

TAX AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends the Sales and Use Tax Act and related provisions.

Highlighted Provisions:

This bill:

- ▶ addresses definitions;
- ▶ addresses the administration, collection, and enforcement of taxes, fees, or charges administered by the State Tax Commission;
- ▶ addresses the State Tax Commission authority to provide information contained in a return, report, related schedule, or other document to the governing board of the Streamlined Sales and Use Tax Agreement or certain other taxing officials;
- ▶ authorizes the state to become a party to the Streamlined Sales and Use Tax Agreement and addresses the authority of the State Tax Commission relating to the state becoming a party to the Streamlined Sales and Use Tax Agreement;
- ▶ addresses the appointment of delegates to the governing board of the Streamlined Sales and Use Tax Agreement;
- ▶ addresses transactions that are subject to state and local sales and use taxation;
- ▶ addresses tax rates that apply to specified transactions;
- ▶ addresses the enactment, repeal, or change in the rate of state and local sales and use taxes;
- ▶ repeals the distribution of certain local taxes collected by a remote seller to counties, cities, and towns;
- ▶ repeals the requirement to deposit certain state sales and use tax revenues into the

Remote Sales Restricted Account;

- ▶ addresses state and local sales and use tax exemptions;
- ▶ addresses the Utah Tax Review Commission's requirement to study the state's sales and use tax system;

- ▶ addresses provisions relating to an exemption certificate;
- ▶ addresses the collection and remittance of sales and use taxes by a seller that is registered under the Streamlined Sales and Use Tax Agreement;

- ▶ addresses provisions relating to a direct payment permit;
- ▶ addresses the collection, remittance, and payment of taxes on direct mail;
- ▶ addresses certified service provider liability relating to state and local sales and use taxes;

- ▶ addresses seller or certified service provider reliance on State Tax Commission information or certain systems with respect to state and local sales and use taxes;

- ▶ addresses certified service provider or model 2 seller reliance on State Tax Commission certified software with respect to state and local sales and use taxes;

- ▶ addresses a purchaser's relief from liability for a tax, penalty, or interest;

- ▶ addresses return filing requirements;

- ▶ addresses seller discounts;

- ▶ addresses overpayments of sales and use taxes;

- ▶ addresses amnesty for a seller;

- ▶ addresses a monetary allowance under the Streamlined Sales and Use Tax Agreement;

- ▶ addresses the sourcing of sales and use transactions;

- ▶ addresses provisions relating to funding for 911 emergency telecommunications service;

- ▶ addresses provisions relating to the emergency services telecommunications charge to fund the Poison Control Center;

- ▶ addresses provisions relating to the emergency services telecommunications charge

to fund the statewide unified E-911 service;

- grants rulemaking authority to the State Tax Commission; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on January 1, 2009.

Utah Code Sections Affected:**AMENDS:**

10-1-307, as last amended by Laws of Utah 2006, Chapters 253 and 352

10-1-402, as enacted by Laws of Utah 2003, Chapter 253

10-1-405, as last amended by Laws of Utah 2007, Chapters 9 and 250

10-1-407, as last amended by Laws of Utah 2004, Chapter 255

11-41-102, as last amended by Laws of Utah 2007, Chapter 9

53-10-605, as last amended by Laws of Utah 2007, Chapters 241 and 329

59-1-403, as last amended by Laws of Utah 2007, Chapter 250

59-12-102, as last amended by Laws of Utah 2007, Chapters 9, 214, 224, and 288

59-12-103, as last amended by Laws of Utah 2007, Chapters 9, 101, 126, 206, and 288

59-12-104, as last amended by Laws of Utah 2007, Chapters 76, 195, 214, 224, 288,
295, and 329

