b) amounts paid or charged for accommodations and services described in Subsection
2751 59-12-103(1)(i);

2752 (c) amounts paid or charged for admission or user fees under Subsection
2753 59-12-103(1)(f);

- 2754 (d) a purchase of:
- 2755 (i) a motor vehicle;
- 2756 (ii) an aircraft;
- 2757 (iii) a watercraft;
- 2758 (iv) a modular home;
- 2759 (v) a manufactured home; or
- 2760 (vi) a mobile home;
- 2761 (e) amounts paid under Subsection 59-12-103(1)(b); or
- 2762 (f) sales under Subsection 59-12-103(1)(c).
- 2763 (3) The holder of a direct payment permit shall:
- 2764 (a) present evidence of the direct payment permit to a seller at the time the holder of
- 2765 the direct payment permit makes a purchase using the direct payment permit;
- 2766 (b) determine the appropriate location of a transaction under:
- 2767 (i) (A) Section 59-12-205;
- 2768 (B) Section 59-12-207.1; or
- 2769 (C) Section 59-12-207.3; and
- 2770 (ii) for each transaction for which the holder of the direct payment permit makes a
- 2771 purchase using the direct payment permit;
- 2772 (c) notwithstanding Section 59-12-107 and subject to Subsection 59-12-107.2(4),
- 2773 determine the amount of any agreement sales and use tax due on each transaction for which the
- 2774 holder of the direct payment permit uses the direct payment permit;
- 2775 (d) report and remit to the commission the agreement sales and use tax described in
- 2776 Subsection (3)(c) at the same time and in the same manner as the holder of the direct payment
- 2777 permit reports and remits a tax under this chapter; and
- 2778 (e) maintain records:
- 2779 (i) that indicate the appropriate location of a transaction:
- 2780 (A) under:
- 2781 (I) Section 59-12-205;
- 2782 (II) Section 59-12-207.1; or
- 2783 (III) Section 59-12-207.3; and
- 2784 (B) for each transaction for which a purchase is made using the direct payment permit;

2785 and

2786 (ii) necessary to determine the amount described in Subsection (3)(c) for each
2787 transaction for which the holder of the direct payment permit uses the direct payment permit.

2788 (4) A seller that is presented evidence of a direct payment permit at the time of a
2789 transaction:

2790 (a) notwithstanding Section 59-12-107, may not collect agreement sales and use tax on
2791 the transaction;

2792 (b) shall, for a period of three years from the date the seller files a return with the
2793 commission reporting the transaction, retain records to verify that the transaction was made
2794 using a direct payment permit; and

2795 (c) notwithstanding Section 59-12-107, is not liable for agreement sales and use tax on
2796 the transaction.

2797 (5) The holder of a direct payment permit may calculate the amount the holder of the
2798 direct payment permit may retain under Section 59-12-108 on the amount described in
2799 Subsection (3)(c):

2800 (a) for each transaction for which the holder of the direct payment permit uses the
2801 direct payment permit; and

2802 (b) that the holder of the direct payment permit remits to the commission under this
2803 section.

2804 (6) The commission may revoke a direct payment permit issued under this section at
2805 any time if the holder of the direct payment permit fails to comply with any provision of this
2806 chapter.

2807 (7) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2808 commission may make rules to administer this section.

2809 Section 19. Section **59-12-107.2** is enacted to read:

2810 **59-12-107.2. Services, computer software, or digital goods concurrently available**
2811 **for use in more than one location.**

2812 (1) (a) Notwithstanding Section 59-12-107 and except as provided in Subsection (4), if
2813 a purchaser of a good or service described in Subsection (1)(b) that is not the holder of a direct
2814 payment permit under Section 59-12-107.1 knows at the time of purchase that the good or
2815 service described in Subsection (1)(b) will be concurrently available for use in more than one

2816 location, the purchaser shall:

2817 (i) provide to the seller at the time of purchase a form:

2818 (A) prescribed by the commission; and

2819 (B) indicating that the good or service described in Subsection (1)(b) will be

2820 concurrently available for use in more than one location;

2821 (ii) apportion the purchase price of the good or service described in Subsection (1)(b)

2822 among the locations determined in accordance with Section 59-12-205 and Subsection

2823 59-12-207.1(9);

2824 (iii) determine the agreement sales and use tax for each location determined in

2825 accordance with Section 59-12-205 and Subsection 59-12-207.1(9) by calculating the product

2826 of:

2827 (A) the tax rate for the location determined in accordance with Section 59-12-205 and

2828 Subsection 59-12-207.1(9); and

2829 (B) the amount of the purchase price apportioned to that location under Subsection

2830 (1)(a)(ii); and

2831 (iv) remit to the commission the agreement sales and use tax calculated under

2832 Subsection (1)(a)(iii) for each location determined in accordance with Section 59-12-205 and

2833 Subsection 59-12-207.1(9).

2834 (b) Subsection (1)(a) applies to:

2835 (i) a service;

2836 (ii) prewritten computer software delivered electronically; or

2837 (iii) a digital good.

2838 (2) The method a purchaser may use to make the apportionment required by Subsection

2839 (1) shall be:

2840 (a) reasonable;

2841 (b) uniform;

2842 (c) consistent; and

2843 (d) supported by the purchaser's business records as those business records exist at the

2844 time of the transaction.

2845 (3) Upon receipt of the form described in Subsection (1)(a)(i):

2846 (a) a seller;

2847 (i) is not liable to collect or remit agreement sales and use tax for that transaction; and
2848 (ii) shall keep a record of the form described in Subsection (1)(a)(i) for three years
2849 from the date the seller files a return with the commission reporting that transaction; and

2850 (b) the form shall remain in effect:

2851 (i) for all future transactions between the seller described in Subsection (3)(a) and the
2852 purchaser; and

2853 (ii) until the form is revoked in writing by the purchaser.

2854 (4) (a) Notwithstanding Subsection (1), a purchaser of a good or service described in
2855 Subsection (1)(b) is not required to provide to a seller the form described in Subsection
2856 (1)(a)(i) if the purchaser:

2857 (i) knows at the time of purchase that the good or service described in Subsection
2858 (1)(b) will be concurrently available for use in more than one location; and

2859 (ii) is the holder of a direct payment permit under Section 59-12-107.1.

2860 (b) A purchaser described in Subsection (4)(a) is subject to Subsection (2) in
2861 determining the apportionment of agreement sales and use tax due on the good or service
2862 described in Subsection (1)(b).

2863 Section 20. Section **59-12-107.3** is enacted to read:

2864 **59-12-107.3. Collection, remittance, and payment of taxes on direct mail.**

2865 (1) Notwithstanding Section 59-12-107 and except as provided in Subsection (6), a
2866 purchaser of direct mail that is not a holder of a direct payment permit under Section
2867 59-12-107.1 shall provide to a seller at the time of the transaction:

2868 (a) a form:

2869 (i) prescribed by the commission; and

2870 (ii) indicating that the transaction is a direct mail transaction; or

2871 (b) information that indicates the locations of the recipients to which the direct mail is
2872 delivered.

2873 (2) Upon receipt of a form described in Subsection (1)(a) a seller:

2874 (a) is not liable to collect or remit agreement sales and use tax for that transaction; and

2875 (b) shall keep a record of the form described in Subsection (1)(a) for three years from
2876 the date the seller files a return with the commission reporting that transaction.

2877 (3) The purchaser described in Subsection (1) shall in the same manner as a holder of a

2878 direct payment permit under Section 59-12-107.1:

2879 (a) determine the amount of any agreement sales and use tax due on the transaction;

2880 and

2881 (b) report and remit to the commission the agreement sales and use tax due on the

2882 transaction.

2883 (4) The form described in Subsection (1)(a) shall remain in effect:

2884 (a) for all future transactions between the seller described in Subsection (2)(a) and the
2885 purchaser; and

2886 (b) until the form is revoked in writing by the purchaser.

2887 (5) (a) Upon receipt of information described in Subsection (1)(b) from a purchaser

2888 that indicates the locations of the recipients to which direct mail is delivered, a seller shall

2889 collect and remit agreement sales and use tax according to the information provided by the

2890 purchaser.

2891 (b) If a seller collects and remits to the commission agreement sales and use tax on a

2892 transaction in accordance with information provided by a purchaser under Subsection (5)(a),

2893 unless the seller acts in bad faith, the seller is not liable for any further obligation to collect or

2894 remit to the commission agreement sales and use tax on the transaction.

2895 (6) Notwithstanding Subsection (1), if a purchaser of direct mail provides a seller with

2896 a direct payment permit under Section 59-12-107.1, the purchaser may not be required to

2897 provide to the seller:

2898 (a) the form required by Subsection (1)(a); or

2899 (b) information required by Subsection (1)(b).

2900 (7) A seller shall collect and remit agreement sales and use tax as required by Section

2901 59-12-107 if a purchaser of direct mail does not provide the seller with:

2902 (a) a direct payment permit under Section 59-12-107.1; or

2903 (b) the:

2904 (i) form required by Subsection (1)(a); or

2905 (ii) information required by Subsection (1)(b).

2906 Section 21. Section **59-12-108** is amended to read:

2907 **59-12-108. Monthly payment -- Penalty.**

2908 (1) [~~Any person whose~~] (a) Notwithstanding Section 59-12-107, a seller that has a tax

2909 liability under this [~~part, Part 2, The Local Sales and Use Tax Act, Part 5, Public Transit Tax,~~
2910 ~~Part 10, Highways Tax, Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act,~~
2911 ~~Subsection 59-12-603(1)(a)(i), and Subsection 59-12-603(1)(a)(ii), was] chapter of \$50,000 or
2912 more for the previous calendar year shall[~~, on or before the last day of the month next~~
2913 ~~succeeding each calendar month,];~~~~

2914 (i) file a return with the commission [a return];

2915 (A) monthly on or before the last day of the month immediately following the month
2916 for which the seller collects a tax under this chapter; and

2917 (B) for the [preceding monthly period. The vendor shall] month for which the seller
2918 collects a tax under this chapter; and

2919 (ii) except as provided in Subsection (1)(c), remit with the return required by
2920 Subsection (1)(a)(i) the amount [of the state and local tax required under this part, Part 2, The
2921 Local Sales and Use Tax Act, Part 5, Public Transit Tax, Part 10, Highways Tax, Title 10,
2922 Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act, Subsection 59-12-603(1)(a)(i),
2923 and Subsection 59-12-603(1)(a)(ii), to be collected or paid for the period covered by the return.
2924 The] the person is required to remit to the commission for each tax, fee, or charge described in
2925 Subsection (1)(b):

2926 (A) if that seller's tax liability under this chapter for the previous calendar year is less
2927 than \$96,000, by any method permitted by the commission; or

2928 (B) if that seller's tax liability under this chapter for the previous calendar year is
2929 \$96,000 or more, by electronic funds transfer.

2930 (b) Subsections (1)(a)(i) and (ii) apply to the following taxes, fees, or charges:

2931 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

2932 (ii) a fee under Section 19-6-716;

2933 (iii) a fee under Section 19-6-805;

2934 (iv) a charge under Section 69-2-5.5; or

2935 (v) a tax under this chapter.

2936 (c) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63, Chapter 46a,
2937 Utah Administrative Rulemaking Act, the commission may make rules providing for a method
2938 for making same-day payments other than by electronic funds transfer if making payments by
2939 electronic funds transfer fails.

2940 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2941 commission shall establish by rule [the] procedures and [guidelines in] requirements for
2942 determining the [tax liability] amount a seller is required to remit to the commission under [this
2943 section] Subsection (1).

2944 ~~[(2) Any person whose tax liability under this part, Part 2, The Local Sales and Use~~
2945 ~~Tax Act, Part 5, Public Transit Tax, Part 10, Highways Tax, Title 10, Chapter 1, Part 3,~~
2946 ~~Municipal Energy Sales and Use Tax Act, Subsection 59-12-603(1)(a)(i), and Subsection~~
2947 ~~59-12-603(1)(a)(ii), was \$96,000 or more for the previous year shall remit the monthly amount~~
2948 ~~of state and local tax payment due under this section to the tax commission by electronic funds~~
2949 ~~transfer.]~~

2950 ~~[(3)] (2) (a) Except as provided in Subsection [(3)] (2)(b), a [vendor who is required to~~
2951 ~~remit taxes monthly under this section] seller subject to Subsection (1) or a seller described in~~
2952 Subsection (3) may retain each month an amount not to exceed:

2953 (i) 1.5% of [the total monthly sales tax collected under Part 1 of this chapter, and] any
2954 amounts the seller is required to remit to the commission:

2955 (A) for the month for which the seller is filing a return in accordance with Subsection
2956 (1); and

2957 (B) under this part; and

2958 (ii) 1% of [the total monthly sales tax collected under Part 2, The Local Sales and Use
2959 Tax Act, Part 5, Public Transit Tax, Part 10, Highways Tax, Title 10, Chapter 1, Part 3,
2960 Municipal Energy Sales and Use Tax Act, Subsection 59-12-603(1)(a)(i), and Subsection
2961 59-12-603(1)(a)(ii), for the cost to it of collecting and remitting sales and use taxes to the
2962 commission on a monthly basis.] any amounts the seller is required to remit to the commission:

2963 (A) for the month for which the seller is filing a return in accordance with Subsection
2964 (1); and

2965 (B) under:

2966 (I) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax;

2967 (II) Part 2, Local Sales and Use Tax Act;

2968 (III) Part 5, Public Transit Tax;

2969 (IV) Part 10, Highways or Public Transit System Tax;

2970 (V) Subsection 59-12-603(1)(a)(i); or

2971 (VI) Subsection 59-12-603(1)(a)(ii).

2972 (b) [~~A~~] Notwithstanding Subsection (2)(a), a state government entity that is required to
2973 remit taxes monthly [under this chapter] in accordance with Subsection (1) may not retain [any
2974 portion of the taxes it collects to cover the costs of collecting and remitting sales and use taxes
2975 to the commission] any amount under Subsection (2)(a).

2976 (3) A seller that has a tax liability under this chapter for the previous calendar year of
2977 less than \$50,000 may:

2978 (a) voluntarily meet the requirements of Subsection (1); and

2979 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the
2980 amounts allowed by Subsection (2)(a).

2981 (4) Penalties for late payment shall be as provided in Section 59-1-401.

2982 Section 22. Section **59-12-110** is amended to read:

2983 **59-12-110. Overpayments, deficiencies, and refunds procedures.**

2984 (1) (a) As soon as practicable after a return is filed, the commission shall examine the
2985 return.

2986 (b) If the commission determines that the correct amount of tax to be remitted is
2987 greater or less than the amount shown to be due on the return, the commission shall recompute
2988 the tax.

2989 (c) If the amount paid exceeds the amount due, the excess, plus interest as provided in
2990 Section 59-1-402, shall be credited or refunded to the taxpayer as provided in Subsection (2).

2991 (d) The commission may not credit or refund to the taxpayer interest on an
2992 overpayment under Subsection (1)(c) if the commission determines that the overpayment was
2993 made for the purpose of investment.

2994 (2) (a) If a taxpayer pays a tax, penalty, or interest more than once or the commission
2995 erroneously receives, collects, or computes any tax, penalty, or interest, including an
2996 overpayment described in Subsection (1)(c), the commission shall:

2997 (i) credit the amount of tax, penalty, or interest paid by the taxpayer against any
2998 amounts of tax, penalties, or interest the taxpayer owes; and

2999 (ii) refund any balance to the taxpayer or the taxpayer's successors, administrators,
3000 executors, or assigns.

3001 (b) Except as provided in [~~Subsection~~] Subsections (2)(c) and (d), or Section 19-2-124,

3002 a taxpayer shall file a claim with the commission to obtain a refund or credit under this
3003 Subsection (2) within three years from the day on which the taxpayer overpaid the tax, penalty,
3004 or interest.

3005 (c) Notwithstanding Subsection (2)(b), beginning on July 1, 1998, the commission
3006 shall extend the period for a taxpayer to file a claim under Subsection (2)(b) if:

3007 (i) the three-year period under Subsection (2)(b) has not expired; and

3008 (ii) the commission and the taxpayer sign a written agreement:

3009 (A) authorizing the extension; and

3010 (B) providing for the length of the extension.

3011 (d) Notwithstanding Subsection (2)(b), a seller that files a claim for a refund under
3012 Subsection 59-12-107(8)(c) for bad debt shall file the claim with the commission within three
3013 years from the date on which the seller could first claim the refund for the bad debt.

3014 [~~(d)~~] (e) A taxpayer may file a claim to obtain a refund or credit under this Subsection
3015 (2) regardless of whether the taxpayer received or objected to a notice of deficiency or a notice
3016 of assessment as provided in Subsection 59-12-114(1).

3017 [~~(e)~~] (f) A taxpayer may obtain a refund under this Subsection (2) of a tax paid under
3018 this chapter on a transaction that is taxable under Section 59-12-103 if:

3019 (i) the sale or use was exempt from sales and use taxes under Section 59-12-104 on the
3020 date of purchase; and

3021 (ii) except as provided in Subsection (2)(c), the taxpayer files a claim for a refund with
3022 the commission as provided in Subsections (2)(b) through [~~(d)~~] (e).

3023 [~~(f)~~] (g) If the commission denies a claim for a refund or credit under this Subsection
3024 (2), the taxpayer may request a redetermination of the denial by filing a petition or request for
3025 agency action with the commission as provided in Title 63, Chapter 46b, Administrative
3026 Procedures Act.

3027 (3) If the commission erroneously determines an amount to be due from a taxpayer, the
3028 commission shall authorize the amounts to be cancelled upon its records.

3029 (4) (a) Subject to the provisions of Subsection (4)(b), the commission may impose on a
3030 deficiency under this section:

3031 (i) a penalty as provided in Section 59-1-401; and

3032 (ii) interest as provided in Section 59-1-402.

3033 (b) The commission may impose a penalty and interest on the entire deficiency if any
3034 part of the deficiency is due to:

3035 (i) negligence;

3036 (ii) intentional disregard of law or rule; or

3037 (iii) fraud with intent to evade the tax.

3038 (5) (a) Except as provided in Subsection (5)(b), a taxpayer shall pay a tax deficiency,
3039 including penalties or interest under this section, within ten days after the commission provides
3040 the taxpayer notice and demand of the deficiency, penalty, or interest.

3041 (b) Notwithstanding Subsection (5)(a), a taxpayer may pay a tax deficiency, penalty, or
3042 interest within 30 days after the commission provides the taxpayer notice and demand of the
3043 deficiency, penalty, or interest if the commission determines:

3044 (i) that a greater amount was due than was shown on the return; and

3045 (ii) the tax is not in jeopardy.

3046 (6) (a) Except as provided in Subsections (6)(c) through (f), the commission shall
3047 assess the amount of taxes imposed by this chapter, and any penalties and interest, within three
3048 years after a taxpayer files a return.

3049 (b) Except as provided in Subsections (6)(c) through (f), if the commission does not
3050 make an assessment under Subsection (6)(a) within three years, the commission may not
3051 commence a proceeding for the collection of the taxes after the expiration of the three-year
3052 period.

3053 (c) Notwithstanding Subsections (6)(a) and (b), the commission may make an
3054 assessment or commence a proceeding to collect a tax at any time if a deficiency is due to:

3055 (i) fraud; or

3056 (ii) failure to file a return.

3057 (d) Notwithstanding Subsections (6)(a) and (b), beginning on July 1, 1998, the
3058 commission may extend the period to make an assessment or to commence a proceeding to
3059 collect the tax under this chapter if:

3060 (i) the three-year period under this Subsection (6) has not expired; and

3061 (ii) the commission and the taxpayer sign a written agreement:

3062 (A) authorizing the extension; and

3063 (B) providing for the length of the extension.

3064 (e) If the commission delays an audit at the request of a taxpayer, the commission may
3065 make an assessment as provided in Subsection (6)(f) if:

3066 (i) the taxpayer subsequently refuses to agree to an extension request by the
3067 commission; and

3068 (ii) the three-year period under this Subsection (6) expires before the commission
3069 completes the audit.

3070 (f) An assessment under Subsection (6)(e) shall be:

3071 (i) for the time period for which the commission could not make an assessment
3072 because of the expiration of the three-year period; and

3073 (ii) in an amount equal to the difference between:

3074 (A) the commission's estimate of the amount of taxes the taxpayer would have been
3075 assessed for the time period described in Subsection (6)(f)(i); and

3076 (B) the amount of taxes the taxpayer actually paid for the time period described in
3077 Subsection (6)(f)(i).

3078 Section 23. Section **59-12-110.1** is enacted to read:

3079 **59-12-110.1. Procedures for taxes erroneously charged a purchaser.**

3080 (1) Subject to the other provisions of this section, a purchaser may request from a seller
3081 a refund or credit of any amount that:

3082 (a) the purchaser overpaid in taxes under this chapter; and

3083 (b) was collected by the seller.

3084 (2) (a) Except as provided in Subsection (2)(b), the procedure described in Subsection
3085 (1) is in addition to the process for a taxpayer to file a claim for a refund or credit with the
3086 commission under Section 59-12-110.

3087 (b) Notwithstanding Subsection (2)(a):

3088 (i) the commission is not required to make a refund or credit of an amount for which as
3089 of the date the refund or credit is to be given the purchaser has requested or received a refund
3090 or credit from the seller; and

3091 (ii) a seller is not required to refund or credit an amount for which as of the date the
3092 refund is to be given the purchaser has requested or received a refund or credit from the
3093 commission.

3094 (3) A purchaser may not bring a cause of action against a seller for a refund or credit

3095 described in Subsection (1):

3096 (a) unless the purchaser provided the seller written notice that:

3097 (i) the purchaser requests the refund or credit described in Subsection (1); and

3098 (ii) contains the information necessary for the seller to determine the validity of the

3099 request; and

3100 (b) sooner than 60 days after the day on which the seller receives the written notice

3101 described in Subsection (3)(a).

3102 Section 24. Section **59-12-113** is amended to read:

3103 **59-12-113. Collection of tax by warrant.**

3104 (1) (a) A tax due and unpaid under this chapter:

3105 (i) constitutes a debt due the state from the [~~vendor~~] seller; and

3106 (ii) may be collected, together with interest, penalty, and costs, by appropriate judicial

3107 proceeding. [~~This~~]

3108 (b) The remedy described in Subsection (1)(a) shall be in addition to all other existing

3109 remedies.

3110 (2) (a) If the tax imposed by this chapter or any portion of [~~it~~] the tax is not paid when

3111 due and if the [~~vendor~~] seller liable for the payment of the amount has not regularly followed

3112 the procedure outlined in Section 59-12-114, the commission may issue a warrant in duplicate,

3113 under [~~its~~] the commission's official seal, directed to the sheriff of any county of the state

3114 commanding [~~him~~] the sheriff to levy upon and sell the real and personal property of a

3115 delinquent taxpayer found within [~~his~~] that county for the payment of the tax due, with the

3116 added penalties, interest, and costs. [~~Such~~]

3117 (b) The warrant described in Subsection (2)(a) and the money collected under [~~it~~] the

3118 warrant shall be returned to the commission by a time to be specified in the warrant, not more

3119 than 60 days from the date of the warrant.

3120 (c) (i) Immediately upon receipt of the warrant in duplicate, the sheriff shall file the

3121 duplicate with the clerk of the district court in [~~his~~] the county described in Subsection (2)(a).

