

TAX AND CHARGE AMENDMENTS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends the Sales and Use Tax Act, provisions relating to a municipality's authority to levy a tax on taxable energy or a municipal telecommunications license tax, and provisions relating to a county's or municipality's authority to impose an emergency services telephone charge.

Highlighted Provisions:

This bill:

- ▶ modifies the municipal energy sales and use tax and the municipal telecommunications license tax to coordinate those taxes with the Streamlined Sales and Use Tax Agreement and state and local sales and use taxes;
- ▶ amends tax penalty provisions including:
 - changing references to the term "vendor" to "seller";
 - clarifying that penalty provisions apply to a seller that fails to remit a tax, fee, or charge monthly; and
 - providing that a seller that fails to remit a tax, fee, or charge by electronic funds transfer is subject to penalties and may not retain the percentage of sales and use taxes that the seller could otherwise retain;
- ▶ provides, amends, and repeals state and local sales and use tax definitions;
- ▶ repeals obsolete language;
- ▶ provides that certain state sales and use tax revenues are required to be deposited into the Remote Sales Restricted Account;
- ▶ requires the Division of Finance to deposit any revenues in the Remote Sales Restricted Account as of July 1, 2004 into the General Fund;

- ▶ provides that the Remote Sales Restricted Account shall earn interest and that the interest shall be deposited into the account;
- ▶ modifies the sales and use tax exemption for prescription drugs;
- ▶ modifies the exempt sales that are required to be reported to the State Tax Commission;
- ▶ requires certain sellers that file a simplified electronic return with the commission to file a report with the commission, provides the information to be contained in the report, provides a due date for filing the report, provides a penalty for failing to file the report, and authorizes the State Tax Commission to waive, reduce, or compromise the penalty under certain circumstances;
- ▶ amends provisions relating to the collection, remittance, and payment of a tax by a seller;
- ▶ addresses the duties of a certified service provider and a model 1 seller;
- ▶ addresses the sales and use tax liability of a seller or certified service provider that relies on State Tax Commission information or certain systems in collecting and remitting sales and use taxes;
- ▶ requires certain sellers to file returns with the State Tax Commission electronically and to remit a tax, fee, or charge to the State Tax Commission electronically;
- ▶ modifies the amount that a seller required to file a return and remit a tax, fee, or charge to the State Tax Commission monthly may retain;
- ▶ requires the State Tax Commission to make a calculation and make distributions of state and local sales and use tax revenues to local taxing jurisdictions under certain circumstances;
- ▶ provides the circumstances under which a seller that has collected state or local sales and use taxes that exceed the amount of state or local sales and use taxes the seller is required to collect is presumed to have a reasonable business practice;
- ▶ provides for monetary allowances for sellers registered under the Streamlined Sales and Use Tax Agreement;

- ▶ grants rulemaking authority to the State Tax Commission;
- ▶ amends provisions relating to determining the location of certain transactions;
- ▶ amends provisions relating to the imposition of taxes on certain accommodations and services;
- ▶ repeals references to certain tax names;
- ▶ amends provisions relating to the enactment, repeal, or change in the rate of a tax or charge;
- ▶ addresses procedures for administering, collecting, and enforcing state and local sales and use taxes;
- ▶ addresses when a tax rate change in the motor vehicle rental tax takes effect;
- ▶ modifies the local sales and use tax for highways and public transit systems to be in compliance with the Streamlined Sales and Use Tax Agreement and to coordinate that tax with other state and local sales and use taxes;
- ▶ modifies the emergency services telephone charge to coordinate with the Streamlined Sales and Use Tax Agreement and state and local sales and use taxes; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2004.

Utah Code Sections Affected:

AMENDS:

- 10-1-304 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
- 10-1-307 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
- 10-1-403**, as enacted by Chapter 253, Laws of Utah 2003
- 10-1-405**, as enacted by Chapter 253, Laws of Utah 2003
- 10-1-407**, as enacted by Chapter 253, Laws of Utah 2003
- 10-1-408**, as enacted by Chapter 253, Laws of Utah 2003

17-31-8, as enacted by Chapter 159, Laws of Utah 2001
59-1-302, as last amended by Chapter 107, Laws of Utah 1994
59-1-401, as last amended by Chapters 104 and 177, Laws of Utah 2001
59-12-102 (Effective 07/01/04), as last amended by Chapter 312, Laws of Utah 2003
59-12-103 (Effective 07/01/04), as last amended by Chapter 312, Laws of Utah 2003
59-12-103.2 (Effective 07/01/04), as last amended by Chapter 312, Laws of Utah 2003
59-12-104 (Effective 07/01/04), as last amended by Chapter 312, Laws of Utah 2003
59-12-105 (Effective 07/01/04), as last amended by Chapter 312, Laws of Utah 2003
59-12-107 (Effective 07/01/04), as last amended by Chapter 312, Laws of Utah 2003
59-12-107.1 (Effective 07/01/04), as enacted by Chapter 312, Laws of Utah 2003
59-12-107.2 (Effective 07/01/04), as enacted by Chapter 312, Laws of Utah 2003
59-12-108 (Effective 07/01/04), as last amended by Chapter 312, Laws of Utah 2003
59-12-110 (Effective 07/01/04), as last amended by Chapter 312, Laws of Utah 2003
59-12-110.1 (Effective 07/01/04), as enacted by Chapter 312, Laws of Utah 2003
59-12-205 (Effective 07/01/04), as last amended by Chapter 312, Laws of Utah 2003
59-12-207.1 (Effective 07/01/04), as enacted by Chapter 312, Laws of Utah 2003
59-12-207.3 (Effective 07/01/04), as enacted by Chapter 312, Laws of Utah 2003
59-12-207.5 (Effective 07/01/04), as enacted by Chapter 312, Laws of Utah 2003
59-12-208.1 (Effective 07/01/04), as last amended by Chapter 312, Laws of Utah 2003
59-12-301 (Effective 07/01/04), as last amended by Chapter 312, Laws of Utah 2003
59-12-302 (Effective 07/01/04), as last amended by Chapter 312, Laws of Utah 2003
59-12-352, as last amended by Chapter 291, Laws of Utah 1998
59-12-353, as last amended by Chapter 291, Laws of Utah 1998
59-12-354 (Effective 07/01/04), as last amended by Chapter 312, Laws of Utah 2003
59-12-355 (Effective 07/01/04), as last amended by Chapter 312, Laws of Utah 2003
59-12-356 (Effective 07/01/04), as enacted by Chapter 312, Laws of Utah 2003
59-12-402 (Effective 07/01/04), as last amended by Chapter 312, Laws of Utah 2003
59-12-403 (Effective 07/01/04), as last amended by Chapter 312, Laws of Utah 2003

- 59-12-404 (Effective 07/01/04)**, as enacted by Chapter 312, Laws of Utah 2003
- 59-12-501 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
- 59-12-502 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
- 59-12-504 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
- 59-12-505 (Effective 07/01/04)**, as enacted by Chapter 312, Laws of Utah 2003
- 59-12-603 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
- 59-12-604 (Effective 07/01/04)**, as enacted by Chapter 312, Laws of Utah 2003
- 59-12-703 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
- 59-12-706 (Effective 07/01/04)**, as enacted by Chapter 312, Laws of Utah 2003
- 59-12-802 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
- 59-12-804 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
- 59-12-806 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
- 59-12-807 (Effective 07/01/04)**, as enacted by Chapter 312, Laws of Utah 2003
- 59-12-1001 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
- 59-12-1002**, as last amended by Chapter 101, Laws of Utah 2002
- 59-12-1003 (Effective 07/01/04)**, as enacted by Chapter 312, Laws of Utah 2003
- 59-12-1102 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
- 59-12-1103 (Effective 07/01/04)**, as enacted by Chapter 312, Laws of Utah 2003
- 59-12-1201**, as last amended by Chapters 270 and 291, Laws of Utah 1998
- 59-12-1302 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
- 59-12-1303 (Effective 07/01/04)**, as enacted by Chapter 312, Laws of Utah 2003
- 59-12-1402 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003
- 59-12-1404 (Effective 07/01/04)**, as enacted by Chapter 312, Laws of Utah 2003
- 59-12-1503**, as enacted by Chapter 282, Laws of Utah 2003
- 69-2-5**, as last amended by Chapter 253, Laws of Utah 2003

ENACTS:

- 59-12-107.4**, Utah Code Annotated 1953
- 59-12-107.5**, Utah Code Annotated 1953

59-12-122, Utah Code Annotated 1953

59-12-303, Utah Code Annotated 1953

59-12-1504, Utah Code Annotated 1953

REPEALS:

59-12-351, as last amended by Chapter 11, Laws of Utah 2001, First Special Session

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

Section 1. Section **10-1-304 (Effective 07/01/04)** is amended to read:

10-1-304 (Effective 07/01/04). Municipality may levy tax -- Rate -- Imposition or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Exemptions.

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

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

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

(2) A municipal energy sales and use tax imposed under this part may be in addition to any sales and use tax imposed by the municipality under Title 59, Chapter 12, Sales and Use Tax Act.

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

(i) "Annexation" means an annexation to a [~~city or town~~] municipality under Title 10, Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a [~~city or town~~] municipality.

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

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

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

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

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

part;

- (B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);
- (C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and
- (D) if the city or town enacts the tax or changes the rate of the tax described in

Subsection (3)(b)(ii)(A), the new rate of the tax.

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

- (A) on the first day of a calendar quarter; and
- (B) after a 90-day period beginning on the date the commission receives notice meeting

the requirements of Subsection (3)(c)(ii) from the [~~city or town~~] municipality that annexes the annexing area.

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

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

- (B) the statutory authority for the tax described in Subsection (3)(c)(ii)(A);
- (C) the effective date of the tax described in Subsection (3)(c)(ii)(A); and
- (D) the new rate of the tax described in Subsection (3)(c)(ii)(A).

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

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

(b) for an amount of electricity that is:

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

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

Section 2. Section **10-1-307 (Effective 07/01/04)** is amended to read:

10-1-307 (Effective 07/01/04). Collection of taxes by commission -- Distribution of revenues -- Charge for services -- Collection of taxes by municipality.

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

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

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

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

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

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

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

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

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

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

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

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

- (a) the municipality is the energy supplier; or
- (b) (i) the energy supplier estimates that the municipal energy sales and use tax collected annually by the energy supplier from its Utah customers equals \$1,000,000 or more; and
- (ii) the energy supplier collects the tax imposed by this part.

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

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

Section 3. Section **10-1-403** is amended to read:

10-1-403. Municipality may levy municipal telecommunications license tax -- Recovery from customers -- Enactment, repeal, or change in rate of tax -- Annexation.

(1) (a) Subject to the provisions of this section, beginning July 1, 2004, a municipality may levy on and provide that there is collected from a telecommunications provider a municipal telecommunications license tax on the telecommunications provider's gross receipts from telecommunications service that are attributed to the municipality in accordance with Section 10-1-407.

(b) To levy and provide for the collection of a municipal telecommunications license tax under this part, the municipality shall adopt an ordinance that complies with the requirements of Section 10-1-404.

(c) A municipal telecommunications license tax imposed under this part shall be at a rate of up to 4% of the telecommunications provider's gross receipts from telecommunications service that are attributed to the municipality in accordance with Section 10-1-407.

(2) A telecommunications provider may recover the amounts paid in municipal telecommunications license taxes from the customers of the telecommunications provider within the municipality imposing the municipal telecommunications license tax through a charge that is separately identified in the statement of the transaction with the customer as the recovery of a tax.

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

(i) "Annexation" means an annexation to a municipality under Title 10, Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a municipality.

(b) (i) If, on or after July 1, 2004, a municipality enacts or repeals a tax [~~under this part~~] or changes the rate of the tax under this part, the enactment, repeal, or change shall take effect:

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

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

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

(A) that the municipality will enact or repeal a tax under this part or change the rate of the tax;

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

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

(D) if the municipality enacts the municipal telecommunications license tax or changes the rate of the tax, the new rate of the tax.

(c) (i) If, for an annexation that occurs on or after July 1, 2004, the annexation will result in a change in the rate of the tax under this part for an annexing area, the change shall take effect:

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

(B) after a [~~75-day~~] 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(c)(ii) from the municipality that annexes the annexing area.

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

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

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

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

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

Section 4. Section **10-1-405** is amended to read:

10-1-405. Collection of taxes by commission -- Uniform interlocal agreement -- Charge for services.

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

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

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

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

(A) except for [~~Sections~~]:

(I) Subsection 59-12-103(2)(d);

(II) Subsection 59-12-103(2)(e);

(III) Section 59-12-104[;];

(IV) Section 59-12-104.1[~~, and~~];

(V) Section 59-12-104.2; and

(VI) Sections 59-12-107.1 through 59-12-107.3; and

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

(b) a uniform interlocal agreement:

(i) between:

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

(B) the commission;

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

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

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

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

(i) transmit monies collected under this part:
(A) monthly; and
(B) by electronic funds transfer by the commission to the municipality;
(ii) conduct audits of the municipal telecommunications license tax;
(iii) charge the municipality for the commission's services under this section in an amount:
(A) sufficient to reimburse the commission for the cost to the commission in rendering the services; and

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

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

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

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

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

(b) used for administration of municipal telecommunications license taxes under this part.

Section 5. Section **10-1-407** is amended to read:

10-1-407. Attributing the gross receipts from telecommunications service to a municipality -- Rate impact.

(1) The gross receipts from a telecommunications service are attributed to a municipality if the gross receipts are from a transaction for telecommunications service that is located within the municipality:

(a) for purposes of sales and use taxes under Title 59, Chapter 12, Sales and Use Tax Act; and

(b) determined in accordance with Section [~~59-12-207~~] 59-12-207.4.

(2) (a) The rate imposed on the gross receipts for telecommunications service shall be

determined in accordance with Subsection (2)(b) if the location of a transaction for telecommunications service is determined under Subsection (1) to be a municipality other than the municipality in which is located:

(i) for telecommunications service other than mobile telecommunications service, the customer's service address; or

(ii) for mobile telecommunications service, the customer's primary place of use.

(b) The rate imposed on the gross receipts for telecommunications service described in Subsection (2)(a) shall be the lower of:

(i) the rate imposed by the taxing jurisdiction in which the transaction is located under Subsection (1); or

(ii) the rate imposed by the municipality in which it is located:

(A) for telecommunications service other than mobile telecommunications service, the customer's service address; or

(B) for mobile telecommunications service, the customer's primary place of use.

Section 6. Section **10-1-408** is amended to read:

10-1-408. Procedure for taxes erroneously recovered from customers.

A customer may not bring a cause of action against a telecommunications provider on the basis that the telecommunications provider erroneously recovered from the customer municipal telecommunications license taxes authorized by this part~~[-(1)]~~ unless the customer ~~[provides the telecommunications provider written notice that:]~~ meets the same requirements that a purchaser is required to meet to bring a cause of action against a seller for a refund or credit as provided in Subsection 59-12-110.1(3).

~~[(a) the customer requests a refund of the amounts paid by the customer pursuant to Subsection 10-1-403(2); and]~~

~~[(b) contains the information necessary to determine the validity of the request described in Subsection (1)(a); and]~~

~~[(2) before 60 days from the day on which the telecommunications provider receives the written notice required by Subsection (1).]~~

Section 7. Section **17-31-8** is amended to read:

17-31-8. Tourism tax advisory boards.

(1) (a) Except as provided in Subsection (1)(b), any county that collects the following taxes shall operate a tourism tax advisory board:

(i) the [~~transient room~~] tax allowed under Section 59-12-301; or

(ii) the [~~tourism, recreation, cultural, and convention facilities~~] tax allowed under Section 59-12-603.

(b) Notwithstanding Subsection (1)(a), a county is exempt from Subsection (1)(a) if the county has an existing board, council, committee, convention visitor's bureau, or body that substantially conforms with Subsections (2), (3), and (4).

(2) A tourism tax advisory board created under Subsection (1) shall consist of at least five members.

(3) A tourism tax advisory board shall be composed of any of the following members that:

(a) are residents of the county; and

(b) represent the local:

(i) hotel and lodging industry;

(ii) restaurant industry;

(iii) recreational facilities;

(iv) convention facilities;

(v) museums;

(vi) cultural attractions; or

(vii) other tourism-related industries.

(4) A tourism tax advisory board shall advise the county legislative body on the best use of revenues collected from:

(a) the [~~transient room~~] tax allowed under Section 59-12-301; and

(b) the [~~tourism, recreation, cultural, and convention facilities~~] tax allowed under Section 59-12-603.

(5) A member of any county tourism tax advisory board:
(a) may not receive compensation or benefits for the member's services; and
(b) may receive per diem and expenses incurred in the performance of the member's official duties.

Section 8. Section **59-1-302** is amended to read:

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

(1) The provisions of this section apply to the following taxes in this title:

(a) a tax under Chapter 10, Part 4, Withholding of Tax;

~~[(a) state and local sales and use]~~ (b) a tax under Chapter 12, [Parts 1 and 2] Part 1, Tax Collection;

~~[(b) transient room]~~ (c) a tax under Chapter 12, Part 2, Local Sales and Use Tax Act;

(d) a tax under Chapter 12, Part 3, Transient Room Tax;

~~[(c) resort communities]~~ (e) a tax under Chapter 12, Part 4, Resort Communities Tax;

~~[(d) public transit]~~ (f) a tax under Chapter 12, Part 5, Public Transit Tax;

~~[(e) tourism, recreation, cultural, and convention facilities]~~

(g) a tax under Chapter 12, Part 6, Tourism, Recreation, Cultural, and Convention

Facilities Tax;

~~[(f) motor fuel, clean fuel, special fuel, and aviation fuel taxes under Chapter 13, Parts 2, 3, and 4; and]~~

~~[(g) withholding tax under Chapter 10, Part 4.]~~

(h) a tax under Chapter 13, Part 2, Motor Fuel;

(i) a tax under Chapter 13, Part 3, Special Fuel; and

(j) a tax under Chapter 13, Part 4, Aviation Fuel.

(2) Any person required to collect, truthfully account for, and pay over any tax listed in Subsection (1) who willfully fails to collect the tax, fails to truthfully account for and pay over the tax, or attempts in any manner to evade or defeat any tax or the payment of the tax, shall be liable for a penalty equal to the total amount of the tax evaded, not collected, not accounted for, or not paid over. This penalty is in addition to other penalties provided by law.

(3) (a) If the commission determines in accordance with Subsection (2) that a person is liable for the penalty, the commission shall notify the taxpayer of the proposed penalty.

(b) The notice of proposed penalty shall:

(i) set forth the basis of the assessment; and

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

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

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

(b) proceed in accordance with the review procedures of Subsection (5).

(5) Any person against whom a penalty has been proposed in accordance with Subsections (2) and (3) may contest the proposed penalty by filing a petition for an adjudicative proceeding with the commission.

(6) If the commission determines that the collection of the penalty is in jeopardy, nothing in this section may prevent the immediate collection of the penalty in accordance with the procedures and requirements for emergency proceedings in Title 63, Chapter 46b, Administrative Procedures Act.

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

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

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

(ii) recklessly disregarded obvious or known risks, which resulted in the failure to collect, account for, or pay over the tax; or

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

(c) The commission or court need not find a bad motive or specific intent to defraud the government or deprive it of revenue to establish willfulness under this section.

(d) If the commission determines that a person is liable for the penalty under Subsection (2), the commission shall assess the penalty and give notice and demand for payment. The notice and demand for payment shall be mailed by registered mail, postage prepaid, to the person's last-known address.

Section 9. Section **59-1-401** is amended to read:

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

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

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

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

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

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

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

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

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

(3) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there shall be added a penalty in an amount determined by applying the interest rate provided under

Section 59-1-402 plus four percentage points to the amount of the underpayment for the period of the underpayment.

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

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

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

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

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

(4) (a) In case of an extension of time to file an individual income tax or corporate franchise tax return, if the lesser of 90% of the total tax reported on the tax return or 100% of the prior year's tax is not paid by the due date of the return, not including extensions, a 2% per month penalty shall apply on the unpaid tax during the period of extension.

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

(5) (a) Additional penalties for underpayments of tax are as provided in Subsections (5)(a)(i) through (iv).

(i) Except as provided in Subsection (5)(c), if any underpayment of tax is due to negligence, the penalty is 10% of the underpayment.

(ii) Except as provided in Subsection (5)(d), if any underpayment of tax is due to intentional disregard of law or rule, the penalty is 15% of the underpayment.

(iii) For intent to evade the tax, the penalty is the greater of \$500 per period or 50% of the tax due.

(iv) If the underpayment is due to fraud with intent to evade the tax, the penalty is the greater of \$500 per period or 100% of the underpayment.

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

(i) The notice of proposed penalty shall:

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

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

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

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

(B) proceed in accordance with the review procedures of Subsection (5)(b)(iii).

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

(iv) If the commission determines that a person is liable for a penalty under this Subsection (5), the commission shall assess the penalty and give notice and demand for payment. The notice and demand for payment shall be mailed by registered mail, postage prepaid, to the person's last-known address.

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

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

(A) the [~~vendor~~] seller meets one or more of the criteria described in Subsection 59-12-107(1)(a); and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) ~~(a) [For monthly payment of sales and use taxes under Section 59-12-108, in addition to any other penalties for late payment, a vendor]~~ A seller that fails to remit a tax, fee, or charge monthly as required by Subsection 59-12-108(1)(a)(i):

(i) is subject to the penalties described in Subsection (1); and

(ii) may not retain [a] ~~the~~ percentage of sales and use taxes [collected as] that would otherwise be allowable under [Section] Subsection 59-12-108(2).

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

(i) is subject to the penalties described in Subsection (1); and

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

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

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

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (9)(b)(i), the fine may not:

(A) be less than \$500; or

(B) exceed \$1,000.

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

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (9)(c)(i), the fine may not:

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

(B) exceed \$5,000.

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

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (9)(d)(i), the fine may not:

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

(B) exceed \$25,000.

(e) The statute of limitations for prosecution for a violation of this Subsection (9) is the later of six years:

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

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

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

Section 10. Section **59-12-102 (Effective 07/01/04)** is amended to read:

59-12-102 (Effective 07/01/04). Definitions.

As used in this chapter:

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

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

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

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

(a) listed under Subsection (4); and

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

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

- (a) Subsection 59-12-103(2)(a)(i);
- (b) Section 59-12-204;
- (c) Section 59-12-401;
- (d) Section 59-12-402;
- (e) Section 59-12-501;
- (f) Section 59-12-502;
- (g) Section 59-12-703;
- (h) Section 59-12-802;
- (i) Section 59-12-804;
- (j) Section 59-12-1001;
- (k) Section 59-12-1102;
- (l) Section 59-12-1302; [~~or~~]
- (m) Section 59-12-1402[-]; or
- (n) Section 59-12-1503.

(5) "Aircraft" is as defined in Section 72-10-102.

[~~(5)~~] (6) "Alcoholic beverage" means a beverage that:

- (a) is suitable for human consumption; and
- (b) contains .5% or more alcohol by volume.

[~~(6)~~] (7) "Area agency on aging" is as defined in Section 62A-3-101.

[~~(7)~~] (8) "Authorized carrier" means:

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

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

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

[~~(8)~~] (9) "Certified automated system" means software certified by the governing board of

the agreement in accordance with Section 59-12-102.1 that:

- (a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:
 - (i) on a transaction; and
 - (ii) in the states that are members of the agreement;
- (b) determines the amount of agreement sales and use tax to remit to a state that is a

member of the agreement; and

- (c) maintains a record of the transaction described in Subsection [~~(8)~~] (9)(a)(i).

[~~(9)~~] (10) "Certified service provider" means an agent certified:

- (a) by the governing board of the agreement in accordance with Section 59-12-102.1; and
- (b) to perform all of a seller's sales and use tax functions for an agreement sales and use tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's own purchases.

[~~(10)~~] (11) (a) Subject to Subsection [~~(10)~~] (11)(b), "clothing" means all human wearing apparel suitable for general use.