59-12-104.5, as last amended by Laws of Utah 2006, Chapters 182 and 346

59-12-105, as last amended by Laws of Utah 2006, Chapters 181, 182, and 253

59-12-106, as last amended by Laws of Utah 2006, Chapter 322

59-12-107, as last amended by Laws of Utah 2006, Chapter 253

59-12-107.1, as last amended by Laws of Utah 2006, Chapter 253

59-12-108, as last amended by Laws of Utah 2007, Chapter 9

59-12-110, as last amended by Laws of Utah 2006, Chapter 253

59-12-110.1, as last amended by Laws of Utah 2006, Chapter 253

86 **59-12-205**, as last amended by Laws of Utah 2007, Chapter 228
87 **59-12-208.1**, as last amended by Laws of Utah 2004, Chapter 255
88 **59-12-210**, as last amended by Laws of Utah 2006, Chapter 253
89 **59-12-302**, as last amended by Laws of Utah 2006, Chapter 253
90 **59-12-354**, as last amended by Laws of Utah 2006, Chapter 253
91 **59-12-401**, as last amended by Laws of Utah 2007, Chapter 288
92 **59-12-402**, as last amended by Laws of Utah 2007, Chapter 288
93 **59-12-403**, as last amended by Laws of Utah 2007, Chapter 288
94 **59-12-501**, as last amended by Laws of Utah 2007, Chapters 202, 288, and 329
95 **59-12-502**, as last amended by Laws of Utah 2007, Chapters 201, 202, 288, and 329
96 **59-12-504**, as last amended by Laws of Utah 2007, Chapter 288
97 **59-12-603**, as last amended by Laws of Utah 2007, Chapters 3, 9, and 219
98 **59-12-703**, as last amended by Laws of Utah 2007, Chapter 288
99 **59-12-802**, as last amended by Laws of Utah 2007, Chapter 288
100 **59-12-804**, as last amended by Laws of Utah 2007, Chapter 288
101 **59-12-806**, as last amended by Laws of Utah 2004, Chapter 255
102 **59-12-1001**, as last amended by Laws of Utah 2007, Chapters 288 and 329
103 **59-12-1002**, as last amended by Laws of Utah 2006, Chapter 253
104 **59-12-1102**, as last amended by Laws of Utah 2006, Chapter 253
105 **59-12-1201**, as last amended by Laws of Utah 2006, Chapters 135 and 253
106 **59-12-1302**, as last amended by Laws of Utah 2007, Chapter 288
107 **59-12-1402**, as last amended by Laws of Utah 2007, Chapter 288
108 **59-12-1503**, as last amended by Laws of Utah 2007, Chapters 10, 202, 288, and 329
109 **59-12-1703**, as last amended by Laws of Utah 2007, Chapters 201, 288, and 329
110 **59-12-1802**, as enacted by Laws of Utah 2007, Chapter 288
111 **59-12-1803**, as enacted by Laws of Utah 2007, Chapter 288
112 **63-55-269**, as enacted by Laws of Utah 2004, Chapter 313
113 **69-2-5**, as last amended by Laws of Utah 2007, Chapter 241

114 **69-2-5.5**, as last amended by Laws of Utah 2003, Chapter 253

115 **69-2-5.6**, as last amended by Laws of Utah 2007, Chapter 241

116 **72-2-125**, as enacted by Laws of Utah 2007, Chapter 206

117 ENACTS:

118 **59-12-102.3**, Utah Code Annotated 1953

119 **59-12-123**, Utah Code Annotated 1953

120 **59-12-124**, Utah Code Annotated 1953

121 **59-12-125**, Utah Code Annotated 1953

122 **59-12-126**, Utah Code Annotated 1953

123 **59-12-127**, Utah Code Annotated 1953

124 **59-12-128**, Utah Code Annotated 1953

125 **59-12-129**, Utah Code Annotated 1953

126 **59-12-211**, Utah Code Annotated 1953

127 **59-12-212**, Utah Code Annotated 1953

128 **59-12-213**, Utah Code Annotated 1953

129 **59-12-214**, Utah Code Annotated 1953

130 **59-12-216**, Utah Code Annotated 1953

131 **59-12-217**, Utah Code Annotated 1953

132 **59-12-218**, Utah Code Annotated 1953

133 **59-12-304**, Utah Code Annotated 1953

134 **59-12-305**, Utah Code Annotated 1953

135 **59-12-306**, Utah Code Annotated 1953

136 **59-12-357**, Utah Code Annotated 1953

137 **59-12-358**, Utah Code Annotated 1953

138 **59-12-359**, Utah Code Annotated 1953

139 **59-12-406**, Utah Code Annotated 1953

140 **59-12-407**, Utah Code Annotated 1953

141 **59-12-408**, Utah Code Annotated 1953

142 **59-12-506**, Utah Code Annotated 1953
143 **59-12-507**, Utah Code Annotated 1953
144 **59-12-508**, Utah Code Annotated 1953
145 **59-12-605**, Utah Code Annotated 1953
146 **59-12-606**, Utah Code Annotated 1953
147 **59-12-607**, Utah Code Annotated 1953
148 **59-12-707**, Utah Code Annotated 1953
149 **59-12-708**, Utah Code Annotated 1953
150 **59-12-709**, Utah Code Annotated 1953
151 **59-12-808**, Utah Code Annotated 1953
152 **59-12-809**, Utah Code Annotated 1953
153 **59-12-810**, Utah Code Annotated 1953
154 **59-12-1004**, Utah Code Annotated 1953
155 **59-12-1005**, Utah Code Annotated 1953
156 **59-12-1006**, Utah Code Annotated 1953
157 **59-12-1104**, Utah Code Annotated 1953
158 **59-12-1105**, Utah Code Annotated 1953
159 **59-12-1106**, Utah Code Annotated 1953
160 **59-12-1202**, Utah Code Annotated 1953
161 **59-12-1203**, Utah Code Annotated 1953
162 **59-12-1204**, Utah Code Annotated 1953
163 **59-12-1304**, Utah Code Annotated 1953
164 **59-12-1305**, Utah Code Annotated 1953
165 **59-12-1306**, Utah Code Annotated 1953
166 **59-12-1405**, Utah Code Annotated 1953
167 **59-12-1406**, Utah Code Annotated 1953
168 **59-12-1407**, Utah Code Annotated 1953
169 **59-12-1505**, Utah Code Annotated 1953

170 **59-12-1506**, Utah Code Annotated 1953
171 **59-12-1507**, Utah Code Annotated 1953
172 **59-12-1706**, Utah Code Annotated 1953
173 **59-12-1707**, Utah Code Annotated 1953
174 **59-12-1708**, Utah Code Annotated 1953
175 **59-12-1804**, Utah Code Annotated 1953
176 **59-12-1805**, Utah Code Annotated 1953
177 **59-12-1806**, Utah Code Annotated 1953