3122 (ii) The clerk shall [~~then~~] enter in the judgment docket, in the column for judgment

3123 debtors, the name of the delinquent taxpayer mentioned in the warrant described in Subsection

3124 (2)(a) and, in appropriate columns, the amount of tax, penalties, interest, and costs for which

3125 the warrant is issued and the date when [~~such~~] the duplicate is filed under Subsection (2)(c)(i).

3126 (iii) The amount of ~~[such]~~ the docketed warrant under Subsection (2)(c)(ii) shall:

3127 (A) have the force and effect of an execution against all personal property of the

3128 delinquent taxpayer; and ~~[shall]~~

3129 (B) become a lien upon the real property of the delinquent taxpayer in the same manner

3130 as a judgment ~~[duty]~~;

3131 (I) rendered by any district court; and

3132 (II) docketed in the office of the clerk ~~[thereof]~~ of that district court.

3133 (d) The sheriff shall then proceed upon the same in all respects, with like effect, and in

3134 the same manner as is prescribed by law in respect to executions issued against property upon

3135 judgments of a court of record and shall be entitled to the same fees for ~~[his]~~ the sheriff's

3136 services in executing the warrant, to be collected in the same manner.

3137 Section 25. Section **59-12-115** is amended to read:

3138 **59-12-115. Delinquent payment -- Sufficiency of notice -- Limitation.**

3139 (1) If any person is delinquent in the payment of the amount of tax required to be paid

3140 by ~~[him]~~ that person, the commission may give notice of the amount of ~~[such]~~ the delinquency:

3141 (a) by registered mail; and

3142 (b) to all persons having in their possession, or under their control, any credits or other

3143 personal property belonging to such person, or owing any debts to such person at the time of

3144 the receipt by them of such notice.

3145 (2) Any person ~~[so]~~ notified under Subsection (1) may not transfer ~~[nor]~~ or make any

3146 other disposition of such credits, other personal property, or debts until:

3147 (a) the commission has consented to a transfer or disposition~~[-]~~; or ~~[until]~~

3148 (b) 20 days have elapsed after the receipt of such notice.

3149 (3) All persons ~~[so]~~ notified under Subsection (1) shall, within five days after receipt of

3150 ~~[such]~~ the notice, advise the commission of any and all ~~[such]~~ credits, other personal property,

3151 or debts in their possession, under their control, or owing by them, as the case may be.

3152 ~~[(2)]~~ (4) Any notice required to be mailed to ~~[the vendor]~~ a seller under this chapter, if

3153 mailed to ~~[him]~~ the seller at ~~[his]~~ the seller's last-known address as shown on the records of the

3154 commission, is sufficient for the purposes of this chapter.

3155 ~~[(3)]~~ (5) (a) At any time within three years after any person is delinquent in the

3156 payment of any amount required to be paid, the commission may collect the amount by

3157 appropriate judicial proceedings. [~~This~~]

3158 (b) The remedy described in Subsection (5)(a) shall be in addition to all other existing
3159 remedies.

3160 [~~(4)~~] (6)(a) Each remedy of the state shall be cumulative for the collection of an
3161 amount due [it] to the state under this chapter. [~~No~~]

3162 (b) An action taken by the commission may not be construed to be an election on the
3163 part of the state or any [~~of its officers~~] officer of the state to pursue any remedy under this
3164 section to the exclusion of any other remedy under this chapter.

3165 Section 26. Section **59-12-117** is amended to read:

3166 **59-12-117. Refusal to make or falsifying returns -- Penalties -- Criminal**
3167 **violations.**

3168 (1) It is unlawful for any [~~vendor~~] seller to refuse to:

3169 (a) make any return required to be made [in] under this chapter [~~or to~~];

3170 (b) make any false or fraudulent return or false statement on any return [~~or to~~];

3171 (c) evade the payment of [~~the~~] a tax, or any part [~~thereof~~] of a tax imposed by this
3172 chapter; or [~~for any person to~~]

3173 (d) aid or abet another in any attempt to evade the payment of the tax or any part
3174 imposed by this chapter.

3175 (2) Any person violating any of the provisions of this chapter, except as provided in
3176 Section 59-12-107, [~~shall be~~] is guilty of a criminal violation as provided in Section 59-1-401.

3177 (3) In addition to the [~~foregoing~~] penalties described in Subsection (2), any person who
3178 knowingly swears to or verifies any false or fraudulent return, or any return containing any
3179 false or fraudulent statement is guilty of the offense of perjury and on conviction [~~thereof~~] of
3180 perjury shall be punished in the manner provided by law.

3181 (4) Any company making a false return or a return containing a false statement [~~as~~
3182 ~~aforsaid,~~] is guilty of a criminal violation as provided in Section 59-1-401.

3183 [~~(2)~~] (5) Any person failing or refusing to furnish any return required to be made,
3184 failing or refusing to furnish a supplemental return or other data required by the commission, or
3185 rendering a false or fraudulent return [~~shall be~~] is guilty of a criminal violation as provided in
3186 Section 59-1-401 for each [~~such~~] offense.

3187 [~~(3)~~] (6) Any person required to make, render, sign, or verify any report under this

3188 chapter, who makes any false or fraudulent return with intent to defeat or evade the assessment
3189 or determination of amount due required by law to be made ~~[shall be]~~ is guilty of a criminal
3190 violation as provided in Section 59-1-401 for each ~~[such]~~ offense.

3191 ~~[(4)]~~ (7) Any violation of the provisions of this chapter, except as otherwise provided,
3192 shall be a criminal violation as provided in Section 59-1-401.

3193 Section 27. Section **59-12-121** is enacted to read:

3194 **59-12-121. Amnesty.**

3195 (1) As used in this section, "amnesty" means that a seller is not required to pay the
3196 following amounts that the seller would otherwise be required to pay:

3197 (a) a tax, fee, or charge under:

3198 (i) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

3199 (ii) Section 19-6-714;

3200 (iii) Section 19-6-805;

3201 (iv) Section 69-2-5.5; or

3202 (v) this chapter;

3203 (b) a penalty on a tax, fee, or charge described in Subsection (1)(a); or

3204 (c) interest on a tax, fee, or charge described in Subsection (1)(a).

3205 (2) The commission shall grant a seller amnesty under this section if:

3206 (a) the seller was not licensed under Section 59-12-106 at any time during the
3207 12-month period prior to July 1, 2004;

3208 (b) the seller obtains a license under Section 59-12-106 within a 12-month period
3209 beginning on July 1, 2004; and

3210 (c) the seller is registered under the agreement.

3211 (3) A seller may not receive amnesty under this section for a tax, fee, or charge:

3212 (a) collected by the seller;

3213 (b) remitted to the commission by the seller;

3214 (c) that the seller is required to remit to the commission on the seller's purchases; or

3215 (d) arising from a transaction that occurred within a time period that is under audit by
3216 the commission if:

3217 (i) the seller has received notice of the commencement of an audit prior to obtaining a
3218 license under Section 59-12-106; and

3219 (ii) (A) the audit described in Subsection (3)(d)(i) has not been completed; or
3220 (B) the seller has not exhausted all administrative and judicial remedies in connection
3221 with the audit described in Subsection (3)(d)(i).

3222 (4) (a) Except as provided in Subsection (4)(b), amnesty granted to a seller by the
3223 commission under this section:

3224 (i) applies to the time period during which a seller was not licensed under Section
3225 59-12-106; and

3226 (ii) remains in effect if, for a period of three years, the seller:

3227 (A) remains registered under the agreement;

3228 (B) collects a tax, fee, or charge on a transaction subject to a tax, fee, or charge
3229 described in Subsection (1)(a); and

3230 (C) remits to the commission all taxes, fees, or charges described in Subsection
3231 (4)(b)(ii).

3232 (b) Notwithstanding Subsection (4)(a), a seller may not be granted amnesty under this
3233 section if with respect to a tax, fee, or charge for which the seller would otherwise be granted
3234 amnesty under this section the seller commits:

3235 (i) fraud; or

3236 (ii) an intentional misrepresentation of a material fact.

3237 (5) (a) If a seller does not meet the requirements of Subsection (4)(a)(ii), the
3238 commission shall require the seller to pay the amounts described in Subsection (1) that the
3239 seller would have otherwise been required to pay.

3240 (b) Notwithstanding Section 59-12-110, and for purposes of requiring a seller to pay an
3241 amount described in Subsection (5)(a) the time period for the commission to make an
3242 assessment under Section 59-12-110 shall be extended for an additional three years.

3243 Section 28. Section **59-12-204** is amended to read:

3244 **59-12-204. Sales and use tax ordinance provisions -- Tax rate -- Distribution of**
3245 **tax revenues.**

3246 (1) The tax ordinance adopted pursuant to this part shall impose a tax upon those
3247 transactions listed in Subsection 59-12-103(1).

3248 (2) (a) Except as provided in Subsections (2)(b) [~~and (c), (6)(b) and (c),~~] and
3249 [~~59-12-205(2), such~~] 59-12-207.1(7)(c), the tax ordinance under Subsection (1) shall include a

3250 provision imposing a tax upon every transaction listed in Subsection 59-12-103(1) made within
3251 a county, including areas contained within the cities and towns [~~thereof~~] located in the county:

3252 (i) at the rate of [~~3/4% or any fractional part of such 3/4%~~] 1% of the purchase price
3253 paid or charged[~~;~~]; and

3254 (ii) if the transaction is consummated within the county in accordance with Section
3255 59-12-205.

3256 (b) [~~(i)~~] Notwithstanding Subsection (2)(a), a tax ordinance under this Subsection (2)
3257 shall include a provision prohibiting a county, city, or town from imposing a tax under this
3258 section on[~~-(A)~~] the sales and uses described in Section 59-12-104 to the extent the sales and
3259 uses are exempt from taxation under Section 59-12-104[~~;~~and].

3260 [~~(B)~~ subject to Subsection (2)(b)(ii), any amounts paid or charged by a vendor that
3261 collects a tax under Subsection 59-12-107(1)(b) unless all of the counties, cities, and towns in
3262 the state impose the tax under this section.]

3263 [(ii) Notwithstanding Subsection (2)(a), if a county, city, or town imposes a tax under
3264 Subsection (2)(b)(i)(B), the tax ordinance under this Subsection (2) shall include a provision
3265 that the tax rate is equal to the lowest tax rate imposed by a county, city, or town under this
3266 section.]

3267 [(c) (i) Notwithstanding Section 59-12-205, a tax ordinance under this Subsection (2)
3268 shall include a provision prohibiting a county, city, or town from imposing a tax under Section
3269 59-12-205 on:]

3270 [(A) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3271 are exempt from taxation under Section 59-12-104; and]

3272 [~~(B)~~ subject to Subsection (2)(c)(ii), any amounts paid or charged by a vendor that
3273 collects a tax under Subsection 59-12-107(1)(b) unless all of the counties, cities, and towns in
3274 the state impose the tax under Section 59-12-205.]

3275 [(ii) Notwithstanding Section 59-12-205, if a county, city, or town imposes a tax under
3276 Subsection (2)(c)(i)(B), the tax ordinance under this Subsection (2) shall include a provision
3277 that the tax rate is equal to the lowest tax rate imposed by a county, city, or town under Section
3278 59-12-205.]

3279 (3) Such tax ordinance shall include provisions substantially the same as those
3280 contained in Part 1, Tax Collection, insofar as they relate to sales or use tax, except that the

3281 name of the county as the taxing agency shall be substituted for that of the state where
3282 necessary for the purpose of this part and that an additional license is not required if one has
3283 been or is issued under Section 59-12-106.

3284 (4) Such tax ordinance shall include a provision that the county shall contract, prior to
3285 the effective date of the ordinance, with the commission to perform all functions incident to the
3286 administration or operation of the ordinance.

3287 (5) Such tax ordinance shall include a provision that the sale, storage, use, or other
3288 consumption of tangible personal property, the purchase price or the cost of which has been
3289 subject to sales or use tax under a sales and use tax ordinance enacted in accordance with this
3290 part by any county, city, or town in any other county in this state, shall be exempt from the tax
3291 due under this ordinance.

3292 (6) Such tax ordinance shall include a provision that any person subject to the
3293 provisions of a city or town sales and use tax shall be exempt from the county sales and use tax
3294 if the city or town sales and use tax is levied under an ordinance including provisions in
3295 substance as follows:

3296 (a) a provision imposing a tax upon every transaction listed in Section 59-12-103 made
3297 within the city or town at the rate imposed by the county in which it is situated pursuant to
3298 Subsection (2);

3299 ~~[(b) (i) notwithstanding Subsection (2)(a), and subject to Subsection (6)(b)(ii), a~~
3300 ~~provision prohibiting the city or town from imposing a tax under this section on any amounts~~
3301 ~~paid or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b) unless all of~~
3302 ~~the counties, cities, and towns in the state impose a tax under this section; and]~~

3303 ~~[(ii) notwithstanding Subsection (2)(a), if a city or town imposes a tax under~~
3304 ~~Subsection (6)(b)(i), a provision that the tax rate is equal to the lowest tax rate imposed by a~~
3305 ~~county, city, or town under this section;]~~

3306 ~~[(c) (i) notwithstanding Section 59-12-205 and subject to Subsection (6)(c)(ii), a~~
3307 ~~provision prohibiting the city or town from imposing a tax under Section 59-12-205 on any~~
3308 ~~amounts paid or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b)~~
3309 ~~unless all of the counties, cities, and towns in the state impose a tax under Section 59-12-205;~~
3310 ~~and]~~

3311 ~~[(ii) notwithstanding Section 59-12-205, if a city or town imposes a tax under~~

3312 ~~Subsection (6)(c)(i), a provision that the tax rate is equal to the lowest tax rate imposed by a~~
3313 ~~county, city, or town under Section 59-12-205;]~~

3314 ~~[(d)]~~ (b) provisions substantially the same as those contained in Part 1, Tax Collection,
3315 insofar as they relate to sales and use taxes, except that the name of the city or town as the
3316 taxing agency shall be substituted for that of the state where necessary for the purposes of this
3317 part;

3318 ~~[(e)]~~ (c) a provision that the city or town shall contract prior to the effective date of the
3319 city or town sales and use tax ordinance with the commission to perform all functions incident
3320 to the administration or operation of the sales and use tax ordinance of the city or town;

3321 ~~[(f)]~~ (d) a provision that the sale, storage, use, or other consumption of tangible
3322 personal property, the gross receipts from the sale of or the cost of which has been subject to
3323 sales or use tax under a sales and use tax ordinance enacted in accordance with this part by any
3324 county other than the county in which the city or town is located, or city or town in this state,
3325 shall be exempt from the tax; and

3326 ~~[(g)]~~ (e) a provision that the amount of any tax paid under Part 1, Tax Collection, shall
3327 not be included as a part of the purchase price paid or charged for a taxable item.

3328 ~~[(7) (a) Notwithstanding any other provision of this section, from January 1, 1990,~~
3329 ~~through June 30, 1999, the commission shall determine and retain the amount of revenue~~
3330 ~~generated by a 1/64% tax rate and deposit it in the Olympics Special Revenue Fund or funds~~
3331 ~~provided for in Subsection 59-12-103(4) for the purposes of the Utah Sports Authority~~
3332 ~~described in Title 63A, Chapter 7, Utah Sports Authority Act.]~~

3333 ~~[(b) Except for sales and use taxes deposited under Subsections (7)(c) and (d),~~
3334 ~~beginning on July 1, 1999, the amount of revenue generated by the 1/64% tax rate under~~
3335 ~~Subsection (7)(a) shall be retained by the county, city, or town levying a tax under this section.]~~

3336 ~~[(e)]~~ (7) (a) Notwithstanding any other provision of this section, beginning on July 1,
3337 1999, the commission shall:

3338 (i) determine and retain the portion of the sales and use tax imposed under this section:

3339 (A) by a city or town that will have constructed within its boundaries the Airport to
3340 University of Utah Light Rail described in the Transportation Equity Act for the 21st Century,
3341 Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

3342 (B) that is equal to the revenues generated by a 1/64% tax rate; and

3343 (ii) deposit the revenues described in Subsection (7)[~~(e)~~] (a)(i) in the Airport to
3344 University of Utah Light Rail Restricted Account created in Section 17A-2-1064 for the
3345 purposes described in Section 17A-2-1064.

3346 [~~(d)~~] (b) Notwithstanding any other provision of this section, beginning July 1, 2000,
3347 the commission shall:

3348 (i) determine and retain the portion of sales and use tax imposed under this section:

3349 (A) by each county and by each city and town within that county whose legislative
3350 body consents by resolution to the commission's retaining and depositing sales and use tax
3351 revenues as provided in this Subsection (7)[~~(d)~~] (b); and

3352 (B) that is equal to the revenues generated by a 1/64% tax rate;

3353 (ii) deposit the revenues described in Subsection (7)[~~(d)~~] (b)(i) into a special fund of
3354 the county, or a city, town, or other political subdivision of the state located within that county,
3355 that has issued bonds to finance sports or recreational facilities or that is leasing sports or
3356 recreational facilities, in order to repay those bonds or to pay the lease payments; and

3357 (iii) continue to deposit those revenues into the special fund only as long as the bonds
3358 or leases are outstanding.

3359 [~~(8) If a county, city, or town imposes a tax under this section on any amounts paid or~~
3360 ~~charged by a vendor that collects a tax under Subsection 59-12-107(1)(b), the revenues~~
3361 ~~generated by the tax shall be distributed as provided in Subsection 59-12-103(3)(c).]~~

3362 Section 29. Section **59-12-205** is amended to read:

3363 **59-12-205. Ordinances to conform with statutory amendments -- Distribution of**
3364 **tax revenues.**

3365 (1) Each county, city, and town, in order to maintain in effect sales and use tax
3366 ordinances adopted pursuant to Section 59-12-204, shall, within 30 days of any amendment of
3367 any applicable provisions of Part 1, Tax Collection, adopt amendments of their respective sales
3368 and use tax ordinances to conform with the amendments to Part 1, Tax Collection, insofar as
3369 they relate to sales and use taxes.

3370 [~~(2)(a) Any county, city, or town may distribute its sales or use tax revenues by means~~
3371 ~~other than point of sale or use by notifying the commission in writing of such decision, no later~~
3372 ~~than 30 days before commencement of the next tax accrual period.]~~

3373 [~~(b) Except as provided in Subsections 59-12-204(2)(b) and (c) and (6)(b) and (c), after~~

3374 such notice is given, beginning on January 1, 1990 a county, city, or town may increase the tax
3375 authorized by this part to a total of 1% of the purchase price paid or charged.]

3376 [~~(c)~~] (2) (a) Except as provided in [~~Subsections (2)(d);~~] Subsection (3)[~~, and (4)~~]:

3377 (i) 50% of each dollar collected from the sales and use tax authorized by this part shall
3378 be paid to each county, city, and town [~~providing notice under this section, based upon~~] on the
3379 basis of the percentage that the population of the county, city, or town bears to the total
3380 population of all [~~such entities providing notice under this section~~] counties, cities, and towns
3381 in the state; and

3382 (ii) notwithstanding Sections 59-12-207.1 through 59-12-207.4, 50% of each dollar
3383 collected from the sales and use tax authorized by this part shall be paid to each county, city,
3384 and town [~~providing notice under this section, based upon the point of sale or use of~~] on the
3385 basis of the location where the transaction is consummated under Subsection (2)(b).

3386 (b) For purposes of Subsection (2)(a), the location where a transaction is consummated
3387 is determined as follows:

3388 (i) except as provided in Subsections (2)(b)(ii) through (iv), the location where a
3389 transaction is consummated is the place of business of the seller;

3390 (ii) notwithstanding Subsection (2)(b)(i), if tangible personal property is shipped from
3391 outside the state, the location where the transaction is consummated is the same as the location
3392 of the transaction determined under:

3393 (A) Section 59-12-207.1;

3394 (B) Section 59-12-207.2;

3395 (C) Section 59-12-207.3; or

3396 (D) Section 59-12-207.4;

3397 (iii) notwithstanding Subsection (2)(b)(i) and subject to Subsection (2)(c), if the
3398 transaction is made from a location in the state other than a fixed place of business in the state,
3399 the location where the transaction is consummated is the same as the location of the transaction
3400 determined under:

3401 (A) Section 59-12-207.1;

3402 (B) Section 59-12-207.2;

3403 (C) Section 59-12-207.3; or

3404 (D) Section 59-12-207.4; or

3405 (iv) if the transaction involves the sale of a telephone service, the location where the
3406 transaction is consummated is the same as the location of the transaction determined under
3407 Section 59-12-207.4.

3408 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
3409 commission may make rules defining what constitutes a fixed place of business in the state.

3410 ~~[(d) Notwithstanding Subsection (2)(c), if a county, city, or town imposes a tax under~~
3411 ~~this section on any amounts paid or charged by a vendor that collects a tax under Subsection~~
3412 ~~59-12-107(1)(b), the revenues generated by the tax shall be distributed as provided in~~
3413 ~~Subsection 59-12-103(3)(c).]~~

3414 (3) (a) Notwithstanding ~~[any provision of]~~ Subsection (2), a county, city, or town ~~[that~~
3415 ~~has given notice under this section]~~ may not receive a tax revenue distribution less than ~~[3/4 of~~
3416 ~~1%]~~ .75% of the taxable sales within ~~[its]~~ the boundaries of the county, city, or town.

3417 (b) The commission shall proportionally reduce quarterly distributions to any county,
3418 city, or town~~[-, which] that~~, but for the reduction, would receive a distribution in excess of 1%
3419 ~~[beginning January 1, 1990,]~~ of the sales and use tax revenue collected within ~~[its]~~ the
3420 boundaries of the county, city, or town.

3421 ~~[(4) (a) Notwithstanding any other provision of this section, from January 1, 1990,~~
3422 ~~through June 30, 1999, the commission shall determine and retain the amount of revenue~~
3423 ~~generated by a 1/64% tax rate and deposit it in the Olympics Special Revenue Fund or funds~~
3424 ~~provided for in Subsection 59-12-103(4) for the purposes of the Utah Sports Authority~~
3425 ~~described in Title 63A, Chapter 7, Utah Sports Authority Act.]~~

3426 ~~[(b) Except for sales and use taxes deposited under Subsections (4)(c) and (d),~~
3427 ~~beginning on July 1, 1999, the amount of revenue generated by the 1/64% tax rate under~~
3428 ~~Subsection (4)(a) shall be distributed to each county, city, and town as provided in this~~
3429 ~~section.]~~

3430 ~~[(c) Notwithstanding any other provision of this section, beginning on July 1, 1999, the~~
3431 ~~commission shall:]~~

3432 ~~[(i) determine and retain the portion of the sales and use tax imposed under this~~
3433 ~~section:]~~

3434 ~~[(A) by a city or town that will have constructed within its boundaries the Airport to~~
3435 ~~University of Utah Light Rail described in the Transportation Equity Act for the 21st Century,~~

3436 ~~Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(H), 112 Stat. 107; and]~~

3437 ~~[(B) that is equal to the revenues generated by a 1/64% tax rate; and]~~

3438 ~~[(ii) deposit the revenues described in Subsection (4)(c)(i) in the Airport to University~~
3439 ~~of Utah Light Rail Restricted Account created in Section 17A-2-1064 for the purposes~~
3440 ~~described in Section 17A-2-1064.]~~

3441 ~~[(d) Notwithstanding any other provision of this section, beginning July 1, 2000, the~~
3442 ~~commission shall:]~~

3443 ~~[(i) determine and retain the portion of sales and use tax imposed under this section:]~~

3444 ~~[(A) by each county and by each city and town within that county whose legislative~~
3445 ~~body consents by resolution to the commission's retaining and depositing sales and use tax~~
3446 ~~revenues as provided in this Subsection (4)(d); and]~~

3447 ~~[(B) that is equal to the revenues generated by a 1/64% tax rate;]~~

3448 ~~[(ii) deposit the revenues described in Subsection (4)(d)(i) into a special fund of the~~
3449 ~~county, or a city, town, or other political subdivision of the state located within that county, that~~
3450 ~~has issued bonds to finance sports or recreational facilities or that is leasing sports or~~
3451 ~~recreational facilities, in order to repay those bonds or to pay the lease payments; and]~~

3452 ~~[(iii) continue to deposit those revenues into the special fund only as long as the bonds~~
3453 ~~or leases are outstanding.]~~

3454 ~~[(5)] (4) (a) Population figures for purposes of this section shall be based on the most~~
3455 ~~recent official census or census estimate of the United States Census Bureau.~~

3456 (b) If a needed population estimate is not available from the United States Census
3457 Bureau, population figures shall be derived from the estimate from the Utah Population
3458 Estimates Committee created by executive order of the governor.