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

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

[~~(11)~~] (12) (a) For purposes of Subsection 59-12-104(42), "coin-operated amusement device" means:

- (i) a coin-operated amusement, skill, or ride device;
- (ii) that is not controlled through seller-assisted, over-the-counter, sales of tokens; and
- (iii) includes a music machine, pinball machine, billiard machine, video game machine, arcade machine, and a mechanical or electronic skill game or ride.

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

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

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

~~[(12)]~~ (13) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection ~~[(30)]~~ (31) or residential use under Subsection ~~[(54)]~~ (59).

~~[(13)]~~ (14) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

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

(ii) For purposes of Subsection ~~[(13)]~~ (14)(b)(i), in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

~~[(14)]~~ (15) "Component part" includes:

- (a) poultry, dairy, and other livestock feed, and their components;
- (b) baling ties and twine used in the baling of hay and straw;
- (c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and
- (d) feed, seeds, and seedlings.

~~[(15)]~~ (16) "Computer" means an electronic device that accepts information:

- (a) (i) in digital form; or
- (ii) in a form similar to digital form; and
- (b) manipulates that information for a result based on a sequence of instructions.

~~[(16)]~~ (17) "Computer software" means a set of coded instructions designed to cause:

- (a) a computer to perform a task; or
- (b) automatic data processing equipment to perform a task.

~~[(17)]~~ (18) "Construction materials" means any tangible personal property that will be

converted into real property.

~~[(18)]~~ (19) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

~~[(19)]~~ (20) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property; or

(B) services; and

(ii) for preparation and delivery of the tangible personal property or services described in Subsection ~~[(19)]~~ (20)(a)(i) to a location designated by the purchaser.

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

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

~~[(20)]~~ (21) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

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

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections ~~[(20)]~~ (21)(b)(i) through (v);

(c) (i) except as provided in Subsection ~~[(20)]~~ (21)(c)(ii), is intended for ingestion in:

- (A) tablet form;
- (B) capsule form;
- (C) powder form;
- (D) softgel form;
- (E) gelcap form; or
- (F) liquid form; or

(ii) notwithstanding Subsection [~~(20)~~] (21)(c)(i), if the product is not intended for ingestion in a form described in Subsections [~~(20)~~] (21)(c)(i)(A) through (F), is not represented:

- (A) as conventional food; and
- (B) for use as a sole item of:
 - (I) a meal; or
 - (II) the diet; and
- (d) is required to be labeled as a dietary supplement:
 - (i) identifiable by the "Supplemental Facts" box found on the label; and
 - (ii) as required by 21 C.F.R. Sec. 101.36.

[~~(21)~~] (22) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:

- (i) to:
 - (A) a mass audience; or
 - (B) addressees on a mailing list provided by a purchaser of the mailing list; and
- (ii) if the cost of the printed material is not billed directly to the recipients.
- (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- (c) "Direct mail" does not include multiple items of printed material delivered to a single address.

[~~(22)~~] (23) (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

- (i) recognized in:

- (A) the official United States Pharmacopoeia;
- (B) the official Homeopathic Pharmacopoeia of the United States;
- (C) the official National Formulary; or
- (D) a supplement to a publication listed in Subsections [~~(22)~~] (23)(a)(i)(A) through (C);
- (ii) intended for use in the:
 - (A) diagnosis of disease;
 - (B) cure of disease;
 - (C) mitigation of disease;
 - (D) treatment of disease; or
 - (E) prevention of disease; or
- (iii) intended to affect:
 - (A) the structure of the body; or
 - (B) any function of the body.
- (b) "Drug" does not include:
 - (i) food and food ingredients;
 - (ii) a dietary supplement;
 - (iii) an alcoholic beverage; or
 - (iv) a prosthetic device.

[~~(23)~~] (24) (a) Except as provided in Subsection [~~(23)~~] (24)(c), "durable medical equipment" means equipment that:

- (i) can withstand repeated use;
- (ii) is primarily and customarily used to serve a medical purpose;
- (iii) generally is not useful to a person in the absence of illness or injury;
- (iv) is not worn in or on the body; [~~and~~]
- (v) is listed as eligible for payment under:
 - (A) Title XVIII of the federal Social Security Act; or
 - (B) the state plan for medical assistance under Title XIX of the federal Social Security

Act[-]; and

(vi) is used for home use only.

(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection [~~(23)~~] (24)(a).

(c) Notwithstanding Subsection [~~(23)~~] (24)(a), "durable medical equipment" does not include mobility enhancing equipment.

[~~(24)~~] (25) "Electronic" means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections [~~(24)~~] (25)(b)(i) through (vi).

[~~(25)~~] (26) (a) "Food and food ingredients" means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance's:

(I) taste; or

(II) nutritional value.

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

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

~~[(26)]~~ (27) (a) "Fundraising sales" means sales:

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

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

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

(b) For purposes of Subsection ~~[(26)]~~ (27)(a)(iii), "officially sanctioned school activity" means a school activity:

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

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

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

~~[(27)]~~ (28) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

~~[(28)]~~ (29) (a) "Hearing aid" means:

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

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

(II) correct impaired human hearing; and

- (B) (I) be worn in the human ear; or
 - (II) affixed behind the human ear;
 - (ii) an instrument or device that is surgically implanted into the cochlea; or
 - (iii) a telephone amplifying device.
 - (b) "Hearing aid" does not include:
 - (i) except as provided in Subsection [~~(28)~~] (29)(a)(i)(B) or [~~(28)~~] (29)(a)(ii), an instrument or device having an electronic component that is designed to be worn on the body;
 - (ii) except as provided in Subsection [~~(28)~~] (29)(a)(iii), an assistive listening device or system designed to be used by one individual, including:
 - (A) a personal amplifying system;
 - (B) a personal FM system;
 - (C) a television listening system; or
 - (D) a device or system similar to a device or system described in Subsections [~~(28)~~] (29)(b)(ii)(A) through (C); or
 - (iii) an assistive listening device or system designed to be used by more than one individual, including:
 - (A) a device or system installed in:
 - (I) an auditorium;
 - (II) a church;
 - (III) a conference room;
 - (IV) a synagogue; or
 - (V) a theater; or
 - (B) a device or system similar to a device or system described in Subsections [~~(28)~~] (29)(b)(iii)(A)(I) through (V).
- [~~(29)~~] (30) (a) "Hearing aid accessory" means a hearing aid:
 - (i) component;
 - (ii) attachment; or
 - (iii) accessory.

(b) "Hearing aid accessory" includes:

- (i) a hearing aid neck loop;
- (ii) a hearing aid cord;
- (iii) a hearing aid ear mold;
- (iv) hearing aid tubing;
- (v) a hearing aid ear hook; or
- (vi) a hearing aid remote control.

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

- (i) a component, attachment, or accessory designed to be used only with an:
 - (A) instrument or device described in Subsection [~~(28)~~] (29)(b)(i); or
 - (B) assistive listening device or system described in Subsection [~~(28)~~] (29)(b)(ii) or (iii);

or

- (ii) a hearing aid battery.

[~~(30)~~] (31) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

- (a) in mining or extraction of minerals;
- (b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

- (i) commercial greenhouses;
- (ii) irrigation pumps;
- (iii) farm machinery;
- (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not

registered under Title 41, Chapter 1a, Part 2, Registration; and

- (v) other farming activities;

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

- (d) by a scrap recycler if:

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

- (A) iron;
- (B) steel;
- (C) nonferrous metal;
- (D) paper;
- (E) glass;
- (F) plastic;
- (G) textile; or
- (H) rubber; and

(ii) the new products under Subsection [~~(30)~~] (31)(d)(i) would otherwise be made with nonrecycled materials.

[~~(31)~~] (32) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property for:

- (i) (A) a fixed term; or
- (B) an indeterminate term; and
- (ii) consideration.

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

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

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

(ii) a transfer of possession or control of property under an agreement:

- (A) that requires the transfer of title upon completion of required payments; and
- (B) in which the payment of an option price does not exceed the greater of:
 - (I) \$100; or

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

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

(d) For purposes of Subsection ~~[(31)]~~ (32)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

- (i) set-up of tangible personal property;
- (ii) maintenance of tangible personal property; or
- (iii) inspection of tangible personal property.

(33) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

~~[(32)]~~ (34) "Local taxing jurisdiction" means a:

- (a) county that is authorized to impose an agreement sales and use tax;
- (b) city that is authorized to impose an agreement sales and use tax; or
- (c) town that is authorized to impose an agreement sales and use tax.

~~[(33)]~~ (35) "Manufactured home" ~~[means any manufactured home or mobile home]~~ is as defined in ~~[Title 58, Chapter 56, Utah Uniform Building Standards Act]~~ Section 58-56-3.

~~[(34)]~~ (36) For purposes of Subsection 59-12-104(14), "manufacturing facility" means:

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

(b) a scrap recycler if:

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

- (A) iron;
- (B) steel;
- (C) nonferrous metal;

- (D) paper;
- (E) glass;
- (F) plastic;
- (G) textile; or
- (H) rubber; and

(ii) the new products under Subsection [~~(34)~~] (36)(b)(i) would otherwise be made with nonrecycled materials.

(37) "Mobile home" is as defined in Section 58-56-3.

[~~(35)~~] (38) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

[~~(36)~~] (39) (a) Except as provided in Subsection [~~(36)~~] (39)(c), "mobility enhancing equipment" means equipment that is:

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

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle;

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

(iv) listed as eligible for payment under:

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

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

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection [~~(36)~~] (39)(a).

(c) Notwithstanding Subsection [~~(36)~~] (39)(a), "mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor

vehicle manufacturer;

- (iii) durable medical equipment; or
- (iv) a prosthetic device.

~~[(37)]~~ (40) "Model 1 seller" means a seller that has selected a certified service provider as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales and use taxes other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's own purchases.

~~[(38)]~~ (41) "Model 2 seller" means a seller that:

- (a) except as provided in Subsection ~~[(38)]~~ (41)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and
- (b) notwithstanding Subsection ~~[(38)]~~ (41)(a), retains responsibility for remitting all of the sales tax:
 - (i) collected by the seller; and
 - (ii) to the appropriate local taxing jurisdiction.

~~[(39)]~~ (42) (a) Subject to Subsection ~~[(39)]~~ (42)(b), "model 3 seller" means a seller that has:

- (i) sales in at least five states that are members of the agreement;
 - (ii) total annual sales revenues of at least \$500,000,000;
 - (iii) a proprietary system that calculates the amount of tax:
 - (A) for an agreement sales and use tax; and
 - (B) due to each local taxing jurisdiction; and
 - (iv) entered into a performance agreement with the governing board of the agreement.
- (b) For purposes of Subsection ~~[(39)]~~ (42)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(43) "Modular home" means a modular unit as defined in Section 58-56-3.

(44) "Motor vehicle" is as defined in Section 41-1a-102.

~~[(40)]~~ (45) (a) "Multi-channel video or audio service provider" means any person or group of persons that:

(i) provides multi-channel video or audio service and directly or indirectly owns a significant interest in the multi-channel video or audio service; or

(ii) otherwise controls or is responsible through any arrangement, the management and operation of the multi-channel video or audio service.

(b) "Multi-channel video or audio service provider" includes the following except as specifically exempted by state or federal law:

(i) a cable operator;

(ii) a CATV provider;

(iii) a multi-point distribution provider;

(iv) a MMDS provider;

(v) a SMATV operator;

(vi) a direct-to-home satellite service provider; or

(vii) a DBS provider.

~~[(41)]~~ (46) "Olympic merchandise" means tangible personal property bearing an Olympic designation, emblem, insignia, mark, logo, service mark, symbol, terminology, trademark, or other copyrighted or protected material, including:

(a) one or more of the following terms:

(i) "Olympic";

(ii) "Olympiad"; or

(iii) "Citius Altius Fortius";

(b) the symbol of the International Olympic Committee, consisting of five interlocking rings;

(c) the emblem of the International Olympic Committee Corporation;

(d) a United States Olympic Committee designation, emblem, insignia, mark, logo, service mark, symbol, terminology, trademark, or other copyrighted or protected material;

(e) any emblem of the Olympic Winter Games of 2002 that is officially designated by the Salt Lake Organizing Committee of the Olympic Winter Games of 2002; or

(f) the mascot of the Olympic Winter Games of 2002.

~~[(42)]~~ (47) (a) "Other fuels" means products that burn independently to produce heat or energy.

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

~~[(43)]~~ (48) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

~~[(44)]~~ (49) "Place of primary use":

(a) for telephone service other than mobile telecommunications service, means the street address representative of where the purchaser's use of the telephone service primarily occurs, which shall be:

- (i) the residential street address of the purchaser; or
- (ii) the primary business street address of the purchaser; or

(b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

~~[(45)]~~ (50) (a) "Prepared food" means:

- (i) food:
 - (A) sold in a heated state; or
 - (B) heated by a seller;
- (ii) two or more food ingredients mixed or combined by the seller for sale as a single item;

or

(iii) except as provided in Subsection ~~[(45)]~~ (50)(c), food sold with an eating utensil provided by the seller, including a:

- (A) plate;
- (B) knife;
- (C) fork;
- (D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes; or

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections [~~(45)~~] (50)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection [~~(45)~~] (50)(b)(ii)(A) to prevent food borne illness.

(c) Notwithstanding Subsection [~~(45)~~] (50)(a)(iii), an eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

[~~(46)~~] (51) "Prescription" means an order, formula, or recipe that is issued:

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

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

~~[(47)]~~ (52) (a) Except as provided in Subsection ~~[(47)]~~ (52)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:

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

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

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

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

(B) to the specifications of a specific purchaser;

(ii) notwithstanding Subsection ~~[(47)]~~ (52)(a), computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) notwithstanding Subsection ~~[(47)]~~ (52)(a) and except as provided in Subsection ~~[(47)]~~ (52)(c), prewritten computer software or a prewritten portion of prewritten computer software:

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

(B) if the modification or enhancement described in Subsection ~~[(47)]~~ (52)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) Notwithstanding Subsection ~~[(47)]~~ (52)(b)(iii), "prewritten computer software" does not include a modification or enhancement described in Subsection ~~[(47)]~~ (52)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

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

~~[(48)]~~ (53) (a) "Prosthetic device" means a device that is:

(i) worn on or in the body to:

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

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

- (C) support a weak or deformed portion of the body; and
- (ii) listed as eligible for payment under:
 - (A) Title XVIII of the federal Social Security Act; or
 - (B) the state plan for medical assistance under Title XIX of the federal Social Security

Act.

- (b) "Prosthetic device" includes:
 - (i) parts used in the repairs or renovation of a prosthetic device; or
 - (ii) replacement parts for a prosthetic device.
- (c) "Prosthetic device" does not include:
 - (i) corrective eyeglasses;
 - (ii) contact lenses;
 - (iii) hearing aids; or
 - (iv) dental prostheses.

~~[(49)]~~ (54) (a) "Protective equipment" means an item:

- (i) for human wear; and
- (ii) that is:
 - (A) designed as protection:
 - (I) to the wearer against injury or disease; or
 - (II) against damage or injury of other persons or property; and
 - (B) not suitable for general use.

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

- (i) listing the items that constitute "protective equipment"; and
- (ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

~~[(50)]~~ (55) (a) "Purchase price" and "sales price" mean the total amount of consideration:

- (i) valued in money; and
- (ii) for which tangible personal property or services are:

- (A) sold;
- (B) leased; or
- (C) rented.
- (b) "Purchase price" and "sales price" include:
 - (i) the seller's cost of the tangible personal property or services sold;
 - (ii) expenses of the seller, including:
 - (A) the cost of materials used;
 - (B) a labor cost;
 - (C) a service cost;
 - (D) interest;
 - (E) a loss;
 - (F) the cost of transportation to the seller; or
 - (G) a tax imposed on the seller;
 - (iii) a charge by the seller for any service necessary to complete the sale;
 - (iv) a delivery charge; or
 - (v) an installation charge.
- (c) "Purchase price" and "sales price" do not include:
 - (i) a discount:
 - (A) in a form including:
 - (I) cash;
 - (II) term; or
 - (III) coupon;
 - (B) that is allowed by a seller;
 - (C) taken by a purchaser on a sale; and
 - (D) that is not reimbursed by a third party; or
 - (ii) the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser:
 - (A) the amount of a trade-in;

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

- (I) interest charges;
- (II) financing charges; or
- (III) carrying charges; or
- (C) a tax or fee legally imposed directly on the consumer.

~~[(51)]~~ (56) "Purchaser" means a person to whom:

- (a) a sale of tangible personal property is made; or
- (b) a service is furnished.

~~[(52)]~~ (57) "Regularly rented" means:

- (a) rented to a guest for value three or more times during a calendar year; or
- (b) advertised or held out to the public as a place that is regularly rented to guests for value.

~~[(53)]~~ (58) "Rental" is as defined in Subsection ~~[(31)]~~ (32).

~~[(54)]~~ (59) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

~~[(55)]~~ (60) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

- (a) resale;
- (b) sublease; or
- (c) subrent.

~~[(56)]~~ (61) (a) "Retailer" means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

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

~~[(57)]~~ (62) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under

Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

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

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

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

~~[(58)]~~ (63) "Sale at retail" is as defined in Subsection ~~[(55)]~~ (60).

~~[(59)]~~ (64) "Sale-leaseback transaction" means a transaction by which title to tangible personal property that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

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

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

(A) for the property; and

(B) to the purchaser-lessee; and

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

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

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

~~[(60)]~~ (65) "Sales price" is as defined in Subsection ~~[(50)]~~ (55).

~~[(61)]~~ (66) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

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

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

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

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

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

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

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

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

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

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

(ii) except as provided in Subsection ~~[(61)]~~ (66)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

- (C) protective equipment; or
- (D) sports or recreational equipment; or
- (iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:
 - (A) other than a:
 - (I) school;
 - (II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or
 - (III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and
 - (B) that is required to collect sales and use taxes under this chapter.
- (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

~~[(62)]~~ (67) For purposes of this section and Section 59-12-104, "school" means:

- (a) an elementary school or a secondary school that:
 - (i) is a:
 - (A) public school; or
 - (B) private school; and
 - (ii) provides instruction for one or more grades kindergarten through 12; or
- (b) a public school district.

~~[(63)]~~ (68) "Seller" means a person that makes a sale, lease, or rental of:

- (a) tangible personal property; or
- (b) a service.

~~[(64)]~~ (69) (a) "Semiconductor fabricating or processing materials" means tangible personal property:

- (i) used primarily in the process of:
 - (A) (I) manufacturing a semiconductor; or
 - (II) fabricating a semiconductor; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor; or

(II) fabricating a semiconductor; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating or processing materials" includes:

(i) parts used in the repairs or renovations of tangible personal property described in

Subsection ~~[(64)]~~ (69)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

~~[(65)]~~ (70) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(71) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

~~[(66)]~~ (72) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

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

(i) listing the items that constitute "sports or recreational equipment"; and
(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

~~[(67)]~~ (73) "State" means the state of Utah, its departments, and agencies.

~~[(68)]~~ (74) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

~~[(69)]~~ (75) (a) "Tangible personal property" means personal property that:

- (i) may be:
 - (A) seen;
 - (B) weighed;
 - (C) measured;
 - (D) felt; or
 - (E) touched; or
- (ii) is in any manner perceptible to the senses.
- (b) "Tangible personal property" includes:
 - (i) electricity;
 - (ii) water;
 - (iii) gas;
 - (iv) steam; or
 - (v) prewritten computer software.

~~[(70)]~~ (76) (a) "Telephone service" means a two-way transmission:

- (i) by:
 - (A) wire;
 - (B) radio;
 - (C) lightwave; or
 - (D) other electromagnetic means; and
- (ii) of one or more of the following:

- (A) a sign;
- (B) a signal;
- (C) writing;
- (D) an image;
- (E) sound;
- (F) a message;
- (G) data; or
- (H) other information of any nature.

(b) "Telephone service" includes:

- (i) mobile telecommunications service;
- (ii) private communications service; or
- (iii) automated digital telephone answering service.

(c) "Telephone service" does not include a service or a transaction that a state or a political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet Tax Freedom Act, Pub. L. No. 105-277.

~~[(71)]~~ (77) Notwithstanding where a call is billed or paid, "telephone service address" means:

(a) if the location described in this Subsection ~~[(71)]~~ (77)(a) is known, the location of the telephone service equipment:

- (i) to which a call is charged; and
- (ii) from which the call originates or terminates;

(b) if the location described in Subsection ~~[(71)]~~ (77)(a) is not known but the location described in this Subsection ~~[(71)]~~ (77)(b) is known, the location of the origination point of the signal of the telephone service first identified by:

- (i) the telecommunications system of the seller; or
- (ii) if the system used to transport the signal is not that of the seller, information received by the seller from its service provider; or

(c) if the locations described in Subsection ~~[(71)]~~ (77)(a) or (b) are not known, the

location of a purchaser's primary place of use.

~~[(72)]~~ (78) (a) "Telephone service provider" means a person that:

(i) owns, controls, operates, or manages a telephone service; and

(ii) engages in an activity described in Subsection ~~[(72)]~~ (78)(a)(i) for the shared use with or resale to any person of the telephone service.

(b) A person described in Subsection ~~[(72)]~~ (78)(a) is a telephone service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telephone service that the person owns, controls, operates, or manages.

~~[(73)]~~ (79) "Tobacco" means:

(a) a cigarette;

(b) a cigar;

(c) chewing tobacco;

(d) pipe tobacco; or

(e) any other item that contains tobacco.

~~[(74)]~~ (80) (a) "Use" means the exercise of any right or power over tangible personal property under Subsection 59-12-103(1), incident to the ownership or the leasing of that property, item, or service.

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

~~[(75)] "Vehicle" means any~~

(81) (a) Subject to Subsection (81)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

(i) an aircraft[;] as defined in Section 72-10-102; ~~[any]~~

(ii) a vehicle[;] as defined in Section 41-1a-102; ~~[any]~~

(iii) an off-highway vehicle[;] as defined in Section 41-22-2; ~~[and any]~~ or

(iv) a vessel[;] as defined in Section 41-1a-102[; ~~that is required to be titled, registered, or both. "Vehicle," for].~~

(b) For purposes of Subsection 59-12-104(35) only, [~~also~~] "vehicle" includes [any]:

(i) a vehicle described in Subsection (81)(a); or

(ii) (A) a locomotive[;];

(B) a freight car[;];

(C) railroad work equipment[;]; or

(D) other railroad rolling stock.

[~~(76)~~] (82) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging [~~vehicles~~] a vehicle as defined in Subsection [~~(75)~~] (81).

(83) "Watercraft" means a vessel as defined in Section 73-18-2.

(84) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 11. Section **59-12-103 (Effective 07/01/04)** is amended to read:

59-12-103 (Effective 07/01/04). Sales and use tax base -- Rates -- Effective dates --

Use of sales and use tax revenues.

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

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

(b) amounts paid:

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

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

(I) telephone service provider; or

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

(ii) for:

(A) all transportation;

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

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

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

(D) telegraph service;

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services:

(i) for repairs or renovations of tangible personal property, unless Section 59-12-104

provides for an exemption from sales and use tax for:

(A) the tangible personal property; and

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

(ii) to install tangible personal property in connection with other tangible personal property, unless the tangible personal property being installed is exempt from sales and use tax under Section 59-12-104;

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

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

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

(k) amounts paid or charged for leases or rentals of tangible personal property if:

(i) the tangible personal property's situs is in this state;

(ii) the lessee took possession of the tangible personal property in this state; or

(iii) within this state the tangible personal property is:

(A) stored;

(B) used; or

(C) otherwise consumed;

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

(i) stored;

(ii) used; or

(iii) consumed;

(m) amounts paid or charged for prepaid telephone calling cards; and

(n) amounts paid or charged for multi-channel video or audio service provided by a multi-channel video or audio service provider:

- (i) within the state; and
- (ii) to the extent permitted by federal law.