178 RENUMBERS AND AMENDS:

179 **59-12-215**, (Renumbered from 59-12-207.4, as last amended by Laws of Utah 2006,
180 Chapter 253)

181 REPEALS:

182 **59-12-102.2**, as enacted by Laws of Utah 2006, Chapter 253
183 **59-12-207**, as last amended by Laws of Utah 2006, Chapter 253

184

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

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

187 **10-1-307. Collection of taxes by commission -- Distribution of revenues -- Charge**
188 **for services -- Collection of taxes by municipality.**

189 (1) Except [~~for the direct payment provisions~~] as provided in Subsection (3), the
190 commission shall collect, enforce, and administer the municipal energy sales and use tax from
191 energy suppliers according to the procedures established in Title 59, Chapter 12, Part 1, Tax
192 Collection, except for [~~Section~~] Sections 59-12-107.1 and 59-12-123.

193 (2) (a) Except as provided in Subsections 10-1-203(3)(d), 10-1-305(5), and
194 10-1-310(2) and subject to Subsection (6), the commission shall pay a municipality the
195 difference between:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

commission.

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

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

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

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

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

(B) the 2005 base amount, plus:

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

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

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

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

(B) the 2006 base amount, plus:

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

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

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

254 (vi) "Fiscal year 2006" means the period beginning July 1, 2005 and ending June 30,
255 2006.

256 (vii) "Fiscal year 2007" means the period beginning July 1, 2006 and ending June 30,
257 2007.

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

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

261 (b) (i) In December 2006, each gas supplier shall reduce the natural gas portion of
262 municipal energy sales and use gas proceeds to be paid to a municipality by the 2006 rebate
263 amount.

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

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

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

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

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

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

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

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

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

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

Section 2. Section **10-1-402** is amended to read:

10-1-402. Definitions.

As used in this part:

(1) "Commission" means the State Tax Commission.

(2) (a) Subject to Subsections (2)(b) and (c), "customer" means the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract.

(b) For purposes of this section and Section 10-1-407, "customer" means:

(i) the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract; or

(ii) if the end user is not the person described in Subsection (2)(b)(i), the end user of

telecommunications service.

(c) "Customer" does not include a reseller:

(i) of telecommunications service; or

(ii) for mobile telecommunications service, of a serving carrier under an agreement to serve the customer outside the telecommunications provider's licensed service area.

(3) (a) "End user" means the person who uses a telecommunications service.

(b) For purposes of telecommunications service provided to a person who is not an individual, "end user" means the individual who uses the telecommunications service on behalf of the person who is provided the telecommunications service.

(4) (a) "Gross receipts from telecommunications service" means the revenue that a telecommunications provider receives for telecommunications service rendered except for amounts collected or paid as:

~~[(a)]~~ (i) a tax, fee, or charge:

~~[(i)]~~ (A) imposed by a governmental entity;

~~[(ii)]~~ (B) separately identified as a tax, fee, or charge in the transaction with the customer for the telecommunications service; and

~~[(iii)]~~ (C) imposed only on a telecommunications provider;

~~[(b)]~~ (ii) sales and use taxes collected by the telecommunications provider from a customer under Title 59, Chapter 12, Sales and Use Tax Act; or

~~[(c)]~~ (iii) interest, a fee, or a charge that is charged by a telecommunications provider on a customer for failure to pay for telecommunications service when payment is due.

(b) "Gross receipts from telecommunications service" includes a charge necessary to complete a sale of a telecommunications service.

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

(6) "Municipality" means a city or town.

(7) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service,

means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

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

(8) Notwithstanding where a call is billed or paid, "service address" means:

(a) if the location described in this Subsection (8)(a) is known, the location of the telecommunications equipment:

(i) to which a call is charged; and

(ii) from which the call originates or terminates;

(b) if the location described in Subsection (8)(a) is not known but the location described in this Subsection (8)(b) is known, the location of the origination point of the signal of the telecommunications service first identified by:

(i) the telecommunications system of the telecommunications provider; or

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

(c) if the locations described in Subsection (8)(a) or (b) are not known, the location of a customer's place of primary use.

(9) (a) Subject to Subsections (9)(b) and (9)(c), "telecommunications provider" means a person that:

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

(ii) engages in an activity described in Subsection (9)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (9)(a) is a telecommunications provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or

366 manages.

367 (c) "Telecommunications provider" does not include an aggregator as defined in
368 Section 54-8b-2.

369 (10) "Telecommunications service" means:

370 (a) [~~telephone~~] telecommunications service, as defined in Section 59-12-102, other than
371 mobile telecommunications service, that originates and terminates within the boundaries of this
372 state; [~~and~~]

373 (b) mobile telecommunications service, as defined in Section 59-12-102:

374 (i) that originates and terminates within the boundaries of one state; and

375 (ii) only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4
376 U.S.C. Sec. 116 et seq.; or

377 (c) an ancillary service as defined in Section 59-12-102.