3459 ~~[(6)] (5) The population of a county for purposes of this section shall be determined~~
3460 ~~solely from the unincorporated area of the county.~~

3461 Section 30. Section **59-12-207.1** is enacted to read:

3462 **59-12-207.1. Location of certain transactions -- Reports to commission -- Direct**
3463 **pay provision for a seller making certain purchases -- Exceptions.**

3464 (1) As used in this section:

3465 (a) (i) "Receive" and "receipt" mean:

3466 (A) taking possession of tangible personal property;

- 3467 (B) making first use of services; or
3468 (C) for a digital good, the earlier of:
3469 (I) taking possession of tangible personal property; or
3470 (II) making first use of services.
3471 (ii) "Receive" and "receipt" do not include possession by a shipping company on behalf
3472 of a purchaser.
- 3473 (b) "Transportation equipment" means:
3474 (i) a locomotive or railcar that is utilized for the carriage of persons or property in
3475 interstate commerce;
3476 (ii) a truck or truck-tractor with a gross vehicle weight rating of 10,001 pounds or more
3477 that is:
3478 (A) registered under Section 41-1a-301; and
3479 (B) operated under the authority of a carrier authorized and certificated:
3480 (I) by the United States Department of Transportation or another federal authority; and
3481 (II) to engage in the carriage of persons or property in interstate commerce;
3482 (iii) a trailer, semitrailer, or passenger bus that is:
3483 (A) registered under Section 41-1a-301; and
3484 (B) operated under the authority of a carrier authorized and certificated:
3485 (I) by the United States Department of Transportation or another federal authority; and
3486 (II) to engage in the carriage of persons or property in interstate commerce;
3487 (iv) an aircraft that is operated by an air carrier authorized and certificated:
3488 (A) by the United States Department of Transportation or another federal or foreign
3489 authority; and
3490 (B) to engage in the carriage of persons or property in interstate commerce; or
3491 (v) a container designed for use on, or a component part attached or secured on an item
3492 listed in Subsections (1)(b)(i) through (iv).
- 3493 (2) Except as provided in Subsection (11), if tangible personal property or a service
3494 that is subject to taxation under this chapter is received by a purchaser at a business location of
3495 a seller, the location of the transaction is the business location of the seller.
- 3496 (3) Except as provided in Subsections (7), (8), and (11), if tangible personal property or
3497 a service that is subject to taxation under this chapter is not received by a purchaser at a

3498 business location of a seller, the location of the transaction is the location where the purchaser
3499 takes receipt of the tangible personal property or services.

3500 (4) Except as provided in Subsections (7), (8), and (11), if Subsection (2) or (3) does
3501 not apply, the location of the transaction is the location indicated by an address for or other
3502 information on the purchaser if:

3503 (a) the address or other information is available from the seller's business records; and
3504 (b) use of the address or other information from the seller's records does not constitute
3505 bad faith.

3506 (5) (a) Except as provided in Subsections (7), (8), and (11), if Subsection (2), (3), or (4)
3507 does not apply, the location of the transaction is the location indicated by an address for the
3508 purchaser if:

3509 (i) the address was obtained during the consummation of the transaction; and
3510 (ii) use of the address described in Subsection (5)(a)(i) does not constitute bad faith.

3511 (b) An address used under Subsection (5)(a) may include the address of a purchaser's
3512 payment instrument if no other address is available.

3513 (6) Except as provided in Subsections (7) and (11), if Subsection (2), (3), (4), or (5)
3514 does not apply or if a seller does not have sufficient information to apply Subsection (2), (3),
3515 (4), or (5), the location of the transaction is the location indicated by the address from which:

3516 (a) except as provided in Subsection (6)(b), for tangible personal property that is
3517 subject to taxation under this chapter, the tangible personal property was shipped;

3518 (b) notwithstanding Subsection (6)(a), for computer software delivered electronically
3519 or a digital good that is subject to taxation under this chapter, the computer software delivered
3520 electronically or digital good was first available for transmission by the seller; or

3521 (c) for a service that is subject to taxation under this chapter, the service was provided.

3522 (7) (a) For purposes of this Subsection (7), "shared zip code" means a nine-digit zip
3523 code assigned by the United States Postal Service that is located within two or more local
3524 taxing jurisdictions.

3525 (b) Notwithstanding Subsections (3) through (6), if the location of a transaction
3526 determined under Subsections (3) through (6) is in a shared zip code, the location of the
3527 transaction is:

3528 (i) if there is only one local taxing jurisdiction that imposes the lowest agreement

3529 combined tax rate for the shared zip code, the local taxing jurisdiction that imposes the lowest
3530 agreement combined tax rate; or

3531 (ii) if two or more local taxing jurisdictions impose the lowest agreement combined
3532 tax rate for the shared zip code, the local taxing jurisdiction that:

3533 (A) imposes the lowest agreement combined tax rate for the shared zip code; and

3534 (B) has located within the local taxing jurisdiction the largest number of street
3535 addresses within the shared zip code.

3536 (c) A seller shall collect a tax imposed under this chapter at the lowest agreement
3537 combined tax rate imposed within the local taxing jurisdiction in which the transaction is
3538 located under Subsection (7)(b) notwithstanding the following:

3539 (i) Section 59-12-204;

3540 (ii) Section 59-12-401;

3541 (iii) Section 59-12-402;

3542 (iv) Section 59-12-501;

3543 (v) Section 59-12-502;

3544 (vi) Section 59-12-703;

3545 (vii) Section 59-12-802;

3546 (viii) Section 59-12-804;

3547 (ix) Section 59-12-1001;

3548 (x) Section 59-12-1102;

3549 (xi) Section 59-12-1302; and

3550 (xii) Section 59-12-1402.

3551 (8) Notwithstanding Subsections (3) through (5), the location of a purchase of direct
3552 mail is the location described in Subsection (6), if the purchaser of the direct mail:

3553 (a) has not been issued a direct payment permit under Section 59-12-107.1; and

3554 (b) does not provide the seller the form or information described in Subsection
3555 59-12-107.3(1).

3556 (9) If a purchaser knows at the time that the purchaser purchases a service, prewritten
3557 computer software delivered electronically, or a digital good that the service, prewritten
3558 computer software delivered electronically, or digital good will be concurrently available for
3559 use in more than one location, the purchaser shall:

3560 (a) determine the location of the transaction under this section for each location in
3561 which the service, prewritten computer software delivered electronically, or digital good will
3562 be concurrently available for use; and

3563 (b) apportion the purchase price of the service, prewritten computer software delivered
3564 electronically, or digital good:

3565 (i) among each location determined under Subsection (9)(a); and

3566 (ii) in accordance with Section 59-12-107.2.

3567 (10) (a) A tax collected under this chapter shall be reported to the commission on a
3568 form that identifies the location of each transaction that occurred during the return filing
3569 period.

3570 (b) The form described in Subsection (10)(a) shall be filed with the commission as
3571 required under this chapter.

3572 (11) This section does not apply to:

3573 (a) amounts charged by a seller for:

3574 (i) telephone service; or

3575 (ii) the retail sale or transfer of:

3576 (A) a motor vehicle other than a motor vehicle that is transportation equipment;

3577 (B) an aircraft other than an aircraft that is transportation equipment;

3578 (C) a watercraft;

3579 (D) a modular home;

3580 (E) a manufactured home; or

3581 (F) a mobile home; or

3582 (iii) except as provided in Section 59-12-207.3, the lease or rental of tangible personal
3583 property other than tangible personal property that is transportation equipment; or

3584 (b) a tax paid under this chapter:

3585 (i) by a seller; and

3586 (ii) for the seller's purchases.

3587 Section 31. Section **59-12-207.2** is enacted to read:

3588 **59-12-207.2. Location of transaction involving sale of a motor vehicle, aircraft,**
3589 **watercraft, modular home, manufactured home, or mobile home.**

3590 (1) (a) Except as provided in Subsection (1)(b) or (4), the location of a sale of the

3591 following tangible personal property shall be determined as provided in this section:

3592 (i) a motor vehicle;

3593 (ii) an aircraft;

3594 (iii) a watercraft;

3595 (iv) a modular home;

3596 (v) a manufactured home; or

3597 (vi) a mobile home.

3598 (b) Notwithstanding Subsection (1)(a), the location of the sale of tangible personal

3599 property described in Subsection (1)(a) shall be determined in accordance with Sections

3600 59-12-205 and 59-12-207.1 if the tangible personal property described in Subsection (1)(a) is

3601 transportation equipment as defined in Section 59-12-207.1.

3602 (2) If an item of tangible personal property described in Subsection (1)(a) is sold by a

3603 dealer of that tangible personal property, the location of the sale of that tangible personal

3604 property is the business location of the dealer.

3605 (3) If an item of tangible personal property described in Subsection (1)(a) is sold by a

3606 person other than a dealer of that tangible personal property, the location of the sale of that

3607 tangible personal property is:

3608 (a) if the tangible personal property is required to be registered with the state before the

3609 tangible personal property is used on a public highway, on a public waterway, on public land,

3610 or in the air, the location of the street address at which the tangible personal property is

3611 registered; or

3612 (b) if the tangible personal property is not required to be registered as provided in

3613 Subsection (3)(a), the location of the street address where the purchaser of the tangible personal

3614 property resides.

3615 (4) Notwithstanding Subsection (1), this section does not apply to the lease or rental of

3616 tangible personal property described in Subsection (1)(a).

3617 Section 32. Section **59-12-207.3** is enacted to read:

3618 **59-12-207.3. Location of transaction involving lease or rental of tangible personal**

3619 **property.**

3620 (1) (a) For purposes of this section, "primary property location" means an address for

3621 tangible personal property:

3622 (i) provided by a lessee to a lessor; and
3623 (ii) that is available to the lessor from the lessor's records maintained in the ordinary
3624 course of business.

3625 (b) "Primary property location" does not include an address described in Subsection
3626 (1)(a) if use of that address constitutes bad faith.

3627 (2) (a) Except as provided in Subsection (2)(b), if a lease or rental of tangible personal
3628 property subject to taxation under this part requires recurring periodic payments:

3629 (i) notwithstanding Section 59-12-207.1, the location of the transaction for any down
3630 payment and for the first recurring periodic payment is as provided in Sections 59-12-205 and
3631 59-12-207.1; and

3632 (ii) the location of the transaction for the second recurring periodic payment and
3633 subsequent recurring periodic payments is the primary property location for each time period
3634 covered by the recurring periodic payment.

3635 (b) Notwithstanding Subsection (2)(a), if a transaction subject to taxation under this
3636 chapter involving a lease or rental of a motor vehicle, trailer, semitrailer, or aircraft that is not
3637 transportation equipment under Section 59-12-207.1 requires recurring periodic payments, the
3638 location of the transaction for any down payment and for each recurring periodic payment shall
3639 be the primary property location for each time period covered by the recurring periodic
3640 payment.

3641 (3) Notwithstanding Section 59-12-207.1, if a transaction involving a lease or rental of
3642 the following does not require recurring periodic payments, the location of the transaction shall
3643 be as provided in Sections 59-12-205 and 59-12-207.1 for each lease payment for:

3644 (a) tangible personal property subject to taxation under this chapter; or

3645 (b) a motor vehicle, trailer, semitrailer, or aircraft that is:

3646 (i) not transportation equipment under Section 59-12-207.1; and

3647 (ii) subject to taxation under this chapter.

3648 (4) This section does not affect the imposition or computation of a tax under this
3649 chapter on:

3650 (a) a lease or rental of tangible personal property subject to a tax under this chapter on:

3651 (i) the basis of a lump sum; or

3652 (ii) an accelerated basis; or

3653 (b) an acquisition of tangible personal property:

3654 (i) subject to taxation under this chapter; and

3655 (ii) for lease.

3656 Section 33. Section **59-12-207.4** is enacted to read:

3657 **59-12-207.4. Location of transaction involving telephone service.**

3658 (1) As used in this section:

3659 (a) "Air-to-ground radiotelephone service" means a radio service:

3660 (i) as defined in 47 C.F.R. Sec. 22.99; and

3661 (ii) for which a common carrier is authorized to offer and provide radio
3662 telecommunications service:

3663 (A) for hire; and

3664 (B) to a subscriber in an aircraft.

3665 (b) "Call-by-call basis" means a method of charging for telephone service that is
3666 measured by individual calls.

3667 (c) "Communications channel" means a physical or virtual path of communications
3668 over which a signal is transmitted between or among customer channel termination points.

3669 (d) (i) Subject to Subsection (1)(d)(ii), "customer" means:

3670 (A) a person that is obligated under a contract with a telephone service provider to pay
3671 for telephone service received under the contract; or

3672 (B) if the end user is not the person described in Subsection (1)(d)(i)(A), the end user
3673 of telephone service.

3674 (ii) "Customer" does not include a reseller:

3675 (A) of telephone service; or

3676 (B) for mobile telecommunications service, of a serving carrier under an agreement to
3677 serve a customer outside the home service provider's licensed service area.

3678 (e) "Customer channel termination point" means the location where a customer:

3679 (i) inputs communications; or

3680 (ii) receives communications.

3681 (f) "End user" means:

3682 (i) an individual who uses a telephone service; or

3683 (ii) for telephone service provided to a person who is not an individual, an individual

3684 who uses a telephone service on behalf of the person who is provided the telephone service.

3685 (g) "Home service provider" is as defined in the Mobile Telecommunications Sourcing
3686 Act, 4 U.S.C. Sec. 124.

3687 (h) "Place of primary use":

3688 (i) for telephone service other than mobile telecommunications service, means the
3689 street address representative of where a customer's use of the telephone service primarily
3690 occurs, which shall be:

3691 (A) the residential street address of the customer; or

3692 (B) the primary business street address of the customer; or

3693 (ii) for mobile telecommunications service, is as defined in the Mobile
3694 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

3695 (i) (i) "Postpaid calling service" means a telephone service obtained by making a
3696 payment on a call-by-call basis:

3697 (A) through the use of a:

3698 (I) credit card;

3699 (II) bank card;

3700 (III) travel card; or

3701 (IV) debit card; or

3702 (B) by a charge made to a telephone number that is not associated with the origination
3703 or termination of the telephone service.

3704 (ii) "Postpaid calling service" includes a telephone service that would be a prepaid
3705 calling service if the service were exclusively a telephone service.

3706 (j) "Prepaid calling service" means a telephone service:

3707 (i) that allows a purchaser access to exclusively telephone service;

3708 (ii) that:

3709 (A) must be paid for in advance; and

3710 (B) enables the origination of calls using an:

3711 (I) access number; or

3712 (II) authorization code;

3713 (iii) dialed:

3714 (A) manually; or

- 3715 (B) electronically; and
3716 (iv) sold in predetermined units or dollars that decline:
3717 (A) by a known amount; and
3718 (B) with use.
3719 (k) (i) (A) Subject to Subsection (1)(k)(i)(B), "private communication service" means a
3720 telephone service that entitles a customer to exclusive or priority use of a communications
3721 channel or group of communications channels between or among termination points.
3722 (B) The determination of whether a telephone service is a private communication
3723 service may not be based on the manner in which the communications channels or group of
3724 communications channels are connected.
3725 (ii) "Private communication service" includes the following services provided in
3726 connection with the use of a communications channel or group of communications channels:
3727 (A) switching capacity;
3728 (B) an extension line; or
3729 (C) a station.
3730 (l) Notwithstanding where a call is billed or paid, "service address" means:
3731 (i) if the location of where a call is billed or paid is known, the location of the
3732 telecommunications equipment:
3733 (A) to which a customer's call is charged; and
3734 (B) from which the call:
3735 (I) originates; or
3736 (II) terminates;
3737 (ii) if the location of where a call is billed or paid is not known but the location of the
3738 origination point of the signal of the telephone service is known, the location of the origination
3739 point of the signal of the telephone service first identified by:
3740 (A) the telecommunications system of the telephone service provider; or
3741 (B) if the system used to transport the signal of the telephone service is not a system of
3742 the telephone service provider, information received by the telephone service provider from the
3743 telephone service provider's telephone service provider; or
3744 (iii) if the following are not known, the location of a customer's place of primary use:
3745 (A) the location of where a call is billed or paid; and

3746 (B) the location of the origination point of the signal of the telephone service.
3747 (2) Except as provided in Subsection (4) and subject to Subsection 59-12-207.1(7), the
3748 location of a sale of a telephone service sold on a call-by-call basis is:
3749 (a) the location at which the call originates and terminates; or
3750 (b) the location at which:
3751 (i) the call:
3752 (A) originates; or
3753 (B) terminates; and
3754 (ii) the service address is located.
3755 (3) Except as provided in Subsection (4), and subject to Subsection 59-12-207.1(7), the
3756 location of a sale of a telephone service sold on a basis other than a call-by-call basis is the
3757 customer's place of primary use.
3758 (4) Notwithstanding Subsection (2) or (3), and subject to Subsection 59-12-207.1(7):
3759 (a) the location of a sale of a mobile telecommunications service, other than an
3760 air-to-ground radiotelephone service or a prepaid calling service, is the location required by the
3761 Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.;
3762 (b) the location of a sale of a postpaid calling service is the origination point of the
3763 telecommunications signal as first identified by:
3764 (i) the seller's telecommunications system; or
3765 (ii) if the system used to transport the telecommunications signal is not that of the
3766 seller, information received by the seller from the seller's telephone service provider; and
3767 (c) (i) except as provided in Subsection (4)(c)(ii), the location of a sale of a prepaid
3768 calling service is the location determined under Section 59-12-207.1; and
3769 (ii) notwithstanding Subsection (4)(c)(i), for purposes of Subsection 59-12-207.1(5),
3770 the location of a sale of a prepaid calling service that is a mobile telecommunications service
3771 shall include the location of the mobile telephone number.
3772 (5) Subject to Subsection 59-12-207.1(7), the location of a sale of a private
3773 communication service is:
3774 (a) if all of the customer channel termination points are located entirely within one
3775 local taxing jurisdiction, the location of the sale is the local taxing jurisdiction in which all of
3776 the customer channel termination points are located;

3777 (b) if a charge for a service related to a customer channel termination point is
3778 separately stated, the location of the sale is the location in which the customer channel
3779 termination point is located;

3780 (c) if a charge for service for a segment of a channel between two customer channel
3781 termination points located in different local taxing jurisdictions is separately stated, the
3782 location of the sale is each local taxing jurisdiction:

3783 (i) in which the customer channel termination points are located; and

3784 (ii) in equal proportions; and

3785 (d) if a charge for service for a segment of a channel located in more than one taxing
3786 jurisdiction is not separately stated, the location of the sale is:

3787 (i) each local taxing jurisdiction in which a segment of the channel is located; and

3788 (ii) in proportion to the percentage of customer channel termination points in each local
3789 taxing jurisdiction compared to the total customer channel termination points in all local taxing
3790 jurisdictions.

3791 Section 34. Section **59-12-207.5** is enacted to read:

3792 **59-12-207.5. Seller or certified service provider reliance on commission database.**

3793 A seller or certified service provider that collects a tax imposed by a county, city, or
3794 town under this part is not liable for failing to collect and remit a tax at a tax rate imposed
3795 under this part if the tax rate at which the seller or certified service provider collected the tax
3796 was derived from a database created by the commission containing:

3797 (1) tax rates; or

3798 (2) local taxing jurisdiction boundaries.

3799 Section 35. Section **59-12-208.1** is amended to read:

3800 **59-12-208.1. Imposition or repeal of tax -- Tax rate change -- Effective date --**

3801 **Notice requirements.**

3802 (1) For purposes of this section:

3803 (a) "Annexation" means an annexation to:

3804 (i) a county under Title 17, Chapter 2, Annexation to County; or

3805 (ii) a city or town under Title 10, Chapter 2, Part 4, Annexation.

3806 (b) "Annexing area" means an area that is annexed into a county, city, or town.

3807 (2) (a) ~~[H]~~ Except as provided in Subsection (2)(c) or (d), if, on or after [May 1, 2000]

3808 July 1, 2004, a county, city, or town enacts or repeals a tax [~~or changes the rate of a tax~~] under
3809 this part, the enactment[;] or repeal[; ~~or change~~] shall take effect:

3810 (i) on the first day of a calendar quarter; and

3811 (ii) after a [~~75-day~~] 90-day period beginning on the date the commission receives
3812 notice meeting the requirements of Subsection (2)(b) from the county, city, or town.

3813 (b) The notice described in Subsection (2)(a)(ii) shall state:

3814 (i) that the county, city, or town will enact or repeal a tax [~~or change the rate of a tax~~]
3815 under this part;

3816 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

3817 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

3818 (iv) if the county, city, or town enacts the tax [~~or changes the rate of the tax~~] described
3819 in Subsection (2)(b)(i), the [~~new~~] rate of the tax.

3820 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
3821 (2)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

3822 (A) that begins after the effective date of the imposition of the tax; and

3823 (B) if the billing period for the transaction begins before the effective date of the
3824 enactment of the tax under Section 59-12-204.

3825 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
3826 (2)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

3827 (A) that began before the effective date of the repeal of the tax; and

3828 (B) if the billing period for the transaction begins before the effective date of the repeal
3829 of the tax imposed under Section 59-12-204.