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

- (i) a state tax imposed on the transaction at a rate of 4.75%; and
- (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Notwithstanding Subsection (2)(a), beginning on July 1, 2001, a state tax and a local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

- (i) a state tax imposed on the transaction at a rate of 2%; and
- (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

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

- (i) Subsection (2)(a)(i); or
- (ii) Subsection (2)(b)(i).

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

- (A) that begins after the effective date of the tax rate increase; and
- (B) if the billing period for the transaction begins before the effective date of a tax rate

increase imposed under:

- (I) Subsection (2)(a)(i); or
- (II) Subsection (2)(b)(i).

(ii) For a transaction described in Subsection (2)(d)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

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

and

- (B) if the billing period for the transaction begins before the effective date of [a] the

repeal of the tax or the tax rate decrease imposed under:

- (I) Subsection (2)(a)(i); or
- (II) Subsection (2)(b)(i).
- (iii) Subsections (2)(d)(i) and (ii) apply to transactions subject to a tax under:
 - (A) Subsection (1)(b);
 - (B) Subsection (1)(c);
 - (C) Subsection (1)(d);
 - (D) Subsection (1)(e);
 - (E) Subsection (1)(f);
 - (F) Subsection (1)(g);
 - (G) Subsection (1)(h);
 - (H) Subsection (1)(i);
 - (I) Subsection (1)(j); or
 - (J) Subsection (1)(k).

(e) (i) If a tax due under Subsection (2)(a)(i) on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate imposed under Subsection (2)(a)(i) takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change under Subsection (2)(a)(i).

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

(3) (a) Except as provided in Subsections (4) through (7) [~~and (9)~~], the following state taxes shall be deposited into the General Fund:

- (i) the tax imposed by Subsection (2)(a)(i); or
- (ii) the tax imposed by Subsection (2)(b)(i).
- (b) The local taxes described in Subsections (2)(a)(ii) and (2)(b)(ii) shall be distributed to a county, city, or town as provided in this chapter.

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

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

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

~~[(II) for fiscal year 2002-03; or]~~

~~[(B) \$18,743,000.]~~

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

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

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

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

~~[(C) At the end of fiscal year 2002-03:]~~

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

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

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

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

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

~~[(B) At the end of fiscal year 2002-03:]~~

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

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

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

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

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

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

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

~~[(III) fund state required dam safety improvements; and]~~

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

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

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

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

~~[(B) develop underground sources of water, including springs and wells; and]~~

~~[(C) develop surface water sources.]~~

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

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

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

~~[(B) for the fiscal year; or~~

~~[(B) (ii) \$17,500,000.~~

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

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

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

~~[(B) (ii) Money transferred to the Department of Natural Resources under Subsection~~

(4)(b)~~[(ii)(A)]~~(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

~~[(C)]~~ (iii) At the end of each fiscal year:

~~[(F)]~~ (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

~~[(H)]~~ (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

~~[(HH)]~~ (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

~~[(iii)]~~ (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(b)(i) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-6.

~~[(iv)(A)]~~ (d)(i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)~~[(b)(i)]~~(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

~~[(B)]~~ (ii) At the end of each fiscal year:

~~[(F)]~~ (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

~~[(H)]~~ (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

~~[(HH)]~~ (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

~~[(v)(A)]~~ (e)(i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)~~[(b)(i)]~~(a) shall be deposited in the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

~~[(B)]~~ (ii) In addition to the uses allowed of the Water Resources Conservation and

H.B. 273

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Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

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

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

~~[(H)]~~ (C) fund state required dam safety improvements; and

~~[(V)]~~ (D) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

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

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

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

~~[(B)]~~ (ii) develop underground sources of water, including springs and wells; and

~~[(C)]~~ (iii) develop surface water sources.

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

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

~~[(F) by a 1/16% tax rate on the transactions described in Subsection (1); and]~~

~~[(H) for the fiscal year; or]~~

~~[(B) \$18,743,000.]~~

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

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

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

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

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

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

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

~~[(H) (B) for the fiscal year; or~~

~~[(B) (ii) \$18,743,000.~~

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

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

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

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

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

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

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

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

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

~~[(8) (a) For purposes of amounts paid or charged as admission or user fees relating to the Olympic Winter Games of 2002, the amounts are considered to be paid or charged on the day on which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 or a person designated by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 sends a purchaser confirmation of the purchase of an admission or user fee described in Subsection (1)(f).]~~

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

~~commission shall make rules defining what constitutes sending a purchaser confirmation under Subsection (8)(a).]~~

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

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

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

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

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

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

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

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

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

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

(i) the total amount of the following revenues the commission received from sellers collecting a tax in accordance with Subsection 59-12-107(1)(b) for the fiscal year immediately preceding the September 30 described in Subsection (7)(a):

(A) revenues under Subsection (2)(a)(i); and

(B) revenues under Subsection (2)(b)(i); and

(ii) \$8,779,673.

Section 12. Section **59-12-103.2 (Effective 07/01/04)** is amended to read:

**59-12-103.2 (Effective 07/01/04). Remote Sales Restricted Account -- Creation --
Funding for account -- Interest -- Deposit of revenues into the General Fund.**

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

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

(2) The account shall be funded from the portion of the sales and use tax deposited by the commission as provided in Section 59-12-103.

(3) (a) The account shall earn interest.

(b) The interest described in Subsection (3)(a) shall be deposited into the account.

(4) The Division of Finance shall deposit any revenues in the Remote Sales Restricted Account as of July 1, 2004, into the General Fund.

Section 13. Section **59-12-104 (Effective 07/01/04)** is amended to read:

59-12-104 (Effective 07/01/04). Exemptions.

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

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

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

(a) construction materials except:

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

(ii) construction materials purchased by the state, its institutions, or its political

subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

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

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

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

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(a) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) sales of the following to a commercial airline carrier for in-flight consumption:

(a) food and food ingredients;

(b) prepared food; or

(c) services related to Subsection (4)(a) or (b);

(5) sales of parts and equipment for installation in aircraft operated by common carriers in interstate or foreign commerce;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) sales of cleaning or washing of tangible personal property by a coin-operated laundry or dry cleaning machine;

(8) (a) except as provided in Subsection (8)(b), sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(b) the exemption provided for in Subsection (8)(a) does not apply to the following sales, uses, leases, or rentals relating to the Olympic Winter Games of 2002 made to or by an

organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code:

- (i) retail sales of Olympic merchandise;
- (ii) except as provided in Subsection (50), admissions or user fees described in Subsection 59-12-103(1)(f);
- (iii) sales of accommodations and services as provided in Subsection 59-12-103(1)(i), except for accommodations and services:
 - (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002;
 - (B) exclusively used by:
 - (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; or
 - (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; and
 - (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 does not receive reimbursement; or
 - (iv) a lease or rental of a vehicle as defined in Section 41-1a-102, except for a lease or rental of a vehicle:
 - (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002;
 - (B) exclusively used by:
 - (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; or
 - (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; and
 - (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 does not receive reimbursement;
- (9) sales of vehicles of a type required to be registered under the motor vehicle laws of

this state which are made to bona fide nonresidents of this state and are not afterwards registered or used in this state except as necessary to transport them to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) [the purchaser presents] a prescription was issued for the item; [and] or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) sales or use of property, materials, or services used in the construction of or incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution;

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided at:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

- (i) food and food ingredients;
- (ii) prepared food; or
- (iii) alcoholic beverages;

(13) isolated or occasional sales by persons not regularly engaged in business, except the sale of vehicles or vessels required to be titled or registered under the laws of this state in which case the tax is based upon:

(a) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(b) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle or vessel being sold as determined by the commission;

(14) (a) the following purchases or leases by a manufacturer on or after July 1, 1995:

(i) machinery and equipment:

(A) used in the manufacturing process;

(B) having an economic life of three or more years; and

(C) used:

(I) to manufacture an item sold as tangible personal property; and

(II) in new or expanding operations in a manufacturing facility in the state; and

(ii) subject to the provisions of Subsection (14)(b), normal operating replacements that:

(A) have an economic life of three or more years;

(B) are used in the manufacturing process in a manufacturing facility in the state;

(C) are used to replace or adapt an existing machine to extend the normal estimated useful life of the machine; and

(D) do not include repairs and maintenance;

(b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:

(i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in Subsection (14)(a)(ii) is exempt;

(ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described in Subsection (14)(a)(ii) is exempt; and

(iii) beginning July 1, 1998, 100% of the sale or lease described in Subsection (14)(a)(ii) is exempt;

(c) for purposes of this Subsection (14), the commission shall by rule define the terms "new or expanding operations" and "establishment"; and

(d) on or before October 1, 1991, and every five years after October 1, 1991, the commission shall:

(i) review the exemptions described in Subsection (14)(a) and make recommendations to the Revenue and Taxation Interim Committee concerning whether the exemptions should be continued, modified, or repealed; and

(ii) include in its report:

(A) the cost of the exemptions;

(B) the purpose and effectiveness of the exemptions; and

(C) the benefits of the exemptions to the state;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government

identification tag on the tooling, equipment, or parts is impractical;

(16) intrastate movements of:

(a) freight by common carriers; or

(b) passengers:

(i) by taxicabs as described in SIC Code 4121 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(ii) transported by an establishment described in SIC Code 4111 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget, if the transportation originates and terminates within a county of the first, second, or third class; or

(iii) transported by the following described in SIC Code 4789 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget:

(A) a horse-drawn cab; or

(B) a horse-drawn carriage;

(17) sales of newspapers or newspaper subscriptions;

(18) (a) except as provided in Subsection (18)(b), tangible personal property traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

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

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

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

price:

- (i) money;
- (ii) electricity;
- (iii) water;
- (iv) gas; or
- (v) steam;

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

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

(A) machinery, equipment, materials, and supplies used in a manner that is incidental to farming, such as hand tools and maintenance and janitorial equipment and supplies;

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

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

(ii) sales of parts used in the repairs or renovations of tangible personal property if the tangible personal property is exempt under Subsection (20)(a); or

- (b) sales of hay;

(21) exclusive sale of locally grown seasonal crops, seedling plants, or garden, farm, or other agricultural produce if sold by a producer during the harvest season;

(22) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

- (23) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,

nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(24) property stored in the state for resale;

(25) property brought into the state by a nonresident for his or her own personal use or enjoyment while within the state, except property purchased for use in Utah by a nonresident living and working in Utah at the time of purchase;

(26) property purchased for resale in this state, in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(27) property upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(28) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(29) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(30) beginning on July 1, 1999, through June 30, 2004, sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(31) sales of boats of a type required to be registered under Title 73, Chapter 18, State Boating Act, boat trailers, and outboard motors which are made to bona fide nonresidents of this state and are not thereafter registered or used in this state except as necessary to transport them to the borders of this state;

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

(33) amounts paid for the purchase of telephone service for purposes of providing telephone service;

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

(35) sales or leases of vehicles to, or use of vehicles by an authorized carrier;

(36) (a) 45% of the sales price of any new manufactured home; and

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

(37) sales relating to schools and fundraising sales;

(38) sales or rentals of durable medical equipment if a person presents a prescription for the durable medical equipment;

(39) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

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

(40) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (40)(a) through (c);

(41) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(42) sales or rentals of the right to use or operate for amusement, entertainment, or recreation a coin-operated amusement device as defined in Section 59-12-102;

(43) sales of cleaning or washing of tangible personal property by a coin-operated car wash machine;

(44) sales by the state or a political subdivision of the state, except state institutions of higher education as defined in Section 53B-3-102, of:

(a) photocopies; or

(b) other copies of records held or maintained by the state or a political subdivision of the state;

(45) (a) amounts paid:

(i) to a person providing intrastate transportation to an employer's employee to or from the employee's primary place of employment;

(ii) by an:

(A) employee; or

(B) employer; and

(iii) pursuant to a written contract between:

(A) the employer; and

(B) (I) the employee; or

(II) a person providing transportation to the employer's employee; and

(b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may for purposes of Subsection (45)(a) make rules defining what constitutes an employee's primary place of employment;

(46) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(47) sales of telephone service charged to a prepaid telephone calling card;

(48) (a) sales of:

(i) hearing aids;

(ii) hearing aid accessories; or

(iii) except as provided in Subsection (48)(b), parts used in the repairs or renovations of hearing aids or hearing aid accessories; and

(b) for purposes of this Subsection (48), notwithstanding Subsection (48)(a)(iii), "parts" does not include batteries;

(49) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(50) (a) beginning on July 1, 2000, through June 30, 2002, amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f) relating to the Olympic Winter Games of 2002 if the amounts paid or charged are established by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 in accordance with requirements of the International Olympic Committee; and

(b) the State Olympic Officer and the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 shall make at least two reports during the 2000 interim:

(i) to the:

(A) Olympic Coordination Committee; and

(B) Revenue and Taxation Interim Committee; and

(ii) regarding the status of:

(A) agreements relating to the funding of public safety services for the Olympic Winter Games of 2002;

(B) agreements relating to the funding of services, other than public safety services, for the Olympic Winter Games of 2002;

(C) other agreements relating to the Olympic Winter Games of 2002 as requested by the Olympic Coordination Committee or the Revenue and Taxation Interim Committee;

(D) other issues as requested by the Olympic Coordination Committee or the Revenue and Taxation Interim Committee; or

(E) a combination of Subsections (50)(b)(ii)(A) through (D);

(51) (a) beginning on July 1, 2001, through June 30, 2007, and subject to Subsection (51)(b), a sale or lease of semiconductor fabricating or processing materials regardless of whether the semiconductor fabricating or processing materials:

(i) actually come into contact with a semiconductor; or

(ii) ultimately become incorporated into real property;

(b) (i) beginning on July 1, 2001, through June 30, 2002, 10% of the sale or lease

described in Subsection (51)(a) is exempt;

(ii) beginning on July 1, 2002, through June 30, 2003, 50% of the sale or lease described in Subsection (51)(a) is exempt; and

(iii) beginning on July 1, 2003, through June 30, 2007, the entire amount of the sale or lease described in Subsection (51)(a) is exempt; and

(c) each year on or before the November interim meeting, the Revenue and Taxation Interim Committee shall:

(i) review the exemption described in this Subsection (51) and make recommendations concerning whether the exemption should be continued, modified, or repealed; and

(ii) include in the review under this Subsection (51)(c):

(A) the cost of the exemption;

(B) the purpose and effectiveness of the exemption; and

(C) the benefits of the exemption to the state;

(52) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(53) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(54) sales or uses of electricity, if the sales or uses are:

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

(b) for an amount of electricity that is:

(i) unrelated to the amount of electricity used by the person purchasing the electricity under the tariff described in Subsection (54)(a); and

(ii) equivalent to the number of kilowatthours specified in the tariff described in Subsection (54)(a) that may be purchased under the tariff described in Subsection (54)(a);

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

(56) sales of water in a:

- (a) pipe;
- (b) conduit;
- (c) ditch; or
- (d) reservoir;

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

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

- (i) does not constitute legal tender of any nation; and
- (ii) has a gold, silver, or platinum content of 80% or more; and

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

- (i) ingot;
- (ii) bar;
- (iii) medallion; or
- (iv) decorative coin;

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

(60) sales of a prosthetic device:

- (a) for use on or in a human;
- (b) for which a prescription is issued; and
- (c) to a person that presents a prescription for the prosthetic device.

Section 14. Section **59-12-105 (Effective 07/01/04)** is amended to read:

59-12-105 (Effective 07/01/04). Certain exempt sales to be reported -- Report by seller that files a simplified electronic return -- Penalties.

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

(2) (a) A seller that files a simplified electronic return with the commission shall file a

report containing the information described in Subsection (2)(b).

(b) The report required by Subsection (2)(a) shall contain the following amounts:

(i) for each store location that the seller has within the state:

(A) the total amount of sales;

(B) the total amount of sales that are exempt from a tax imposed by this chapter; and

(C) the difference between the amount described in Subsection (2)(b)(i)(A) and the amount described in Subsection (2)(b)(i)(B);

(ii) for the total amount of sales that the seller makes from a location in the state other than a fixed place of business in the state:

(A) the total amount of sales;

(B) the total amount of sales that are exempt from a tax imposed by this chapter; and

(C) the difference between the amount described in Subsection (2)(b)(ii)(A) and the amount described in Subsection (2)(b)(ii)(B); and

(iii) for the total amount of sales that the seller makes where inventory is shipped from a location outside the state:

(A) the total amount of sales;

(B) the total amount of sales that are exempt from a tax imposed by this chapter; and

(C) the difference between the amount described in Subsection (2)(b)(iii)(A) and the amount described in Subsection (2)(b)(iii)(B).

~~[(b) The]~~ (3) (a) A report required by Subsection (1)~~[(a)]~~ or (2) shall be filed:

(i) with the commission; and

(ii) on a form prescribed by the commission.

(b) A report required by Subsection (2) shall be filed electronically.

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

(i) the information required to be included in the ~~[report]~~ reports described in ~~[Subsection]~~ Subsections (1)~~[(a)]~~ and (2); and

(ii) one or more due dates for filing the ~~[report]~~ reports described in:

(A) Subsection (1)[(a)]; and

(B) Subsection (2).

~~[(2) Except]~~ (4) (a) Notwithstanding Section 59-1-401, and except as provided in Subsections [(3)] (4)(b) and [(4)] (6), if the owner or purchaser fails to report the full amount of the exemptions granted under Subsection 59-12-104(14)[, (39), (40),] or (51) on the report required by Subsection (1)[(a)], the commission shall impose a penalty equal to the lesser of:

~~[(a)] (i)~~ 10% of the sales and use tax that would have been imposed if the exemption had not applied; or

~~[(b)] (ii)~~ \$1,000.

~~[(3)] (b)~~ Notwithstanding Subsection [(2)] (4)(a)(i), the commission may not impose a penalty under Subsection [(2)] (4)(a)(i) if the owner or purchaser files an amended report:

~~[(a)] (i)~~ containing the amount of the exemption; and

~~[(b)] (ii)~~ before the owner or purchaser receives a notice of audit from the commission.

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

~~[(4)] (6) (a)~~ Notwithstanding Subsection [(2)] (4)(a) or (5), the commission may waive, reduce, or compromise a penalty imposed under this section if the commission finds there are reasonable grounds for the waiver, reduction, or compromise.

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

Section 15. Section **59-12-107 (Effective 07/01/04)** is amended to read:

59-12-107 (Effective 07/01/04). Collection, remittance, and payment of tax by sellers or other persons -- Collection of tax by a seller registered under the agreement may not be used as a factor in determining whether the seller is required to pay certain taxes, fees, or charges -- Returns -- Direct payment by purchaser of vehicle -- Other liability for collection -- Rulemaking authority -- Credits -- Treatment of bad debt -- Deposit and sale

of security -- Penalties.

(1) (a) Except as provided in Subsection (1)(e) or Sections 59-12-107.1 through [59-12-107.3] 59-12-107.4 and subject to Subsection (1)(f), each seller shall pay or collect and remit the sales and use taxes imposed by this chapter if within this state the seller:

(i) has or utilizes:

(A) an office;

(B) a distribution house;

(C) a sales house;

(D) a warehouse;

(E) a service enterprise; or

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

(ii) maintains a stock of goods;

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

(A) advertising; or

(B) solicitation by:

(I) direct mail;

(II) electronic mail;

(III) the Internet;

(IV) telephone; or

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

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

(A) common carrier; or

(B) United States mail; or

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

(b) [~~ff~~] A seller that does not meet one or more of the criteria provided for in Subsection (1)(a)[~~; the seller~~]:

(i) except as provided in Subsection (1)(b)(ii), may voluntarily:
(A) collect a tax on a transaction described in Subsection 59-12-103(1); and
(B) remit the tax to the commission as provided in this part; or
(ii) notwithstanding Subsection (1)(b)(i), shall collect a tax on a transaction described in Subsection 59-12-103(1) if Section 59-12-103.1 requires the seller to collect the tax.

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

- (i) pay a tax, fee, or charge under:
 - (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
 - (B) Section 19-6-716;
 - (C) Section 19-6-805;
 - (D) Section 69-2-5.5; or
 - (E) this title; or
- (ii) collect and remit a tax, fee, or charge under:
 - (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
 - (B) Section 19-6-716;
 - (C) Section 19-6-805;
 - (D) Section 69-2-5.5; or
 - (E) this title.

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

- (i) the seller did not collect a ~~use~~ tax imposed by this chapter on the transaction; and
- (ii) the person:
 - (A) stores the tangible personal property in the state;
 - (B) uses the tangible personal property in the state; or
 - (C) consumes the tangible personal property in the state.
- (e) Notwithstanding ~~the provisions of~~ Subsection (1)(a), the ownership of property that

is located at the premises of a printer's facility with which the retailer has contracted for printing and that consists of the final printed product, property that becomes a part of the final printed product, or copy from which the printed product is produced, shall not result in the retailer being considered to have or maintain an office, distribution house, sales house, warehouse, service enterprise, or other place of business, or to maintain a stock of goods, within this state.

(f) (i) As used in this Subsection (1)(f):

(A) "affiliated group" is as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in this state;

(B) "common ownership" is as defined in Section 59-7-101;

(C) "related seller" means a seller that:

(I) is not required to pay or collect and remit sales and use taxes under Subsection (1)(a) or Section 59-12-103.1;

(II) is:

(Aa) related to a seller that is required to pay or collect and remit sales and use taxes under Subsection (1)(a) as part of an affiliated group or because of common ownership; or

(Bb) a limited liability company owned by the parent corporation of an affiliated group if that parent corporation of the affiliated group is required to pay or collect and remit sales and use taxes under Subsection (1)(a); and

(III) does not voluntarily collect and remit a tax under Subsection (1)(b)(i).

(ii) A seller is not required to pay or collect and remit sales and use taxes under Subsection (1)(a):

(A) if the seller is a related seller;

(B) if the seller to which the related seller is related does not engage in any of the following activities on behalf of the related seller:

(I) advertising;

(II) marketing;

(III) sales; or

(IV) other services; and

(C) if the seller to which the related seller is related accepts the return of an item sold by the related seller, the seller to which the related seller is related accepts the return of that item:

(I) sold by a seller that is not a related seller; and

(II) on the same terms as the return of an item sold by that seller to which the related seller is related.

(2) (a) Except as provided in Sections 59-12-107.1 through ~~[59-12-107.3]~~ 59-12-107.4, ~~[a seller shall collect]~~ a tax under this chapter shall be collected from a purchaser.

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

(c) (i) Each seller shall:

(A) give the purchaser a receipt for the ~~[use]~~ tax collected; or

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

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

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

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

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

(g) If the accounting methods regularly employed by the seller in the transaction of the seller's business are such that reports of sales made during a calendar month or quarterly period will impose unnecessary hardships, the commission may accept reports at intervals that will, in the

commission's opinion, better suit the convenience of the taxpayer or seller and will not jeopardize collection of the tax.

(3) (a) Except as provided in Subsections (4) ~~[and (5)]~~ through (6) and in Section 59-12-108, the sales or use tax imposed by this chapter is due and payable to the commission quarterly on or before the last day of the month next succeeding each calendar quarterly period.

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

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

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

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

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

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

(f) ~~[The]~~ (i) Subject to Subsection (3)(f)(ii) and in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule extend the time for making returns and paying the taxes. ~~[No]~~

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

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

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

~~[(i) for information required by this chapter that is not included in any sales and use tax~~

return developed in accordance with the agreement, and]

~~[(ii) not more frequently than every six months.]~~

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

(A) to the commission;

(B) annually; and

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

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

(A) to the commission; and

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

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

(A) contains information prescribed by the commission; ~~and~~

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

(C) notwithstanding Subsection (3)(c)(i), is filed electronically as required by Subsection (3)(c)(ii).