378 (11) (a) Except as provided in Subsection (11)(b), "telecommunications tax or fee"
379 means any of the following imposed by a municipality on a telecommunications provider:

380 (i) a tax;

381 (ii) a license;

382 (iii) a fee;

383 (iv) a license fee;

384 (v) a license tax;

385 (vi) a franchise fee; or

386 (vii) a charge similar to a tax, license, or fee described in Subsections (11)(a)(i) through
387 (vi).

388 (b) "Telecommunications tax or fee" does not include:

389 (i) the municipal telecommunications license tax authorized by this part; or

390 (ii) a tax, fee, or charge, including a tax imposed under Title 59, Revenue and Taxation,
391 that is imposed:

392 (A) on telecommunications providers; and

393 (B) on persons who are not telecommunications providers.

Section 3. Section **10-1-405** is amended to read:

**10-1-405. Collection of taxes by commission -- Uniform interlocal agreement --
Rulemaking authority -- 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:

(I) Subsection 59-12-103(2)(~~h~~) (g);

(II) Section 59-12-104;

(III) Section 59-12-104.1;

(IV) Section 59-12-104.2; [~~and~~]

(V) Section 59-12-104.3;

(~~V~~) (VI) Section 59-12-107.1; and

(VII) Section 59-12-123; 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).

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

424 (i) transmit monies collected under this part:

425 (A) monthly; and

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

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

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

430 (A) sufficient to reimburse the commission for the cost to the commission in rendering
431 the services; and

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

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

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

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

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

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

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

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

448 (i) within the municipality;

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

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

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

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

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

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

Section 4. 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 ~~[59-12-207.4]~~ 59-12-215.

(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 5. Section **11-41-102** is amended to read:

11-41-102. Definitions.

As used in this chapter:

(1) "Agreement" means an oral or written agreement between a:

(a) (i) county; or

(ii) municipality; and

(b) person.

(2) "Municipality" means a:

(a) city; or

(b) town.

(3) "Payment" includes:

(a) a payment;

(b) a rebate;

(c) a refund; or

(d) an amount similar to Subsections (3)(a) through (c).

(4) "Regional retail business" means a:

(a) retail business that occupies a floor area of more than 80,000 square feet;

(b) dealer as defined in Section 41-1a-102;

(c) retail shopping facility that has at least two anchor tenants if the total number of anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square feet; or

- 506 (d) grocery store that occupies a floor area of more than 30,000 square feet.
- 507 (5) (a) "Sales and use tax" means a tax:
- 508 (i) imposed on transactions within a:
- 509 (A) county; or
- 510 (B) municipality; and
- 511 (ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12,
- 512 Sales and Use Tax Act.
- 513 (b) Notwithstanding Subsection (5)(a)(ii), "sales and use tax" does not include a tax
- 514 authorized under:
- 515 (i) Subsection 59-12-103(2)(a)(i);
- 516 (ii) Subsection 59-12-103(2)(b)(i);
- 517 (iii) Subsection 59-12-103(2)(c)(i);
- 518 (iv) Subsection 59-12-103(2)(d)(i)(A);
- 519 [~~(v) Subsection 59-12-103(2)(c)(ii)(A);~~]
- 520 [~~(vi) Subsection 59-12-103(2)(c)(iii)(A);~~]
- 521 [~~(vii)~~ (v) Section 59-12-301;
- 522 [~~(viii)~~ (vi) Section 59-12-352;
- 523 [~~(ix)~~ (vii) Section 59-12-353;
- 524 [~~(x)~~ (viii) Section 59-12-603; or
- 525 [~~(xi)~~ (ix) Section 59-12-1201.
- 526 (6) (a) "Sales and use tax incentive payment" means a payment of revenues:
- 527 (i) to a person;
- 528 (ii) by a:
- 529 (A) county; or
- 530 (B) municipality;
- 531 (iii) to induce the person to locate or relocate a regional retail business within the:
- 532 (A) county; or
- 533 (B) municipality; and

(iv) that are derived from a sales and use tax.

(b) "Sales and use tax incentive payment" does not include funding for public infrastructure.

Section 6. Section **53-10-605** is amended to read:

53-10-605. Use of money in fund -- Criteria -- Administration.

(1) Subject to an annual legislative appropriation from the fund to:

(a) the committee, the committee shall:

(i) authorize the use of the money in the fund, by grant to a local entity or state agency in accordance with this Subsection (1) and Subsection (2);

(ii) grant to state agencies and local entities an amount not to exceed the per month fee levied on ~~[telephone services]~~ telecommunications service under Section 69-2-5.6 for installation, implementation, and maintenance of unified, statewide 911 emergency services and technology; and

(iii) in addition to any money under Subsection (1)(a)(ii), grant to counties of the third through sixth class the amount dedicated for rural assistance, which is at least 3 cents per month levied on ~~[telephone services]~~ telecommunications service under Section 69-2-5.6 to:

(A) enhance the 911 emergency services with a focus on areas or counties that do not have E-911 services; and

(B) where needed, assist the counties, in cooperation with private industry, with the creation or integration of wireless systems and location technology in rural areas of the state;

(b) the committee, the committee shall:

(i) include reimbursement to a provider of radio communications service, as defined in Section 69-2-2, for costs as provided in Subsection (1)(b)(ii); and

(ii) an agreement to reimburse costs to a provider of radio communications services must be a written agreement among the committee, the local public safety answering point and the carrier; and

(c) the state's Automated Geographic Reference Center in the Division of Integrated Technology of the Department of Technology Services, an amount equal to 1 cent per month

levied on [~~telephone services~~] telecommunications service under Section 69-2-5.6 shall be used to enhance and upgrade statewide digital mapping standards.