3830 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:

3831 (A) Subsection 59-12-103(1)(b);

3832 (B) Subsection 59-12-103(1)(c);

3833 (C) Subsection 59-12-103(1)(d);

3834 (D) Subsection 59-12-103(1)(e);

3835 (E) Subsection 59-12-103(1)(f);

3836 (F) Subsection 59-12-103(1)(g);

3837 (G) Subsection 59-12-103(1)(h);

3838 (H) Subsection 59-12-103(1)(i);

3839 (I) Subsection 59-12-103(1)(j); or
3840 (J) Subsection 59-12-103(1)(k).
3841 (d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue
3842 sale is computed on the basis of sales and use tax rates published in the catalogue, an
3843 enactment or repeal of a tax described in Subsection (2)(a) takes effect:
3844 (A) on the first day of a calendar quarter; and
3845 (B) beginning 60 days after the effective date of the enactment or repeal under
3846 Subsection (2)(a).
3847 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
3848 the commission may by rule define the term "catalogue sale."
3849 (3) (a) [~~If~~] Except as provided in Subsection (3)(c) or (d), if, for an annexation that
3850 occurs on or after [~~May 1, 2000~~] July 1, 2004, the annexation will result in [a change in the
3851 rate] the enactment or repeal of a tax under this part for an annexing area, the [change]
3852 enactment or repeal shall take effect:
3853 (i) on the first day of a calendar quarter; and
3854 (ii) after a [~~75-day~~] 90-day period beginning on the date the commission receives
3855 notice meeting the requirements of Subsection (3)(b) from the county, city, or town that
3856 annexes the annexing area.
3857 (b) The notice described in Subsection (3)(a)(ii) shall state:
3858 (i) that the annexation described in Subsection (3)(a) will result in [~~a change in the~~
3859 rate] an enactment or repeal of a tax under this part for the annexing area;
3860 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);
3861 (iii) the effective date of the tax described in Subsection (3)(b)(i); and
3862 (iv) the [~~new~~] rate of the tax described in Subsection (3)(b)(i).
3863 (c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
3864 (3)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
3865 (A) that begins after the effective date of the enactment of the tax; and
3866 (B) if the billing period for the transaction begins before the effective date of the
3867 imposition of the tax under Section 59-12-204.
3868 (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
3869 (3)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

- 3870 (A) that began before the effective date of the repeal of the tax; and
3871 (B) if the billing period for the transaction begins before the effective date of the repeal
3872 of the tax imposed under Section 59-12-204.
- 3873 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:
3874 (A) Subsection 59-12-103(1)(b);
3875 (B) Subsection 59-12-103(1)(c);
3876 (C) Subsection 59-12-103(1)(d);
3877 (D) Subsection 59-12-103(1)(e);
3878 (E) Subsection 59-12-103(1)(f);
3879 (F) Subsection 59-12-103(1)(g);
3880 (G) Subsection 59-12-103(1)(h);
3881 (H) Subsection 59-12-103(1)(i);
3882 (I) Subsection 59-12-103(1)(j); or
3883 (J) Subsection 59-12-103(1)(k).
- 3884 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue
3885 sale is computed on the basis of sales and use tax rates published in the catalogue, an
3886 enactment or repeal of a tax described in Subsection (3)(a) takes effect:
3887 (A) on the first day of a calendar quarter; and
3888 (B) beginning 60 days after the effective date of the enactment or repeal under
3889 Subsection (3)(a).
- 3890 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
3891 the commission may by rule define the term "catalogue sale."
- 3892 Section 36. Section **59-12-210** is amended to read:
3893 **59-12-210. Commission to provide data to counties.**
3894 (1) (a) The commission shall provide to each county the sales and use tax collection
3895 data necessary to verify that the local sales and use tax revenues collected by the commission
3896 are distributed to each county, city, and town in accordance with Sections 59-12-205 [~~and~~],
3897 59-12-206, and 59-12-207.1 through 59-12-207.4.
3898 (b) The data described in Subsection (1)(a) shall include the commission's reports of
3899 [~~vendor~~] seller sales, sales and use tax distribution reports, and a breakdown of local revenues.
3900 (2) (a) In addition to the access to information provided in Subsection (1) and Section

3901 59-12-109, the commission shall provide a county, city, or town with copies of returns and
3902 other information required by [~~Title 59, Chapter 12,~~] this chapter relating to [~~the state or local~~
3903 ~~option sales and use tax~~] a tax under this chapter. [~~This~~]

3904 (b) The information described in Subsection (2)(a) is available only in official matters
3905 and must be requested in writing by the chief executive officer or [~~his~~] the chief executive
3906 officer's designee.

3907 (c) The request described in Subsection (2)(b) shall specifically indicate the
3908 information being sought and how the information will be used.

3909 (d) Information received pursuant to the request described in Subsection (2)(b) shall
3910 be:

3911 (i) classified as private or protected under Section 63-2-302 or 63-2-304; and [~~shall be~~]
3912 (ii) subject to the confidentiality provisions of Section 59-1-403.

3913 Section 37. Section **59-12-301** is amended to read:

3914 **59-12-301. Transient room tax -- Rate -- Imposition or repeal of tax -- Tax rate**
3915 **change -- Effective date -- Notice requirements.**

3916 (1) (a) Any county legislative body may impose a transient room tax not to exceed 3%
3917 of the rent for every occupancy of a suite or room:

3918 (i) on the following entities doing business as motor courts, motels, hotels, inns, or
3919 providing similar public accommodations:

3920 (A) a person;

3921 (B) a company;

3922 (C) a corporation; or

3923 (D) a person, group, or organization similar to Subsections (1)(a)(i)(A) through (C);

3924 and

3925 (ii) if the suite or room is regularly rented for less than 30 consecutive days.

3926 (b) The revenues raised from the tax imposed under Subsection (1)(a) shall be used for
3927 the purposes listed in Section 17-31-2.

3928 (c) The tax imposed under Subsection (1)(a) shall be in addition to the tourism,
3929 recreation, cultural, and convention tax imposed under Part 6, Tourism, Recreation, Cultural,
3930 and Convention Facilities Tax.

3931 (d) A county legislative body imposing a tax under this part shall impose the tax on the

3932 rents described in Subsection (1)(a) relating to the Olympic Winter Games of 2002 made to or
3933 by an organization exempt from federal income taxation under Section 501(c)(3), Internal
3934 Revenue Code, except for rents described in Subsection (1)(a):

3935 (i) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter
3936 Games of 2002;

3937 (ii) exclusively used by:

3938 (A) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
3939 Olympic Winter Games of 2002; or

3940 (B) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic
3941 Winter Games of 2002; and

3942 (iii) for which the Salt Lake Organizing Committee for the Olympic Winter Games of
3943 2002 does not receive reimbursement.

3944 (2) Subject to Subsection (3), a county legislative body:

3945 (a) may increase or decrease the transient room tax; and

3946 (b) shall regulate the transient room tax by ordinance.

3947 (3) (a) For purposes of this Subsection (3):

3948 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
3949 Annexation to County.

3950 (ii) "Annexing area" means an area that is annexed into a county.

3951 (b) (i) ~~[H] Except as provided in Subsection (3)(c), if, on or after [May 1, 2000] July 1,~~
3952 2004, a county enacts or repeals a tax or changes the rate of a tax under this part, the
3953 enactment, repeal, or change shall take effect:

3954 (A) on the first day of a calendar quarter; and

3955 (B) after a ~~[75-day] 90-day~~ period beginning on the date the commission receives
3956 notice meeting the requirements of Subsection (3)(b)(ii) from the county.

3957 (ii) The notice described in Subsection (3)(b)(i)(B) shall state:

3958 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

3959 (B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);

3960 (C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and

3961 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
3962 (3)(b)(ii)(A), the ~~[new]~~ rate of the tax.

3963 (c) (i) Notwithstanding Subsection (3)(b)(i), for a transaction described in Subsection
3964 (3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
3965 first billing period:

3966 (A) that begins after the effective date of the enactment of the tax or the tax rate
3967 increase; and

3968 (B) if the billing period for the transaction begins before the effective date of the
3969 enactment of the tax or the tax rate increase imposed under this section.

3970 (ii) Notwithstanding Subsection (3)(b)(i), for a transaction described in Subsection
3971 (3)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
3972 billing period:

3973 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
3974 and

3975 (B) if the billing period for the transaction begins before the effective date of the repeal
3976 of the tax or the tax rate decrease imposed under this section.

3977 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under
3978 Subsection 59-12-103(1)(i).

3979 ~~(c)~~ (d) (i) ~~[H]~~ Except as provided in Subsection (3)(e), if, for an annexation that
3980 occurs on or after ~~[May 1, 2000]~~ July 1, 2004, the annexation will result in the enactment,
3981 repeal, or a change in the rate of a tax under this part for an annexing area, the enactment,
3982 repeal, or change shall take effect:

3983 (A) on the first day of a calendar quarter; and

3984 (B) after a ~~[75-day]~~ 90-day period beginning on the date the commission receives
3985 notice meeting the requirements of Subsection (3)~~(c)~~ (d)(ii) from the county that annexes the
3986 annexing area.

3987 (ii) The notice described in Subsection (3)~~(c)~~ (d)(i)(B) shall state:

3988 (A) that the annexation described in Subsection (3)~~(c)~~ (d)(i) will result in ~~[a]~~ an
3989 enactment, repeal, or change in the rate of a tax under this part for the annexing area;

3990 (B) the statutory authority for the tax described in Subsection (3)~~(c)~~ (d)(ii)(A);

3991 (C) the effective date of the tax described in Subsection (3)~~(c)~~ (d)(ii)(A); and

3992 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
3993 (3)(d)(ii)(A), the ~~[new]~~ rate of the tax ~~[described in Subsection (3)(c)(ii)(A)].~~

3994 (e) (i) Notwithstanding Subsection (3)(d)(i), for a transaction described in Subsection
3995 (3)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
3996 first billing period:

3997 (A) that begins after the effective date of the enactment of the tax or the tax rate
3998 increase; and

3999 (B) if the billing period for the transaction begins before the effective date of the
4000 enactment of the tax or the tax rate increase imposed under this section.

4001 (ii) Notwithstanding Subsection (3)(d)(i), for a transaction described in Subsection
4002 (3)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
4003 billing period:

4004 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
4005 and

4006 (B) if the billing period for the transaction begins before the effective date of the repeal
4007 of the tax or the tax rate decrease imposed under this section.

4008 (iii) Subsections (3)(e)(i) and (ii) apply to transactions subject to a tax under
4009 Subsection 59-12-103(1)(i).

4010 Section 38. Section **59-12-302** is amended to read:

4011 **59-12-302. Collection of tax -- Penalties -- Commission to interpret, audit, and**
4012 **adjudicate transient room tax.**

4013 (1) (a) [The] Except as provided in Subsection (1)(b) or (c), the transient room tax shall
4014 be levied at the same time and collected in the same manner as provided in Part 2[-except that
4015 notwithstanding], Local Sales and Use Tax Act.

4016 (b) (i) Notwithstanding Section 59-12-206, each county may collect the tax imposed by
4017 [it] the county and need not transmit [it] the tax to the commission or contract with the
4018 commission to collect [it] the tax.

4019 (ii) The amount of tax collected shall be reported to the commission as provided in
4020 [Section 59-12-207] Subsection 59-12-207.1(10).

4021 (c) Notwithstanding Subsection (1)(a), a tax under this part is not subject to
4022 Subsections 59-12-205(2) through (5).

4023 (d) (i) If the commission collects a tax under this part, the commission:

4024 (A) except as provided in Subsection (1)(d)(i)(B), shall distribute the revenues

4025 generated by the tax to the county within which the revenues were generated; and

4026 (B) notwithstanding Subsection (1)(d)(i)(A), may retain an amount of tax collected

4027 under this part of not to exceed the lesser of:

4028 (I) 1.5%; or

4029 (II) an amount equal to the cost to the commission of administering this part.

4030 (ii) Any amount the commission retains under Subsection (1)(d)(i)(B) shall be:

4031 (A) placed in the Sales and Use Tax Administrative Fees Account; and

4032 (B) used as provided in Subsection 59-12-206(2).

4033 (2) (a) The tax ordinance adopted by a county pursuant to Section 59-12-301 may
4034 include provisions for the imposition of penalties and interest if a person or entity required to
4035 pay transient room taxes under this section fails to timely remit the transient room taxes to the
4036 collecting agent.

4037 (b) A county legislative body may not establish penalties and interest by ordinance that
4038 exceed the penalties and interest rates authorized for the commission in Sections 59-1-401 and
4039 59-1-402.

4040 (3) A county may adopt an ordinance imposing penalties and interest under Subsection
4041 (2) only if the county does not contract with the commission to collect the tax.

4042 (4) If a county elects to collect the tax as provided in Subsection (1), the commission
4043 shall interpret, audit, and adjudicate the tax imposed under this part.

4044 Section 39. Section **59-12-354** is amended to read:

4045 **59-12-354. Collection of tax -- Penalties -- Commission to interpret, audit, and**
4046 **adjudicate transient room tax.**

4047 (1) Except as provided in [~~Subsection~~] Subsections (2) and (3), a governing body of a
4048 municipality levying a transient room tax under this part shall levy the tax at the same time and
4049 collect the tax in the same manner as provided in Part 2, Local Sales and Use Tax Act.

4050 (2) Notwithstanding Section 59-12-206, a municipality imposing a transient room tax
4051 under this part:

4052 (a) may collect the tax and is not required to:

4053 (i) transmit revenues generated by the tax to the commission; or

4054 (ii) contract with the commission to collect the tax;

4055 (b) shall report the revenues it collects to the commission as provided in [~~Section~~

4056 59-12-207] Subsection 59-12-207.1(10); and

4057 (c) subject to the limitations of Subsections [~~(3) and~~] (4) and (5), may adopt an
4058 ordinance imposing penalties and interest on a person who:

4059 (i) is required to pay the tax under this part; and

4060 (ii) does not remit the tax to the collecting agent in a timely manner.

4061 (d) (i) If the commission collects a tax under this part, the commission:

4062 (A) except as provided in Subsection (2)(d)(i)(B), shall distribute the revenues
4063 generated by the tax to the municipality within which the revenues were generated; and

4064 (B) notwithstanding Subsection (2)(d)(i)(A), may retain an amount of tax collected
4065 under this part of not to exceed the lesser of:

4066 (I) 1.5%; or

4067 (II) an amount equal to the cost to the commission of administering this part.

4068 (ii) Any amount the commission retains under Subsection (2)(d)(i)(B) shall be:

4069 (A) placed in the Sales and Use Tax Administrative Fees Account; and

4070 (B) used as provided in Subsection 59-12-206(2).

4071 (3) Notwithstanding Subsection (1)(a), the tax under this part is not subject to
4072 Subsections 59-12-205(2) through (5).

4073 [~~(3)~~] (4) A governing body of a municipality adopting an ordinance imposing penalties
4074 and interest under Subsection (2)(c) may impose penalties and interest in amounts that are less
4075 than or equal to the penalties and interest rates authorized for the commission under Sections
4076 59-1-401 and 59-1-402.

4077 [~~(4)~~] (5) A municipality may adopt an ordinance imposing penalties and interest under
4078 Subsection (2)(c) only if the municipality does not contract with the commission to collect the
4079 tax.

4080 [~~(5)~~] (6) If a municipality elects to collect the tax as provided in Subsection (2), the
4081 commission shall interpret, audit, and adjudicate the tax imposed under this part.

4082 Section 40. Section **59-12-355** is amended to read:

4083 **59-12-355. Imposition or repeal of tax -- Tax rate change -- Effective date --**

4084 **Notice requirements.**

4085 (1) For purposes of this section:

4086 (a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part

4087 4, Annexation.

4088 (b) "Annexing area" means an area that is annexed into a city or town.

4089 (2) (a) [~~If~~] Except as provided in Subsection (2)(c), if, on or after [May 1, 2000] July 1,

4090 2004, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the

4091 enactment, repeal, or change shall take effect:

4092 (i) on the first day of a calendar quarter; and

4093 (ii) after a [~~75-day~~] 90-day period beginning on the date the commission receives

4094 notice meeting the requirements of Subsection (2)(b) from the city or town.

4095 (b) The notice described in Subsection (2)(a)(ii) shall state:

4096 (i) that the city or town will enact or repeal a tax or change the rate of a tax under this

4097 part;

4098 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

4099 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

4100 (iv) if the city or town enacts the tax or changes the rate of the tax described in

4101 Subsection (2)(b)(i), the [~~new~~] rate of the tax.

4102 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection

4103 (2)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the

4104 first billing period:

4105 (A) that begins after the effective date of the enactment of the tax or the tax rate

4106 increase; and

4107 (B) if the billing period for the transaction begins before the effective date of the

4108 enactment of the tax or the tax rate increase imposed under:

4109 (I) Section 59-12-352; or

4110 (II) Section 59-12-353.

4111 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection

4112 (2)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last

4113 billing period:

4114 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;

4115 and

4116 (B) if the billing period for the transaction begins before the effective date of the repeal

4117 of the tax or the tax rate decrease imposed under:

4118 (I) Section 59-12-352; or

4119 (II) Section 59-12-353.

4120 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under

4121 Subsection 59-12-103(1)(i).

4122 (3) (a) ~~[H]~~ Except as provided in Subsection (3)(c), if, for an annexation that occurs on
4123 or after [May 1, 2000] July 1, 2004, the annexation will result in [a] ~~the enactment, repeal, or~~
4124 change in the rate of a tax under this part for an annexing area, the ~~enactment, repeal, or~~ change
4125 shall take effect:

4126 (i) on the first day of a calendar quarter; and

4127 (ii) after a ~~[75-day]~~ 90-day period beginning on the date the commission receives
4128 notice meeting the requirements of Subsection (3)(b) from the city or town that annexes the
4129 annexing area.

4130 (b) The notice described in Subsection (3)(a)(ii) shall state:

4131 (i) that the annexation described in Subsection (3)(a) will result in [a] an enactment,
4132 repeal, or change in the rate of a tax under this part for the annexing area;

4133 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);

4134 (iii) the effective date of the tax described in Subsection (3)(b)(i); and

4135 (iv) if the county enacts the tax or changes the rate of the tax described in Subsection
4136 (3)(b)(i), the [new] rate of the tax [described in Subsection (3)(b)(i)].

4137 (c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
4138 (3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
4139 first billing period:

4140 (A) that begins after the effective date of the enactment of the tax or the tax rate
4141 increase; and

4142 (B) if the billing period for the transaction begins before the effective date of the
4143 enactment of the tax or the tax rate increase imposed under:

4144 (I) Section 59-12-352; or

4145 (II) Section 59-12-353.

4146 (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
4147 (3)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
4148 billing period:

4149 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
4150 and

4151 (B) if the billing period for the transaction begins before the effective date of the repeal
4152 of the tax or the tax rate decrease imposed under:

4153 (I) Section 59-12-352; or

4154 (II) Section 59-12-353.

4155 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under
4156 Subsection 59-12-103(1)(i).

4157 Section 41. Section **59-12-356** is enacted to read:

4158 **59-12-356. Seller or certified service provider reliance on commission database.**

4159 A seller or certified service provider that collects a tax imposed by a county or
4160 municipality under this part is not liable for failing to collect and remit a tax at a tax rate
4161 imposed under this part if the tax rate at which the seller or certified service provider collected
4162 the tax was derived from a database created by the commission containing:

4163 (1) tax rates; or

4164 (2) local taxing jurisdiction boundaries.

4165 Section 42. Section **59-12-401** is amended to read:

4166 **59-12-401. Resort communities tax -- Base -- Rate -- Collection fees.**

4167 (1) (a) Except as provided in [~~Subsection~~] Subsections (1)(b) and 59-12-207.1(7)(c),
4168 and in addition to other sales taxes, a city or town in which the transient room capacity is
4169 greater than or equal to 66% of the permanent census population may impose a sales tax of up
4170 to 1% on the transactions described in Subsection 59-12-103(1) located within the city or town.

4171 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
4172 section on:

4173 [~~(i) wholesale sales;~~]

4174 [~~(ii) (i) the sale of [a single item for which consideration paid is \$2,500 or more;];~~]

4175 (A) a motor vehicle;

4176 (B) an aircraft;

4177 (C) a watercraft;

4178 (D) a modular home;

4179 (E) a manufactured home; or

4180 (F) a mobile home; or
4181 ~~[(iii)]~~ (ii) the sales and uses described in Section 59-12-104 to the extent the sales and
4182 uses are exempt from taxation under Section 59-12-104~~[-and]~~.
4183 ~~[(iv) any amounts paid or charged by a vendor seller that collects a tax under~~
4184 ~~Subsection 59-12-107(1)(b).]~~
4185 (c) For purposes of this Subsection (1), the location of a transaction shall be
4186 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.
4187 (2) (a) An amount equal to the total of any costs incurred by the state in connection
4188 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
4189 the state from its collection fees received in connection with the implementation of Subsection
4190 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
4191 provided for in Subsection (1).
4192 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
4193 those cities and towns according to the amount of revenue the respective cities and towns
4194 generate in that year through imposition of that tax.
4195 Section 43. Section **59-12-402** is amended to read:
4196 **59-12-402. Additional resort communities sales tax -- Base -- Rate -- Collection**
4197 **fees -- Resolution and voter approval requirements -- Election requirements -- Notice**
4198 **requirements -- Ordinance requirements.**
4199 (1) (a) Except as provided in ~~[Subsection]~~ Subsections (1)(b) and 59-12-207.1(7)(c),
4200 and subject to the limitations of Subsections (2) through (6), the governing body of a
4201 municipality in which the transient room capacity is greater than or equal to 66% of the
4202 permanent census population may, in addition to the sales tax authorized under Section
4203 59-12-401, impose an additional resort communities sales tax in an amount that is less than or
4204 equal to 1/2% on the transactions described in Subsection 59-12-103(1) located within the
4205 municipality.
4206 (b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not
4207 impose a tax under this section on:
4208 ~~[(i) wholesale sales;]~~
4209 ~~[(ii) (i) the sale of [a single item for which consideration paid is \$2,500 or more;];~~
4210 (A) a motor vehicle;

- 4211 (B) an aircraft;
- 4212 (C) a watercraft;
- 4213 (D) a modular home;
- 4214 (E) a manufactured home; or
- 4215 (F) a mobile home; or
- 4216 ~~[(iii)]~~ (ii) the sales and uses described in Section 59-12-104 to the extent the sales and
- 4217 uses are exempt from taxation under Section 59-12-104~~[-and]~~.
- 4218 ~~[(iv) any amounts paid or charged by a vendor that collects a tax under Subsection~~
- 4219 ~~59-12-107(1)(b).]~~
- 4220 (c) For purposes of this Subsection (1), the location of a transaction shall be
- 4221 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.
- 4222 (2) (a) An amount equal to the total of any costs incurred by the state in connection
- 4223 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
- 4224 the state from its collection fees received in connection with the implementation of Subsection
- 4225 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
- 4226 provided for in Subsection (1).
- 4227 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
- 4228 those cities and towns according to the amount of revenue the respective cities and towns
- 4229 generate in that year through imposition of that tax.
- 4230 (3) To impose an additional resort communities sales tax under this section, the
- 4231 governing body of the municipality shall:
- 4232 (a) pass a resolution approving the tax; and
- 4233 (b) except as provided in Subsection (6), obtain voter approval for the tax as provided
- 4234 in Subsection (4).
- 4235 (4) To obtain voter approval for an additional resort communities sales tax under
- 4236 Subsection (3)(b), a municipality shall:
- 4237 (a) hold the additional resort communities sales tax election during:
- 4238 (i) a regular general election; or
- 4239 (ii) a municipal general election; and
- 4240 (b) publish notice of the election:
- 4241 (i) 15 days or more before the day on which the election is held; and

4242 (ii) in a newspaper of general circulation in the municipality.

4243 (5) An ordinance approving an additional resort communities sales tax under this
4244 section shall provide an effective date for the tax as provided in Section 59-12-403.