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

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

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

(c) The tax collected in accordance with this Subsection (4) calculated in the return described in Subsection (4)(b) shall be calculated on the basis of the total amount of taxable

transactions described in Subsection 59-12-103(1) conducted by a seller described in Subsection (4)(d), including:

- (i) a cash transaction; and
- (ii) a charge transaction.
- (d) This Subsection (4) applies to a seller that is:

- (i) registered under the agreement;
- ~~[(ii) does not meet one or more of the criteria provided for in Subsection (1)(a) to be required to collect a tax under this chapter; and]~~

- (ii) described in Subsection (1)(b); and

- (iii) not a:

- (A) model 1 seller;
- (B) model 2 seller; or
- (C) model 3 seller.

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

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

- (ii) for the month for which the seller collects a tax under this chapter.

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

~~[(5)] (6) (a)~~ Notwithstanding Subsection (3), on each vehicle sale made by other than a regular licensed vehicle dealer, the purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to titling or registration under the laws of this state.

(b) The commission shall collect the tax described in Subsection ~~[(5)] (6)~~(a) when the vehicle is titled or registered.

~~[(6)] (7)~~ If any sale of tangible personal property or any other taxable transaction under

Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not responsible for the collection or payment of the tax imposed on the sale and the retailer is responsible for the collection or payment of the tax imposed on the sale if:

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

(b) the personal property is not subsequently resold.

~~[(7)]~~ (8) If any sale of property or service subject to the tax is made to a person prepaying sales or use tax in accordance with Title 63, Chapter 51, Resource Development, or to a contractor or subcontractor of that person, the person to whom such payment or consideration is payable is not responsible for the collection or payment of the sales or use tax and the person prepaying the sales or use tax is responsible for the collection or payment of the sales or use tax if the person prepaying the sales or use tax represents that the amount prepaid as sales or use tax has not been fully credited against sales or use tax due and payable under the rules promulgated by the commission.

~~[(8)]~~ (9) (a) For purposes of this Subsection ~~[(8)]~~ (9):

(i) Except as provided in Subsection ~~[(8)]~~ (9)(a)(ii), "bad debt" is as defined in Section 166, Internal Revenue Code.

(ii) Notwithstanding Subsection ~~[(8)]~~ (9)(a)(i), "bad debt" does not include:

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

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

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

(B) a financing charge;

(C) interest;

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

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

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

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

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

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

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

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

(i) the amount of bad debt for the time period described in Subsection [~~(8)~~] (9)(e) exceeds the amount of the seller's sales that are subject to a tax under this chapter for that same time period; and

(ii) as provided in Section 59-12-110.

(d) A bad debt deduction under this section may not include interest.

(e) A bad debt may be deducted under this Subsection [~~(8)~~] (9) on a return for the time period during which the bad debt:

(i) is written off as uncollectible in the seller's books and records; and

(ii) would be eligible for a bad debt deduction:

(A) for federal income tax purposes; and

(B) if the seller were required to file a federal income tax return.

(f) If a seller recovers any portion of bad debt for which the seller makes a deduction or claims a refund under this Subsection [~~(8)~~] (9), the seller shall report and remit a tax under this chapter:

(i) on the portion of the bad debt the seller recovers; and

(ii) on a return filed for the time period for which the portion of the bad debt is recovered.

(g) For purposes of reporting a recovery of a portion of bad debt under Subsection [~~(8)~~]

(9)(f), a seller shall apply amounts received on the bad debt in the following order:

[~~(A)~~] (i) in a proportional amount:

[~~(F)~~] (A) to the purchase price of the tangible personal property or service; and

[~~(H)~~] (B) to the tax due under this chapter on the tangible personal property or service;

and

~~[(B)]~~ (ii) to:

~~[(F)]~~ (A) interest charges;

~~[(H)]~~ (B) service charges; and

~~[(HH)]~~ (C) other charges.

(h) A seller's certified service provider may make a deduction or claim a refund for bad debt on behalf of the seller:

(i) in accordance with this Subsection ~~[(8)]~~ (9); and

(ii) if the certified service provider credits or refunds the full amount of the bad debt deduction or refund to the seller.

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

~~[(9)]~~ (10) (a) The commission may require any person subject to the tax imposed under this chapter to deposit with the commission security as the commission determines, if the commission considers it necessary to ensure compliance with this chapter.

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

(c) (i) The commission shall serve notice of the sale upon the person who deposited the securities.

(ii) Notice under Subsection ~~[(9)]~~ (10)(c)(i) sent to the last-known address as it appears in the records of the commission is sufficient for the purposes of this requirement.

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

~~[(10)]~~ (11) (a) A seller may not, with intent to evade any tax, fail to timely remit the full amount of tax required by this chapter.

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

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

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

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

Section 16. Section **59-12-107.1 (Effective 07/01/04)** is amended to read:

59-12-107.1 (Effective 07/01/04). Direct payment permit.

(1) The commission may issue a direct payment permit to a seller that:

(a) obtains a license under Section 59-12-106;

(b) is required to remit taxes under this chapter by electronic funds transfer in accordance with ~~[Section]~~ Subsection 59-12-108(1);

(c) has a record of timely payment of taxes under this chapter as determined by the commission; and

(d) demonstrates to the commission that the seller has the ability to determine the appropriate location of a transaction:

(i) under:

(A) Section 59-12-205;

(B) Section 59-12-207.1; and

(C) Section 59-12-207.3; and

(ii) for each transaction for which the seller makes a purchase using the direct payment permit.

(2) A direct payment permit may not be used in connection with the following transactions:

(a) a purchase of the following purchased in the same transaction:

(i) prepared food; and

(ii) food and food ingredients;

(b) amounts paid or charged for accommodations and services described in Subsection 59-12-103(1)(i);

- (c) amounts paid or charged for admission or user fees under Subsection 59-12-103(1)(f);
- (d) a purchase of:
 - (i) a motor vehicle;
 - (ii) an aircraft;
 - (iii) a watercraft;
 - (iv) a modular home;
 - (v) a manufactured home; or
 - (vi) a mobile home;
- (e) amounts paid under Subsection 59-12-103(1)(b); or
- (f) sales under Subsection 59-12-103(1)(c).
- (3) The holder of a direct payment permit shall:
 - (a) present evidence of the direct payment permit to a seller at the time the holder of the direct payment permit makes a purchase using the direct payment permit;
 - (b) determine the appropriate location of a transaction [~~under~~]:
 - (i) under:
 - (A) Section 59-12-205;
 - (B) Section 59-12-207.1; or
 - (C) Section 59-12-207.3; and
 - (ii) for each transaction for which the holder of the direct payment permit makes a purchase using the direct payment permit;
 - (c) notwithstanding Section 59-12-107 and subject to Subsection 59-12-107.2(4), determine the amount of any agreement sales and use tax due on each transaction for which the holder of the direct payment permit uses the direct payment permit;
 - (d) report and remit to the commission the agreement sales and use tax described in Subsection (3)(c) at the same time and in the same manner as the holder of the direct payment permit reports and remits a tax under this chapter; and
 - (e) maintain records:
 - (i) that indicate the appropriate location of a transaction:

(A) under:

(I) Section 59-12-205;

(II) Section 59-12-207.1; or

(III) Section 59-12-207.3; and

(B) for each transaction for which a purchase is made using the direct payment permit;

and

(ii) necessary to determine the amount described in Subsection (3)(c) for each transaction for which the holder of the direct payment permit uses the direct payment permit.

(4) A seller that is presented evidence of a direct payment permit at the time of a transaction:

(a) notwithstanding Section 59-12-107, may not collect agreement sales and use tax on the transaction;

(b) shall, for a period of three years from the date the seller files a return with the commission reporting the transaction, retain records to verify that the transaction was made using a direct payment permit; and

(c) notwithstanding Section 59-12-107, is not liable for agreement sales and use tax on the transaction.

(5) The holder of a direct payment permit may calculate the amount the holder of the direct payment permit may retain under Section 59-12-108 on the amount described in Subsection (3)(c):

(a) for each transaction for which the holder of the direct payment permit uses the direct payment permit; and

(b) that the holder of the direct payment permit remits to the commission under this section.

(6) The commission may revoke a direct payment permit issued under this section at any time if the holder of the direct payment permit fails to comply with any provision of this chapter.

(7) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules to administer this section.

Section 17. Section **59-12-107.2 (Effective 07/01/04)** is amended to read:

59-12-107.2 (Effective 07/01/04). Services, computer software, or digital goods concurrently available for use in more than one location.

(1) (a) Notwithstanding Section 59-12-107 and except as provided in Subsection (4), if a purchaser of a good or service described in Subsection (1)(b) that is not the holder of a direct payment permit under Section 59-12-107.1 knows at the time of purchase that the good or service described in Subsection (1)(b) will be concurrently available for use in more than one location, the purchaser shall:

(i) provide to the seller at the time of purchase a form:

(A) prescribed by the commission; and

(B) indicating that the good or service described in Subsection (1)(b) will be concurrently available for use in more than one location;

(ii) apportion the purchase price of the good or service described in Subsection (1)(b) among the locations determined in accordance with Section 59-12-205 and Subsection 59-12-207.1~~(9)~~(10);

(iii) determine the agreement sales and use tax for each location determined in accordance with Section 59-12-205 and Subsection 59-12-207.1~~(9)~~(10) by calculating the product of:

(A) the tax rate for the location determined in accordance with Section 59-12-205 and Subsection 59-12-207.1~~(9)~~(10); and

(B) the amount of the purchase price apportioned to that location under Subsection (1)(a)(ii); and

(iv) remit to the commission the agreement sales and use tax calculated under Subsection (1)(a)(iii) for each location determined in accordance with Section 59-12-205 and Subsection 59-12-207.1~~(9)~~(10).

(b) Subsection (1)(a) applies to:

(i) a service;

(ii) prewritten computer software delivered electronically; or

(iii) a digital good.

(2) The method a purchaser may use to make the apportionment required by Subsection (1) shall be:

- (a) reasonable;
- (b) uniform;
- (c) consistent; and

(d) supported by the purchaser's business records as those business records exist at the time of the transaction.

(3) Upon receipt of the form described in Subsection (1)(a)(i):

(a) a seller:

(i) is not liable to collect or remit agreement sales and use tax for that transaction; and

(ii) shall keep a record of the form described in Subsection (1)(a)(i) for three years from the date the seller files a return with the commission reporting that transaction; and

(b) the form shall remain in effect:

(i) for all future transactions between the seller described in Subsection (3)(a) and the purchaser; and

(ii) until the form is revoked in writing by the purchaser.

(4) (a) Notwithstanding Subsection (1), a purchaser of a good or service described in Subsection (1)(b) is not required to provide to a seller the form described in Subsection (1)(a)(i) if the purchaser:

(i) knows at the time of purchase that the good or service described in Subsection (1)(b) will be concurrently available for use in more than one location; and

(ii) is the holder of a direct payment permit under Section 59-12-107.1.

(b) A purchaser described in Subsection (4)(a) is subject to Subsection (2) in determining the apportionment of agreement sales and use tax due on the good or service described in Subsection (1)(b).

Section 18. Section **59-12-107.4** is enacted to read:

59-12-107.4. Certified service provider liability.

(1) Notwithstanding Section 59-12-107 and except as provided in Subsection (2), if a

model 1 seller selects a certified service provider as the model 1 seller's agent:

(a) the certified service provider shall collect and remit agreement sales and use taxes to the commission:

(i) that the model 1 seller would otherwise be required to remit to the commission under this chapter; and

(ii) as provided in this chapter; and

(b) the model 1 seller is not liable for the certified service provider's failure to collect and remit any agreement sales and use taxes to the commission that the model 1 seller would otherwise be required to remit to the commission under this chapter.

(2) Notwithstanding Subsection (1), the model 1 seller described in Subsection (1):

(a) shall remit to the commission any sales and use taxes imposed by this chapter:

(i) on the model 1 seller's purchases; and

(ii) as provided in this chapter; and

(b) is liable for any sales and use tax liability arising from the model 1 seller's fraud.

Section 19. Section **59-12-107.5** is enacted to read:

59-12-107.5. Seller or certified service provider reliance on commission information or certain systems.

A seller or certified service provider is not liable for failing to collect and remit a tax at a tax rate imposed under this part if:

(1) the tax rate at which the seller or certified service provider collected the tax was derived from a database created by the commission containing tax rates;

(2) the failure to collect and remit the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in the taxability matrix required by Section 328 of the agreement;

(3) for a model 2 seller, the failure to collect and remit the tax:

(a) is due to an error in the certified automated system used by the model 2 seller; and

(b) occurs prior to an audit of the certified automated system that reveals the error in the certified automated system; or

(4) for a model 3 seller, the failure to collect and remit the tax:

(a) is due to an error in the proprietary system used by the model 3 seller; and

(b) occurs prior to an audit of the proprietary system that reveals the error in the proprietary system.

Section 20. Section **59-12-108 (Effective 07/01/04)** is amended to read:

59-12-108 (Effective 07/01/04). Monthly payment -- Penalty -- Amount of tax a seller may retain -- Certain amounts allocated to local taxing jurisdictions.

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

(i) file a return with the commission:

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

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

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

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

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

(B) notwithstanding Subsection (1)(a)(ii)(A), a seller shall remit electronically with the return required by Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax, fee, or charge described in Subsection (1)(b) if that seller:

(I) is required by Section 59-12-107 to file the return electronically; or

(II) (Aa) is required to collect and remit a tax under Subsection 59-12-107(1)(a); and

(Bb) files a simplified electronic return.

(b) Subsections (1)(a)(i) and (ii) apply to the following taxes, fees, or charges:

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

- (ii) a fee under Section 19-6-716;
- (iii) a fee under Section 19-6-805;
- (iv) a charge under Section 69-2-5.5; or
- (v) a tax under this chapter.

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

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

(2) (a) Except as provided in Subsection (2)(b), a seller subject to Subsection (1) or a seller described in Subsection (3) may retain each month an amount not to exceed:

(i) [~~1.5%~~] 1.31% of any amounts the seller is required to remit to the commission for:

(A) [~~for~~] the month for which the seller is filing a return in accordance with Subsection (1); and

(B) [~~under this part~~] an agreement sales and use tax; and

(ii) 1% of any amounts the seller is required to remit to the commission:

(A) for the month for which the seller is filing a return in accordance with Subsection (1);

and

(B) under:

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

~~[(II) Part 2, Local Sales and Use Tax Act;]~~

~~[(III) Part 5, Public Transit Tax;]~~

~~[(IV) Part 10, Highways or Public Transit System Tax;]~~

~~[(V)]~~ (II) Subsection 59-12-603(1)(a)(i); or

~~[(VI)]~~ (III) Subsection 59-12-603(1)(a)(ii).

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

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

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

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

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

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

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

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

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

(b) The commission shall each month allocate the amount calculated under Subsection (5)(a) to each local taxing jurisdiction on the basis of the proportion of agreement sales and use tax that the commission distributes to each local taxing jurisdiction for that month compared to the total agreement sales and use tax that the commission distributes for that month to all local taxing jurisdictions.

Section 21. Section **59-12-110 (Effective 07/01/04)** is amended to read:

59-12-110 (Effective 07/01/04). Overpayments, deficiencies, and refunds procedures.

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

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

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

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

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

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

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

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

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

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

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

(A) authorizing the extension; and

(B) providing for the length of the extension.

(d) Notwithstanding Subsection (2)(b), a seller that files a claim for a refund under Subsection 59-12-107~~(8)~~ (9)(c) for bad debt shall file the claim with the commission within three years from the date on which the seller could first claim the refund for the bad debt.

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

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

(i) the sale or use was exempt from sales and use taxes under Section 59-12-104 on the

date of purchase; and

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

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

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

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

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

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

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

(i) negligence;

(ii) intentional disregard of law or rule; or

(iii) fraud with intent to evade the tax.

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

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

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

(ii) the tax is not in jeopardy.

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

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

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

- (i) fraud; or
- (ii) failure to file a return.

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

- (i) the three-year period under this Subsection (6) has not expired; and
- (ii) the commission and the taxpayer sign a written agreement:
 - (A) authorizing the extension; and
 - (B) providing for the length of the extension.

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

- (i) the taxpayer subsequently refuses to agree to an extension request by the commission; and
- (ii) the three-year period under this Subsection (6) expires before the commission completes the audit.

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

- (i) for the time period for which the commission could not make an assessment because of the expiration of the three-year period; and
- (ii) in an amount equal to the difference between:
 - (A) the commission's estimate of the amount of taxes the taxpayer would have been assessed for the time period described in Subsection (6)(f)(i); and
 - (B) the amount of taxes the taxpayer actually paid for the time period described in Subsection (6)(f)(i).

Section 22. Section **59-12-110.1 (Effective 07/01/04)** is amended to read:

59-12-110.1 (Effective 07/01/04). Refund or credit for taxes overpaid by a purchaser -- Presumption of reasonable business practice.

(1) Subject to the other provisions of this section, a purchaser may request from a seller a refund or credit of any amount that:

- (a) the purchaser overpaid in taxes under this chapter; and
- (b) was collected by the seller.

(2) (a) Except as provided in Subsection (2)(b), the procedure described in Subsection (1) is in addition to the process for a taxpayer to file a claim for a refund or credit with the commission under Section 59-12-110.

(b) Notwithstanding Subsection (2)(a):

(i) the commission is not required to make a refund or credit of an amount for which as of the date the refund or credit is to be given the purchaser has requested or received a refund or credit from the seller; and

(ii) a seller is not required to refund or credit an amount for which as of the date the refund is to be given the purchaser has requested or received a refund or credit from the commission.

(3) A purchaser may not bring a cause of action against a seller for a refund or credit described in Subsection (1):

(a) unless the purchaser provided the seller written notice that:

- (i) the purchaser requests the refund or credit described in Subsection (1); and
- (ii) contains the information necessary for the seller to determine the validity of the request; and

request; and

(b) sooner than 60 days after the day on which the seller receives the written notice described in Subsection (3)(a).

(4) A seller that has collected a tax under this chapter that exceeds the amount the seller is required to collect under this chapter is presumed to have a reasonable business practice if the seller:

(a) collected a tax under this chapter that exceeds the amount the seller is required to collect under this chapter through the use of:

(i) a provider certified by the state; or

(ii) a system certified by the state, including a proprietary system certified by the state;

and

(b) has remitted to the commission all taxes that the seller is required to remit to the commission under this chapter.

Section 23. Section **59-12-122** is enacted to read:

59-12-122. Monetary allowance for a seller registered under the agreement.

A seller that is registered under the agreement shall receive the monetary allowance determined:

(1) by the governing board of the agreement; and

(2) in accordance with Article VI, Monetary Allowances for New Technological Models for Sales Tax Collection, of the agreement.

Section 24. Section **59-12-205 (Effective 07/01/04)** is amended to read:

59-12-205 (Effective 07/01/04). Ordinances to conform with statutory amendments -- Distribution of tax revenues -- Rulemaking authority -- Determination of population.

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

(2) [~~(a)~~] Except as provided in Subsection [~~(3)~~] (7):

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

[(~~ii~~)] (b) notwithstanding Sections 59-12-207.1 through 59-12-207.4, 50% of each dollar

collected from the sales and use tax authorized by this part shall be paid to each county, city, and town on the basis of the location where the transaction is consummated [~~under Subsection (2)(b)] as determined under this section.~~

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

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

~~[(i)]~~ (b) (i) ~~[except]~~ Except as provided in Subsections ~~[(2)(b)(ii)]~~ (4)(c) through ~~[(iv)]~~ (h), for a transaction described in Subsection (4)(b)(ii), the location where ~~[a]~~ the transaction is consummated is the place of business of the seller[;].

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

(A) Subsection (4)(c)(ii);

(B) Subsection (4)(d)(ii);

(C) Subsection (4)(e)(ii);

(D) Subsection (4)(f)(ii);

(E) Subsection (4)(g)(ii); or

(F) Subsection (4)(h).

~~[(ii)]~~ (c) (i) ~~[notwithstanding]~~ Notwithstanding Subsection ~~[(2)(b)(i), if tangible personal property is shipped from outside the state]~~ (4)(b), for a transaction described in Subsection (4)(c)(ii), the location where the transaction is consummated ~~[is the same as the location of the transaction determined under]~~ is determined by allocating the total revenues remitted to the commission each month that are generated by the tax imposed under this section on the transactions described in Subsection (4)(c)(ii):

(A) to each local taxing jurisdiction; and

(B) on the basis of the population of each local taxing jurisdiction as compared to the population of the state.

~~[(A) Section 59-12-207.1;]~~

~~[(B) Section 59-12-207.2;]~~

~~[(C) Section 59-12-207.3; or]~~

~~[(D) Section 59-12-207.4;]~~

(ii) Subsection (4)(c)(i) applies to a transaction:

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

(B) involving tangible personal property that is shipped from outside the state.

~~[(iii) (d) (i) [notwithstanding] Notwithstanding Subsection [(2)(b)(i) and subject to Subsection (2)(c), if the transaction is made from a location in the state other than a fixed place of business in the state] (4)(b), for a transaction described in Subsection (4)(d)(ii), the location where the transaction is consummated is [the same as the location of the transaction determined under] determined by allocating the total revenues reported to the commission each month that are generated by the tax imposed under this section on the transactions described in Subsection (4)(d)(ii):~~

(A) to local taxing jurisdictions within a county; and

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

~~[(A) Section 59-12-207.1;]~~

~~[(B) Section 59-12-207.2;]~~

~~[(C) Section 59-12-207.3; or]~~

~~[(D) Section 59-12-207.4; or]~~

(ii) Subsection (4)(d)(i) applies to a transaction:

(A) made from a location in the state other than a fixed place of business in the state; or

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

(II) involving tangible personal property that is shipped from outside the state.

(e) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection

(4)(e)(ii), the location where the transaction is consummated is determined by allocating the total revenues reported to the commission each month that are generated by the tax imposed under this section on the transactions described in Subsection (4)(e)(ii):

(A) to local taxing jurisdictions; and

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

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

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

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

(A) described in Subsection 59-12-107.2(1)(b);

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

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

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

(A) to local taxing jurisdictions; and

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

(ii) Subsection (4)(g)(i) applies to a transaction involving a purchase of direct mail if the purchaser of the direct mail provides to the seller the form described in Subsection

59-12-107.3(1)(a) at the time of the purchase of the direct mail.

[(iv)] (h) [if the transaction involves] Notwithstanding Subsection (4)(b), for a transaction involving the sale of a telephone service, the location where the transaction is consummated is the same as the location of the transaction determined under Section 59-12-207.4.

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

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

(A) to local taxing jurisdictions; and

(B) on the basis of the proportion of the total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported to the commission in accordance with Subsection (5)(b)(ii) for that month within each local taxing jurisdiction as compared to the total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported to the commission in accordance with Subsection (5)(b)(ii) for that month within the state.

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

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

(B) if a local taxing jurisdiction reports revenues to the commission in accordance with Subsection (5)(b)(iii), in the report made in accordance with Subsection (5)(b)(iii).

(iii) (A) For purposes of this Subsection (5)(b), a local taxing jurisdiction may report to the commission the revenues generated by a tax imposed by this chapter within the local taxing jurisdiction if a seller:

(I) opens an additional place of business within the local taxing jurisdiction after the seller makes an initial application for a license under Section 59-12-106; and

(II) estimates that the additional place of business will increase by 5% or more the

revenues generated by a tax imposed by this chapter within the local taxing jurisdiction.

(B) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules providing procedures and requirements for making the report described in this Subsection (5)(b).

(c) (i) Notwithstanding Subsection (5)(b), for a transaction described in Subsection (5)(c)(ii), the location where the transaction is consummated is determined by allocating the total revenues reported to the commission each month that are generated by the tax imposed under this section on the transactions described in Subsection (5)(c)(ii):

(A) to local taxing jurisdictions within a county; and

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

(ii) Subsection (5)(c)(i) applies to a transaction:

(A) made from a location in the state other than a fixed place of business in the state; or

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

(II) involving tangible personal property that is shipped from outside the state.