(2) (a) Beginning July 1, 2007, the committee may not grant the money in the fund to a local entity unless the local entity is in compliance with Phase I, wireless E-911 service.

(b) Beginning July 1, 2009, the committee may not grant money in the fund to a local entity unless the local entity is in compliance with Phase II, wireless E-911 service.

(3) A local entity must deposit any money it receives from the committee into a special emergency [~~telephone~~] telecommunications service fund in accordance with Subsection 69-2-5(4).

(4) For purposes of this part, "local entity" means a county, city, town, local district, special service district, or interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act.

Section 7. Section **59-1-403** is amended to read:

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

(1) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

- (i) a tax commissioner;
- (ii) an agent, clerk, or other officer or employee of the commission; or
- (iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

- (i) in accordance with judicial order;
- (ii) on behalf of the commission in any action or proceeding under:
 - (A) this title; or
 - (B) other law under which persons are required to file returns with the commission;
- (iii) on behalf of the commission in any action or proceeding to which the commission is

590 a party; or

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

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

596 (2) This section does not prohibit:

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

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

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

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

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

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

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

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

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

612 (b) Notwithstanding Subsection (1) and for all taxes except individual income tax and
613 corporate franchise tax, the commission may by rule, made in accordance with Title 63, Chapter
614 46a, Utah Administrative Rulemaking Act, share information gathered from returns and other
615 written statements with the federal government, any other state, any of the political subdivisions
616 of another state, or any political subdivision of this state, except as limited by Sections
617 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government

grant substantially similar privileges to this state.

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

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

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

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

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

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

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

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

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

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

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

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

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

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

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

657 (j) Notwithstanding Subsection (1), the commission shall at the request of the
658 Legislature provide to the Legislature the total amount of sales or uses exempt under
659 Subsection 59-12-104(46) reported to the commission in accordance with Section 59-12-105.

660 (k) Notwithstanding Subsection (1), the commission shall make the directory required
661 by Section 59-14-603 available for public inspection.

662 (l) Notwithstanding Subsection (1), the commission may share information with federal,
663 state, or local agencies as provided in Subsection 59-14-606(3).

664 (m) (i) Notwithstanding Subsection (1), the commission shall provide the Office of
665 Recovery Services within the Department of Human Services any relevant information obtained
666 from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has
667 become obligated to the Office of Recovery Services.

668 (ii) The information described in Subsection (3)(m)(i) may be provided by the Office of
669 Recovery Services to any other state's child support collection agency involved in enforcing that
670 support obligation.

671 (n) (i) Notwithstanding Subsection (1), upon request from the state court administrator,
672 the commission shall provide to the state court administrator, the name, address, telephone
673 number, county of residence, and Social Security number on resident returns filed under

Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (3)(n)(i) only as a source list for the master jury list described in Section 78-46-10.

(o) Notwithstanding Subsection (1), the commission shall at the request of a committee, commission, or task force of the Legislature provide to the committee, commission, or task force of the Legislature any information relating to a tax imposed under Chapter 9, Taxation of Admitted Insurers, relating to the study required by Section 59-9-101.

(p) (i) As used in this Subsection (3)(p), "office" means the:

(A) Office of the Legislative Fiscal Analyst; or

(B) Office of Legislative Research and General Counsel.

(ii) Notwithstanding Subsection (1) and except as provided in Subsection (3)(p)(iii), the commission shall at the request of an office provide to the office all information:

(A) gained by the commission; and

(B) required to be attached to or included in returns filed with the commission.

(iii) (A) An office may not request and the commission may not provide to an office a person's:

(I) address;

(II) name;

(III) Social Security number; or

(IV) taxpayer identification number.

(B) The commission shall in all instances protect the privacy of a person as required by Subsection (3)(p)(iii)(A).

(iv) An office may provide information received from the commission in accordance with this Subsection (3)(p) only:

(A) as:

(I) a fiscal estimate;

(II) fiscal note information; or

(III) statistical information; and

(B) if the information is classified to prevent the identification of a particular return.

(v) (A) A person may not request information from an office under Title 63, Chapter 2, Government Records Access and Management Act, or this section, if that office received the information from the commission in accordance with this Subsection (3)(p).

(B) An office may not provide to a person that requests information in accordance with Subsection (3)(p)(v)(A) any information other than the information the office provides in accordance with Subsection (3)(p)(iv).

(q) Notwithstanding Subsection (1), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (3)(q)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

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

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

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

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

(c) Notwithstanding Subsection (5)(a) or (b), an office that requests information in accordance with Subsection (3)(p)(iii) or a person that requests information in accordance with Subsection (3)(p)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (5)(b); or

(B) disqualification from holding public office in accordance with Subsection (5)(b).