4245 (6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the
4246 voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the
4247 municipality imposed a license fee or tax on businesses based on gross receipts pursuant to
4248 Section 10-1-203.

4249 (b) The exception from the voter approval requirements in Subsection (6)(a) does not
4250 apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only
4251 one class of businesses based on gross receipts pursuant to Section 10-1-203.

4252 Section 44. Section **59-12-403** is amended to read:

4253 **59-12-403. Imposition or repeal of tax -- Tax rate change -- Effective date --**

4254 **Notice requirements.**

4255 (1) For purposes of this section:

4256 (a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
4257 4, Annexation.

4258 (b) "Annexing area" means an area that is annexed into a city or town.

4259 (2) (a) [~~H~~] Except as provided in Subsection (2)(c) or (d), if, on or after [May 1, 2000]
4260 July 1, 2004, a city or town enacts or repeals a tax or changes the rate of a tax under this part,
4261 the enactment, repeal, or change shall take effect:

4262 (i) on the first day of a calendar quarter; and

4263 (ii) after a [~~75-day~~] 90-day period beginning on the date the commission receives
4264 notice meeting the requirements of Subsection (2)(b) from the city or town.

4265 (b) The notice described in Subsection (2)(a)(ii) shall state:

4266 (i) that the city or town will enact or repeal a tax or change the rate of a tax under this
4267 part;

4268 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

4269 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

4270 (iv) if the city or town enacts the tax or changes the rate of the tax described in
4271 Subsection (2)(b)(i), the [~~new~~] rate of the tax.

4272 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection

4273 (2)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
4274 first billing period:

4275 (A) that begins after the effective date of the enactment of the tax or the tax rate
4276 increase; and

4277 (B) if the billing period for the transaction begins before the effective date of the
4278 enactment of the tax or the tax rate increase imposed under:

4279 (I) Section 59-12-401; or

4280 (II) Section 59-12-402.

4281 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
4282 (2)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
4283 billing period:

4284 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
4285 and

4286 (B) if the billing period for the transaction begins before the effective date of the repeal
4287 of the tax or the tax rate decrease imposed under:

4288 (I) Section 59-12-401; or

4289 (II) Section 59-12-402.

4290 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:

4291 (A) Subsection 59-12-103(1)(b);

4292 (B) Subsection 59-12-103(1)(c);

4293 (C) Subsection 59-12-103(1)(d);

4294 (D) Subsection 59-12-103(1)(e);

4295 (E) Subsection 59-12-103(1)(f);

4296 (F) Subsection 59-12-103(1)(g);

4297 (G) Subsection 59-12-103(1)(h);

4298 (H) Subsection 59-12-103(1)(i);

4299 (I) Subsection 59-12-103(1)(j); or

4300 (J) Subsection 59-12-103(1)(k).

4301 (d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue
4302 sale is computed on the basis of sales and use tax rates published in the catalogue, an
4303 enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:

4304 (A) on the first day of a calendar quarter; and
4305 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
4306 rate of the tax under Subsection (2)(a).

4307 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4308 the commission may by rule define the term "catalogue sale."

4309 (3) (a) [~~H~~] Except as provided in Subsection (3)(c) or (d), if, for an annexation that
4310 occurs on or after [~~May 1, 2000~~] July 1, 2004, the annexation will result in [a] the enactment,
4311 repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal,
4312 or change shall take effect:

4313 (i) on the first day of a calendar quarter; and

4314 (ii) after a [~~75-day~~] 90-day period beginning on the date the commission receives
4315 notice meeting the requirements of Subsection (3)(b) from the city or town that annexes the
4316 annexing area.

4317 (b) The notice described in Subsection (3)(a)(ii) shall state:

4318 (i) that the annexation described in Subsection (3)(a) will result in [a] an enactment,
4319 repeal, or change in the rate of a tax under this part for the annexing area;

4320 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);

4321 (iii) the effective date of the tax described in Subsection (3)(b)(i); and

4322 (iv) if the city or town enacts the tax or changes the rate of the tax described in
4323 Subsection (3)(b)(i), the [new] rate of the tax [~~described in Subsection (3)(b)(i)~~].

4324 (c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
4325 (3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
4326 first billing period:

4327 (A) that begins after the effective date of the enactment of the tax or the tax rate
4328 increase; and

4329 (B) if the billing period for the transaction begins before the effective date of the
4330 enactment of the tax or the tax rate increase imposed under:

4331 (I) Section 59-12-401; or

4332 (II) Section 59-12-402.

4333 (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
4334 (3)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last

4335 billing period:

4336 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;

4337 and

4338 (B) if the billing period for the transaction begins before the effective date of the repeal

4339 of the tax or the tax rate decrease imposed under:

4340 (I) Section 59-12-401; or

4341 (II) Section 59-12-402.

4342 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:

4343 (A) Subsection 59-12-103(1)(b);

4344 (B) Subsection 59-12-103(1)(c);

4345 (C) Subsection 59-12-103(1)(d);

4346 (D) Subsection 59-12-103(1)(e);

4347 (E) Subsection 59-12-103(1)(f);

4348 (F) Subsection 59-12-103(1)(g);

4349 (G) Subsection 59-12-103(1)(h);

4350 (H) Subsection 59-12-103(1)(i);

4351 (I) Subsection 59-12-103(1)(j); or

4352 (J) Subsection 59-12-103(1)(k).

4353 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue
4354 sale is computed on the basis of sales and use tax rates published in the catalogue, an

4355 enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:

4356 (A) on the first day of a calendar quarter; and

4357 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
4358 rate of the tax under Subsection (3)(a).

4359 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4360 the commission may by rule define the term "catalogue sale."

4361 Section 45. Section **59-12-404** is enacted to read:

4362 **59-12-404. Seller or certified service provider reliance on commission database.**

4363 A seller or certified service provider that collects a tax imposed by a city or town under
4364 this part is not liable for failing to collect and remit a tax at a tax rate imposed under this part if
4365 the tax rate at which the seller or certified service provider collected the tax was derived from a

4366 database created by the commission containing:

4367 (1) tax rates; or

4368 (2) local taxing jurisdiction boundaries.

4369 Section 46. Section **59-12-501** is amended to read:

4370 **59-12-501. Public transit tax -- Base -- Rate -- Voter approval.**

4371 (1) (a) (i) Except as provided in [~~Subsection~~] Subsections (1)(a)(ii) and

4372 59-12-207.1(7)(c), in addition to other sales and use taxes, any county, city, or town within a

4373 transit district organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act,

4374 may impose a sales and use tax of 1/4 of 1% on the transactions described in Subsection

4375 59-12-103(1) located within the county, city, or town, to fund a public transportation system.

4376 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax

4377 under this section on[~~-(A)~~] the sales and uses described in Section 59-12-104 to the extent the

4378 sales and uses are exempt from taxation under Section 59-12-104[~~-, and~~].

4379 [~~(B) any amounts paid or charged by a vendor that collects a tax under Subsection~~

4380 59-12-107(1)(b).]

4381 (b) For purposes of this Subsection (1), the location of a transaction shall be

4382 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

4383 [~~(b)~~] (c) A county, city, or town may impose a tax under this section only if the

4384 governing body of the county, city, or town, by resolution, submits the proposal to all the

4385 qualified voters within the county, city, or town for approval at a general or special election

4386 conducted in the manner provided by statute.

4387 (2) (a) If only a portion of a county is included within a public transit district, the

4388 proposal may be submitted only to the qualified voters residing within the boundaries of the

4389 proposed or existing public transit district.

4390 (b) Notice of any such election shall be given by the county, city, or town governing

4391 body 15 days in advance in the manner prescribed by statute.

4392 (c) If a majority of the voters voting in such election approve the proposal, it shall

4393 become effective on the date provided by the county, city, or town governing body.

4394 (3) This section may not be construed to require an election in jurisdictions where

4395 voters have previously approved a public transit sales or use tax.

4396 Section 47. Section **59-12-502** is amended to read:

4397 **59-12-502. Additional public transit tax for expanded system and fixed guideway**
4398 **and interstate improvements -- Base -- Rate -- Voter approval.**

4399 (1) (a) (i) Except as provided in [~~Subsection~~] Subsections (1)(a)(ii) and
4400 59-12-207.1(7)(c), and in addition to other sales and use taxes, including the public transit
4401 district tax authorized by Section 59-12-501, a county, city, or town within a transit district
4402 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act, may impose a
4403 sales and use tax of 1/4 of 1% on the transactions described in Subsection 59-12-103(1) located
4404 within the county, city, or town, to fund a fixed guideway and expanded public transportation
4405 system.

4406 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax
4407 under this section on[~~-(A)~~] the sales and uses described in Section 59-12-104 to the extent the
4408 sales and uses are exempt from taxation under Section 59-12-104[~~;-and~~].

4409 [~~(B) any amounts paid or charged by a vendor that collects a tax under Subsection~~
4410 59-12-107(1)(b).]

4411 (b) For purposes of this Subsection (1), the location of a transaction shall be
4412 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

4413 [~~(b)~~] (c) (i) A county, city, or town may impose the tax under this section only if the
4414 governing body of the county, city, or town submits, by resolution, the proposal to all the
4415 qualified voters within the county, city, or town for approval at a general or special election
4416 conducted in the manner provided by statute.

4417 (ii) Notice of the election under Subsection (1)(c)(i) shall be given by the county, city,
4418 or town governing body 15 days in advance in the manner prescribed by statute.

4419 (2) If the majority of the voters voting in this election approve the proposal, it shall
4420 become effective on the date provided by the county, city, or town governing body.

4421 (3) (a) This section may not be construed to require an election in jurisdictions where
4422 voters have previously approved a public transit sales or use tax.

4423 (b) This section shall be construed to require an election to impose the sales and use
4424 tax authorized by this section, including jurisdictions where the voters have previously
4425 approved the sales and use tax authorized by Section 59-12-501, but this section may not be
4426 construed to affect the sales and use tax authorized by Section 59-12-501.

4427 (4) No public funds shall be spent to promote the required election.

4428 (5) Notwithstanding the designated use of revenues in Subsection (1), of the revenues
4429 generated by the tax imposed under this section by any county of the first class:

4430 (a) 75% shall be allocated to fund a fixed guideway and expanded public transportation
4431 system; and

4432 (b) 25% shall be allocated to fund new construction, major renovations, and
4433 improvements to Interstate 15 and state highways within the county and to pay any debt service
4434 and bond issuance costs related to those projects.

4435 (6) A county of the first class may, through an interlocal agreement, authorize the
4436 deposit or transfer of the portion of the revenues described in Subsection ~~[59-12-502]~~(5)(b) to
4437 the Public Transportation System Tax Highway Fund created in Section 72-2-121.

4438 Section 48. Section ~~59-12-504~~ is amended to read:

4439 **59-12-504. Imposition or repeal of tax -- Tax rate change -- Effective date --**

4440 **Notice requirements.**

4441 (1) For purposes of this section:

4442 (a) "Annexation" means an annexation to:

4443 (i) a county under Title 17, Chapter 2, Annexation to County; or

4444 (ii) a city or town under Title 10, Chapter 2, Part 4, Annexation.

4445 (b) "Annexing area" means an area that is annexed into a county, city, or town.

4446 (2) (a) ~~[If] Except as provided in Subsection (2)(c) or (d), if, on or after [May 1, 2000]~~

4447 July 1, 2004, a county, city, or town enacts or repeals a tax ~~[or changes the rate of a tax]~~ under

4448 this part, the enactment~~;~~ or repeal~~;~~ ~~or change~~ shall take effect:

4449 (i) on the first day of a calendar quarter; and

4450 (ii) after a ~~[75-day]~~ 90-day period beginning on the date the commission receives

4451 notice meeting the requirements of Subsection (2)(b) from the county, city, or town.

4452 (b) The notice described in Subsection (2)(a)(ii) shall state:

4453 (i) that the county, city, or town will enact or repeal a tax ~~[or change the rate of a tax]~~

4454 under this part;

4455 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

4456 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

4457 (iv) if the county, city, or town enacts the tax ~~[or changes the rate of the tax]~~ described

4458 in Subsection (2)(b)(i), the ~~[new]~~ rate of the tax.

4459 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
4460 (2)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

4461 (A) that begins after the effective date of the imposition of the tax; and

4462 (B) if the billing period for the transaction begins before the effective date of the
4463 enactment of the tax under:

4464 (I) Section 59-12-501; or

4465 (II) Section 59-12-502.

4466 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
4467 (2)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

4468 (A) that began before the effective date of the repeal of the tax; and

4469 (B) if the billing period for the transaction begins before the effective date of the repeal
4470 of the tax imposed under:

4471 (I) Section 59-12-501; or

4472 (II) Section 59-12-502.

4473 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:

4474 (A) Subsection 59-12-103(1)(b);

4475 (B) Subsection 59-12-103(1)(c);

4476 (C) Subsection 59-12-103(1)(d);

4477 (D) Subsection 59-12-103(1)(e);

4478 (E) Subsection 59-12-103(1)(f);

4479 (F) Subsection 59-12-103(1)(g);

4480 (G) Subsection 59-12-103(1)(h);

4481 (H) Subsection 59-12-103(1)(i);

4482 (I) Subsection 59-12-103(1)(j); or

4483 (J) Subsection 59-12-103(1)(k).

4484 (d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue
4485 sale is computed on the basis of sales and use tax rates published in the catalogue, an
4486 enactment or repeal of a tax described in Subsection (2)(a) takes effect:

4487 (A) on the first day of a calendar quarter; and

4488 (B) beginning 60 days after the effective date of the enactment or repeal under
4489 Subsection (2)(a).

4490 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4491 the commission may by rule define the term "catalogue sale."

4492 (3) (a) [~~If~~] Except as provided in Subsection (3)(c) or (d), if, for an annexation that
4493 occurs on or after [~~May 1, 2000~~] July 1, 2004, the annexation will result in [~~a change in the~~
4494 ~~rate~~] the enactment or repeal of a tax under this part for an annexing area, the [~~change~~]
4495 enactment or repeal shall take effect:

4496 (i) on the first day of a calendar quarter; and

4497 (ii) after a [~~75-day~~] 90-day period beginning on the date the commission receives
4498 notice meeting the requirements of Subsection (3)(b) from the county, city, or town that
4499 annexes the annexing area.

4500 (b) The notice described in Subsection (3)(a)(ii) shall state:

4501 (i) that the annexation described in Subsection (3)(a) will result in [~~a change in the~~
4502 ~~rate~~] an enactment or repeal of a tax under this part for the annexing area;

4503 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);

4504 (iii) the effective date of the tax described in Subsection (3)(b)(i); and

4505 (iv) the [~~new~~] rate of the tax described in Subsection (3)(b)(i).

4506 (c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
4507 (3)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

4508 (A) that begins after the effective date of the imposition of the tax; and

4509 (B) if the billing period for the transaction begins before the effective date of the
4510 enactment of the tax under:

4511 (I) Section 59-12-501; or

4512 (II) Section 59-12-502.

4513 (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
4514 (3)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

4515 (A) that began before the effective date of the repeal of the tax; and

4516 (B) if the billing period for the transaction begins before the effective date of the repeal
4517 of the tax imposed under:

4518 (I) Section 59-12-501; or

4519 (II) Section 59-12-502.

4520 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:

- 4521 (A) Subsection 59-12-103(1)(b);
4522 (B) Subsection 59-12-103(1)(c);
4523 (C) Subsection 59-12-103(1)(d);
4524 (D) Subsection 59-12-103(1)(e);
4525 (E) Subsection 59-12-103(1)(f);
4526 (F) Subsection 59-12-103(1)(g);
4527 (G) Subsection 59-12-103(1)(h);
4528 (H) Subsection 59-12-103(1)(i);
4529 (I) Subsection 59-12-103(1)(j); or
4530 (J) Subsection 59-12-103(1)(k).
4531 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue
4532 sale is computed on the basis of sales and use tax rates published in the catalogue, an
4533 enactment or repeal of a tax described in Subsection (3)(a) takes effect:
4534 (A) on the first day of a calendar quarter; and
4535 (B) beginning 60 days after the effective date of the enactment or repeal under
4536 Subsection (3)(a).
4537 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4538 the commission may by rule define the term "catalogue sale."
4539 Section 49. Section **59-12-505** is enacted to read:
4540 **59-12-505. Seller or certified service provider reliance on commission database.**
4541 A seller or certified service provider that collects a tax imposed by a county, city, or
4542 town under this part is not liable for failing to collect and remit a tax at a rate imposed under
4543 this part if the tax rate at which the seller or certified service provider collected the tax was
4544 derived from a database created by the commission containing:
4545 (1) tax rates; or
4546 (2) local taxing jurisdiction boundaries.
4547 Section 50. Section **59-12-603** is amended to read:
4548 **59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Collection --**
4549 **Adoption of ordinance required -- Administration -- Distribution -- Enactment or repeal**
4550 **of tax or tax rate change -- Effective date -- Notice requirements.**
4551 (1) In addition to any other taxes, a county legislative body may, as provided in this

4552 part, impose a tourism, recreation, cultural, and convention tax as follows:

4553 (a) (i) a county legislative body of any county may impose a tax of not to exceed 3% on
4554 all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and
4555 rentals of motor vehicles made for the purpose of temporarily replacing a person's motor
4556 vehicle that is being repaired pursuant to a repair or an insurance agreement;

4557 (ii) beginning on or after January 1, 1999, a county legislative body of any county
4558 imposing a tax under Subsection (1)(a)(i) may, in addition to imposing the tax under
4559 Subsection (1)(a)(i), impose a tax of not to exceed 4% on all short-term leases and rentals of
4560 motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for
4561 the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to
4562 a repair or an insurance agreement;

4563 (b) a county legislative body of any county may impose a tax of not to exceed 1% of all
4564 sales of prepared foods and beverages that are sold by restaurants; and

4565 (c) a county legislative body of any county may impose a tax of not to exceed 1/2% of
4566 the rent for every occupancy of a suite or room:

4567 (i) on the following entities doing business as motor courts, motels, hotels, inns, or
4568 providing similar public accommodations:

4569 (A) a person;

4570 (B) a company;

4571 (C) a corporation; or

4572 (D) a person, group, or organization similar to Subsections (1)(c)(i)(A) through (C);

4573 and

4574 (ii) if the suite or room is regularly rented for less than 30 consecutive days.

4575 (2) The revenue from the imposition of the taxes provided for in Subsections (1)(a)
4576 through (c) may be used for the purposes of financing tourism promotion, and the
4577 development, operation, and maintenance of tourist, recreation, cultural, and convention
4578 facilities as defined in Section 59-12-602.

4579 (3) The tax imposed under Subsection (1)(c) shall be in addition to the transient room
4580 tax imposed under Part 3, Transient Room Tax, and may be imposed only by a county of the
4581 first class.

4582 (4) (a) ~~(i)~~ (i) Except as provided in Subsection (4)(a)(ii), a tax imposed under this part

4583 shall be levied at the same time and collected in the same manner as provided in Part 2, Local
4584 Sales and Use Tax Act~~[, except that the collection and distribution of the tax revenue]~~.

4585 (ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to [the
4586 provisions of Subsection] Subsections 59-12-205(2) through (5).

4587 (b) A tax imposed under this part may be pledged as security for bonds, notes, or other
4588 evidences of indebtedness incurred by a county under Title 11, Chapter 14, Utah Municipal
4589 Bond Act, to finance tourism, recreation, cultural, and convention facilities.

4590 (5) (a) In order to impose the tax under Subsection (1), each county legislative body
4591 shall annually adopt an ordinance imposing the tax.

4592 (b) (i) The ordinance under Subsection (5)(a) shall include provisions substantially the
4593 same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on
4594 those items and sales described in Subsection (1).

4595 (ii) A county legislative body imposing a tax under this part shall impose the tax as
4596 provided in this section on the leases, rentals, and sales described in Subsection (1) relating to
4597 the Olympic Winter Games of 2002 made to or by an organization exempt from federal income
4598 taxation under Section 501(c)(3), Internal Revenue Code, except for leases, rentals, and sales
4599 described in Subsection (1):

4600 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter
4601 Games of 2002;

4602 (B) exclusively used by:

4603 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
4604 Olympic Winter Games of 2002; or

4605 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic
4606 Winter Games of 2002; and

4607 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of
4608 2002 does not receive reimbursement.

4609 (c) The name of the county as the taxing agency shall be substituted for that of the state
4610 where necessary, and an additional license is not required if one has been or is issued under
4611 Section 59-12-106.

4612 (6) In order to maintain in effect its tax ordinance adopted under this part, each county
4613 legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1,

4614 Tax Collection, adopt amendments to its tax ordinance to conform with the applicable
4615 amendments to Part 1, Tax Collection.

4616 (7) The commission shall:

4617 (a) administer, collect, and enforce the tax authorized under this part pursuant to:

4618 (i) the same procedures used to administer, collect, and enforce the sales and use tax
4619 under Part 1, Tax Collection; and

4620 (ii) Chapter 1, General Taxation Policies;

4621 (b) (i) except as provided in Subsection (7)(c), for a tax under this part other than the
4622 tax under Subsection (1)(a)(ii), distribute the revenues to the county imposing the tax; and

4623 (ii) except as provided in Subsection (7)(c), for a tax under Subsection (1)(a)(ii),
4624 distribute the revenues according to the distribution formula provided in Subsection (8); and

4625 (c) deduct from the distributions under Subsection (7)(b) an administrative charge for
4626 collecting the tax as provided in Section 59-12-206.

4627 (8) The commission shall distribute the revenues generated by the tax under Subsection
4628 (1)(a)(ii) to each county collecting a tax under Subsection (1)(a)(ii) according to the following
4629 formula:

4630 (a) the commission shall distribute 70% of the revenues based on the percentages
4631 generated by dividing the revenues collected by each county under Subsection (1)(a)(ii) by the
4632 total revenues collected by all counties under Subsection (1)(a)(ii); and

4633 (b) the commission shall distribute 30% of the revenues based on the percentages
4634 generated by dividing the population of each county collecting a tax under Subsection (1)(a)(ii)
4635 by the total population of all counties collecting a tax under Subsection (1)(a)(ii).

4636 (9) (a) For purposes of this Subsection (9):

4637 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
4638 Annexation to County.

4639 (ii) "Annexing area" means an area that is annexed into a county.

4640 (b) (i) ~~[H] Except as provided in Subsection (9)(c), if, on or after [May 1, 2000]~~ July 1,
4641 2004, a county enacts or repeals a tax or changes the rate of a tax under this part, the
4642 enactment, repeal, or change shall take effect:

4643 (A) on the first day of a calendar quarter; and

4644 (B) after a ~~[75-day]~~ 90-day period beginning on the date the commission receives

4645 notice meeting the requirements of Subsection (9)(b)(ii) from the county.

4646 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:

4647 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

4648 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

4649 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

4650 (D) if the county enacts the tax or changes the rate of the tax described in Subsection

4651 (9)(b)(ii)(A), the ~~[new]~~ rate of the tax.

4652 (c) (i) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection

4653 (9)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the

4654 first billing period:

4655 (A) that begins after the effective date of the enactment of the tax or the tax rate

4656 increase; and

4657 (B) if the billing period for the transaction begins before the effective date of the

4658 enactment of the tax or the tax rate increase imposed under Subsection (1).