(d) Notwithstanding Subsection (5)(b), for a transaction made by a seller described in Subsection 59-12-107(1)(b), the location where the transaction is consummated is determined by allocating the total revenues remitted to the commission each month that are generated by the tax imposed under this section on the transactions made by a seller described in Subsection 59-12-107(1)(b):

(i) to each local taxing jurisdiction; and

(ii) on the basis of the population of each local taxing jurisdiction as compared to the population of the state.

(e) (i) Notwithstanding Subsection (5)(b), for a transaction described in Subsection (5)(e)(ii), the location where the transaction is consummated is determined by allocating the total

revenues reported to the commission each month that are generated by the tax imposed under this section on the transactions described in Subsection (5)(e)(ii):

(A) to local taxing jurisdictions; and

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

(ii) Subsection (5)(e)(i) applies to a transaction involving tangible personal property purchased with a direct payment permit in accordance with Section 59-12-107.1.

~~[(e) In]~~ (6) For purposes of Subsections (4) and (5) and in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a fixed place of business in the state.

~~[(3)]~~ (7) (a) Notwithstanding Subsection (2), a county, city, or town may not receive a tax revenue distribution less than .75% of the taxable sales within the boundaries of the county, city, or town.

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

~~[(4)]~~ (8) (a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Census Bureau.

(b) If a needed population estimate is not available from the United States Census Bureau, population figures shall be derived from the estimate from the Utah Population Estimates Committee created by executive order of the governor.

~~[(5)]~~ (9) The population of a county for purposes of this section shall be determined solely from the unincorporated area of the county.

Section 25. Section **59-12-207.1 (Effective 07/01/04)** is amended to read:

59-12-207.1 (Effective 07/01/04). Definitions -- Location of certain transactions -- Reports to commission -- Direct payment provision for a seller making certain purchases --

Exceptions -- Rulemaking authority.

(1) As used in this section:

(a) (i) "Receive" and "receipt" mean:

(A) taking possession of tangible personal property;

(B) making first use of services; or

(C) for a digital good, the earlier of:

(I) taking possession of tangible personal property; or

(II) making first use of services.

(ii) "Receive" and "receipt" do not include possession by a shipping company on behalf of a purchaser.

(b) "Transportation equipment" means:

(i) a locomotive or railcar that is utilized for the carriage of persons or property in interstate commerce;

(ii) a truck or truck-tractor with a gross vehicle weight rating of 10,001 pounds or more that is:

(A) registered under Section 41-1a-301; and

(B) operated under the authority of a carrier authorized and certificated:

(I) by the United States Department of Transportation or another federal authority; and

(II) to engage in the carriage of persons or property in interstate commerce;

(iii) a trailer, semitrailer, or passenger bus that is:

(A) registered under Section 41-1a-301; and

(B) operated under the authority of a carrier authorized and certificated:

(I) by the United States Department of Transportation or another federal authority; and

(II) to engage in the carriage of persons or property in interstate commerce;

(iv) an aircraft that is operated by an air carrier authorized and certificated:

(A) by the United States Department of Transportation or another federal or foreign authority; and

(B) to engage in the carriage of persons or property in interstate commerce; or

(v) a container designed for use on, or a component part attached or secured on an item listed in Subsections (1)(b)(i) through (iv).

(2) Except as provided in [~~Subsection (11)] Subsections (8) and (14), if tangible personal property or a service that is subject to taxation under this chapter is received by a purchaser at a business location of a seller, the location of the transaction is the business location of the seller.~~

(3) [~~Except~~] Subject to Subsection (10), and except as provided in Subsections (7), (8), [~~and~~] (9), (11), and (14), if tangible personal property or a service that is subject to taxation under this chapter is not received by a purchaser at a business location of a seller, the location of the transaction is the location where the purchaser takes receipt of the tangible personal property or services.

(4) [~~Except~~] Subject to Subsection (10), and except as provided in Subsections (7), (8), [~~and~~] (9), (11), and (14), if Subsection (2) or (3) does not apply, the location of the transaction is the location indicated by an address for or other information on the purchaser if:

- (a) the address or other information is available from the seller's business records; and
- (b) use of the address or other information from the seller's records does not constitute bad faith.

(5) (a) [~~Except~~] Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11), and [(11)] (14), if Subsection (2), (3), or (4) does not apply, the location of the transaction is the location indicated by an address for the purchaser if:

- (i) the address was obtained during the consummation of the transaction; and
- (ii) use of the address described in Subsection (5)(a)(i) does not constitute bad faith.
- (b) An address used under Subsection (5)(a) may include the address of a purchaser's payment instrument if no other address is available.

(6) [~~Except~~] Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11), and [(11)] (14), if Subsection (2), (3), (4), or (5) does not apply or if a seller does not have sufficient information to apply Subsection (2), (3), (4), or (5), the location of the transaction is the location indicated by the address from which:

- (a) except as provided in Subsection (6)(b), for tangible personal property that is subject

to taxation under this chapter, the tangible personal property was shipped;

(b) notwithstanding Subsection (6)(a), for computer software delivered electronically or a digital good that is subject to taxation under this chapter, the computer software delivered electronically or digital good was first available for transmission by the seller; or

(c) for a service that is subject to taxation under this chapter, the service was provided.

(7) (a) ~~[For purposes of]~~ As used in this Subsection (7), "shared ZIP Code" means:

(i) a nine-digit ZIP Code ~~[assigned by the United States Postal Service]~~ that is located within two or more local taxing jurisdictions[-]; or

(ii) a five-digit ZIP Code that is located within two or more local taxing jurisdictions if:

(A) a nine-digit ZIP Code is not available for a location; or

(B) after exercising due diligence, a seller is unable to determine a nine-digit ZIP Code for a location.

(b) Notwithstanding Subsections (3) through (6) and except as provided in Subsection (7)(d)(ii), if the location of a transaction determined under Subsections (3) through (6) is in a shared ZIP Code, the location of the transaction is:

(i) if there is only one local taxing jurisdiction that imposes the lowest agreement combined tax rate for the shared ZIP Code, the local taxing jurisdiction that imposes the lowest agreement combined tax rate; or

(ii) if two or more local taxing jurisdictions impose the lowest agreement combined tax rate for the shared ZIP Code, the local taxing jurisdiction that:

(A) imposes the lowest agreement combined tax rate for the shared ZIP Code; and

(B) has located within the local taxing jurisdiction the largest number of street addresses within the shared ZIP Code.

(c) A seller shall collect a tax imposed under this chapter at the lowest agreement combined tax rate imposed within the local taxing jurisdiction in which the transaction is located under Subsection (7)(b) notwithstanding the following:

(i) Section 59-12-204;

(ii) Section 59-12-401;

- (iii) Section 59-12-402;
- (iv) Section 59-12-501;
- (v) Section 59-12-502;
- (vi) Section 59-12-703;
- (vii) Section 59-12-802;
- (viii) Section 59-12-804;
- (ix) Section 59-12-1001;
- (x) Section 59-12-1102;
- (xi) Section 59-12-1302; ~~and~~
- (xii) Section 59-12-1402[-]; and
- (xiii) Section 59-12-1503.

(d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules:

(i) providing for the circumstances under which a seller has exercised due diligence in determining the nine-digit ZIP Code for an address; or

(ii) notwithstanding Subsection (7)(b), for determining the local taxing jurisdiction within which a transaction is located if a seller is unable to determine the local taxing jurisdiction within which the transaction is located under Subsection (7)(b).

(8) Notwithstanding Subsections (2) through (6), the location of a transaction made with a direct payment permit described in Section 59-12-107.1 is:

(a) for a tax imposed under Section 59-12-204, the location determined under Section 59-12-205; or

(b) for a tax imposed under this chapter other than under Section 59-12-204, the location at which the tangible personal property or service purchased using the direct payment permit is used.

~~[(8)] (9) Notwithstanding Subsections (3) through (5), the location of a purchase of direct mail is the location described in Subsection (6), if the purchaser of the direct mail:~~

- ~~(a) has not been issued a direct payment permit under Section 59-12-107.1; and~~

(b) does not provide the seller the form or information described in Subsection 59-12-107.3(1).

(10) (a) Except as provided in Subsection (10)(b), the location of a transaction determined under Subsections (3) through (6), (8), and (9), is the local taxing jurisdiction within which:

(i) the nine-digit ZIP Code assigned to the location determined under Subsections (3) through (6), (8), and (9) is located; or

(ii) the five-digit ZIP Code assigned to the location determined under Subsections (3) through (6), (8), and (9) is located if:

(A) a nine-digit ZIP Code is not available for the location determined under Subsections (3) through (6), (8), and (9); or

(B) after exercising due diligence, a seller is unable to determine a nine-digit ZIP Code for the location determined under Subsections (3) through (6), (8), and (9).

(b) Notwithstanding Subsection (10)(a), in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules for determining the local taxing jurisdiction within which a transaction is located if a seller is unable to determine the local taxing jurisdiction within which the transaction is located under Subsection (10)(a).

(11) (a) As used in this Subsection (11), "florist delivery transaction" means a transaction commenced by a florist that transmits an order:

(i) by:

(A) telegraph;

(B) telephone; or

(C) a means of communication similar to Subsection (11)(a)(i)(A) or (B); and

(ii) for delivery to another place:

(A) in this state; or

(B) outside this state.

(b) Notwithstanding Subsections (3) through (6), beginning on July 1, 2004, through December 31, 2005, the location of a florist delivery transaction is the business location of the

florist that commences the florist delivery transaction.

(c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule:

(i) define the terms:

(A) "business location"; and

(B) "florist";

(ii) define what constitutes a means of communication similar to Subsection (11)(a)(i)(A) or (B); and

(iii) provide procedures for determining when a transaction is commenced.

~~[(9)]~~ (12) If a purchaser knows at the time that the purchaser purchases a service, prewritten computer software delivered electronically, or a digital good that the service, prewritten computer software delivered electronically, or digital good will be concurrently available for use in more than one location, the purchaser shall:

(a) determine the location of the transaction under this section for each location in which the service, prewritten computer software delivered electronically, or digital good will be concurrently available for use; and

(b) apportion the purchase price of the service, prewritten computer software delivered electronically, or digital good:

(i) among each location determined under Subsection ~~[(9)]~~ (12)(a); and

(ii) in accordance with Section 59-12-107.2.

~~[(10)]~~ (13) (a) A tax collected under this chapter shall be reported to the commission on a form that identifies the location of each transaction that occurred during the return filing period.

(b) The form described in Subsection ~~[(10)]~~ (13)(a) shall be filed with the commission as required under this chapter.

~~[(11)]~~ (14) This section does not apply to:

(a) amounts charged by a seller for:

(i) telephone service; ~~[or]~~

(ii) the retail sale or transfer of:

- (A) a motor vehicle other than a motor vehicle that is transportation equipment;
- (B) an aircraft other than an aircraft that is transportation equipment;
- (C) a watercraft;
- (D) a modular home;
- (E) a manufactured home; or
- (F) a mobile home; or
- (iii) except as provided in Section 59-12-207.3, the lease or rental of tangible personal property other than tangible personal property that is transportation equipment; or
 - (b) a tax paid under this chapter:
 - (i) by a seller; and
 - (ii) for the seller's purchases.

Section 26. Section **59-12-207.3 (Effective 07/01/04)** is amended to read:

59-12-207.3 (Effective 07/01/04). Location of transaction involving lease or rental of certain tangible personal property.

(1) (a) For purposes of this section, "primary property location" means an address for tangible personal property:

- (i) provided by a lessee to a lessor; and
- (ii) that is available to the lessor from the lessor's records maintained in the ordinary course of business.

(b) "Primary property location" does not include an address described in Subsection (1)(a) if use of that address constitutes bad faith.

(2) (a) Except as provided in Subsection (2)(b) or (5), if a lease or rental of tangible personal property subject to taxation under this part requires recurring periodic payments:

(i) notwithstanding Section 59-12-207.1, the location of the transaction for any down payment and for the first recurring periodic payment is as provided in Sections 59-12-205 and 59-12-207.1; and

(ii) the location of the transaction for the second recurring periodic payment and subsequent recurring periodic payments is the primary property location for each time period

covered by the recurring periodic payment.

(b) Notwithstanding Subsection (2)(a), if a transaction subject to taxation under this chapter involving a lease or rental of a motor vehicle, trailer, semitrailer, or aircraft that is not transportation equipment under Section 59-12-207.1 requires recurring periodic payments, the location of the transaction for any down payment and for each recurring periodic payment shall be the primary property location for each time period covered by the recurring periodic payment.

(3) Notwithstanding Section 59-12-207.1 and except as provided in Subsection (5), if a transaction involving a lease or rental of the following does not require recurring periodic payments, the location of the transaction shall be as provided in Sections 59-12-205 and 59-12-207.1 for each lease payment for:

(a) tangible personal property subject to taxation under this chapter; or

(b) a motor vehicle, trailer, semitrailer, or aircraft that is:

(i) not transportation equipment under Section 59-12-207.1; and

(ii) subject to taxation under this chapter.

(4) This section does not affect the imposition or computation of a tax under this chapter on:

(a) a lease or rental of tangible personal property subject to a tax under this chapter on:

(i) the basis of a lump sum; or

(ii) an accelerated basis; or

(b) an acquisition of tangible personal property:

(i) subject to taxation under this chapter; and

(ii) for lease.

(5) This section does not apply to a transaction involving the lease or rental of tangible personal property that is transportation equipment as defined in Section 59-12-207.1.

Section 27. Section **59-12-207.5 (Effective 07/01/04)** is amended to read:

59-12-207.5 (Effective 07/01/04). Seller or certified service provider reliance on commission information or certain systems.

A seller or certified service provider [~~that collects a tax imposed by a county, city, or town~~]

~~under this part~~] is not liable for failing to collect and remit a tax at a tax rate imposed under this part if:

(1) the tax rate at which the seller or certified service provider collected the tax was derived from a database created by the commission containing:

~~[(1)]~~ (a) tax rates; or

~~[(2)]~~ (b) local taxing jurisdiction boundaries[-];

(2) the failure to collect and remit the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in the taxability matrix required by Section 328 of the agreement;

(3) for a model 2 seller, the failure to collect and remit the tax:

(a) is due to an error in the certified automated system used by the model 2 seller; and

(b) occurs prior to an audit of the certified automated system that reveals the error in the certified automated system; or

(4) for a model 3 seller, the failure to collect and remit the tax:

(a) is due to an error in the proprietary system used by the model 3 seller; and

(b) occurs prior to an audit of the proprietary system that reveals the error in the proprietary system.

Section 28. Section **59-12-208.1 (Effective 07/01/04)** is amended to read:

59-12-208.1 (Effective 07/01/04). Enactment or repeal of tax -- Effective date --

Notice requirements.

(1) For purposes of this section:

(a) "Annexation" means an annexation to:

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

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

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

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

(i) on the first day of a calendar quarter; and
(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the county, city, or town.

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

(i) that the county, city, or town will enact or repeal a tax under this part;
(ii) the statutory authority for the tax described in Subsection (2)(b)(i);
(iii) the effective date of the tax described in Subsection (2)(b)(i); and
(iv) if the county, city, or town enacts the tax described in Subsection (2)(b)(i), the rate of the tax.

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

(A) that begins after the effective date of the ~~[imposition]~~ enactment of the tax; and
(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under Section 59-12-204.

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

(A) that began before the effective date of the repeal of the tax; and
(B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under Section 59-12-204.

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

- (A) Subsection 59-12-103(1)(b);
- (B) Subsection 59-12-103(1)(c);
- (C) Subsection 59-12-103(1)(d);
- (D) Subsection 59-12-103(1)(e);
- (E) Subsection 59-12-103(1)(f);
- (F) Subsection 59-12-103(1)(g);
- (G) Subsection 59-12-103(1)(h);
- (H) Subsection 59-12-103(1)(i);

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

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

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

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

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (2)(a).

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

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

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

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

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

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

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

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

(iv) the rate of the tax described in Subsection (3)(b)(i).

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

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

(B) if the billing period for the transaction begins before the effective date of the [imposition] enactment of the tax under Section 59-12-204.

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

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

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under Section 59-12-204.

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (3)(a).

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

Section 29. Section **59-12-301 (Effective 07/01/04)** is amended to read:

59-12-301 (Effective 07/01/04). Transient room tax -- Rate -- Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements.

(1) (a) Any county legislative body may impose a [~~transient room~~] tax of not to exceed

3% ~~[of the rent for every occupancy of a suite or room:]~~ on charges for the accommodations and services described in Subsection 59-12-103(1)(i).

~~[(i) on the following entities doing business as motor courts, motels, hotels, inns, or providing similar public accommodations:]~~

~~[(A) a person;]~~

~~[(B) a company;]~~

~~[(C) a corporation; or]~~

~~[(D) a person, group, or organization similar to Subsections (1)(a)(i)(A) through (C); and]~~

~~[(ii) if the suite or room is regularly rented for less than 30 consecutive days.]~~

(b) The revenues raised from the tax imposed under Subsection (1)(a) shall be used for the purposes listed in Section 17-31-2.

(c) The tax imposed under Subsection (1)(a) shall be in addition to the ~~[tourism, recreation, cultural, and convention]~~ tax imposed under Part 6, Tourism, Recreation, Cultural, and Convention Facilities Tax.

(d) A county legislative body imposing a tax under this part shall impose the tax on the ~~[rents]~~ charges for the accommodations and services described in Subsection (1)(a) relating to the Olympic Winter Games of 2002 made to or by an organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code, except for ~~[rents]~~ charges for the accommodations and services described in Subsection (1)(a):

(i) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002;

(ii) exclusively used by:

(A) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; or

(B) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; and

(iii) for which the Salt Lake Organizing Committee for the Olympic Winter Games of

2002 does not receive reimbursement.

(2) Subject to Subsection (3), a county legislative body:

(a) may increase or decrease the [~~transient room~~] tax authorized under this part; and

(b) shall regulate the [~~transient room~~] tax authorized under this part by ordinance.

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

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Annexation to County.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (3)(c), if, on or after July 1, 2004, a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

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

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b)(ii) from the county.

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

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

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

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

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (3)(b)(ii)(A), the rate of the tax.

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

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

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under this section.

(ii) Notwithstanding Subsection (3)(b)(i), for a transaction described in Subsection

(3)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

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

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under this section.

(iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).

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

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

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(d)(ii) from the county that annexes the annexing area.

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

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

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

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

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (3)(d)(ii)(A), the rate of the tax.

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

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

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under this section.

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

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

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under this section.

(iii) Subsections (3)(e)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).

Section 30. Section **59-12-302 (Effective 07/01/04)** is amended to read:

59-12-302 (Effective 07/01/04). Collection of tax -- Administrative fee -- Penalties -- Commission to interpret, audit, and adjudicate transient room tax.

(1) (a) Except as provided in Subsection (1)(b) or (c), the [transient room] tax authorized under this part shall be [~~levied at the same time and collected in the same manner as provided in~~] administered, collected, and enforced in accordance with:

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

(A) Part 1, Tax Collection; or

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

(ii) Chapter 1, General Taxation Policies.

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

(ii) The amount of tax collected shall be reported to the commission as provided in Subsection 59-12-207.1[~~(+10)~~](13).

(c) Notwithstanding Subsection (1)(a), a tax under this part is not subject to:

(i) Sections 59-12-107.1 through 59-12-107.3;

(ii) Sections 59-12-207.1 through 59-12-207.4; or

(iii) Subsections 59-12-205(2) through [~~(5)~~] (9).

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

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

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

(I) 1.5%; or

(II) an amount equal to the cost to the commission of administering this part.

(ii) Any amount the commission retains under Subsection (1)(d)(i)(B) shall be:

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

(B) used as provided in Subsection 59-12-206(2).

(2) (a) The tax ordinance adopted by a county pursuant to Section 59-12-301 may include provisions for the imposition of penalties and interest if a person or entity required to pay [~~transient room taxes~~] a tax under this [~~section~~] part fails to timely remit the [~~transient room taxes~~] tax to the collecting agent.

(b) A county legislative body may not establish penalties and interest by ordinance that exceed the penalties and interest rates authorized for the commission in Sections 59-1-401 and 59-1-402.

(3) A county may adopt an ordinance imposing penalties and interest under Subsection (2) only if the county does not contract with the commission to collect the tax.

(4) If a county elects to collect the tax as provided in Subsection (1), the commission shall interpret, audit, and adjudicate the tax imposed under this part.

Section 31. Section **59-12-303** is enacted to read:

59-12-303. Seller or certified service provider reliance on commission information or certain systems.

A seller or certified service provider is not liable for failing to collect and remit a tax at a tax rate imposed under this part if:

(1) the tax rate at which the seller or certified service provider collected the tax was derived from a database created by the commission containing:

(a) tax rates; or

(b) local taxing jurisdiction boundaries;

(2) the failure to collect and remit the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in the taxability matrix required by Section 328 of the agreement;

(3) for a model 2 seller, the failure to collect and remit the tax:

(a) is due to an error in the certified automated system used by the model 2 seller; and

(b) occurs prior to an audit of the certified automated system that reveals the error in the certified automated system; or

(4) for a model 3 seller, the failure to collect and remit the tax:

(a) is due to an error in the proprietary system used by the model 3 seller; and

(b) occurs prior to an audit of the proprietary system that reveals the error in the proprietary system.

Section 32. Section **59-12-352** is amended to read:

59-12-352. Transient room tax authority for municipalities -- Purposes for which revenues may be used.

(1) (a) The governing body of a municipality may impose a [~~transient room~~] tax [~~on the rents charged to transients occupying public accommodations in an amount that is less than or equal to~~] of not to exceed 1% [of the rents charged] on charges for the accommodations and services described in Subsection 59-12-103(1)(i).

(b) A governing body of a municipality imposing a tax under this section shall impose the tax on the [~~rents~~] charges for the accommodations and services described in Subsection (1)(a) relating to the Olympic Winter Games of 2002 made to or by an organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code, except for [~~rents~~] charges for the accommodations and services described in Subsection (1)(a):

(i) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002;

(ii) exclusively used by:

(A) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; or

(B) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; and

(iii) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 does not receive reimbursement.

(2) Subject to the limitations of Subsection (1), a governing body of a municipality may, by ordinance, increase or decrease the [transient room] tax under this part.

(3) A governing body of a municipality shall regulate the [transient room] tax under this part by ordinance.

(4) Revenues generated by the [transient room] tax under this part may be used for general fund purposes.

Section 33. Section **59-12-353** is amended to read:

59-12-353. Additional municipal transient room tax to repay bonded or other indebtedness.

(1) (a) Subject to the limitations of Subsection (2), the governing body of a municipality may, in addition to the [municipal transient room] tax authorized under Section 59-12-352, impose a [transient room] tax ~~[on the rents described in Subsection 59-12-352(1)(a) in an amount that is less than or equal to 1/2%]~~ of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i) if the governing body of the municipality:

(i) before January 1, 1996, levied and collected a license fee or tax under Section 10-1-203; and

(ii) before January 1, 1997, took official action to obligate the municipality in reliance on the license fees or taxes under Subsection (1)(a)(i) to the payment of debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement.

(b) A governing body of a municipality imposing a tax under this section shall impose the tax on the [rents] charges for the accommodations and services described in Subsection 59-12-352(1)(a) relating to the Olympic Winter Games of 2002 made to or by an organization

exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code, except for ~~[rents]~~ charges for the accommodations and services described in Subsection 59-12-352(1)(a):

(i) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002;

(ii) exclusively used by:

(A) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; or

(B) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; and

(iii) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 does not receive reimbursement.

(2) The governing body of a municipality may impose the ~~[transient room]~~ tax under this section until the sooner of:

(a) the day on which the following have been paid in full:

(i) the debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement described in Subsection (1)(a)(ii); and

(ii) refunding obligations that the municipality incurred as a result of the debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement described in Subsection (1)(a)(ii); or

(b) 25 years from the day on which the municipality levied the ~~[transient room]~~ tax under this section.

Section 34. Section **59-12-354 (Effective 07/01/04)** is amended to read:

59-12-354 (Effective 07/01/04). Collection of tax -- Administrative fee -- Penalties -- Commission to interpret, audit, and adjudicate transient room tax.