(6) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section 8. Section **59-12-102** is amended to read:

59-12-102. Definitions.

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(c)(iii)(A) as designated by the Federal Communications Commission.

758 (b) "900 service" does not include a charge for:
 759 (i) a collection service a seller of a telecommunications service provides to a subscriber;
 760 or
 761 (ii) the following a subscriber sells to the subscriber's customer:
 762 (A) a product; or
 763 (B) a service.
 764 ~~[(1)]~~ (3) (a) "Admission or user fees" includes season passes.
 765 (b) "Admission or user fees" does not include annual membership dues to private
 766 organizations.
 767 ~~[(2)]~~ (4) "Agreement" means the Streamlined Sales and Use Tax Agreement ~~[described~~
 768 ~~in Section 59-12-102.1]~~ adopted on November 12, 2002, including amendments made to the
 769 Streamlined Sales and Use Tax Agreement after November 12, 2002.
 770 ~~[(3)]~~ (5) "Agreement combined tax rate" means the sum of the tax rates:
 771 (a) listed under Subsection ~~[(4)]~~ (6); and
 772 (b) that are imposed within a local taxing jurisdiction.
 773 ~~[(4)]~~ (6) "Agreement sales and use tax" means a tax imposed under:
 774 (a) Subsection 59-12-103(2)(a)(i)(A);
 775 (b) Subsection 59-12-103(2)(b)(i);
 776 (c) Subsection 59-12-103(2)(c)(i);
 777 ~~[(d) Subsection 59-12-103(2)(d)(i);]~~
 778 ~~[(e)]~~ (d) Subsection 59-12-103(2)~~[(e)(ii)]~~ (d)(i)(A)(I);
 779 ~~[(f) Subsection 59-12-103(2)(e)(iii)(A);]~~
 780 ~~[(g)]~~ (e) Section 59-12-204;
 781 ~~[(h)]~~ (f) Section 59-12-401;
 782 ~~[(i)]~~ (g) Section 59-12-402;
 783 ~~[(j)]~~ (h) Section 59-12-501;
 784 ~~[(k)]~~ (i) Section 59-12-502;
 785 ~~[(l)]~~ (j) Section 59-12-703;

786 ~~[(m)]~~ (k) Section 59-12-802;
787 ~~[(n)]~~ (l) Section 59-12-804;
788 ~~[(o)]~~ (m) Section 59-12-1001;
789 ~~[(p)]~~ (n) Section 59-12-1102;
790 ~~[(q)]~~ (o) Section 59-12-1302;
791 ~~[(r)]~~ (p) Section 59-12-1402;
792 ~~[(s)]~~ (q) Section 59-12-1503; ~~[or]~~
793 ~~[(t)]~~ (r) Section 59-12-1703~~[-];~~ or
794 (s) Section 59-12-1802.
795 ~~[(5)]~~ (7) "Aircraft" is as defined in Section 72-10-102.
796 ~~[(6)]~~ (8) "Alcoholic beverage" means a beverage that:
797 (a) is suitable for human consumption; and
798 (b) contains .5% or more alcohol by volume.
799 (9) (a) "Ancillary service" means a service associated with, or incidental to, the
800 provision of telecommunications service.
801 (b) "Ancillary service" includes:
802 (i) a conference bridging service;
803 (ii) a detailed communications billing service;
804 (iii) directory assistance;
805 (iv) a vertical service; or
806 (v) a voice mail service.
807 ~~[(7)]~~ (10) "Area agency on aging" is as defined in Section 62A-3-101.
808 ~~[(8)]~~ (11) "Assisted amusement device" means an amusement device, skill device, or
809 ride device that is started and stopped by an individual:
810 (a) who is not the purchaser or renter of the right to use or operate the amusement
811 device, skill device, or ride device; and
812 (b) at the direction of the seller of the right to use the amusement device, skill device, or
813 ride device.

814 ~~[(9)]~~ (12) "Assisted cleaning or washing of tangible personal property" means cleaning
815 or washing of tangible personal property if the cleaning or washing labor is primarily performed
816 by an individual:

817 (a) who is not the purchaser of the cleaning or washing of the tangible personal
818 property; and

819 (b) at the direction of the seller of the cleaning or washing of the tangible personal
820 property.

821 ~~[(10)]~~ (13) "Authorized carrier" means:

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

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

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

829 ~~[(11)]~~ (14) (a) Except as provided in Subsection ~~[(11)]~~ (14)(b), "biomass energy"
830 means any of the following that is used as the primary source of energy to produce fuel or
831 electricity:

832 (i) material from a plant or tree; or

833 (ii) other organic matter that is available on a renewable basis, including:

834 (A) slash and brush from forests and woodlands;

835 (B) animal waste;

836 (C) methane produced:

837 (I) at landfills; or

838 (II) as a byproduct of the treatment of wastewater residuals;

839 (D) aquatic plants; and

840 (E) agricultural products.