4659 (ii) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection

4660 (9)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last

4661 billing period:

4662 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;

4663 and

4664 (B) if the billing period for the transaction begins before the effective date of the repeal

4665 of the tax or the tax rate decrease imposed under Subsection (1).

4666 (iii) Subsections (9)(c)(i) and (ii) apply to transactions subject to a tax under:

4667 (A) Subsection 59-12-103(1)(e);

4668 (B) Subsection 59-12-103(1)(i); or

4669 (C) Subsection 59-12-103(1)(k).

4670 ~~[(e)]~~ (d) (i) ~~[ff]~~ Except as provided in Subsection (9)(e), if, for an annexation that

4671 occurs on or after ~~[May 1, 2000]~~ July 1, 2004, the annexation will result in ~~[a]~~ the enactment,

4672 repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal,

4673 or change shall take effect:

4674 (A) on the first day of a calendar quarter; and

4675 (B) after a ~~[75-day]~~ 90-day period beginning on the date the commission receives

4676 notice meeting the requirements of Subsection (9)[~~(e)~~] (d)(ii) from the county that annexes the
4677 annexing area.

4678 (ii) The notice described in Subsection (9)[~~(e)~~] (d)(i)(B) shall state:

4679 (A) that the annexation described in Subsection (9)[~~(e)~~] (d)(i) will result in ~~[a]~~ an
4680 enactment, repeal, or change in the rate of a tax under this part for the annexing area;

4681 (B) the statutory authority for the tax described in Subsection (9)[~~(e)~~] (d)(ii)(A);

4682 (C) the effective date of the tax described in Subsection (9)[~~(e)~~] (d)(ii)(A); and

4683 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
4684 (9)(d)(ii)(A), the [new] rate of the tax described in Subsection (9)[~~(e)~~](d)(ii)(A).

4685 (e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
4686 (9)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
4687 first billing period:

4688 (A) that begins after the effective date of the enactment of the tax or the tax rate
4689 increase; and

4690 (B) if the billing period for the transaction begins before the effective date of the
4691 enactment of the tax or the tax rate increase imposed under Subsection (1).

4692 (ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
4693 (9)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
4694 billing period:

4695 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
4696 and

4697 (B) if the billing period for the transaction begins before the effective date of the repeal
4698 of the tax or the tax rate decrease imposed under Subsection (1).

4699 (iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:

4700 (A) Subsection 59-12-103(1)(e);

4701 (B) Subsection 59-12-103(1)(i); or

4702 (C) Subsection 59-12-103(1)(k).

4703 Section 51. Section **59-12-604** is enacted to read:

4704 **59-12-604. Seller or certified service provider reliance on commission database.**

4705 A seller or certified service provider that collects a tax imposed by a county under this
4706 part is not liable for failing to collect and remit a tax at a tax rate imposed under this part if the

4707 tax rate at which the seller or certified service provider collected the tax was derived from a
4708 database created by the commission containing:

4709 (1) tax rates; or

4710 (2) local taxing jurisdiction boundaries.

4711 Section 52. Section **59-12-703** is amended to read:

4712 **59-12-703. Opinion question election -- Imposition of tax -- Uses of tax monies.**

4713 (1) (a) (i) Except as provided in [~~Subsection~~] Subsections (1)(a)(ii) and
4714 59-12-207.1(7)(c), a county legislative body may submit an opinion question to the residents of
4715 that county, by majority vote of all members of the legislative body, so that each resident of the
4716 county has an opportunity to express the resident's opinion on the imposition of a local sales
4717 and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the
4718 county, to fund recreational and zoological facilities and botanical, cultural, and zoological
4719 organizations in that county.

4720 (ii) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
4721 tax under this section on[~~-(A)~~] the sales and uses described in Section 59-12-104 to the extent
4722 the sales and uses are exempt from taxation under Section 59-12-104[~~-, and~~].

4723 [~~(B) any amounts paid or charged by a vendor that collects a tax under Subsection~~
4724 ~~59-12-107(1)(b).~~]

4725 (b) For purposes of this Subsection (1), the location of a transaction shall be
4726 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

4727 [~~(b)~~] (c) The election shall follow the procedures outlined in Title 11, Chapter 14, Utah
4728 Municipal Bond Act.

4729 (2) If the county legislative body determines that a majority of the county's registered
4730 voters voting on the imposition of the tax have voted in favor of the imposition of the tax as
4731 prescribed in Subsection (1)(a), the county legislative body may impose the tax by a majority
4732 vote of all members of the legislative body on the transactions:

4733 (a) described in Subsection (1); and

4734 (b) within the county, including the cities and towns located in the county.

4735 (3) The monies generated from any tax imposed under Subsection (2) shall be used for
4736 financing:

4737 (a) recreational and zoological facilities within the county or a city or town located in

4738 the county; and

4739 (b) ongoing operating expenses of botanical, cultural, and zoological organizations
4740 within the county.

4741 (4) ~~[Taxes imposed]~~ (a) A tax under this part shall be:

4742 ~~[(a)]~~ (i) except as provided in Subsection (4)(b), levied at the same time and collected
4743 in the same manner as provided in Part 2, Local Sales and Use Tax Act~~[-except that the~~
4744 ~~collection and distribution of the tax revenue is not subject to Subsection 59-12-205(2)]~~; and

4745 ~~[(b)]~~ (ii) levied for a period of ten years and may be reauthorized at the end of the
4746 ten-year period in accordance with this section.

4747 (b) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to
4748 Subsections 59-12-205(2) through (5).

4749 (5) (a) For purposes of this Subsection (5):

4750 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
4751 Annexation to County.

4752 (ii) "Annexing area" means an area that is annexed into a county.

4753 (b) (i) ~~[H]~~ Except as provided in Subsection (5)(c) or (d), if, on or after [May 1, 2000]
4754 July 1, 2004, a county enacts or repeals a tax [or changes the rate of a tax] under this part, the
4755 enactment~~[-]~~ or repeal~~[-or change]~~ shall take effect:

4756 (A) on the first day of a calendar quarter; and

4757 (B) after a ~~[75-day]~~ 90-day period beginning on the date the commission receives
4758 notice meeting the requirements of Subsection (5)(b)(ii) from the county.

4759 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

4760 (A) that the county will enact or repeal a tax ~~[or change the rate of a tax]~~ under this
4761 part;

4762 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

4763 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

4764 (D) if the county enacts the tax ~~[or changes the rate of the tax]~~ described in Subsection
4765 (5)(b)(ii)(A), the ~~[new]~~ rate of the tax.

4766 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
4767 (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

4768 (A) that begins after the effective date of the imposition of the tax; and

4769 (B) if the billing period for the transaction begins before the effective date of the
4770 enactment of the tax under this section.

4771 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
4772 (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

4773 (A) that began before the effective date of the repeal of the tax; and

4774 (B) if the billing period for the transaction begins before the effective date of the repeal
4775 of the tax imposed under this section.

4776 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

4777 (A) Subsection 59-12-103(1)(b);

4778 (B) Subsection 59-12-103(1)(c);

4779 (C) Subsection 59-12-103(1)(d);

4780 (D) Subsection 59-12-103(1)(e);

4781 (E) Subsection 59-12-103(1)(f);

4782 (F) Subsection 59-12-103(1)(g);

4783 (G) Subsection 59-12-103(1)(h);

4784 (H) Subsection 59-12-103(1)(i);

4785 (I) Subsection 59-12-103(1)(j); or

4786 (J) Subsection 59-12-103(1)(k).

4787 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a
4788 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
4789 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

4790 (A) on the first day of a calendar quarter; and

4791 (B) beginning 60 days after the effective date of the enactment or repeal under
4792 Subsection (5)(b)(i).

4793 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4794 the commission may by rule define the term "catalogue sale."

4795 ~~[(e)]~~ (e) (i) ~~[H]~~ Except as provided in Subsection (5)(f) or (g), if, for an annexation that
4796 occurs on or after [May 1, 2000] July 1, 2004, the annexation will result in [a change in the
4797 rate] the enactment or repeal of a tax under this part for an annexing area, the [change]
4798 enactment or repeal shall take effect:

4799 (A) on the first day of a calendar quarter; and

4800 (B) after a ~~[75-day]~~ 90-day period beginning on the date the commission receives
4801 notice meeting the requirements of Subsection (5)~~(f)~~(e)(ii) from the county that annexes the
4802 annexing area.

4803 (ii) The notice described in Subsection (5)~~(f)~~(e)(i)(B) shall state:

4804 (A) that the annexation described in Subsection (5)~~(f)~~(e)(i) will result in ~~[a change in~~
4805 ~~the rate]~~ an enactment or repeal of a tax under this part for the annexing area;

4806 (B) the statutory authority for the tax described in Subsection (5)~~(f)~~(e)(ii)(A);

4807 (C) the effective date of the tax described in Subsection (5)~~(f)~~(e)(ii)(A); and

4808 (D) the ~~[new]~~ rate of the tax described in Subsection (5)~~(f)~~(e)(ii)(A).

4809 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
4810 (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

4811 (A) that begins after the effective date of the imposition of the tax; and

4812 (B) if the billing period for the transaction begins before the effective date of the
4813 enactment of the tax under this section.

4814 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
4815 (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

4816 (A) that began before the effective date of the repeal of the tax; and

4817 (B) if the billing period for the transaction begins before the effective date of the repeal
4818 of the tax imposed under this section.

4819 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

4820 (A) Subsection 59-12-103(1)(b);

4821 (B) Subsection 59-12-103(1)(c);

4822 (C) Subsection 59-12-103(1)(d);

4823 (D) Subsection 59-12-103(1)(e);

4824 (E) Subsection 59-12-103(1)(f);

4825 (F) Subsection 59-12-103(1)(g);

4826 (G) Subsection 59-12-103(1)(h);

4827 (H) Subsection 59-12-103(1)(i);

4828 (I) Subsection 59-12-103(1)(j); or

4829 (J) Subsection 59-12-103(1)(k).

4830 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a

4831 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
4832 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

4833 (A) on the first day of a calendar quarter; and

4834 (B) beginning 60 days after the effective date of the enactment or repeal under

4835 Subsection (5)(e)(i).

4836 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

4837 the commission may by rule define the term "catalogue sale."

4838 Section 53. Section **59-12-706** is enacted to read:

4839 **59-12-706. Seller or certified service provider reliance on commission database.**

4840 A seller or certified service provider that collects a tax imposed by a county under this

4841 part is not liable for failing to collect and remit a tax at a tax rate imposed under this part if the

4842 tax rate at which the seller or certified service provider collected the tax was derived from a

4843 database created by the commission containing:

4844 (1) tax rates; or

4845 (2) local taxing jurisdiction boundaries.

4846 Section 54. Section **59-12-802** is amended to read:

4847 **59-12-802. Imposition of rural county health care facilities tax -- Base -- Rate.**

4848 (1) (a) A county legislative body may impose a sales and use tax of up to 1%:

4849 (i) except as provided in ~~[Subsection]~~ Subsections (1)(b) and 59-12-207.1(7)(c), on the

4850 transactions described in Subsection 59-12-103(1) located within the county; and

4851 (ii) to fund rural county health care facilities in that county.

4852 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a

4853 tax under this section on:

4854 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses

4855 are exempt from taxation under Section 59-12-104; or

4856 ~~[(ii) any amounts paid or charged by a vendor that collects a tax under Subsection~~

4857 ~~59-12-107(1)(b); and]~~

4858 ~~[(iii)]~~ (ii) a transaction to the extent a rural city hospital tax is imposed on that

4859 transaction in a city that imposes a tax under Section 59-12-804.

4860 (c) For purposes of this Subsection (1), the location of a transaction shall be

4861 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

4862 (2) (a) Before imposing a tax under Subsection (1)(a), a county legislative body shall
4863 obtain approval to impose the tax from a majority of the:

4864 (i) members of the county's legislative body; and

4865 (ii) county's registered voters voting on the imposition of the tax.

4866 (b) The county legislative body shall conduct the election according to the procedures
4867 and requirements of Title 11, Chapter 14, Utah Municipal Bond Act.

4868 (3) The monies generated by a tax imposed under Subsection (1) may only be used for
4869 the financing of:

4870 (a) ongoing operating expenses of a rural county health care facility;

4871 (b) the acquisition of land for a rural county health care facility; or

4872 (c) the design, construction, equipping, or furnishing of a rural county health care
4873 facility.

4874 (4) ~~[Taxes imposed]~~ (a) A tax under this section shall be:

4875 ~~[(a)]~~ (i) except as provided in Subsection (4)(b), levied at the same time and collected
4876 in the same manner as provided in Part 2, Local Sales and Use Tax Act~~[-except that the~~
4877 ~~collection and distribution of the tax revenue is not subject to Subsection 59-12-205(2)]~~; and

4878 ~~[(b)]~~ (ii) levied for a period of ten years and may be reauthorized at the end of the
4879 ten-year period by the county legislative body as provided in Subsection (1).

4880 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
4881 Subsections 59-12-205(2) through (5).

4882 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected
4883 under this section for the cost of administering this tax.

4884 Section 55. Section **59-12-804** is amended to read:

4885 **59-12-804. Imposition of rural city hospital tax -- Base -- Rate.**

4886 (1) (a) A city legislative body may impose a sales and use tax of up to 1%:

4887 (i) except as provided in ~~[Subsection]~~ Subsections (1)(b) and 59-12-207.1(7)(c), on the
4888 transactions described in Subsection 59-12-103(1) located within the city; and

4889 (ii) to fund rural city hospitals in that city.

4890 (b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax
4891 under this section on~~[-(i)]~~ the sales and uses described in Section 59-12-104 to the extent the
4892 sales and uses are exempt from taxation under Section 59-12-104~~[-and]~~.

4893 ~~[(ii) any amounts paid or charged by a vendor that collects a tax under Subsection~~
4894 ~~59-12-107(1)(b).]~~

4895 (c) For purposes of this Subsection (1), the location of a transaction shall be
4896 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

4897 (2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall
4898 obtain approval to impose the tax from a majority of the:

4899 (i) members of the city legislative body; and

4900 (ii) city's registered voters voting on the imposition of the tax.

4901 (b) The city legislative body shall conduct the election according to the procedures and
4902 requirements of Title 11, Chapter 14, Utah Municipal Bond Act.

4903 (3) The monies generated by a tax imposed under Subsection (1) may only be used for
4904 the financing of:

4905 (a) ongoing operating expenses of a rural city hospital;

4906 (b) the acquisition of land for a rural city hospital; or

4907 (c) the design, construction, equipping, or furnishing of a rural city hospital.

4908 (4) ~~[Taxes imposed]~~ (a) A tax under this section shall be:

4909 ~~[(a)]~~ (i) except as provided in Subsection (4)(b), levied at the same time and collected
4910 in the same manner as provided in Part 2, Local Sales and Use Tax Act~~[-except that the~~

4911 ~~collection and distribution of the tax revenue is not subject to Subsection 59-12-205]; and~~

4912 ~~[(b)]~~ (ii) levied for a period of ten years and may be reauthorized at the end of the
4913 ten-year period by the city legislative body as provided in Subsection (1).

4914 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
4915 Subsections 59-12-205(2) through (5).

4916 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected
4917 under this section for the cost of administering the tax.

4918 Section 56. Section **59-12-806** is amended to read:

4919 **59-12-806. Imposition or repeal of tax -- Tax rate change -- Effective date --**
4920 **Notice requirements.**

4921 (1) For purposes of this section:

4922 (a) "Annexation" means an annexation to:

4923 (i) a county under Title 17, Chapter 2, Annexation to County; or

4924 (ii) a city [~~or town~~] under Title 10, Chapter 2, Part 4, Annexation.

4925 (b) "Annexing area" means an area that is annexed into a county[;] or city[; ~~or town~~].

4926 (2) (a) [~~If~~] Except as provided in Subsection (2)(c) or (d), if, on or after [May 1, 2000]

4927 July 1, 2004, a county[;] or city[; ~~or town~~] enacts or repeals a tax or changes the rate of a tax

4928 under this part, the enactment, repeal, or change shall take effect:

4929 (i) on the first day of a calendar quarter; and

4930 (ii) after a [~~75-day~~] 90-day period beginning on the date the commission receives

4931 notice meeting the requirements of Subsection (2)(b) from the county[;] or city[; ~~or town~~].

4932 (b) The notice described in Subsection (2)(a)(ii) shall state:

4933 (i) that the county[;] or city[; ~~or town~~] will enact or repeal a tax or change the rate of a

4934 tax under this part;

4935 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

4936 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

4937 (iv) if the county[;] or city[; ~~or town~~] enacts the tax or changes the rate of the tax

4938 described in Subsection (2)(b)(i), the [~~new~~] rate of the tax.

4939 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection

4940 (2)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the

4941 first billing period:

4942 (A) that begins after the effective date of the imposition of the tax; and

4943 (B) if the billing period for the transaction begins before the effective date of the

4944 enactment of the tax or the tax rate increase imposed under:

4945 (I) Section 59-12-802; or

4946 (II) Section 59-12-804.

4947 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection

4948 (2)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last

4949 billing period:

4950 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;

4951 and

4952 (B) if the billing period for the transaction begins before the effective date of the repeal

4953 of the tax or the tax rate decrease imposed under:

4954 (I) Section 59-12-802; or

- 4955 (II) Section 59-12-804.
- 4956 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:
- 4957 (A) Subsection 59-12-103(1)(b);
- 4958 (B) Subsection 59-12-103(1)(c);
- 4959 (C) Subsection 59-12-103(1)(d);
- 4960 (D) Subsection 59-12-103(1)(e);
- 4961 (E) Subsection 59-12-103(1)(f);
- 4962 (F) Subsection 59-12-103(1)(g);
- 4963 (G) Subsection 59-12-103(1)(h);
- 4964 (H) Subsection 59-12-103(1)(i);
- 4965 (I) Subsection 59-12-103(1)(j); or
- 4966 (J) Subsection 59-12-103(1)(k).
- 4967 (d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue
- 4968 sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 4969 enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:
- 4970 (A) on the first day of a calendar quarter; and
- 4971 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
- 4972 rate of the tax under Subsection (2)(a).
- 4973 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 4974 the commission may by rule define the term "catalogue sale."
- 4975 (3) (a) [~~If~~] Except as provided in Subsection (3)(c) or (d), if, for an annexation that
- 4976 occurs on or after [~~May 1, 2000~~] July 1, 2004, the annexation will result in [a] the enactment,
- 4977 repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal,
- 4978 or change shall take effect:
- 4979 (i) on the first day of a calendar quarter; and
- 4980 (ii) after a [~~75-day~~] 90-day period beginning on the date the commission receives
- 4981 notice meeting the requirements of Subsection (3)(b) from the county[;] or city[; or town] that
- 4982 annexes the annexing area.
- 4983 (b) The notice described in Subsection (3)(a)(ii) shall state:
- 4984 (i) that the annexation described in Subsection (3)(a) will result in [a] an enactment,
- 4985 repeal, or change in the rate of a tax under this part for the annexing area;

- 4986 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);
- 4987 (iii) the effective date of the tax described in Subsection (3)(b)(i); and
- 4988 (iv) if the county or city enacts the tax or changes the rate of the tax described in
- 4989 Subsection (3)(b)(i), the [new] rate of the tax [described in Subsection (3)(b)(i)].
- 4990 (c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
- 4991 (3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
- 4992 first billing period:
- 4993 (A) that begins after the effective date of the enactment of the tax or the tax rate
- 4994 increase; and
- 4995 (B) if the billing period for the transaction begins before the effective date of the
- 4996 enactment of the tax or the tax rate increase imposed under:
- 4997 (I) Section 59-12-802; or
- 4998 (II) Section 59-12-804.
- 4999 (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
- 5000 (3)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
- 5001 billing period:
- 5002 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
- 5003 and
- 5004 (B) if the billing period for the transaction begins before the effective date of the repeal
- 5005 of the tax or the tax rate decrease imposed under:
- 5006 (I) Section 59-12-802; or
- 5007 (II) Section 59-12-804.
- 5008 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:
- 5009 (A) Subsection 59-12-103(1)(b);
- 5010 (B) Subsection 59-12-103(1)(c);
- 5011 (C) Subsection 59-12-103(1)(d);
- 5012 (D) Subsection 59-12-103(1)(e);
- 5013 (E) Subsection 59-12-103(1)(f);
- 5014 (F) Subsection 59-12-103(1)(g);
- 5015 (G) Subsection 59-12-103(1)(h);
- 5016 (H) Subsection 59-12-103(1)(i);

5017 (I) Subsection 59-12-103(1)(j); or

5018 (J) Subsection 59-12-103(1)(k).

5019 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue

5020 sale is computed on the basis of sales and use tax rates published in the catalogue, an

5021 enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:

5022 (A) on the first day of a calendar quarter; and

5023 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the

5024 rate of a tax under Subsection (3)(a).

5025 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

5026 the commission may by rule define the term "catalogue sale."

5027 Section 57. Section **59-12-807** is enacted to read:

5028 **59-12-807. Seller or certified service provider reliance on commission database.**

5029 A seller or certified service provider that collects a tax imposed by a county or city

5030 under this part is not liable for failing to collect and remit a tax at a tax rate imposed under this

5031 part if the tax rate at which the seller or certified service provider collected the tax was derived

5032 from a database created by the commission containing:

5033 (1) tax rates; or

5034 (2) local taxing jurisdiction boundaries.

5035 Section 58. Section **59-12-901** is amended to read:

5036 **59-12-901. Definitions.**

5037 As used in this part:

5038 (1) "Association of governments" means the following created under the authority of

5039 Title 11, Chapter 13, Interlocal Cooperation Act:

5040 (a) an association of governments; or

5041 (b) a regional council that acts as an association of governments.

5042 (2) "Consumer price index" is as described in Section 1(f)(4), Internal Revenue Code,

5043 and defined in Section 1(f)(5), Internal Revenue Code.

5044 (3) "Pounds of food donated" means the aggregate number of pounds of food and food

5045 ingredients donated to a qualified emergency food agency:

5046 (a) on or after January 1, 1998; and

5047 (b) for which sales or use tax was paid under Part 1, Tax Collection, by the person

5048 donating the food.

5049 (4) "Qualified emergency food agency" means an organization that is:

5050 (a) (i) exempt from federal income taxation under Section 501(c)(3), Internal Revenue
5051 Code; or

5052 (ii) an association of governments;

5053 (b) as part of its activities operates a program that has as the program's primary purpose
5054 to:

5055 (i) warehouse and distribute food to other agencies and organizations providing food
5056 and food ingredients to low-income persons; or

5057 (ii) provide food and food ingredients directly to low-income persons; and

5058 (c) is certified to claim a refund by the State Community Services Office in accordance
5059 with Section 9-4-1404.

5060 Section 59. Section **59-12-902** is amended to read:

5061 **59-12-902. Sales tax refund for qualified emergency food agencies -- Use of**
5062 **amounts received as refund -- Administration -- Rulemaking authority.**

5063 (1) Beginning on January 1, 1998, a qualified emergency food agency may claim a
5064 sales tax refund as provided in this section on the pounds of food and food ingredients donated
5065 to the qualified emergency food agency.