(1) Except as provided in Subsections (2) and (3), ~~[a governing body of a municipality levying a transient room tax]~~ the tax authorized under this part shall ~~[levy the tax at the same time and collect the tax in the same manner as provided in]~~ be administered, collected, and enforced in accordance with:

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

(i) Part 1, Tax Collection; or

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

(b) Chapter 1, General Taxation Policies.

(2) Notwithstanding Section 59-12-206, a municipality imposing a [~~transient room~~] tax under this part:

(a) may collect the tax and is not required to:

(i) transmit revenues generated by the tax to the commission; or

(ii) contract with the commission to collect the tax;

(b) shall report the revenues it collects to the commission as provided in Subsection 59-12-207.1[~~(10)~~](13); and

(c) subject to the limitations of Subsections (4) and (5), may adopt an ordinance imposing penalties and interest on a person who:

(i) is required to pay the tax under this part; and

(ii) does not remit the tax to the collecting agent in a timely manner.

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

(A) except as provided in Subsection (2)(d)(i)(B), shall distribute the revenues generated by the tax to the municipality within which the revenues were generated; and

(B) notwithstanding Subsection (2)(d)(i)(A), may retain an amount of tax collected under this part of not to exceed the lesser of:

(I) 1.5%; or

(II) an amount equal to the cost to the commission of administering this part.

(ii) Any amount the commission retains under Subsection (2)(d)(i)(B) shall be:

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

(B) used as provided in Subsection 59-12-206(2).

(3) Notwithstanding Subsection (1)(a), the tax under this part is not subject to:

(a) Sections 59-12-107.1 through 59-12-107.3;

(b) Subsections 59-12-205(2) through [~~(5)-~~] (9); or

(c) Sections 59-12-207.1 through 59-12-207.4.

(4) A governing body of a municipality adopting an ordinance imposing penalties and interest under Subsection (2)(c) may impose penalties and interest in amounts that are less than or equal to the penalties and interest rates authorized for the commission under Sections 59-1-401 and 59-1-402.

(5) A municipality may adopt an ordinance imposing penalties and interest under Subsection (2)(c) only if the municipality does not contract with the commission to collect the tax.

(6) If a municipality elects to collect the tax as provided in Subsection (2), the commission shall interpret, audit, and adjudicate the tax imposed under this part.

Section 35. Section **59-12-355 (Effective 07/01/04)** is amended to read:

**59-12-355 (Effective 07/01/04). Enactment or repeal of tax -- Tax rate change --
Effective date -- Notice requirements.**

(1) For purposes of this section:

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

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

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

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

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

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

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

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

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

(iv) if the city or town enacts the tax or changes the rate of the tax described in

Subsection (2)(b)(i), the rate of the tax.

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

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

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

(I) Section 59-12-352; or

(II) Section 59-12-353.

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

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

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

(I) Section 59-12-352; or

(II) Section 59-12-353.

(iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).

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

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

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

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

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

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

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

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

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

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

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

(I) Section 59-12-352; or

(II) Section 59-12-353.

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

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

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

(I) Section 59-12-352; or

(II) Section 59-12-353.

(iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).

Section 36. Section **59-12-356 (Effective 07/01/04)** is amended to read:

59-12-356 (Effective 07/01/04). Seller or certified service provider reliance on

commission information or certain systems.

A seller or certified service provider [~~that collects a tax imposed by a county or municipality under this part~~] is not liable for failing to collect and remit a tax at a tax rate imposed under this part if:

(1) the tax rate at which the seller or certified service provider collected the tax was derived from a database created by the commission containing:

~~[(1)]~~ (a) tax rates; or

~~[(2)]~~ (b) local taxing jurisdiction boundaries[-];

(2) the failure to collect and remit the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in the taxability matrix required by Section 328 of the agreement;

(3) for a model 2 seller, the failure to collect and remit the tax:

(a) is due to an error in the certified automated system used by the model 2 seller; and

(b) occurs prior to an audit of the certified automated system that reveals the error in the certified automated system; or

(4) for a model 3 seller, the failure to collect and remit the tax:

(a) is due to an error in the proprietary system used by the model 3 seller; and

(b) occurs prior to an audit of the proprietary system that reveals the error in the proprietary system.

Section 37. Section **59-12-402 (Effective 07/01/04)** is amended to read:

59-12-402 (Effective 07/01/04). Additional resort communities sales tax -- Base -- Rate -- Collection fees -- Resolution and voter approval requirements -- Election requirements -- Notice requirements -- Ordinance requirements.

(1) (a) Except as provided in Subsections (1)(b) and 59-12-207.1(7)(c), and subject to the limitations of Subsections (2) through (6), the governing body of a municipality in which the transient room capacity is greater than or equal to 66% of the permanent census population may, in addition to the sales tax authorized under Section 59-12-401, impose an additional resort communities sales tax in an amount that is less than or equal to ~~[1/2%]~~ .5% on the transactions

described in Subsection 59-12-103(1) located within the municipality.

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

(i) the sale of:

(A) a motor vehicle;

(B) an aircraft;

(C) a watercraft;

(D) a modular home;

(E) a manufactured home; or

(F) a mobile home; or

(ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

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

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

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

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

(a) pass a resolution approving the tax; and

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

(4) To obtain voter approval for an additional resort communities sales tax under

Subsection (3)(b), a municipality shall:

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

- (i) a regular general election; or
- (ii) a municipal general election; and

(b) publish notice of the election:

- (i) 15 days or more before the day on which the election is held; and
- (ii) in a newspaper of general circulation in the municipality.

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

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

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

Section 38. Section **59-12-403 (Effective 07/01/04)** is amended to read:

59-12-403 (Effective 07/01/04). Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Administration, collection, and enforcement of tax.

(1) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

(I) Section 59-12-401; or

(II) Section 59-12-402.

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

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

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

(I) Section 59-12-401; or

(II) Section 59-12-402.

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

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

(B) Subsection 59-12-103(1)©);

- (C) Subsection 59-12-103(1)(d);
- (D) Subsection 59-12-103(1)(e);
- (E) Subsection 59-12-103(1)(f);
- (F) Subsection 59-12-103(1)(g);
- (G) Subsection 59-12-103(1)(h);
- (H) Subsection 59-12-103(1)(i);
- (I) Subsection 59-12-103(1)(j); or
- (J) Subsection 59-12-103(1)(k).

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

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

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

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

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

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

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

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

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

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

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

(iv) if the city or town enacts the tax or changes the rate of the tax described in

Subsection (3)(b)(i), the rate of the tax.

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

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

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

- (I) Section 59-12-401; or
- (II) Section 59-12-402.

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

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

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

- (I) Section 59-12-401; or
- (II) Section 59-12-402.

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

- (A) Subsection 59-12-103(1)(b);
- (B) Subsection 59-12-103(1)(c);
- (C) Subsection 59-12-103(1)(d);
- (D) Subsection 59-12-103(1)(e);
- (E) Subsection 59-12-103(1)(f);
- (F) Subsection 59-12-103(1)(g);
- (G) Subsection 59-12-103(1)(h);
- (H) Subsection 59-12-103(1)(i);

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

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

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

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

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

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

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

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

(A) Part 1, Tax Collection; or

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

(ii) Chapter 1, General Taxation Policies.

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

Section 39. Section **59-12-404 (Effective 07/01/04)** is amended to read:

59-12-404 (Effective 07/01/04). Seller or certified service provider reliance on commission information or certain systems.

A seller or certified service provider [~~that collects a tax imposed by a city or town under this part~~] is not liable for failing to collect and remit a tax at a tax rate imposed under this part if:

(1) the tax rate at which the seller or certified service provider collected the tax was derived from a database created by the commission containing:

~~[(1)]~~ (a) tax rates; or

~~[(2)]~~ (b) local taxing jurisdiction boundaries[-];

(2) the failure to collect and remit the tax is as a result of the seller's or certified service

provider's reliance on incorrect data provided by the commission in the taxability matrix required by Section 328 of the agreement:

(3) for a model 2 seller, the failure to collect and remit the tax:

(a) is due to an error in the certified automated system used by the model 2 seller; and

(b) occurs prior to an audit of the certified automated system that reveals the error in the certified automated system; or

(4) for a model 3 seller, the failure to collect and remit the tax:

(a) is due to an error in the proprietary system used by the model 3 seller; and

(b) occurs prior to an audit of the proprietary system that reveals the error in the proprietary system.

Section 40. Section **59-12-501 (Effective 07/01/04)** is amended to read:

59-12-501 (Effective 07/01/04). Public transit tax -- Base -- Rate -- Voter approval.

(1) (a) (i) Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), in addition to other sales and use taxes, any county, city, or town within a transit district organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act, may impose a sales and use tax of [~~1/4 of 1%~~] .25% on the transactions described in Subsection 59-12-103(1) located within the county, city, or town, to fund a public transportation system.

(ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax under this section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

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

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

(ii) An election under Subsection 17B-2-512(3)(a)(ii) approving the annexation of an area to a public transit district or local district and approving for that annexed area the sales and use

tax authorized by this section satisfies the election requirement of Subsection (1)(c)(i) for the area to be annexed to the public transit district or local district.

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

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

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

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

Section 41. Section **59-12-502 (Effective 07/01/04)** is amended to read:

59-12-502 (Effective 07/01/04). Additional public transit tax for expanded system and fixed guideway and interstate improvements -- Base -- Rate -- Voter approval.

(1) (a) (i) Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), and in addition to other sales and use taxes, including the public transit district tax authorized by Section 59-12-501, a county, city, or town within a transit district organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act, may impose a sales and use tax of [~~1/4 of 1%~~] .25% on the transactions described in Subsection 59-12-103(1) located within the county, city, or town, to fund a fixed guideway and expanded public transportation system.

(ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax under this section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

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

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

manner provided by statute.

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

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

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

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

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

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

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

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

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

Section 42. Section **59-12-504 (Effective 07/01/04)** is amended to read:

59-12-504 (Effective 07/01/04). Enactment or repeal of tax -- Effective date --

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

(1) For purposes of this section:

(a) "Annexation" means an annexation to:

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

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

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

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

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

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

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

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

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

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

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

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

(A) that begins after the effective date of the ~~[imposition]~~ enactment of the tax; and

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

(I) Section 59-12-501; or

(II) Section 59-12-502.

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

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

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

(I) Section 59-12-501; or

(II) Section 59-12-502.

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

- (A) Subsection 59-12-103(1)(b);
- (B) Subsection 59-12-103(1)(c);
- (C) Subsection 59-12-103(1)(d);
- (D) Subsection 59-12-103(1)(e);
- (E) Subsection 59-12-103(1)(f);
- (F) Subsection 59-12-103(1)(g);
- (G) Subsection 59-12-103(1)(h);
- (H) Subsection 59-12-103(1)(i);
- (I) Subsection 59-12-103(1)(j); or
- (J) Subsection 59-12-103(1)(k).

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

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the enactment or repeal under Subsection (2)(a).

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

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

- (i) on the first day of a calendar quarter; and
- (ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the county, city, or town that annexes the annexing area.

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

- (i) that the annexation described in Subsection (3)(a) will result in an enactment or repeal

of a tax under this part for the annexing area;

- (ii) the statutory authority for the tax described in Subsection (3)(b)(i);
- (iii) the effective date of the tax described in Subsection (3)(b)(i); and
- (iv) the rate of the tax described in Subsection (3)(b)(i).

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

- (A) that begins after the effective date of the ~~[imposition]~~ enactment of the tax; and
- (B) if the billing period for the transaction begins before the effective date of the

enactment of the tax under:

- (I) Section 59-12-501; or
- (II) Section 59-12-502.

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

- (A) that began before the effective date of the repeal of the tax; and
- (B) if the billing period for the transaction begins before the effective date of the repeal of

the tax imposed under:

- (I) Section 59-12-501; or
- (II) Section 59-12-502.

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

- (A) Subsection 59-12-103(1)(b);
- (B) Subsection 59-12-103(1)(c);
- (C) Subsection 59-12-103(1)(d);
- (D) Subsection 59-12-103(1)(e);
- (E) Subsection 59-12-103(1)(f);
- (F) Subsection 59-12-103(1)(g);
- (G) Subsection 59-12-103(1)(h);
- (H) Subsection 59-12-103(1)(i);
- (I) Subsection 59-12-103(1)(j); or

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

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

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

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (3)(a).

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

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

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

(A) Part 1, Tax Collection; or

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

(ii) Chapter 1, General Taxation Policies.

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

Section 43. Section **59-12-505 (Effective 07/01/04)** is amended to read:

59-12-505 (Effective 07/01/04). Seller or certified service provider reliance on commission information or certain systems.

A seller or certified service provider [~~that collects a tax imposed by a county, city, or town under this part~~] is not liable for failing to collect and remit a tax at a rate imposed under this part if:

(1) the tax rate at which the seller or certified service provider collected the tax was derived from a database created by the commission containing:

~~[(1)]~~ (a) tax rates; or

~~[(2)]~~ (b) local taxing jurisdiction boundaries[-];

(2) the failure to collect and remit the tax is as a result of the seller's or certified service

provider's reliance on incorrect data provided by the commission in the taxability matrix required by Section 328 of the agreement:

(3) for a model 2 seller, the failure to collect and remit the tax:

(a) is due to an error in the certified automated system used by the model 2 seller; and

(b) occurs prior to an audit of the certified automated system that reveals the error in the certified automated system; or

(4) for a model 3 seller, the failure to collect and remit the tax:

(a) is due to an error in the proprietary system used by the model 3 seller; and

(b) occurs prior to an audit of the proprietary system that reveals the error in the proprietary system.

Section 44. Section **59-12-603 (Effective 07/01/04)** is amended to read:

59-12-603 (Effective 07/01/04). County tax -- Bases -- Rates -- Use of revenues -- Collection -- Adoption of ordinance required -- Administration -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.

(1) In addition to any other taxes, a county legislative body may, as provided in this part, impose a [~~tourism, recreation, cultural, and convention~~] tax as follows:

(a) (i) a county legislative body of any county may impose a tax of not to exceed 3% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;

(ii) beginning on or after January 1, 1999, a county legislative body of any county imposing a tax under Subsection (1)(a)(i) may, in addition to imposing the tax under Subsection (1)(a)(i), impose a tax of not to exceed 4% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;

(b) a county legislative body of any county may impose a tax of not to exceed 1% of all sales of prepared foods and beverages that are sold by restaurants; and

(c) a county legislative body of any county may impose a tax of not to exceed ~~[1/2% of the rent for every occupancy of a suite or room:]~~ .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i).

~~[(i) on the following entities doing business as motor courts, motels, hotels, inns, or providing similar public accommodations:]~~

~~[(A) a person;]~~

~~[(B) a company;]~~

~~[(C) a corporation; or]~~

~~[(D) a person, group, or organization similar to Subsections (1)(c)(i)(A) through (C); and]~~

~~[(ii) if the suite or room is regularly rented for less than 30 consecutive days.]~~

(2) The revenue from the imposition of the taxes provided for in Subsections (1)(a) through (c) may be used for the purposes of financing tourism promotion, and the development, operation, and maintenance of tourist, recreation, cultural, and convention facilities as defined in Section 59-12-602.

(3) The tax imposed under Subsection (1)(c) shall be in addition to the ~~[transient room]~~ tax imposed under Part 3, Transient Room Tax, and may be imposed only by a county of the first class.

~~[(4) (a) (i) Except as provided in Subsection (4)(a)(ii), a tax imposed under this part shall be levied at the same time and collected in the same manner as provided in Part 2, Local Sales and Use Tax Act.]~~

~~[(ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to Subsections 59-12-205(2) through (5).]~~

~~[(b)]~~ (4) A tax imposed under this part may be pledged as security for bonds, notes, or other evidences of indebtedness incurred by a county under Title 11, Chapter 14, Utah Municipal Bond Act, to finance tourism, recreation, cultural, and convention facilities.

(5) (a) In order to impose the tax under Subsection (1), each county legislative body shall annually adopt an ordinance imposing the tax.

(b) (i) The ordinance under Subsection (5)(a) shall include provisions substantially the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on those items and sales described in Subsection (1).

(ii) A county legislative body imposing a tax under this part shall impose the tax as provided in this section on the leases, rentals, ~~[and] sales,~~ and charges for the accommodations and services described in Subsection (1) relating to the Olympic Winter Games of 2002 made to or by an organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code, except for leases, rentals, ~~[and] sales,~~ and charges for the accommodations and services described in Subsection (1):

(A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002;

(B) exclusively used by:

(I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; or

(II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; and

(C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 does not receive reimbursement.

(c) The name of the county as the taxing agency shall be substituted for that of the state where necessary, and an additional license is not required if one has been or is issued under Section 59-12-106.

(6) In order to maintain in effect its tax ordinance adopted under this part, each county legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments to its tax ordinance to conform with the applicable amendments to Part 1, Tax Collection.

(7) (a) (i) ~~[The commission]~~ Except as provided in Subsection (7)(a)(ii), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

~~[(a) administer, collect, and enforce the tax authorized under this part pursuant to:]~~

~~[(i)]~~ (A) the same procedures used to administer, collect, and enforce the ~~[sales and use]~~ tax under:

(I) Part 1, Tax Collection;

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

~~[(ii)]~~ (B) Chapter 1, General Taxation Policies~~[-]~~;

(ii) Notwithstanding Subsection (7)(a)(i), a tax under this part is not subject to:

(A) Sections 59-12-107.1 through 59-12-107.3;

(B) Subsections 59-12-205(2) through (9); or

(C) Sections 59-12-207.1 through 59-12-207.4.

(b) Except as provided in Subsection (7)(c):

~~[(b)]~~ (i) ~~[except as provided in Subsection (7)(c),]~~ for a tax under this part other than the tax under Subsection (1)(a)(ii), the commission shall distribute the revenues to the county imposing the tax; and

(ii) ~~[except as provided in Subsection (7)(c),]~~ for a tax under Subsection (1)(a)(ii), the commission shall distribute the revenues according to the distribution formula provided in Subsection (8)~~[-and]~~.

(c) Notwithstanding Subsection (7)(b), the commission shall deduct from the distributions under Subsection (7)(b) an administrative charge for collecting the tax as provided in Section 59-12-206.

(8) The commission shall distribute the revenues generated by the tax under Subsection (1)(a)(ii) to each county collecting a tax under Subsection (1)(a)(ii) according to the following formula:

(a) the commission shall distribute 70% of the revenues based on the percentages generated by dividing the revenues collected by each county under Subsection (1)(a)(ii) by the total revenues collected by all counties under Subsection (1)(a)(ii); and

(b) the commission shall distribute 30% of the revenues based on the percentages generated by dividing the population of each county collecting a tax under Subsection (1)(a)(ii) by the total population of all counties collecting a tax under Subsection (1)(a)(ii).

(9) (a) For purposes of this Subsection (9):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Annexation to County.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

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

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(b)(ii) from the county.

(ii) The notice described in Subsection (9)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(b)(ii)(A), the rate of the tax.

(c) (i) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection (9)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

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

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1).

(ii) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection (9)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

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

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(iii) Subsections (9)(c)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(e);

(B) Subsection 59-12-103(1)(i); or

(C) Subsection 59-12-103(1)(k).

(d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

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

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (9)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (9)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(d)(ii)(A), the rate of the tax [~~described in Subsection (9)(d)(ii)(A)~~].

(e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection (9)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

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

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1).

(ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection (9)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last

billing period:

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

and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(e);

(B) Subsection 59-12-103(1)(i); or

(C) Subsection 59-12-103(1)(k).

Section 45. Section **59-12-604 (Effective 07/01/04)** is amended to read:

59-12-604 (Effective 07/01/04). Seller or certified service provider reliance on commission information or certain systems.

A seller or certified service provider [~~that collects a tax imposed by a county under this part~~] is not liable for failing to collect and remit a tax at a tax rate imposed under this part if:

(1) the tax rate at which the seller or certified service provider collected the tax was derived from a database created by the commission containing:

~~[(1)]~~ (a) tax rates; or

~~[(2)]~~ (b) local taxing jurisdiction boundaries[-];

(2) the failure to collect and remit the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in the taxability matrix required by Section 328 of the agreement;

(3) for a model 2 seller, the failure to collect and remit the tax:

(a) is due to an error in the certified automated system used by the model 2 seller; and

(b) occurs prior to an audit of the certified automated system that reveals the error in the certified automated system; or

(4) for a model 3 seller, the failure to collect and remit the tax:

(a) is due to an error in the proprietary system used by the model 3 seller; and

(b) occurs prior to an audit of the proprietary system that reveals the error in the

proprietary system.

Section 46. Section **59-12-703 (Effective 07/01/04)** is amended to read:

59-12-703 (Effective 07/01/04). Opinion question election -- Enactment of tax -- Uses of tax monies -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) (i) Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), a county legislative body may submit an opinion question to the residents of that county, by majority vote of all members of the legislative body, so that each resident of the county has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the county, to fund recreational and zoological facilities, botanical, cultural, and zoological organizations, and rural radio stations, in that county.

(ii) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a tax under this section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

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

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

(2) (a) If the county legislative body determines that a majority of the county's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax as prescribed in Subsection (1)(a), the county legislative body may impose the tax by a majority vote of all members of the legislative body on the transactions:

(i) described in Subsection (1); and

(ii) within the county, including the cities and towns located in the county.

(b) A county legislative body may revise county ordinances to reflect statutory changes to the distribution formula or eligible recipients of revenues generated from a tax imposed under Subsection (2)(a):

(i) after the county legislative body submits an opinion question to residents of the county

in accordance with Subsection (1)[~~(b)~~] giving them the opportunity to express their opinion on the proposed revisions to county ordinances; and

(ii) if the county legislative body determines that a majority of those voting on the opinion question have voted in favor of the revisions.

(3) The monies generated from any tax imposed under Subsection (2) shall be used for funding:

(a) recreational and zoological facilities located within the county or a city or town located in the county; and

(b) ongoing operating expenses of:

(i) recreational facilities described in Subsection (3)(a);

(ii) botanical, cultural, and zoological organizations within the county; and

(iii) rural radio stations within the county.

(4) (a) A tax authorized under this part shall be:

(i) except as provided in Subsection (4)(b), [~~levied at the same time and collected in the same manner as provided~~] administered, collected, and enforced in accordance with:

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

(I) Part 1, Tax Collection; or

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

(B) Chapter 1, General Taxation Policies; and

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

(b) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to Subsections 59-12-205(2) through [~~(5)~~] (9).

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Annexation to County.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a county

enacts or repeals a tax under this part, the enactment or repeal shall take effect:

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

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the county.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the ~~[imposition]~~ enactment of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under this section.

(ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

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

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under this section.

(iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

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

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

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

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

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

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

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

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

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

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

(d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

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

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).

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

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

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

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (5)(e)(ii)(A).

(f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the ~~[imposition]~~ enactment of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under this section.

(ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection

(5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

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

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under this section.

(iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

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

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

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

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

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

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

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

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

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

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

(g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

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

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).

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

Section 47. Section **59-12-706 (Effective 07/01/04)** is amended to read:

59-12-706 (Effective 07/01/04). Seller or certified service provider reliance on commission information or certain systems.

A seller or certified service provider [~~that collects a tax imposed by a county under this part~~] is not liable for failing to collect and remit a tax at a tax rate imposed under this part if:

(1) the tax rate at which the seller or certified service provider collected the tax was derived from a database created by the commission containing:

~~[(1)]~~ (a) tax rates; or

~~[(2)]~~ (b) local taxing jurisdiction boundaries[-];

(2) the failure to collect and remit the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in the taxability matrix required by Section 328 of the agreement;

(3) for a model 2 seller, the failure to collect and remit the tax:

(a) is due to an error in the certified automated system used by the model 2 seller; and

(b) occurs prior to an audit of the certified automated system that reveals the error in the certified automated system; or

(4) for a model 3 seller, the failure to collect and remit the tax:

(a) is due to an error in the proprietary system used by the model 3 seller; and

(b) occurs prior to an audit of the proprietary system that reveals the error in the proprietary system.