841 (b) "Biomass energy" does not include:

- 842 (i) black liquor;
- 843 (ii) treated woods; or
- 844 (iii) biomass from municipal solid waste other than methane produced:
- 845 (A) at landfills; or
- 846 (B) as a byproduct of the treatment of wastewater residuals.
- 847 ~~[(12)]~~ (15) (a) "Bundled transaction" means the sale of two or more ~~[items of tangible~~
848 ~~personal property if: (i) one or more of the items of tangible personal property is food and food~~
849 ~~ingredients; and (ii) the items of tangible personal property]~~ items of tangible personal property,
850 products, or services if the tangible personal property, products, or services are:
- 851 ~~[(A)]~~ (i) distinct and identifiable; and
- 852 ~~[(B)]~~ (ii) sold for one nonitemized price ~~[that is not itemized]~~.
- 853 (b) "Bundled transaction" does not include:
- 854 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on the
855 basis of the selection by the purchaser of the items of tangible personal property included in the
856 transaction[-];
- 857 (ii) the sale of real property;
- 858 (iii) the sale of services to real property;
- 859 (iv) the retail sale of tangible personal property and a service if:
- 860 (A) the tangible personal property:
- 861 (I) is essential to the use of the service; and
- 862 (II) is provided exclusively in connection with the service; and
- 863 (B) the service is the true object of the transaction;
- 864 (v) the retail sale of two services if:
- 865 (A) one service is provided that is essential to the use or receipt of a second service;
- 866 (B) the first service is provided exclusively in connection with the second service; and
- 867 (C) the second service is the true object of the transaction;
- 868 (vi) a transaction that includes tangible personal property or a product subject to
869 taxation under this chapter and tangible personal property or a product that is not subject to

870 taxation under this chapter if the:

871 (A) seller's purchase price of the tangible personal property or product subject to
872 taxation under this chapter is de minimis; or

873 (B) seller's sales price of the tangible personal property or product subject to taxation
874 under this chapter is de minimis; and

875 (vii) the retail sale of tangible personal property that is not subject to taxation under this
876 chapter and tangible personal property that is subject to taxation under this chapter if:

877 (A) that retail sale includes:

878 (I) food and food ingredients;

879 (II) a drug;

880 (III) durable medical equipment;

881 (IV) mobility enhancing equipment;

882 (V) an over-the-counter drug;

883 (VI) a prosthetic device; or

884 (VII) a medical supply; and

885 (B) subject to Subsection (15)(f):

886 (I) the seller's purchase price of the tangible personal property subject to taxation under
887 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

888 (II) the seller's sales price of the tangible personal property subject to taxation under
889 this chapter is 50% or less of the seller's total sales price of that retail sale.

890 (c) (i) For purposes of Subsection ~~[(12)]~~ (15)(a)~~[(ii)(A)]~~ (i), tangible personal property,
891 a product, or a service that is distinct and identifiable does not include:

892 ~~[(i)]~~ (A) packaging that:

893 ~~[(A)]~~ (I) accompanies the sale of the tangible personal property, product, or service;

894 and

895 ~~[(B)]~~ (II) is incidental or immaterial to the sale of the tangible personal property,
896 product, or service;

897 ~~[(ii)]~~ (B) tangible personal property, a product, or a service provided free of charge

with the purchase of another item of tangible personal property, a product, or a service; or

~~[(iii)]~~ (C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

~~[(d)]~~ (ii) For purposes of Subsection ~~[(12)]~~ (15)(c)~~[(iii)]~~(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (15)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by product on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (15)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (15)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (15)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (15)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (15)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

~~[(13)]~~ (16) "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 ~~[(13)]~~ (16)(a)(i).

~~[(14)]~~ (17) "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.

~~[(15)]~~ (18) (a) Subject to Subsection ~~[(15)]~~ (18)(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.

~~[(16)]~~ (19) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

~~[(17)]~~ (20) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection ~~[(42)]~~ (46) or residential use under Subsection ~~[(80)]~~ (91).

~~[(18)]~~ (21) (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 ~~[(18)]~~ (21)(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.

~~[(19)]~~ (22) "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.

982 ~~[(20)]~~ (23) "Computer" means an electronic device that accepts information:

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

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

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

986 ~~[(21)]~~ (24) "Computer software" means a set of coded instructions designed to cause:

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

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

989 (25) (a) "Conference bridging service" means an ancillary service that links two or more
990 participants of an audio conference call or video conference call.

991 (b) "Conference bridging service" includes providing a telephone number as part of the
992 ancillary service described in Subsection (25)(a).

993 (c) "Conference bridging service" does not include a telecommunications service used
994 to reach the ancillary service described in Subsection (25)(a).

995 ~~[(22)]~~ (26) "Construction materials" means any tangible personal property that will be
996 converted into real property.

997 ~~[(23)]~~ (27) "Delivered electronically" means delivered to a purchaser by means other
998 than tangible storage media.

999 ~~[(24)]~~ (28) (a) "Delivery charge" means a charge:

1000 (i) by a seller of:

1001 (A) tangible personal property; ~~[or]~~

1002 (B) a product transferred electronically; or

1003 ~~[(B)]~~ (C) services; and

1004 (ii) for preparation and delivery of the tangible personal property, product transferred
1005 electronically, or services described in Subsection ~~[(24)]~~ (28)(a)(i) to a location designated by
1006 the purchaser.