5066 (2) (a) Subject to the adjustments provided for in Subsection (2)(b), a qualified
5067 emergency food agency may claim a refund in an amount equal to the pounds of food and food
5068 ingredients donated to the qualified emergency food agency multiplied by:

5069 (i) \$1.70; and

5070 (ii) the sum of:

5071 (A) 4.75%; and

5072 (B) [~~except as provided in Subsection (2)(c);~~] the sum of the tax rates provided for in
5073 Subsection (2)(b).

5074 (b) Tax rates authorized under the following apply to Subsection (2)(a)(ii)(B):

5075 (i) [~~(A)~~] the [~~lowest~~] tax rate [~~imposed by a county, city, or town under~~] authorized by
5076 Section 59-12-204[~~, but only if all of the counties, cities, and towns in the state impose the tax~~
5077 ~~under Section 59-12-204~~]; [~~or~~]

5078 [~~(B) the lowest tax rate imposed by a county, city, or town under Section 59-12-205,~~

5079 but only if all of the counties, cities, and towns in the state impose the tax under Section
5080 59-12-205;]

5081 (ii) the tax rate authorized by Section 59-12-501 or Section 59-12-1001, but only if all
5082 of the counties, cities, and towns in the state impose the tax:

5083 (A) under Section 59-12-501; or

5084 (B) under Section 59-12-1001;

5085 (iii) the tax rate authorized by Section 59-12-502, but only if all of the counties, cities,
5086 and towns in the state impose the tax under Section 59-12-502;

5087 (iv) the tax rate authorized by Section 59-12-703, but only if all of the counties in the
5088 state impose the tax under Section 59-12-703; and

5089 (v) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the
5090 state impose the tax under Section 59-12-1102.

5091 [~~(c) Tax rates authorized under the following do not apply to Subsection (2)(a)(ii)(B):]~~

5092 [~~(i) Subsection 59-12-103(2)(a)(i);]~~

5093 [~~(ii) Subsection 59-12-103(2)(b)(i);]~~

5094 [~~(iii) Subsection 59-12-103(2)(c)(i);]~~

5095 [~~(iv) Section 59-12-301;]~~

5096 [~~(v) Section 59-12-352;]~~

5097 [~~(vi) Section 59-12-353;]~~

5098 [~~(vii) Section 59-12-401;]~~

5099 [~~(viii) Section 59-12-402;]~~

5100 [~~(ix) Section 59-12-603;]~~

5101 [~~(x) Section 59-12-802;]~~

5102 [~~(xi) Section 59-12-804;]~~

5103 [~~(xii) Section 59-12-1201; or]~~

5104 [~~(xiii) Section 59-12-1302;]~~

5105 [~~(d)~~] (c) Beginning on January 1, 1999, the commission shall annually adjust on or
5106 before the second Monday of February the \$1.70 provided in Subsection (2)(a)(i) by a
5107 percentage equal to the percentage difference between the food at home category of the
5108 Consumer Price Index for:

5109 (i) the preceding calendar year; and

5110 (ii) calendar year 1997.

5111 (3) To claim a sales tax refund under this section, a qualified emergency food agency
5112 shall file an application with the commission.

5113 (4) A qualified emergency food agency may use amounts received as a sales tax refund
5114 under this section only for a purpose related to:

5115 (a) warehousing and distributing food and food ingredients to other agencies and
5116 organizations providing food and food ingredients to low-income persons; or

5117 (b) providing food and food ingredients directly to low-income persons.

5118 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
5119 commission may make rules providing procedures for implementing the sales tax refund under
5120 this section, including:

5121 (a) standards for determining and verifying the amount of the sales tax refund; and

5122 (b) procedures for a qualified emergency food agency to apply for a sales tax refund,
5123 including the frequency with which a qualified emergency food agency may apply for a sales
5124 tax refund.

5125 (6) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
5126 Division of Community Development may establish rules providing for the certification of
5127 emergency food agencies to claim a refund under this part.

5128 Section 60. Section **59-12-1001** is amended to read:

5129 **59-12-1001. Authority to impose tax for highways or to fund a system for public**
5130 **transit -- Ordinance requirements -- Voter approval requirements -- Election**
5131 **requirements -- Notice of election requirements -- Exceptions to voter approval**
5132 **requirements.**

5133 (1) (a) Except as provided in [~~Subsection~~] Subsections (1)(b) and 59-12-207.1(7)(c), a
5134 city or town in which the transactions described in Subsection 59-12-103(1) are not subject to a
5135 sales and use tax under Section 59-12-501 may as provided in this part impose a sales and use
5136 tax of 1/4% on the transactions described in Subsection 59-12-103(1) located within the city or
5137 town.

5138 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
5139 section on[~~-(i)~~] the sales and uses described in Section 59-12-104 to the extent the sales and
5140 uses are exempt from taxation under Section 59-12-104[~~;-and~~].

5141 ~~[(ii) any amounts paid or charged by a vendor that collects a tax under Subsection~~
5142 ~~59-12-107(1)(b).]~~

5143 (c) For purposes of this Subsection (1), the location of a transaction shall be
5144 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

5145 (2) (a) A city or town imposing a tax under this part may use the revenues generated by
5146 the tax:

5147 (i) for the construction and maintenance of highways under the jurisdiction of the city
5148 or town imposing the tax;

5149 (ii) subject to Subsection (2)(b), to fund a system for public transit; or

5150 (iii) for a combination of the purposes described in Subsections (2)(a)(i) and (ii).

5151 (b) (i) For purposes of Subsection (2)(a)(ii) and except as provided in Subsection
5152 (2)(b)(ii), "public transit" is as defined in Section 17A-2-1004.

5153 (ii) Notwithstanding Subsection (2)(b)(i), "public transit" does not include a fixed
5154 guideway system.

5155 (3) To impose a tax under this part, the governing body of the city or town shall:

5156 (a) pass an ordinance approving the tax; and

5157 (b) except as provided in Subsection (7), obtain voter approval for the tax as provided
5158 in Subsection (4).

5159 (4) To obtain voter approval for a tax under Subsection (3)(b), a city or town shall:

5160 (a) hold an election during:

5161 (i) a regular general election; or

5162 (ii) a municipal general election; and

5163 (b) publish notice of the election:

5164 (i) 15 days or more before the day on which the election is held; and

5165 (ii) in a newspaper of general circulation in the city or town.

5166 (5) An ordinance approving a tax under this part shall provide an effective date for the
5167 tax as provided in Subsection (6).

5168 (6) (a) For purposes of this Subsection (6):

5169 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
5170 4, Annexation.

5171 (ii) "Annexing area" means an area that is annexed into a city or town.

5172 (b) (i) [~~Hf~~] Except as provided in Subsection (6)(c) or (d), if, on or after [May 1, 2000]
5173 July 1, 2004, a city or town enacts or repeals a tax [or changes the rate of a tax] under this part,
5174 the enactment[;] or repeal[; or change] shall take effect:

5175 (A) on the first day of a calendar quarter; and

5176 (B) after a [~~75-day~~] 90-day period beginning on the date the commission receives
5177 notice meeting the requirements of Subsection (6)(b)(ii) from the city or town.

5178 (ii) The notice described in Subsection (6)(b)(i)(B) shall state:

5179 (A) that the city or town will enact or repeal a tax [~~or change the rate of a tax~~] under
5180 this part;

5181 (B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);

5182 (C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and

5183 (D) if the city or town enacts the tax [~~or changes the rate of the tax~~] described in
5184 Subsection (6)(b)(ii)(A), the [~~new~~] rate of the tax.

5185 (c) (i) Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection
5186 (6)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

5187 (A) that begins after the effective date of the imposition of the tax; and

5188 (B) if the billing period for the transaction begins before the effective date of the
5189 enactment of the tax under Subsection (1).

5190 (ii) Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection
5191 (6)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

5192 (A) that began before the effective date of the repeal of the tax; and

5193 (B) if the billing period for the transaction begins before the effective date of the repeal
5194 of the tax imposed under Subsection (1).

5195 (iii) Subsections (6)(c)(i) and (ii) apply to transactions subject to a tax under:

5196 (A) Subsection 59-12-103(1)(b);

5197 (B) Subsection 59-12-103(1)(c);

5198 (C) Subsection 59-12-103(1)(d);

5199 (D) Subsection 59-12-103(1)(e);

5200 (E) Subsection 59-12-103(1)(f);

5201 (F) Subsection 59-12-103(1)(g);

5202 (G) Subsection 59-12-103(1)(h);

5203 (H) Subsection 59-12-103(1)(i);
5204 (I) Subsection 59-12-103(1)(j); or
5205 (J) Subsection 59-12-103(1)(k).
5206 (d) (i) Notwithstanding Subsection (6)(b)(i), if a tax due under this chapter on a
5207 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
5208 enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:
5209 (A) on the first day of a calendar quarter; and
5210 (B) beginning 60 days after the effective date of the enactment or repeal under
5211 Subsection (6)(b)(i).
5212 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
5213 the commission may by rule define the term "catalogue sale."
5214 ~~[(e)]~~ (e) (i) ~~[H]~~ Except as provided in Subsection (6)(f) or (g), if, for an annexation that
5215 occurs on or after ~~[May 1, 2000]~~ July 1, 2004, the annexation will result in ~~[a change in the~~
5216 rate] ~~the enactment or repeal~~ of a tax under this part for an annexing area, the ~~[change]~~
5217 enactment or repeal shall take effect:
5218 (A) on the first day of a calendar quarter; and
5219 (B) after a ~~[75-day]~~ 90-day period beginning on the date the commission receives
5220 notice meeting the requirements of Subsection (6)~~[(e)]~~ (e)(ii) from the city or town that
5221 annexes the annexing area.
5222 (ii) The notice described in Subsection (6)~~[(e)]~~ (e)(i)(B) shall state:
5223 (A) that the annexation described in Subsection (6)~~[(e)]~~ (e)(i) will result in ~~[a change in~~
5224 the rate] ~~an enactment or repeal~~ of a tax under this part for the annexing area;
5225 (B) the statutory authority for the tax described in Subsection (6)~~[(e)]~~ (e)(ii)(A);
5226 (C) the effective date of the tax described in Subsection (6)~~[(e)]~~ (e)(ii)(A); and
5227 (D) the ~~[new]~~ rate of the tax described in Subsection (6)~~[(e)]~~ (e)(ii)(A).
5228 (f) (i) Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection
5229 (6)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
5230 (A) that begins after the effective date of the imposition of the tax; and
5231 (B) if the billing period for the transaction begins before the effective date of the
5232 enactment of the tax under Subsection (1).
5233 (ii) Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection

- 5234 (6)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 5235 (A) that began before the effective date of the repeal of the tax; and
- 5236 (B) if the billing period for the transaction begins before the effective date of the repeal
- 5237 of the tax imposed under Subsection (1).
- 5238 (iii) Subsections (6)(f)(i) and (ii) apply to transactions subject to a tax under:
- 5239 (A) Subsection 59-12-103(1)(b);
- 5240 (B) Subsection 59-12-103(1)(c);
- 5241 (C) Subsection 59-12-103(1)(d);
- 5242 (D) Subsection 59-12-103(1)(e);
- 5243 (E) Subsection 59-12-103(1)(f);
- 5244 (F) Subsection 59-12-103(1)(g);
- 5245 (G) Subsection 59-12-103(1)(h);
- 5246 (H) Subsection 59-12-103(1)(i);
- 5247 (I) Subsection 59-12-103(1)(j); or
- 5248 (J) Subsection 59-12-103(1)(k).
- 5249 (g) (i) Notwithstanding Subsection (6)(e)(i), if a tax due under this chapter on a
- 5250 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 5251 enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:
- 5252 (A) on the first day of a calendar quarter; and
- 5253 (B) beginning 60 days after the effective date of the enactment or repeal under
- 5254 Subsection (6)(e)(i).
- 5255 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 5256 the commission may by rule define the term "catalogue sale."
- 5257 (7) (a) Except as provided in Subsection (7)(b), a city or town is not subject to the
- 5258 voter approval requirements of Subsection (3)(b) if:
- 5259 (i) on or before January 1, 1996, the city or town imposed a license fee or tax on
- 5260 businesses based on gross receipts pursuant to Section 10-1-203; or
- 5261 (ii) the city or town:
- 5262 (A) on or before June 30, 2002, obtained voter approval in accordance with Subsection
- 5263 (3)(b) to impose a tax under this part for a purpose described in Subsection (2)(a)(i); and
- 5264 (B) on or after July 1, 2002, uses the revenues generated by a tax under this part for a

5265 purpose described in Subsection (2)(a).

5266 (b) Notwithstanding Subsection (7)(a), the exception from the voter approval
5267 requirements in Subsection (7)(a)(i) does not apply to a city or town that, on or before January
5268 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts
5269 pursuant to Section 10-1-203.

5270 Section 61. Section **59-12-1003** is enacted to read:

5271 **59-12-1003. Seller or certified service provider reliance on commission database.**

5272 A seller or certified service provider that collects a tax imposed by a city or town under
5273 this part is not liable for failing to collect and remit a tax at a tax rate imposed under this part if
5274 the tax rate at which the seller or certified service provider collected the tax was derived from a
5275 database created by the commission containing:

5276 (1) tax rates; or

5277 (2) local taxing jurisdiction boundaries.

5278 Section 62. Section **59-12-1102** is amended to read:

5279 **59-12-1102. Base -- Rate -- Imposition of tax -- Distribution of revenue --**

5280 **Administration.**

5281 (1) (a) (i) Except as provided in ~~Subsection~~ Subsections (1)(a)(ii) and
5282 59-12-207.1(7)(c), subject to the provisions of Subsections (2) through ~~(6)~~ (5), and in
5283 addition to any other tax authorized by this chapter, a county may impose by ordinance a
5284 county option sales and use tax of 1/4% upon the transactions described in Subsection
5285 59-12-103(1).

5286 (ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this
5287 section on~~[(A)]~~ the sales and uses described in Section 59-12-104 to the extent the sales and
5288 uses are exempt from taxation under Section 59-12-104~~[, and]~~.

5289 ~~[(B) any amounts paid or charged by a vendor that collects a tax under Subsection~~
5290 ~~59-12-107(1)(b) unless all of the counties in the state impose a tax under this section.]~~

5291 (b) For purposes of this Subsection (1), the location of a transaction shall be
5292 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

5293 ~~[(b)]~~ (c) The county option sales and use tax under this section shall be imposed:

5294 (i) upon ~~[sales and uses made in]~~ transactions that are located within the county,
5295 including ~~[sales and uses made]~~ transactions that are located within municipalities in the

5296 county; and

5297 (ii) except as provided in Subsection (1)[~~(c)~~] (d) or (5), beginning on the first day of
5298 January:

5299 (A) of the next calendar year after adoption of the ordinance imposing the tax if the
5300 ordinance is adopted on or before May 25; or

5301 (B) of the second calendar year after adoption of the ordinance imposing the tax if the
5302 ordinance is adopted after May 25.

5303 [~~(c)~~] (d) Notwithstanding Subsection (1)[~~(b)~~] (c)(ii), the county option sales and use tax
5304 under this section shall be imposed:

5305 (i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before
5306 September 4, 1997; or

5307 (ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997
5308 but after September 4, 1997.

5309 (2) (a) Before imposing a county option sales and use tax under Subsection (1), a
5310 county shall hold two public hearings on separate days in geographically diverse locations in
5311 the county.

5312 (b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting
5313 time of no earlier than 6 p.m.

5314 (ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven
5315 days after the day the first advertisement required by Subsection (2)(c) is published.

5316 (c) (i) Before holding the public hearings required by Subsection (2)(a), the county
5317 shall advertise in a newspaper of general circulation in the county:

5318 (A) its intent to adopt a county option sales and use tax;

5319 (B) the date, time, and location of each public hearing; and

5320 (C) a statement that the purpose of each public hearing is to obtain public comments
5321 regarding the proposed tax.

5322 (ii) The advertisement shall be published once each week for the two weeks preceding
5323 the earlier of the two public hearings.

5324 (iii) The advertisement shall be no less than 1/8 page in size, and the type used shall be
5325 no smaller than 18 point and surrounded by a 1/4-inch border.

5326 (iv) The advertisement may not be placed in that portion of the newspaper where legal

5327 notices and classified advertisements appear.

5328 (v) Whenever possible:

5329 (A) the advertisement shall appear in a newspaper that is published at least five days a
5330 week, unless the only newspaper in the county is published less than five days a week; and

5331 (B) the newspaper selected shall be one of general interest and readership in the
5332 community, and not one of limited subject matter.

5333 (d) The adoption of an ordinance imposing a county option sales and use tax is subject
5334 to a local referendum election as provided in Title 20A, Chapter 7, Part 6, Local Referenda -
5335 Procedures, except that:

5336 (i) notwithstanding Subsection 20A-7-609(2)(a), the county clerk shall hold a
5337 referendum election that qualifies for the ballot on the earlier of the next regular general
5338 election date or the next municipal general election date more than 155 days after adoption of
5339 an ordinance under this section;

5340 (ii) for 1997 only, the 120-day period in Subsection 20A-7-606(1) shall be 30 days; and

5341 (iii) the deadlines in Subsection 20A-7-606(2) and (3) do not apply, and the clerk shall
5342 take the actions required by those subsections before the referendum election.

5343 (3) (a) [~~Except as provided in Subsection (4), if~~] If the aggregate population of the
5344 counties imposing a county option sales and use tax under Subsection (1) is less than 75% of
5345 the state population, the tax levied under Subsection (1) shall be distributed to the county in
5346 which the tax was collected.

5347 (b) [~~Except as provided in Subsection (4), if~~] If the aggregate population of the counties
5348 imposing a county option sales and use tax under Subsection (1) is greater than or equal to 75%
5349 of the state population:

5350 (i) 50% of the tax collected under Subsection (1) in each county shall be distributed to
5351 the county in which the tax was collected; and

5352 (ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection
5353 (1) in each county shall be distributed proportionately among all counties imposing the tax,
5354 based on the total population of each county.

5355 (c) If the amount to be distributed annually to a county under Subsection (3)(b)(ii),
5356 when combined with the amount distributed to the county under Subsection (3)(b)(i), does not
5357 equal at least \$75,000, then:

5358 (i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall
5359 be increased so that, when combined with the amount distributed to the county under
5360 Subsection (3)(b)(i), the amount distributed annually to the county is \$75,000; and

5361 (ii) the amount to be distributed annually to all other counties under Subsection
5362 (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under
5363 Subsection (3)(c)(i).

5364 (d) The commission shall establish rules to implement the distribution of the tax under
5365 Subsections (3)(a), (b), and (c).

5366 [~~(4) Notwithstanding Subsections (3)(a) and (b), if a county imposes a tax under this~~
5367 ~~section on any amounts paid or charged by a vendor that collects a tax under Subsection~~
5368 ~~59-12-107(1)(b), the revenues generated by the tax shall be distributed as provided in~~
5369 ~~Subsection 59-12-103(3)(c).]~~

5370 [~~(5)~~ (4) (a) Except as provided in [~~Subsections (5)~~] Subsection (4)(b) [~~and~~] or (c), a
5371 [~~county option sales and use~~] tax under [~~Subsection (1)~~] this part shall be imposed and
5372 administered in the same manner as a tax imposed under [~~Title 59, Chapter 12,~~] Part 2, Local
5373 Sales and Use Tax Act.

5374 (b) [~~A county option sales and use tax imposed~~] Notwithstanding Subsection (4)(a), a
5375 tax under this part is not subject to [~~(i) the distribution provisions of~~] Subsections
5376 59-12-205(2) [~~and (3), and (ii) the earmarking provisions of Subsection 59-12-205(4)~~] through
5377 (5).

5378 (c) [~~The~~] Notwithstanding Subsection (4)(a), the fee charged by the commission under
5379 Section 59-12-206 shall be based on the distribution amounts resulting after all the applicable
5380 distribution calculations under Subsection (3) have been made.

5381 [~~(6)~~ (5) (a) For purposes of this Subsection [~~(6)~~ (5):

5382 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
5383 Annexation to County.

5384 (ii) "Annexing area" means an area that is annexed into a county.

5385 (b) (i) [~~If~~] Except as provided in Subsection (5)(c) or (d), if, on or after [~~May 1, 2000~~]
5386 July 1, 2004, a county enacts or repeals a tax [~~or changes the rate of a tax~~] under this part[;]:

5387 (A) (I) the enactment[~~, repeal, or change~~] shall take effect[; ~~(A)~~] as provided in
5388 Subsection (1)(c); or

- 5389 (II) the repeal shall take effect on the first day of a calendar quarter; and
- 5390 (B) after a [~~75-day~~] 90-day period beginning on the date the commission receives
- 5391 notice meeting the requirements of Subsection [~~(6)~~] (5)(b)(ii) from the county.
- 5392 (ii) The notice described in Subsection [~~(6)~~] (5)(b)(i)(B) shall state:
- 5393 (A) that the county will enact or repeal a tax [~~or change the rate of a tax~~] under this
- 5394 part;
- 5395 (B) the statutory authority for the tax described in Subsection [~~(6)~~] (5)(b)(ii)(A);
- 5396 (C) the effective date of the tax described in Subsection [~~(6)~~] (5)(b)(ii)(A); and
- 5397 (D) if the county enacts the tax [~~or changes the rate of the tax~~] described in Subsection
- 5398 [~~(6)~~] (5)(b)(ii)(A), the [~~new~~] rate of the tax.
- 5399 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
- 5400 (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 5401 (A) that begins after the effective date of the imposition of the tax; and
- 5402 (B) if the billing period for the transaction begins before the effective date of the
- 5403 enactment of the tax under Subsection (1).
- 5404 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
- 5405 (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 5406 (A) that began before the effective date of the repeal of the tax; and
- 5407 (B) if the billing period for the transaction begins before the effective date of the repeal
- 5408 of the tax imposed under Subsection (1).
- 5409 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:
- 5410 (A) Subsection 59-12-103(1)(b);
- 5411 (B) Subsection 59-12-103(1)(c);
- 5412 (C) Subsection 59-12-103(1)(d);
- 5413 (D) Subsection 59-12-103(1)(e);
- 5414 (E) Subsection 59-12-103(1)(f);
- 5415 (F) Subsection 59-12-103(1)(g);
- 5416 (G) Subsection 59-12-103(1)(h);
- 5417 (H) Subsection 59-12-103(1)(i);
- 5418 (I) Subsection 59-12-103(1)(j); or
- 5419 (J) Subsection 59-12-103(1)(k).

5420 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a
5421 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
5422 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

5423 (A) on the first day of a calendar quarter; and

5424 (B) beginning 60 days after the effective date of the enactment or repeal under
5425 Subsection (5)(b)(i).

5426 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
5427 the commission may by rule define the term "catalogue sale."

5428 ~~[(c)]~~ (e) (i) ~~[Hf]~~ Except as provided in Subsection (5)(f) or (g), if, for an annexation that
5429 occurs on or after ~~[May 1, 2000]~~ July 1, 2004, the annexation will result in ~~[a change in the~~
5430 rate] ~~the enactment or repeal~~ of a tax under this part for an annexing area, the ~~[change]~~
5431 enactment or repeal shall take effect:

5432 (A) on the first day of a calendar quarter; and

5433 (B) after a ~~[75-day]~~ 90-day period beginning on the date the commission receives
5434 notice meeting the requirements of Subsection ~~[(6)(c)]~~ (5)(e)(ii) from the county that annexes
5435 the annexing area.