Section 48. Section **59-12-802 (Effective 07/01/04)** is amended to read:

59-12-802 (Effective 07/01/04). Imposition of rural county health care facilities tax -- Base -- Rate -- Administration, collection, and enforcement of tax.

(1) (a) A county legislative body may impose a sales and use tax of up to 1%:

(i) except as provided in Subsections (1)(b) and 59-12-207.1(7)(c), on the transactions described in Subsection 59-12-103(1) located within the county; and

(ii) to fund rural county health care facilities in that county.

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

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

(ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in a city that imposes a tax under Section 59-12-804.

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

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

- (i) members of the county's legislative body; and
- (ii) county's registered voters voting on the imposition of the tax.

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

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

- (a) ongoing operating expenses of a rural county health care facility;
- (b) the acquisition of land for a rural county health care facility; or
- (c) the design, construction, equipping, or furnishing of a rural county health care facility.

(4) (a) A tax under this section shall be:

- (i) except as provided in Subsection (4)(b), [~~levied at the same time and collected~~]

administered, collected, and enforced in [the same manner as provided in] accordance with:

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

(I) Part 1, Tax Collection; or

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

(B) Chapter 1, General Taxation Policies; and

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

(b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to Subsections 59-12-205(2) through [~~(5)] (9).~~

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

Section 49. Section **59-12-804 (Effective 07/01/04)** is amended to read:

59-12-804 (Effective 07/01/04). Imposition of rural city hospital tax -- Base -- Rate

-- Administration, collection, and enforcement of tax.

(1) (a) A city legislative body may impose a sales and use tax of up to 1%:

(i) except as provided in Subsections (1)(b) and 59-12-207.1(7)(c), on the transactions described in Subsection 59-12-103(1) located within the city; and

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

(b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax under this section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

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

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

(i) members of the city legislative body; and

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

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

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

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

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

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

(4) (a) A tax under this section shall be:

(i) except as provided in Subsection (4)(b), ~~levied at the same time and collected]~~
administered, collected, and enforced in [the same manner as provided in] accordance with:

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

(I) Part 1, Tax Collection; or

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

(B) Chapter 1, General Taxation Policies; and

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

(b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to Subsections 59-12-205(2) through [~~5~~] (9).

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

Section 50. Section **59-12-806 (Effective 07/01/04)** is amended to read:

59-12-806 (Effective 07/01/04). Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements.

(1) For purposes of this section:

(a) "Annexation" means an annexation to:

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

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

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

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

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

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

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

(i) that the county or city will enact or repeal a tax or change the rate of a tax under this part;

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

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

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

(c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection

(2)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the ~~[imposition]~~ enactment of the tax or the tax rate increase; and

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

(I) Section 59-12-802; or

(II) Section 59-12-804.

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

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

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

(I) Section 59-12-802; or

(II) Section 59-12-804.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(I) Section 59-12-802; or

(II) Section 59-12-804.

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

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

and

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

(I) Section 59-12-802; or

(II) Section 59-12-804.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 51. Section **59-12-807 (Effective 07/01/04)** is amended to read:

59-12-807 (Effective 07/01/04). Seller or certified service provider reliance on commission information or certain systems.

A seller or certified service provider [~~that collects a tax imposed by a county or city under this part~~] is not liable for failing to collect and remit a tax at a tax rate imposed under this part if:

(1) the tax rate at which the seller or certified service provider collected the tax was derived from a database created by the commission containing:

~~[(1)]~~ (a) tax rates; or

~~[(2)]~~ (b) local taxing jurisdiction boundaries[-];

(2) the failure to collect and remit the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in the taxability matrix required by Section 328 of the agreement;

(3) for a model 2 seller, the failure to collect and remit the tax:

(a) is due to an error in the certified automated system used by the model 2 seller; and

(b) occurs prior to an audit of the certified automated system that reveals the error in the certified automated system; or

(4) for a model 3 seller, the failure to collect and remit the tax:

(a) is due to an error in the proprietary system used by the model 3 seller; and

(b) occurs prior to an audit of the proprietary system that reveals the error in the proprietary system.

Section 52. Section **59-12-1001 (Effective 07/01/04)** is amended to read:

59-12-1001 (Effective 07/01/04). Authority to impose tax for highways or to fund a system for public transit -- Ordinance requirements -- Voter approval requirements -- Election requirements -- Notice of election requirements -- Exceptions to voter approval requirements -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) Except as provided in Subsections (1)(b) and 59-12-207.1(7)(c), a city or town in

which the transactions described in Subsection 59-12-103(1) are not subject to a sales and use tax under Section 59-12-501 may as provided in this part impose a sales and use tax of [~~1/4%~~] .25% on the transactions described in Subsection 59-12-103(1) located within the city or town.

(b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

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

(2) (a) A city or town imposing a tax under this part may use the revenues generated by the tax:

(i) for the construction and maintenance of highways under the jurisdiction of the city or town imposing the tax;

(ii) subject to Subsection (2)(b), to fund a system for public transit; or

(iii) for a combination of the purposes described in Subsections (2)(a)(i) and (ii).

(b) (i) For purposes of Subsection (2)(a)(ii) and except as provided in Subsection (2)(b)(ii), "public transit" is as defined in Section 17A-2-1004.

(ii) Notwithstanding Subsection (2)(b)(i), "public transit" does not include a fixed guideway system.

(3) To impose a tax under this part, the governing body of the city or town shall:

(a) pass an ordinance approving the tax; and

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

(4) To obtain voter approval for a tax under Subsection (3)(b), a city or town shall:

(a) hold an election during:

(i) a regular general election; or

(ii) a municipal general election; and

(b) publish notice of the election:

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

(ii) in a newspaper of general circulation in the city or town.

(5) An ordinance approving a tax under this part shall provide an effective date for the tax as provided in Subsection (6).

(6) (a) For purposes of this Subsection (6):

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

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

(b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after July 1, 2004, a city or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

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

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(b)(ii) from the city or town.

(ii) The notice described in Subsection (6)(b)(i)(B) shall state:

(A) that the city or town will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and

(D) if the city or town enacts the tax described in Subsection (6)(b)(ii)(A), the rate of the tax.

(c) (i) Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection (6)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the ~~[imposition]~~ enactment of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under Subsection (1).

(ii) Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection (6)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

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

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under Subsection (1).

(iii) Subsections (6)(c)(i) and (ii) apply to transactions subject to a tax under:

- (A) Subsection 59-12-103(1)(b);
- (B) Subsection 59-12-103(1)(c);
- (C) Subsection 59-12-103(1)(d);
- (D) Subsection 59-12-103(1)(e);
- (E) Subsection 59-12-103(1)(f);
- (F) Subsection 59-12-103(1)(g);
- (G) Subsection 59-12-103(1)(h);
- (H) Subsection 59-12-103(1)(i);
- (I) Subsection 59-12-103(1)(j); or
- (J) Subsection 59-12-103(1)(k).

(d) (i) Notwithstanding Subsection (6)(b)(i), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(b)(i).

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

(e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

- (A) on the first day of a calendar quarter; and
- (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(e)(ii) from the city or town that annexes the annexing area.

(ii) The notice described in Subsection (6)(e)(i)(B) shall state:

- (A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (6)(e)(ii)(A).

(f) (i) Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection (6)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the ~~[imposition]~~ enactment of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under Subsection (1).

(ii) Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection (6)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

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

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under Subsection (1).

(iii) Subsections (6)(f)(i) and (ii) apply to transactions subject to a tax under:

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

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

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

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

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

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

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

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

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

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

(g) (i) Notwithstanding Subsection (6)(e)(i), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:

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

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(e)(i).

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

(7) (a) Except as provided in Subsection (7)(b), a city or town is not subject to the voter approval requirements of Subsection (3)(b) if:

(i) on or before January 1, 1996, the city or town imposed a license fee or tax on businesses based on gross receipts pursuant to Section 10-1-203; or

(ii) the city or town:

(A) on or before June 30, 2002, obtained voter approval in accordance with Subsection (3)(b) to impose a tax under this part for a purpose described in Subsection (2)(a)(i); and

(B) on or after July 1, 2002, uses the revenues generated by a tax under this part for a purpose described in Subsection (2)(a).

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

Section 53. Section **59-12-1002** is amended to read:

59-12-1002. Collection of taxes by commission -- Charge for service.

(1) The commission shall:

(a) collect the tax imposed by a city or town under this part; and

(b) subject to ~~[the limitations of]~~ Subsection ~~[(2)]~~ (3), transmit to the city or town monthly by electronic funds transfer the revenues generated by the tax imposed by the city or town.

(2) (a) Except as provided in Subsection (2)(b), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

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

(A) Part 1, Tax Collection; or

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

(ii) Chapter 1, General Taxation Policies.

(b) Notwithstanding Subsection (2)(a), a tax under this part is not subject to Subsections 59-12-205(2) through (9).

~~[(2)]~~ (3) (a) The commission shall charge a city or town imposing a tax under this part a fee for administering the tax as provided in Subsections ~~[(2)]~~ (3)(b) and (c).

(b) The fee shall be in an amount equal to the costs of administering the tax under this part, except that the fee may not exceed 1-1/2% of the revenues generated in the city or town by the tax under this part.

(c) Fees under this Subsection ~~[(2)]~~ (3) shall be:

(i) placed in the Sales and Use Tax Administrative Fees Account; and

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

Section 54. Section **59-12-1003 (Effective 07/01/04)** is amended to read:

59-12-1003 (Effective 07/01/04). Seller or certified service provider reliance on commission information or certain systems.

A seller or certified service provider ~~[that collects a tax imposed by a city or town under this part]~~ is not liable for failing to collect and remit a tax at a tax rate imposed under this part if:

(1) the tax rate at which the seller or certified service provider collected the tax was derived from a database created by the commission containing:

~~[(1)]~~ (a) tax rates; or

~~[(2)]~~ (b) local taxing jurisdiction boundaries~~[-:];~~

(2) the failure to collect and remit the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in the taxability matrix required by Section 328 of the agreement;

(3) for a model 2 seller, the failure to collect and remit the tax:

(a) is due to an error in the certified automated system used by the model 2 seller; and

(b) occurs prior to an audit of the certified automated system that reveals the error in the certified automated system; or

(4) for a model 3 seller, the failure to collect and remit the tax:

(a) is due to an error in the proprietary system used by the model 3 seller; and

(b) occurs prior to an audit of the proprietary system that reveals the error in the proprietary system.

Section 55. Section **59-12-1102 (Effective 07/01/04)** is amended to read:

59-12-1102 (Effective 07/01/04). Base -- Rate -- Imposition of tax -- Distribution of revenue -- Administration -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) (i) Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), subject to the provisions of Subsections (2) through (5), and in addition to any other tax authorized by this chapter, a county may impose by ordinance a county option sales and use tax of [~~1/4%~~] .25% upon the transactions described in Subsection 59-12-103(1).

(ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

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

(c) The county option sales and use tax under this section shall be imposed:

(i) upon transactions that are located within the county, including transactions that are located within municipalities in the county; and

(ii) except as provided in Subsection (1)(d) or (5), beginning on the first day of January:

(A) of the next calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted on or before May 25; or

(B) of the second calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted after May 25.

(d) Notwithstanding Subsection (1)(c)(ii), the county option sales and use tax under this section shall be imposed:

(i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before

September 4, 1997; or

(ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997 but after September 4, 1997.

(2) (a) Before imposing a county option sales and use tax under Subsection (1), a county shall hold two public hearings on separate days in geographically diverse locations in the county.

(b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting time of no earlier than 6 p.m.

(ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven days after the day the first advertisement required by Subsection (2)(c) is published.

(c) (i) Before holding the public hearings required by Subsection (2)(a), the county shall advertise in a newspaper of general circulation in the county:

(A) its intent to adopt a county option sales and use tax;

(B) the date, time, and location of each public hearing; and

(C) a statement that the purpose of each public hearing is to obtain public comments regarding the proposed tax.

(ii) The advertisement shall be published once each week for the two weeks preceding the earlier of the two public hearings.

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

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

(v) Whenever possible:

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

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

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

Procedures, except that:

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

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

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

(3) (a) If the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is less than 75% of the state population, the tax levied under Subsection (1) shall be distributed to the county in which the tax was collected.

(b) If the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is greater than or equal to 75% of the state population:

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

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

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

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

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

(d) The commission shall establish rules to implement the distribution of the tax under

Subsections (3)(a), (b), and (c).

(4) (a) Except as provided in Subsection (4)(b) or (c), a tax authorized under this part shall be ~~[imposed and]~~ administered, collected, and enforced in ~~[the same manner as a tax imposed]~~ accordance with:

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

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act[-]; and

(ii) Chapter 1, General Taxation Policies.

(b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to Subsections 59-12-205(2) through ~~[(5)]~~ (9).

(c) Notwithstanding Subsection (4)(a), the fee charged by the commission under Section 59-12-206 shall be based on the distribution amounts resulting after all the applicable distribution calculations under Subsection (3) have been made.

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Annexation to County.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a county enacts or repeals a tax under this part:

(A) (I) the enactment shall take effect as provided in Subsection (1)(c); or

(II) the repeal shall take effect on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the county.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

- (A) that begins after the effective date of the ~~[imposition]~~ enactment of the tax; and
- (B) if the billing period for the transaction begins before the effective date of the enactment of the tax under Subsection (1).

(ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

- (A) that began before the effective date of the repeal of the tax; and
- (B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under Subsection (1).

(iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

- (A) Subsection 59-12-103(1)(b);
- (B) Subsection 59-12-103(1)(c);
- (C) Subsection 59-12-103(1)(d);
- (D) Subsection 59-12-103(1)(e);
- (E) Subsection 59-12-103(1)(f);
- (F) Subsection 59-12-103(1)(g);
- (G) Subsection 59-12-103(1)(h);
- (H) Subsection 59-12-103(1)(i);
- (I) Subsection 59-12-103(1)(j); or
- (J) Subsection 59-12-103(1)(k).

(d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).

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

commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

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

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (5)(e)(ii)(A).

(f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the ~~[imposition]~~ enactment of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under Subsection (1).

(ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

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

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under Subsection (1).

(iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

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

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

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

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

- (E) Subsection 59-12-103(1)(f);
- (F) Subsection 59-12-103(1)(g);
- (G) Subsection 59-12-103(1)(h);
- (H) Subsection 59-12-103(1)(i);
- (I) Subsection 59-12-103(1)(j); or
- (J) Subsection 59-12-103(1)(k).

(g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).

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

Section 56. Section **59-12-1103 (Effective 07/01/04)** is amended to read:

59-12-1103 (Effective 07/01/04). Seller or certified service provider reliance on commission information or certain systems.

A seller or certified service provider [~~that collects a tax imposed by a county under this part~~] is not liable for failing to collect and remit a tax at a tax rate imposed under this part if:

- (1) the tax rate at which the seller or certified service provider collected the tax was derived from a database created by the commission containing:
 - ~~[(+)]~~ (a) tax rates; or
 - ~~[(2)]~~ (b) local taxing jurisdiction boundaries[-];
- (2) the failure to collect and remit the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in the taxability matrix required by Section 328 of the agreement;
- (3) for a model 2 seller, the failure to collect and remit the tax:
 - (a) is due to an error in the certified automated system used by the model 2 seller; and

(b) occurs prior to an audit of the certified automated system that reveals the error in the certified automated system; or

(4) for a model 3 seller, the failure to collect and remit the tax:

(a) is due to an error in the proprietary system used by the model 3 seller; and

(b) occurs prior to an audit of the proprietary system that reveals the error in the proprietary system.

Section 57. Section **59-12-1201** is amended to read:

59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration, collection, and enforcement of tax -- Deposits -- Effective dates.

(1) (a) Except as provided [~~under~~] in Subsection [~~(2)~~] (3), there is imposed a tax of 2.5% on all short-term leases and rentals of motor vehicles not exceeding 30 days.

(b) The tax imposed in this section is in addition to all other state, county, or municipal fees and taxes imposed on rentals of motor vehicles.

(c) A tax under this part shall be imposed on the short-term leases and rentals described in Subsection (1)(a) relating to the Olympic Winter Games of 2002 made to or by an organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code, except for short-term leases and rentals described in Subsection (1)(a):

(i) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002;

(ii) exclusively used by:

(A) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; or

(B) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; and

(iii) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 does not receive reimbursement.

(2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

(b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall take effect on the first day of the first billing period:

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

(B) if the billing period for the transaction begins before the effective date of a tax rate increase imposed under Subsection (1).

(ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

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

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

~~[(2)]~~ (3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:
(a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;
(b) the motor vehicle is rented as a personal household goods moving van; or
(c) the lease or rental of the motor vehicle is made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an insurance agreement.

~~[(3)]~~ (4) (a) (i) [The commission shall administer, collect, and enforce the] Except as provided in Subsection (4)(a)(ii), the tax authorized under this section [pursuant to] shall be administered, collected, and enforced in accordance with:

(A) the same procedures used [in the administration, collection, and enforcement of] to administer, collect, and enforce the [sales and use] tax under [Title 59, Chapter 12,];

(I) Part 1, Tax Collection[-]; or

(II) Part 2, Local Sales and Use Tax Act; and [Title 59,]

(B) Chapter 1, General Taxation Policies.

(ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to:

(A) Subsections 59-12-103(4) through (7);

(B) Sections 59-12-107.1 through 59-12-107.3;

(C) Subsections 59-12-205(2) through (9); or

(D) Sections 59-12-207.1 through 59-12-207.4.

(b) The commission may retain a maximum of 1-1/2% of the tax collected under this section for the costs of rendering its services under this section.

(c) Except as provided under Subsection [~~(3)~~] (4)(b), all revenue received by the commission under this section shall be deposited daily with the state treasurer and credited monthly to the Transportation Corridor Preservation Revolving Loan Fund under Section 72-2-117.

~~[(4) The tax under this section is not subject to the distribution of tax revenues provided under Sections 59-12-205 and 59-12-103.]~~

Section 58. Section **59-12-1302 (Effective 07/01/04)** is amended to read:

59-12-1302 (Effective 07/01/04). Authority to impose -- Base -- Rate -- Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements.

(1) Except as provided in Subsection 59-12-207.1(7)(c), beginning on or after January 1, 1998, the governing body of a town may impose a tax as provided in this part in an amount that does not exceed 1%.

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

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

(a) except as provided in Subsection (4), impose the tax on the transactions described in Subsection 59-12-103(1) located within the town; and

(b) provide an effective date for the tax as provided in Subsection (5).

(4) (a) Notwithstanding Subsection (3)(a), a town may not impose a tax under this section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

(b) For purposes of this Subsection (4), the location of a transaction shall be determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

(5) (a) For purposes of this Subsection (5):

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

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

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

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

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the town.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

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

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the town enacts the tax or changes the rate of the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection (5)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

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

and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1).

(ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection (5)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

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

and

(B) if the billing period for the transaction begins before the effective date of the repeal of

the tax or the tax rate decrease imposed under Subsection (1).

(iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

- (A) Subsection 59-12-103(1)(b);
- (B) Subsection 59-12-103(1)(c);
- (C) Subsection 59-12-103(1)(d);
- (D) Subsection 59-12-103(1)(e);
- (E) Subsection 59-12-103(1)(f);
- (F) Subsection 59-12-103(1)(g);
- (G) Subsection 59-12-103(1)(h);
- (H) Subsection 59-12-103(1)(i);
- (I) Subsection 59-12-103(1)(j); or
- (J) Subsection 59-12-103(1)(k).

(d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (5)(b)(i) takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (5)(b)(i).

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

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

- (A) on the first day of a calendar quarter; and
- (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

- (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment,

repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) if the town enacts the tax or changes the rate of the tax described in Subsection (5)(e)(ii)(A), the rate of the tax.

(f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection (5)(f)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase;

and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1).

(ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection (5)(f)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease;

and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(b);

(B) Subsection 59-12-103(1)(c);

(C) Subsection 59-12-103(1)(d);

(D) Subsection 59-12-103(1)(e);

(E) Subsection 59-12-103(1)(f);

(F) Subsection 59-12-103(1)(g);

(G) Subsection 59-12-103(1)(h);

(H) Subsection 59-12-103(1)(i);

(I) Subsection 59-12-103(1)(j); or

(J) Subsection 59-12-103(1)(k).

(g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (5)(e)(i).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(6) The commission shall:

(a) except as provided in Subsection (6)(c), distribute the revenues generated by the tax under this section to the town imposing the tax;

(b) except as provided in Subsection (7), administer, collect, and enforce the tax authorized under this section [pursuant to] in accordance with:

(i) the same procedures used to administer, collect, and enforce the ~~[sales and use]~~ tax under:

(A) Part 1, Tax Collection; [and] or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies; and

(c) deduct from the distribution under Subsection (6)(a) an administrative charge for collecting the tax as provided in Section 59-12-206.

(7) Notwithstanding Subsection (6)(b), a tax under this section is not subject to Subsections 59-12-205(2) through (9).

Section 59. Section **59-12-1303 (Effective 07/01/04)** is amended to read:

59-12-1303 (Effective 07/01/04). Seller or certified service provider reliance on commission information or certain systems.

A seller or certified service provider ~~[that collects a tax imposed by a town under this part]~~

is not liable for failing to collect and remit a tax at a tax rate imposed under this part if:

(1) the tax rate at which the seller or certified service provider collected the tax was derived from a database created by the commission containing:

~~[(1)]~~ (a) tax rates; or

~~[(2)]~~ (b) local taxing jurisdiction boundaries[-];

(2) the failure to collect and remit the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in the taxability matrix required by Section 328 of the agreement;

(3) for a model 2 seller, the failure to collect and remit the tax:

(a) is due to an error in the certified automated system used by the model 2 seller; and

(b) occurs prior to an audit of the certified automated system that reveals the error in the certified automated system; or

(4) for a model 3 seller, the failure to collect and remit the tax:

(a) is due to an error in the proprietary system used by the model 3 seller; and

(b) occurs prior to an audit of the proprietary system that reveals the error in the proprietary system.

Section 60. Section **59-12-1402 (Effective 07/01/04)** is amended to read:

59-12-1402 (Effective 07/01/04). Opinion question election -- Imposition of tax -- Uses of tax monies -- Administration, collection, and enforcement of tax -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) (i) Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), and subject to Subsection (6), beginning on January 1, 2003, a city or town legislative body subject to this part may submit an opinion question to the residents of that city or town, by majority vote of all members of the legislative body, so that each resident of the city or town has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the city or town, to fund recreational and zoological facilities and botanical, cultural, and zoological organizations in that city or town.

(ii) Notwithstanding Subsection (1)(a)(i), a city or town legislative body may not impose a tax under this section:

(A) if the county in which the city or town is located imposes a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

(B) on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

(b) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

(c) The election shall follow the procedures outlined in Title 11, Chapter 14, Utah Municipal Bond Act, except as provided in Subsection (6).

(2) If the city or town legislative body determines that a majority of the city's or town's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax as prescribed in Subsection (1)(a), the city or town legislative body may impose the tax by a majority vote of all members of the legislative body.

(3) The monies generated from any tax imposed under Subsection (2) shall be used for financing:

(a) recreational and zoological facilities within the city or town; and

(b) ongoing operating expenses of botanical, cultural, and zoological organizations within the city or town.

(4) (a) A tax authorized under this part shall be:

(i) except as provided in Subsection (4)(b), ~~levied at the same time and collected in the same manner as provided in~~ administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) (A) levied for a period of five years; and

(B) may be reauthorized at the end of the five-year period in accordance with this section.

(b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to Subsections 59-12-205(2) through [~~5~~] (9).

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a city or town.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the city or town.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the city or town will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the ~~[imposition]~~ enactment of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under this section.

(ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under this section.

(iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

- (A) Subsection 59-12-103(1)(b);
- (B) Subsection 59-12-103(1)(c);
- (C) Subsection 59-12-103(1)(d);
- (D) Subsection 59-12-103(1)(e);
- (E) Subsection 59-12-103(1)(f);
- (F) Subsection 59-12-103(1)(g);
- (G) Subsection 59-12-103(1)(h);
- (H) Subsection 59-12-103(1)(i);
- (I) Subsection 59-12-103(1)(j); or
- (J) Subsection 59-12-103(1)(k).

(d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

- (A) on the first day of a calendar quarter; and
- (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

- (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (5)(e)(ii)(A).

(f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the ~~[imposition]~~ enactment of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under this section.

(ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under this section.

(iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(b);

(B) Subsection 59-12-103(1)(c);

(C) Subsection 59-12-103(1)(d);

(D) Subsection 59-12-103(1)(e);

(E) Subsection 59-12-103(1)(f);

(F) Subsection 59-12-103(1)(g);

(G) Subsection 59-12-103(1)(h);

(H) Subsection 59-12-103(1)(i);

(I) Subsection 59-12-103(1)(j); or

(J) Subsection 59-12-103(1)(k).

(g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(6) (a) Before a city or town legislative body submits an opinion question to the residents of the city or town under Subsection (1)(a)(i), the city or town legislative body shall:

(i) submit to the county legislative body in which the city or town is located a written notice of the intent to submit the opinion question to the residents of the city or town; and

(ii) receive from the county legislative body:

(A) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

(B) a written statement that in accordance with Subsection (6)(b) the results of a county opinion question submitted to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city or town legislative body to submit the opinion question to the residents of the city or town in accordance with this part.

(b) (i) Within 60 days after the day the county legislative body receives from a city or town legislative body described in Subsection (6)(a) the notice of the intent to submit an opinion question to the residents of the city or town, the county legislative body shall provide the city or town legislative body:

(A) the written resolution described in Subsection (6)(a)(ii)(A); or

(B) written notice that the county legislative body will submit an opinion question to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under that part.

(ii) If the county legislative body provides the city or town legislative body the written notice that the county legislative body will submit an opinion question as provided in Subsection

(6)(b)(i)(B), the county legislative body shall submit the opinion question by no later than, from the date the county legislative body sends the written notice, the later of:

- (A) a 12-month period;
- (B) the next regular primary election; or
- (C) the next regular general election.

(iii) Within 30 days of the date of the canvass of the election at which the opinion question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the city or town legislative body described in Subsection (6)(a) written results of the opinion question submitted by the county legislative body under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

(A) (I) the city or town legislative body may not impose a tax under this part because a majority of the county's registered voters voted in favor of the county imposing the tax and the county legislative body by a majority vote approved the imposition of the tax; or

(II) for at least 12 months from the date the written results are submitted to the city or town legislative body, the city or town legislative body may not submit to the county legislative body a written notice of the intent to submit an opinion question under this part because a majority of the county's registered voters voted against the county imposing the tax and the majority of the registered voters who are residents of the city or town described in Subsection (6)(a) voted against the imposition of the county tax; or

(B) the city or town legislative body may submit the opinion question to the residents of the city or town in accordance with this part because although a majority of the county's registered voters voted against the county imposing the tax, the majority of the registered voters who are residents of the city or town voted for the imposition of the county tax.

(c) Notwithstanding Subsection (6)(b), at any time a county legislative body may provide a city or town legislative body described in Subsection (6)(a) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, which permits the city or town legislative body to submit under

Subsection (1)(a)(i) an opinion question to the city's or town's residents.

Section 61. Section **59-12-1404 (Effective 07/01/04)** is amended to read:

59-12-1404 (Effective 07/01/04). Seller or certified service provider reliance on commission information or certain systems.

A seller or certified service provider [~~that collects a tax imposed by a city or town under this part~~] is not liable for failing to collect and remit a tax at a tax rate imposed under this part if:

(1) the tax rate at which the seller or certified service provider collected the tax was derived from a database created by the commission containing:

~~[(1)]~~ (a) tax rates; or

~~[(2)]~~ (b) local taxing jurisdiction boundaries[-];

(2) the failure to collect and remit the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in the taxability matrix required by Section 328 of the agreement;

(3) for a model 2 seller, the failure to collect and remit the tax:

(a) is due to an error in the certified automated system used by the model 2 seller; and

(b) occurs prior to an audit of the certified automated system that reveals the error in the certified automated system; or

(4) for a model 3 seller, the failure to collect and remit the tax:

(a) is due to an error in the proprietary system used by the model 3 seller; and

(b) occurs prior to an audit of the proprietary system that reveals the error in the proprietary system.

Section 62. Section **59-12-1503** is amended to read:

59-12-1503. Opinion question election -- Imposition of tax -- Use of tax revenues -- Administration, collection, and enforcement of tax by commission -- Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.

(1) (a) Beginning on or after April 1, 2004, and subject to the other provisions of this part, the county legislative body of a qualifying county may impose a sales and use tax of .25%:

(i) except as provided in [~~Subsection~~] Subsections (1)(b) and 59-12-207.1(7)(c), on the

transactions:

- (A) described in Subsection 59-12-103(1); and
- (B) within the county, including the cities and towns within the county;
- (ii) for the purposes determined by the county legislative body in accordance with Subsection (2); and
- (iii) in addition to any other sales and use tax authorized under this chapter.

(b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a tax under this section on~~[(i)]~~ the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104~~[-and]~~.

~~[(ii) any amount paid or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b).]~~

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

(2) (a) Subject to Subsection (2)(b), before obtaining the approval required by Subsection (3), a county legislative body shall adopt a resolution specifying the percentage of revenues the county will receive from the tax under this part that will be allocated to fund one or more of the following:

- (i) a project or service relating to a fixed guideway system:
 - (A) for the portion of the project or service that is performed within the county; and
 - (B) if the fixed guideway system is owned and operated by a public transit district organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;
- (ii) a project or service relating to a system for public transit:
 - (A) for the portion of the project or service that is performed within the county; and
 - (B) if the system for public transit is owned and operated by a public transit district organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; or
- (iii) the following relating to a state highway within the county:
 - (A) a project beginning on or after the day on which a county legislative body imposes a tax under this part only within the county involving:

- (I) new construction;
- (II) a renovation;
- (III) an improvement; or
- (IV) an environmental study;
- (B) debt service on a project described in Subsections (2)(a)(iii)(A)(I) through (IV); or
- (C) bond issuance costs relating to a project described in Subsections (2)(a)(iii)(A)(I)

through (IV).

(b) (i) A county legislative body shall in the resolution required by Subsection (2)(a) allocate as required by Subsection (2)(a) 100% of the revenues the county will receive from the tax under this part.

(ii) For purposes of Subsection (2)(b), the revenues a county will receive from the tax under this part do not include amounts retained by the commission in accordance with Subsection (8).

(3) (a) Before imposing a tax under this part, a county legislative body shall:

- (i) obtain approval from a majority of the members of the county legislative body to:
 - (A) impose the tax; and

(B) allocate the revenues the county will receive from the tax in accordance with the resolution adopted in accordance with Subsection (2); and

(ii) subject to Subsection (3)(b), submit an opinion question to the county's registered voters voting on the imposition of the tax so that each registered voter has the opportunity to express the registered voter's opinion on whether a tax should be imposed under this part.

(b) The opinion question required by Subsection (3)(a)(ii) shall state the allocations specified in the resolution:

- (i) adopted in accordance with Subsection (2); and
- (ii) approved by the county legislative body in accordance with Subsection (3)(a).

(c) The election required by this Subsection (3) shall be held:

- (i) (A) at a regular general election; and
- (B) in accordance with the procedures and requirements of Title 20A, Election Code,

governing regular general elections; or

(ii) (A) at a special election called by the county legislative body;

(B) only on the date of a municipal general election provided in Subsection 20A-1-202(1); and

(C) in accordance with the procedures and requirements of Section [~~20A-a-203~~]
20A-1-203.

(4) (a) Subject to Subsection (8), if a county legislative body determines that a majority of the county's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax in accordance with Subsection (3), the county legislative body may impose the tax by a majority vote of all of the members of the county legislative body.

(b) If a county legislative body imposes a tax under Subsection (4)(a), the revenues generated by the tax shall be:

(i) allocated in accordance with the allocations specified in the resolution under Subsection (2); and

(ii) expended as provided in this part.

(5) If a county legislative body allocates revenues generated by the tax for a project described in Subsection (2)(a)(iii)(A), before beginning the project the county legislative body shall:

(a) obtain approval from the Transportation Commission to complete the project; and

(b) enter into an interlocal agreement:

(i) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;

(ii) with the Department of Transportation; and

(iii) to complete the project.

(6) (a) If after a county legislative body imposes a tax under Subsection (4) the county legislative body seeks to change the allocation of the tax specified in the resolution under Subsection (2), the county legislative body may change the allocation of the tax by:

(i) adopting a resolution in accordance with Subsection (2) specifying the percentage of revenues the county will receive from the tax under this part that will be allocated to fund one or

more of the systems or projects described in Subsection (2);

(ii) obtaining approval to change the allocation of the tax from a majority of the members of the county legislative body; and

(iii) (A) submitting an opinion question to the county's registered voters voting on changing the allocation of the tax so that each registered voter has the opportunity to express the registered voter's opinion on whether the allocation of the tax should be changed; and

(B) obtaining approval to change the allocation of the tax from a majority of the county's registered voters voting on changing the allocation of the tax.

(b) (i) The opinion question required by Subsection (6)(a)(iii) shall state the allocations specified in the resolution:

(A) adopted in accordance with Subsection (6)(a)(i); and

(B) approved by the county legislative body in accordance with Subsection (6)(a)(ii).

(ii) The election required by Subsection (6)(a)(iii) shall follow the procedures and requirements of Title 11, Chapter 14, Utah Municipal Bond Act.

(7) (a) (i) Except as provided in Subsection (7)(a)(ii), revenues generated by a tax under this part that are allocated for a purpose described in Subsection (2)(a)(i) or (ii) shall be transmitted:

(A) by the commission;

(B) to the county;

(C) monthly; and

(D) by electronic funds transfer.

(ii) Notwithstanding Subsection (7)(a)(i), a county may request that the commission transfer the revenues described in Subsection (7)(a)(i):

(A) directly to a public transit district:

(I) organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; and

(II) designated by the county; and

(B) by providing written notice to the commission:

(I) requesting the revenues to be transferred directly to a public transit district as provided

in Subsection (7)(a)(ii)(A); and

(II) designating the public transit district to which the revenues are requested to be transferred.

(b) Revenues generated by a tax under this part that are allocated for a purpose described in Subsection (2)(a)(iii) shall be:

(i) deposited into the State Highway Projects Within Counties Fund created by Section 72-2-121.1; and

(ii) expended as provided in Section 72-2-121.1.

(8) (a) (i) ~~[The commission shall administer, collect, and enforce]~~ Except as provided in Subsection (8)(a)(ii), the tax authorized under this part shall be administered, collected, and enforced in accordance with [the procedures outlined in]:

(A) the same procedures used to administer, collect, and enforce the tax under:

~~[(i)] (I) Part 1, Tax Collection~~~~[, for the administration, collection, and enforcement of the state sales and use tax]; [and] or~~

(II) Part 2, Local Sales and Use Tax Act; and

~~[(ii)] (B) Chapter 1, General Taxation Policies.~~

(ii) Notwithstanding Subsection (8)(a)(i), a tax under this part is not subject to Subsections 59-12-205(2) through (9).

(b) (i) The commission may retain an amount of tax collected under this part of not to exceed the lesser of:

(A) 1.5%; or

(B) an amount equal to the cost to the commission of administering this part.

(ii) Any amount the commission retains under Subsection (8)(b)(i) shall be:

(A) placed in the Sales and Use Tax Administrative Fees Account; and

(B) used as provided in Subsection 59-12-206(2).

(9) (a) (i) ~~[If;]~~ Except as provided in Subsection (9)(b) or (c), if, on or after [April] July 1, 2004, a county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a [~~75-day~~] 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(a)(ii) from the county.

(ii) The notice described in Subsection (9)(a)(i)(B) shall state:

(A) that the county will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (9)(a)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(a)(ii)(A); and

(D) if the county enacts the tax described in Subsection (9)(a)(ii)(A), the rate of the tax.

(b) (i) Notwithstanding Subsection (9)(a)(i), for a transaction described in Subsection (9)(b)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under Subsection (1).

(ii) Notwithstanding Subsection (9)(a)(i), for a transaction described in Subsection (9)(b)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under Subsection (1).

(iii) Subsections (9)(b)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(b);

(B) Subsection 59-12-103(1)(c);

(C) Subsection 59-12-103(1)(d);

(D) Subsection 59-12-103(1)(e);

(E) Subsection 59-12-103(1)(f);

(F) Subsection 59-12-103(1)(g);

(G) Subsection 59-12-103(1)(h);

(H) Subsection 59-12-103(1)(i);

(I) Subsection 59-12-103(1)(j); or

(J) Subsection 59-12-103(1)(k).

(c) (i) Notwithstanding Subsection (9)(a)(i), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (9)(a)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (9)(a)(i).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

~~[(b)]~~ (d) (i) [Hf] Except as provided in Subsection (9)(e) or (f), if, for an annexation that occurs on or after [April] July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a [75-day] 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)~~[(b)]~~(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (9)~~[(b)]~~(d)(i)(B) shall state:

(A) that the annexation described in Subsection (9)~~[(b)]~~(d)(i)(B) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (9)~~[(b)]~~(d)(ii)(A);

(C) the effective date of the tax described in Subsection (9)~~[(b)]~~(d)(ii)(A); and

(D) the rate of the tax described in Subsection (9)~~[(b)]~~(d)(ii)(A).

(e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection (9)(e)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under Subsection (1).

(ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection (9)(e)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax; and
(B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under Subsection (1).

(iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(b);

(B) Subsection 59-12-103(1)(c);

(C) Subsection 59-12-103(1)(d);

(D) Subsection 59-12-103(1)(e);

(E) Subsection 59-12-103(1)(f);

(F) Subsection 59-12-103(1)(g);

(G) Subsection 59-12-103(1)(h);

(H) Subsection 59-12-103(1)(i);

(I) Subsection 59-12-103(1)(j); or

(J) Subsection 59-12-103(1)(k).

(f) (i) Notwithstanding Subsection (9)(d)(i), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (9)(d)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (9)(d)(i).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 63. Section **59-12-1504** is enacted to read:

59-12-1504. Seller or certified service provider reliance on commission information or certain systems.

A seller or certified service provider is not liable for failing to collect and remit a tax at a tax rate imposed under this part if:

(1) the tax rate at which the seller or certified service provider collected the tax was

derived from a database created by the commission containing:

(a) tax rates; or

(b) local taxing jurisdiction boundaries;

(2) the failure to collect and remit the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in the taxability matrix required by Section 328 of the agreement;

(3) for a model 2 seller, the failure to collect and remit the tax:

(a) is due to an error in the certified automated system used by the model 2 seller; and

(b) occurs prior to an audit of the certified automated system that reveals the error in the certified automated system; or

(4) for a model 3 seller, the failure to collect and remit the tax:

(a) is due to an error in the proprietary system used by the model 3 seller; and

(b) occurs prior to an audit of the proprietary system that reveals the error in the proprietary system.

Section 64. Section **69-2-5** is amended to read:

69-2-5. Funding for 911 emergency telephone service.

(1) In providing funding of 911 emergency telephone service, any public agency establishing a 911 emergency telephone service may:

(a) seek assistance from the federal or state government, to the extent constitutionally permissible, in the form of loans, advances, grants, subsidies, and otherwise, directly or indirectly;

(b) seek funds appropriated by local governmental taxing authorities for the funding of public safety agencies; and

(c) seek gifts, donations, or grants from individuals, corporations, or other private entities.

(2) For purposes of providing funding of 911 emergency telephone service, special service districts may raise funds as provided in Section 17A-2-1322 and may borrow money and incur indebtedness as provided in Section 17A-2-1316.

(3) (a) Except as provided in Subsection (3)(b) and subject to the other provisions of this

Subsection (3) a county, city, or town within which 911 emergency telephone service is provided may levy monthly an emergency services telephone charge on:

(i) each local exchange service switched access line within the boundaries of the county, city, or town; and

(ii) each revenue producing radio communications access line with a billing address within the boundaries of the county, city, or town.

(b) Notwithstanding Subsection (3)(a), an access line provided for public coin telephone service is exempt from emergency telephone charges.

(c) The amount of the charge levied under this section may not exceed:

(i) 53 cents per month for each local exchange service switched access line; and

(ii) 53 cents per month for each radio communications access line.

(d) (i) For purposes of this Subsection (3)(d) the following terms shall be defined as provided in Section 59-12-102:

(A) "mobile telecommunications service";

(B) "primary place of use";

(C) "service address"; and

(D) "telephone service."

(ii) An access line described in Subsection (3)(a) is considered to be within the boundaries of a county, city, or town if the telephone services provided over the access line are located within the county, city, or town:

(A) for purposes of sales and use taxes under Title 59, Chapter 12, Sales and Use Tax Act; and

(B) determined in accordance with Section [~~59-12-207~~] 59-12-207.4.

(iii) The rate imposed on an access line under this section shall be determined in accordance with Subsection (3)(d)(iv) if the location of an access line described in Subsection (3)(a) is determined under Subsection (3)(d)(ii) to be a county, city, or town other than county, city, or town in which is located:

(A) for telephone service other than mobile telecommunications service, the purchaser's

service address; or

(B) for mobile telecommunications service, the purchaser's primary place of use.

(iv) The rate imposed on an access line under this section shall be the lower of:

(A) the rate imposed by the county, city, or town in which the access line is located under Subsection (3)(d)(ii); or

(B) the rate imposed by the county, city, or town in which it is located:

(I) for telephone service other than mobile telecommunications service, the purchaser's service address; or

(II) for mobile telecommunications service, the purchaser's primary place of use.

(e) (i) A county, city, or town shall notify the Public Service Commission of the intent to levy the charge under this Subsection (3) at least 30 days prior to the effective date of the charge being levied.

(ii) For purposes of this Subsection (3)(e):

(A) "Annexation" means an annexation to:

(I) a city or town under Title 10, Chapter 2, Part 4, Annexation; or

(II) a county under Title 17, Chapter 2, Annexation to County.

(B) "Annexing area" means an area that is annexed into a county, city, or town.

(iii) (A) ~~[If,]~~ Except as provided in Subsection (3)(e)(iii)(C) or (D), if on or after July 1, 2003, a county, city, or town enacts or repeals a charge or changes the amount of the charge under this section, the enactment ~~[or]~~ repeal, or change shall take effect:

(I) on the first day of a calendar quarter; and

(II) after a ~~[75-day]~~ 90-day period beginning on the date the State Tax Commission receives notice meeting the requirements of Subsection (3)(e)(iii)(B) from the county, city, or town.

(B) The notice described in Subsection (3)(e)(iii)(A) shall state:

(I) that the county, city, or town will enact or repeal a charge or change the amount of the charge under this section;

(II) the statutory authority for the charge described in Subsection (3)(e)(iii)(B)(I); ~~[and]~~

(III) the effective date of the charge described in Subsection (3)(e)(iii)(B)(I)[-]; and
(IV) if the county, city, or town enacts the charge or changes the amount of the charge described in Subsection (3)(e)(iii)(B)(I), the amount of the charge.

(C) Notwithstanding Subsection (3)(e)(iii)(A), the enactment of a charge or a charge increase under this section shall take effect on the first day of the first billing period:

(I) that begins after the effective date of the enactment of the charge or the charge increase; and

(II) if the billing period for the charge begins before the effective date of the enactment of the charge or the charge increase imposed under this section.

(D) Notwithstanding Subsection (3)(e)(iii)(A), the repeal of a charge or a charge decrease under this section shall take effect on the first day of the last billing period:

(I) that began before the effective date of the repeal of the charge or the charge decrease; and

(II) if the billing period for the charge begins before the effective date of the repeal of the charge or the charge decrease imposed under this section.

(iv) (A) [~~if,~~] Except as provided in Subsection (3)(e)(iv)(C) or (D), if for an annexation that occurs on or after July 1, 2003, the annexation will result in the enactment, repeal, or a change in the amount of a charge imposed under this section [~~being imposed in~~] for an annexing area, the enactment, repeal, or change shall take effect:

(I) on the first day of a calendar quarter; and

(II) after a [~~75-day~~] 90-day period beginning on the date the State Tax Commission receives notice meeting the requirements of Subsection (3)(e)(iv)(B) from the county, city, or town that annexes the annexing area.

(B) The notice described in Subsection (3)(e)(iv)(A) shall state:

(I) that the annexation described in Subsection (3)(e)(iv)(A) will result in an enactment, repeal, or a change in the charge being imposed under this section for the annexing area;

(II) the statutory authority for the charge described in Subsection (3)(e)(iv)(B)(I); [~~and~~]

(III) the effective date of the charge described in Subsection (3)(e)(iv)(B)(I)[-]; and

(IV) if the county, city, or town enacts the charge or changes the amount of the charge described in Subsection (3)(e)(iv)(B)(I), the amount of the charge.

(C) Notwithstanding Subsection (3)(e)(iv)(A), the enactment of a charge or a charge increase under this section shall take effect on the first day of the first billing period:

(I) that begins after the effective date of the enactment of the charge or the charge increase; and

(II) if the billing period for the charge begins before the effective date of the enactment of the charge or the charge increase imposed under this section.

(D) Notwithstanding Subsection (3)(e)(iv)(A), the repeal of a charge or a charge decrease under this section shall take effect on the first day of the last billing period:

(I) that began before the effective date of the repeal of the charge or the charge decrease; and

(II) if the billing period for the charge begins before the effective date of the repeal of the charge or the charge decrease imposed under this section.

(f) Subject to Subsection (3)(g), an emergency services telephone charge levied under this section shall:

(i) be billed and collected by the person that provides the:

(A) local exchange service switched access line services; or

(B) radio communications access line services; and

(ii) remitted to the State Tax Commission.

(g) An emergency services telephone charge on a mobile telecommunications service may be levied, billed, and collected only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

(h) The State Tax Commission shall:

(i) collect, enforce, and administer the charge imposed under this Subsection (3) pursuant to the same procedures used in the administration, collection, and enforcement of the state sales and use taxes under:

(A) Title 59, Chapter 1, General Taxation Policies; and

(B) Title 59, Chapter 12, Part 1, Tax Collection, except for ~~[Sections]~~:

(I) Section 59-12-104~~[-];~~

(II) Section 59-12-104.1~~[-and];~~

(III) Section 59-12-104.2; and

(IV) Sections 59-12-107.1 through 59-12-107.3;

(ii) transmit monies collected under this Subsection (3):

(A) monthly; and

(B) by electronic funds transfer by the commission to the county, city, or town that imposes the charge; and

(iii) charge the county, city, or town for the State Tax Commission's services under this Subsection (3) in an amount:

(A) sufficient to reimburse the State Tax Commission for the cost to the State Tax Commission in rendering the services; and

(B) that may not exceed an amount equal to 1.5% of the charges imposed under this Subsection (3).

(4) (a) Any money received by a public agency for the provision of 911 emergency telephone service shall be deposited in a special emergency telephone service fund.

(b) (i) The money in the emergency telephone service fund described in Subsection (4)(a) shall be expended by the public agency to pay the costs of establishing, installing, maintaining, and operating a 911 emergency telephone system or integrating a 911 system into an established public safety dispatch center, including contracting with the providers of local exchange service, radio communications service, and vendors of appropriate terminal equipment as necessary to implement the 911 emergency telephone service.

(ii) Revenues derived for the funding of 911 emergency telephone service may only be used for that portion of costs related to the operation of the 911 emergency telephone system when such a system is integrated with any public safety dispatch system.

Section 65. Repealer.

This bill repeals:

H.B. 273

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Section **59-12-351, Definitions.**

Section 66. **Effective date.**

This bill takes effect on July 1, 2004.