5436 (ii) The notice described in Subsection ~~[(6)(c)]~~ (5)(e)(i)(B) shall state:

5437 (A) that the annexation described in Subsection ~~[(6)(c)]~~ (5)(e)(i) will result in ~~[a~~
5438 change in the rate] ~~an enactment or repeal~~ of a tax under this part for the annexing area;

5439 (B) the statutory authority for the tax described in Subsection ~~[(6)(c)]~~ (5)(e)(ii)(A);

5440 (C) the effective date of the tax described in Subsection ~~[(6)(c)]~~ (5)(e)(ii)(A); and

5441 (D) the ~~[new]~~ rate of the tax described in Subsection ~~[(6)(c)]~~ (5)(e)(ii)(A).

5442 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
5443 (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

5444 (A) that begins after the effective date of the imposition of the tax; and

5445 (B) if the billing period for the transaction begins before the effective date of the
5446 enactment of the tax under Subsection (1).

5447 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
5448 (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

5449 (A) that began before the effective date of the repeal of the tax; and

5450 (B) if the billing period for the transaction begins before the effective date of the repeal

5451 of the tax imposed under Subsection (1).

5452 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

5453 (A) Subsection 59-12-103(1)(b);

5454 (B) Subsection 59-12-103(1)(c);

5455 (C) Subsection 59-12-103(1)(d);

5456 (D) Subsection 59-12-103(1)(e);

5457 (E) Subsection 59-12-103(1)(f);

5458 (F) Subsection 59-12-103(1)(g);

5459 (G) Subsection 59-12-103(1)(h);

5460 (H) Subsection 59-12-103(1)(i);

5461 (I) Subsection 59-12-103(1)(j); or

5462 (J) Subsection 59-12-103(1)(k).

5463 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a
5464 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
5465 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

5466 (A) on the first day of a calendar quarter; and

5467 (B) beginning 60 days after the effective date of the enactment or repeal under
5468 Subsection (5)(e)(i).

5469 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
5470 the commission may by rule define the term "catalogue sale."

5471 Section 63. Section **59-12-1103** is enacted to read:

5472 **59-12-1103. Seller or certified service provider reliance on commission database.**

5473 A seller or certified service provider that collects a tax imposed by a county under this
5474 part is not liable for failing to collect and remit a tax at a tax rate imposed under this part if the
5475 tax rate at which the seller or certified service provider collected the tax was derived from a
5476 database created by the commission containing:

5477 (1) tax rates; or

5478 (2) local taxing jurisdiction boundaries.

5479 Section 64. Section **59-12-1302** is amended to read:

5480 **59-12-1302. Authority to impose -- Base -- Rate -- Imposition or repeal of tax --**

5481 **Tax rate change -- Effective date -- Notice requirements.**

5482 (1) [~~Beginning~~] Except as provided in Subsection 59-12-207.1(7)(c), beginning on or
5483 after January 1, 1998, the governing body of a town may impose a tax as provided in this part
5484 in an amount that does not exceed 1%.

5485 (2) A town may impose a tax as provided in this part if the town imposed a license fee
5486 or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1,
5487 1996.

5488 (3) A town imposing a tax under this section shall:

5489 (a) except as provided in Subsection (4), impose the tax on the transactions described
5490 in Subsection 59-12-103(1) located within the town; and

5491 (b) provide an effective date for the tax as provided in Subsection (5).

5492 (4) (a) Notwithstanding Subsection (3)(a), a town may not impose a tax under this
5493 section on~~[-(a)]~~ the sales and uses described in Section 59-12-104 to the extent the sales and
5494 uses are exempt from taxation under Section 59-12-104~~[-and]~~.

5495 ~~[(b) any amounts paid or charged by a vendor that collects a tax under Subsection~~
5496 ~~59-12-107(1)(b).]~~

5497 (b) For purposes of this Subsection (4), the location of a transaction shall be
5498 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

5499 (5) (a) For purposes of this Subsection (5):

5500 (i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4,
5501 Annexation.

5502 (ii) "Annexing area" means an area that is annexed into a town.

5503 (b) (i) [~~Hf~~] Except as provided in Subsection (5)(c) or (d), if, on or after [May 1, 2000]
5504 July 1, 2004, a town enacts or repeals a tax or changes the rate of a tax under this part, the
5505 enactment, repeal, or change shall take effect:

5506 (A) on the first day of a calendar quarter; and

5507 (B) after a [~~75-day~~] 90-day period beginning on the date the commission receives
5508 notice meeting the requirements of Subsection (5)(b)(ii) from the town.

5509 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

5510 (A) that the town will enact or repeal a tax or change the rate of a tax under this part;

5511 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

5512 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

5513 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
5514 (5)(b)(ii)(A), the [new] rate of the tax.

5515 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
5516 (5)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
5517 first billing period:

5518 (A) that begins after the effective date of the enactment of the tax or the tax rate
5519 increase; and

5520 (B) if the billing period for the transaction begins before the effective date of the
5521 enactment of the tax or the tax rate increase imposed under Subsection (1).

5522 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
5523 (5)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
5524 billing period:

5525 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
5526 and

5527 (B) if the billing period for the transaction begins before the effective date of the repeal
5528 of the tax or the tax rate decrease imposed under Subsection (1).

5529 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

5530 (A) Subsection 59-12-103(1)(b);

5531 (B) Subsection 59-12-103(1)(c);

5532 (C) Subsection 59-12-103(1)(d);

5533 (D) Subsection 59-12-103(1)(e);

5534 (E) Subsection 59-12-103(1)(f);

5535 (F) Subsection 59-12-103(1)(g);

5536 (G) Subsection 59-12-103(1)(h);

5537 (H) Subsection 59-12-103(1)(i);

5538 (I) Subsection 59-12-103(1)(j); or

5539 (J) Subsection 59-12-103(1)(k).

5540 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a
5541 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
5542 enactment, repeal, or change in the rate of a tax described in Subsection (5)(b)(i) takes effect:

5543 (A) on the first day of a calendar quarter; and

5544 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
5545 rate of the tax under Subsection (5)(b)(i).

5546 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
5547 the commission may by rule define the term "catalogue sale."

5548 ~~[(e)]~~ (e) (i) ~~[H]~~ Except as provided in Subsection (5)(f) or (g), if, for an annexation that
5549 occurs on or after ~~[May 1, 2000]~~ July 1, 2004, the annexation will result in [a] the enactment,
5550 repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal,
5551 or change shall take effect:

5552 (A) on the first day of a calendar quarter; and

5553 (B) after a ~~[75-day]~~ 90-day period beginning on the date the commission receives
5554 notice meeting the requirements of Subsection (5)~~[(e)]~~ (e)(ii) from the town that annexes the
5555 annexing area.

5556 (ii) The notice described in Subsection (5)~~[(e)]~~ (e)(i)(B) shall state:

5557 (A) that the annexation described in Subsection (5)~~[(e)]~~ (e)(i) will result in ~~[a]~~ an
5558 enactment, repeal, or change in the rate of a tax under this part for the annexing area;

5559 (B) the statutory authority for the tax described in Subsection (5)~~[(e)]~~ (e)(ii)(A);

5560 (C) the effective date of the tax described in Subsection (5)~~[(e)]~~ (e)(ii)(A); and

5561 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
5562 (5)(e)(ii)(A), the [new] rate of the tax [described in Subsection (5)(c)(ii)(A)].

5563 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
5564 (5)(f)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
5565 first billing period:

5566 (A) that begins after the effective date of the enactment of the tax or the tax rate
5567 increase; and

5568 (B) if the billing period for the transaction begins before the effective date of the
5569 enactment of the tax or the tax rate increase imposed under Subsection (1).

5570 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
5571 (5)(f)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
5572 billing period:

5573 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
5574 and

5575 (B) if the billing period for the transaction begins before the effective date of the repeal
5576 of the tax or the tax rate decrease imposed under Subsection (1).

5577 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

5578 (A) Subsection 59-12-103(1)(b);

5579 (B) Subsection 59-12-103(1)(c);

5580 (C) Subsection 59-12-103(1)(d);

5581 (D) Subsection 59-12-103(1)(e);

5582 (E) Subsection 59-12-103(1)(f);

5583 (F) Subsection 59-12-103(1)(g);

5584 (G) Subsection 59-12-103(1)(h);

5585 (H) Subsection 59-12-103(1)(i);

5586 (I) Subsection 59-12-103(1)(j); or

5587 (J) Subsection 59-12-103(1)(k).

5588 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a
5589 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
5590 enactment, repeal, or change in the rate of a tax described in Subsection (5)(e)(i) takes effect:

5591 (A) on the first day of a calendar quarter; and

5592 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
5593 rate of the tax under Subsection (5)(e)(i).

5594 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
5595 the commission may by rule define the term "catalogue sale."

5596 (6) The commission shall:

5597 (a) except as provided in Subsection (6)(c), distribute the revenues generated by the tax
5598 under this section to the town imposing the tax;

5599 (b) administer, collect, and enforce the tax authorized under this section pursuant to:

5600 (i) the same procedures used to administer, collect, and enforce the sales and use tax
5601 under Part 1, Tax Collection; and

5602 (ii) Chapter 1, General Taxation Policies; and

5603 (c) deduct from the distribution under Subsection (6)(a) an administrative charge for
5604 collecting the tax as provided in Section 59-12-206.

5605 Section 65. Section **59-12-1303** is enacted to read:

5606 **59-12-1303. Seller or certified service provider reliance on commission database.**

5607 A seller or certified service provider that collects a tax imposed by a town under this
5608 part is not liable for failing to collect and remit a tax at a tax rate imposed under this part if the
5609 tax rate at which the seller or certified service provider collected the tax was derived from a
5610 database created by the commission containing:

5611 (1) tax rates; or

5612 (2) local taxing jurisdiction boundaries.

5613 Section 66. Section **59-12-1402** is amended to read:

5614 **59-12-1402. Opinion question election -- Imposition of tax -- Uses of tax monies.**

5615 (1) (a) (i) Except as provided in [~~Subsection~~] Subsections (1)(a)(ii) and
5616 59-12-207.1(7)(c), and subject to Subsection (6), beginning on January 1, 2003, a city or town
5617 legislative body subject to this part may submit an opinion question to the residents of that city
5618 or town, by majority vote of all members of the legislative body, so that each resident of the
5619 city or town has an opportunity to express the resident's opinion on the imposition of a local
5620 sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located
5621 within the city or town, to fund recreational and zoological facilities and botanical, cultural,
5622 and zoological organizations in that city or town.

5623 (ii) Notwithstanding Subsection (1)(a)(i), a city or town legislative body may not
5624 impose a tax under this section:

5625 (A) if the county in which the city or town is located imposes a tax under Part 7,
5626 County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or
5627 Facilities; or

5628 (B) on the sales and uses described in Section 59-12-104 to the extent the sales and
5629 uses are exempt from taxation under Section 59-12-104[~~;~~and].

5630 [~~(C) on any amounts paid or charged by a vendor that collects a tax under Subsection~~
5631 ~~59-12-107(1)(b).]~~

5632 (b) For purposes of this Subsection (1), the location of a transaction shall be
5633 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

5634 [~~(b)~~] (c) The election shall follow the procedures outlined in Title 11, Chapter 14, Utah
5635 Municipal Bond Act, except as provided in Subsection (6).

5636 (2) If the city or town legislative body determines that a majority of the city's or town's

5637 registered voters voting on the imposition of the tax have voted in favor of the imposition of
5638 the tax as prescribed in Subsection (1)(a), the city or town legislative body may impose the tax
5639 by a majority vote of all members of the legislative body.

5640 (3) The monies generated from any tax imposed under Subsection (2) shall be used for
5641 financing:

5642 (a) recreational and zoological facilities within the city or town; and

5643 (b) ongoing operating expenses of botanical, cultural, and zoological organizations
5644 within the city or town.

5645 (4) ~~[Taxes imposed]~~ (a) A tax under this part shall be:

5646 ~~[(a)]~~ (i) except as provided in Subsection (4)(b), levied at the same time and collected
5647 in the same manner as provided in Part 2, Local Sales and Use Tax Act~~[-except that the~~
5648 ~~collection and distribution of the tax revenue is not subject to Subsection 59-12-205(2)]~~; and

5649 ~~[(b)-(i)]~~ (ii) (A) levied for a period of five years; and

5650 ~~[(ii)]~~ (B) may be reauthorized at the end of the five-year period in accordance with this
5651 section.

5652 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
5653 Subsections 59-12-205(2) through (5).

5654 (5) (a) For purposes of this Subsection (5):

5655 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
5656 4, Annexation.

5657 (ii) "Annexing area" means an area that is annexed into a city or town.

5658 (b) (i) ~~[H]~~ Except as provided in Subsection (5)(c) or (d), if, on or after [January 1,
5659 ~~2003]~~ July 1, 2004, a city or town enacts or repeals a tax ~~[or changes the rate of a tax]~~ under
5660 this part, the enactment~~[-]~~ or repeal~~[-]~~ ~~or change~~ shall take effect:

5661 (A) on the first day of a calendar quarter; and

5662 (B) after a ~~[75-day]~~ 90-day period beginning on the date the commission receives
5663 notice meeting the requirements of Subsection (5)(b)(ii) from the city or town.

5664 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

5665 (A) that the city or town will enact or repeal a tax ~~[or change the rate of a tax]~~ under
5666 this part;

5667 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

- 5668 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
5669 (D) if the city or town enacts the tax [~~or changes the rate of the tax~~] described in
5670 Subsection (5)(b)(ii)(A), the [~~new~~] rate of the tax.
- 5671 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
5672 (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
5673 (A) that begins after the effective date of the imposition of the tax; and
5674 (B) if the billing period for the transaction begins before the effective date of the
5675 enactment of the tax under this section.
- 5676 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
5677 (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
5678 (A) that began before the effective date of the repeal of the tax; and
5679 (B) if the billing period for the transaction begins before the effective date of the repeal
5680 of the tax imposed under this section.
- 5681 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:
5682 (A) Subsection 59-12-103(1)(b);
5683 (B) Subsection 59-12-103(1)(c);
5684 (C) Subsection 59-12-103(1)(d);
5685 (D) Subsection 59-12-103(1)(e);
5686 (E) Subsection 59-12-103(1)(f);
5687 (F) Subsection 59-12-103(1)(g);
5688 (G) Subsection 59-12-103(1)(h);
5689 (H) Subsection 59-12-103(1)(i);
5690 (I) Subsection 59-12-103(1)(j); or
5691 (J) Subsection 59-12-103(1)(k).
- 5692 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a
5693 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
5694 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:
5695 (A) on the first day of a calendar quarter; and
5696 (B) beginning 60 days after the effective date of the enactment or repeal under
5697 Subsection (5)(b)(i).
- 5698 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

5699 the commission may by rule define the term "catalogue sale."

5700 ~~[(e)]~~ (e) (i) ~~[Hf]~~ Except as provided in Subsection (5)(f) or (g), if, for an annexation that
5701 occurs on or after ~~[January 1, 2003]~~ July 1, 2004, the annexation will result in ~~[a change in the~~
5702 rate] ~~the enactment or repeal~~ of a tax under this part for an annexing area, the ~~[change]~~
5703 enactment or repeal shall take effect:

5704 (A) on the first day of a calendar quarter; and

5705 (B) after a ~~[75-day]~~ 90-day period beginning on the date the commission receives
5706 notice meeting the requirements of Subsection (5)~~[(e)]~~ ~~(e)~~(ii) from the city or town that
5707 annexes the annexing area.

5708 (ii) The notice described in Subsection (5)~~[(e)]~~ ~~(e)~~(i)(B) shall state:

5709 (A) that the annexation described in Subsection (5)~~[(e)]~~ ~~(e)~~(i) will result in ~~[a change in~~
5710 ~~the rate of]~~ an enactment or repeal a tax under this part for the annexing area;

5711 (B) the statutory authority for the tax described in Subsection (5)~~[(e)]~~ ~~(e)~~(ii)(A);

5712 (C) the effective date of the tax described in Subsection (5)~~[(e)]~~ ~~(e)~~(ii)(A); and

5713 (D) the ~~[new]~~ rate of the tax described in Subsection (5)~~[(e)]~~ ~~(e)~~(ii)(A).

5714 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
5715 (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

5716 (A) that begins after the effective date of the imposition of the tax; and

5717 (B) if the billing period for the transaction begins before the effective date of the
5718 enactment of the tax under this section.

5719 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
5720 (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

5721 (A) that began before the effective date of the repeal of the tax; and

5722 (B) if the billing period for the transaction begins before the effective date of the repeal
5723 of the tax imposed under this section.

5724 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

5725 (A) Subsection 59-12-103(1)(b);

5726 (B) Subsection 59-12-103(1)(c);

5727 (C) Subsection 59-12-103(1)(d);

5728 (D) Subsection 59-12-103(1)(e);

5729 (E) Subsection 59-12-103(1)(f);

5730 (F) Subsection 59-12-103(1)(g);

5731 (G) Subsection 59-12-103(1)(h);

5732 (H) Subsection 59-12-103(1)(i);

5733 (I) Subsection 59-12-103(1)(j); or

5734 (J) Subsection 59-12-103(1)(k).

5735 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a
5736 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
5737 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

5738 (A) on the first day of a calendar quarter; and

5739 (B) beginning 60 days after the effective date of the enactment or repeal under
5740 Subsection (5)(e)(i).

5741 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
5742 the commission may by rule define the term "catalogue sale."

5743 (6) (a) Before a city or town legislative body submits an opinion question to the
5744 residents of the city or town under Subsection (1)(a)(i), the city or town legislative body shall:

5745 (i) submit to the county legislative body in which the city or town is located a written
5746 notice of the intent to submit the opinion question to the residents of the city or town; and

5747 (ii) receive from the county legislative body:

5748 (A) a written resolution passed by the county legislative body stating that the county
5749 legislative body is not seeking to impose a tax under Part 7, County Option Funding for
5750 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

5751 (B) a written statement that in accordance with Subsection (6)(b) the results of a county
5752 opinion question submitted to the residents of the county under Part 7, County Option Funding
5753 for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city
5754 or town legislative body to submit the opinion question to the residents of the city or town in
5755 accordance with this part.

5756 (b) (i) Within 60 days after the day the county legislative body receives from a city or
5757 town legislative body described in Subsection (6)(a) the notice of the intent to submit an
5758 opinion question to the residents of the city or town, the county legislative body shall provide
5759 the city or town legislative body:

5760 (A) the written resolution described in Subsection (6)(a)(ii)(A); or

5761 (B) written notice that the county legislative body will submit an opinion question to
5762 the residents of the county under Part 7, County Option Funding for Botanical, Cultural,
5763 Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under
5764 that part.

5765 (ii) If the county legislative body provides the city or town legislative body the written
5766 notice that the county legislative body will submit an opinion question as provided in
5767 Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no
5768 later than, from the date the county legislative body sends the written notice, the later of:

5769 (A) a 12-month period;

5770 (B) the next regular primary election; or

5771 (C) the next regular general election.

5772 (iii) Within 30 days of the date of the canvass of the election at which the opinion
5773 question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the
5774 city or town legislative body described in Subsection (6)(a) written results of the opinion
5775 question submitted by the county legislative body under Part 7, County Option Funding for
5776 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

5777 (A) (I) the city or town legislative body may not impose a tax under this part because a
5778 majority of the county's registered voters voted in favor of the county imposing the tax and the
5779 county legislative body by a majority vote approved the imposition of the tax; or

5780 (II) for at least 12 months from the date the written results are submitted to the city or
5781 town legislative body, the city or town legislative body may not submit to the county legislative
5782 body a written notice of the intent to submit an opinion question under this part because a
5783 majority of the county's registered voters voted against the county imposing the tax and the
5784 majority of the registered voters who are residents of the city or town described in Subsection
5785 (6)(a) voted against the imposition of the county tax; or

5786 (B) the city or town legislative body may submit the opinion question to the residents
5787 of the city or town in accordance with this part because although a majority of the county's
5788 registered voters voted against the county imposing the tax, the majority of the registered voters
5789 who are residents of the city or town voted for the imposition of the county tax.

5790 (c) Notwithstanding Subsection (6)(b), at any time a county legislative body may
5791 provide a city or town legislative body described in Subsection (6)(a) a written resolution

5792 passed by the county legislative body stating that the county legislative body is not seeking to
5793 impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and
5794 Zoological Organizations or Facilities, which permits the city or town legislative body to
5795 submit under Subsection (1)(a)(i) an opinion question to the city's or town's residents.

5796 Section 67. Section **59-12-1404** is enacted to read:

5797 **59-12-1404. Seller or certified service provider reliance on commission database.**

5798 A seller or certified service provider that collects a tax imposed by a city or town under
5799 this part is not liable for failing to collect and remit a tax at a tax rate imposed under this part if
5800 the tax rate at which the seller or certified service provider collected the tax was derived from a
5801 database created by the commission containing:

5802 (1) tax rates; or

5803 (2) local taxing jurisdiction boundaries.

5804 Section 68. **Repealer.**

5805 This act repeals:

5806 Section **59-12-207, Report of tax collections -- Point of sale when retailer has no**
5807 **permanent place of business or more than one place of business is determined by rule of**
5808 **commission -- Public utilities -- Mobile telecommunications service.**

5809 Section 69. **Revenue and Taxation Interim Committee study.**

5810 (1) During the 2003 interim the Revenue and Taxation Interim Committee:

5811 (a) shall:

5812 (i) as determined by the Revenue and Taxation Interim Committee, study issues

5813 relating to how this bill may impact:

5814 (A) the state;

5815 (B) the State Tax Commission;

5816 (C) counties, cities, and towns within the state;

5817 (D) business entities; and

5818 (E) any other entity as determined by the Revenue and Taxation Interim Committee;

5819 (ii) determine whether legislation should be drafted to subject any other taxes, fees, or
5820 charges to any of the provisions of this bill;

5821 (iii) determine whether legislation should be drafted to resolve conflicts between this

5822 bill and 2003 General Session S.B. 23, State and Local Taxes, Fees, and Charges Related to

5823 Telecommunications; and

5824 (iv) (A) study any actions taken after the passage of this bill by the:

5825 (I) Streamlined Sales Tax Implementing States;

5826 (II) governing board of the Streamlined Sales and Use Tax Agreement; or

5827 (III) member states of the Streamlined Sales and Use Tax Agreement acting jointly;

5828 and

5829 (B) determine whether as a result of those actions legislation should be drafted to bring
5830 the state into substantial compliance with the Streamlined Sales and Use Tax Agreement; and

5831 (b) may study any other issues relating to the Streamlined Sales and Use Tax
5832 Agreement as determined by the Revenue and Taxation Interim Committee.

5833 (2) (a) The Revenue and Taxation Interim Committee shall complete the study required
5834 by this section on or before the October 2003 interim meeting.

5835 (b) If the Revenue and Taxation Interim Committee determines that legislation should
5836 be drafted in accordance with Subsection (1), the Revenue and Taxation Interim Committee
5837 shall consider that legislation on or before the November 2003 interim meeting.

5838 **Section 70. Effective date.**

5839 (1) Except as provided in Subsection (2), this act takes effect on July 1, 2004.

5840 (2) Notwithstanding Subsection (1), Sections 59-7-614.1 and 59-10-134.1 take effect
5841 for taxable years beginning on or after January 1, 2004.