1007 (b) "Delivery charge" includes a charge for the following:

1008 (i) transportation;

1009 (ii) shipping;

- 1010 (iii) postage;
- 1011 (iv) handling;
- 1012 (v) crating; or
- 1013 (vi) packing.
- 1014 ~~[(25)(a) "Dental prosthesis" means the following if fabricated in a laboratory:]~~
- 1015 ~~[(i) a bridge;]~~
- 1016 ~~[(ii) a crown if that crown covers at least 75% of a tooth structure;]~~
- 1017 ~~[(iii) a denture;]~~
- 1018 ~~[(iv) an implant;]~~
- 1019 ~~[(v) an orthodontic device designed to:]~~
- 1020 ~~[(A) retain the position or spacing of teeth; and]~~
- 1021 ~~[(B) replace a missing tooth;]~~
- 1022 ~~[(vi) a partial denture; or]~~
- 1023 ~~[(vii) a device similar to Subsections (25)(a)(i) through (vi):]~~
- 1024 ~~[(b) "Dental prosthesis" does not include an appliance or device, other than a device~~
- 1025 ~~described in Subsection (25)(a), if that appliance or device is used in orthodontic therapy to~~
- 1026 ~~apply force to the teeth and their supporting structures to:]~~
- 1027 ~~[(i) produce changes in their relationship to each other; and]~~
- 1028 ~~[(ii) control their growth and development.]~~
- 1029 (29) "Detailed telecommunications billing service" means an ancillary service of
- 1030 separately stating information pertaining to individual calls on a customer's billing statement.
- 1031 ~~[(26)]~~ (30) "Dietary supplement" means a product, other than tobacco, that:
- 1032 (a) is intended to supplement the diet;
- 1033 (b) contains one or more of the following dietary ingredients:
- 1034 (i) a vitamin;
- 1035 (ii) a mineral;
- 1036 (iii) an herb or other botanical;
- 1037 (iv) an amino acid;

1038 (v) a dietary substance for use by humans to supplement the diet by increasing the total
1039 dietary intake; or

1040 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
1041 described in Subsections [~~(26)~~] (30)(b)(i) through (v);

1042 (c) (i) except as provided in Subsection [~~(26)~~] (30)(c)(ii), is intended for ingestion in:

1043 (A) tablet form;

1044 (B) capsule form;

1045 (C) powder form;

1046 (D) softgel form;

1047 (E) gelcap form; or

1048 (F) liquid form; or

1049 (ii) notwithstanding Subsection [~~(26)~~] (30)(c)(i), if the product is not intended for
1050 ingestion in a form described in Subsections [~~(26)~~] (30)(c)(i)(A) through (F), is not represented:

1051 (A) as conventional food; and

1052 (B) for use as a sole item of:

1053 (I) a meal; or

1054 (II) the diet; and

1055 (d) is required to be labeled as a dietary supplement:

1056 (i) identifiable by the "Supplemental Facts" box found on the label; and

1057 (ii) as required by 21 C.F.R. Sec. 101.36.

1058 [~~(27)~~] (31) (a) "Direct mail" means printed material delivered or distributed by United
1059 States mail or other delivery service:

1060 (i) to:

1061 (A) a mass audience; or

1062 (B) addressees on a mailing list provided by a purchaser of the mailing list; and

1063 (ii) if the cost of the printed material is not billed directly to the recipients.

1064 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
1065 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

1066 (c) "Direct mail" does not include multiple items of printed material delivered to a single
1067 address.

1068 (32) "Directory assistance" means an ancillary service of providing:

1069 (a) address information; or

1070 (b) telephone number information.

1071 [~~(28)~~] (33) (a) "Disposable home medical equipment or supplies" means medical
1072 equipment or supplies that:

1073 (i) cannot withstand repeated use; and

1074 (ii) are purchased by, for, or on behalf of a person other than:

1075 (A) a health care facility as defined in Section 26-21-2;

1076 (B) a health care provider as defined in Section 78-14-3;

1077 (C) an office of a health care provider described in Subsection [~~(28)~~] (33)(a)(ii)(B); or

1078 (D) a person similar to a person described in Subsections [~~(28)~~] (33)(a)(ii)(A) through

1079 (C).

1080 (b) "Disposable home medical equipment or supplies" does not include:

1081 (i) a drug;

1082 (ii) durable medical equipment;

1083 (iii) a hearing aid;

1084 (iv) a hearing aid accessory;

1085 (v) mobility enhancing equipment; or

1086 (vi) tangible personal property used to correct impaired vision, including:

1087 (A) eyeglasses; or

1088 (B) contact lenses.

1089 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1090 commission may by rule define what constitutes medical equipment or supplies.

1091 [~~(29)~~] (34) (a) "Drug" means a compound, substance, or preparation, or a component
1092 of a compound, substance, or preparation that is:

1093 (i) recognized in:

- 1094 (A) the official United States Pharmacopoeia;
- 1095 (B) the official Homeopathic Pharmacopoeia of the United States;
- 1096 (C) the official National Formulary; or
- 1097 (D) a supplement to a publication listed in Subsections [~~(29)~~] (34)(a)(i)(A) through (C);
- 1098 (ii) intended for use in the:
- 1099 (A) diagnosis of disease;
- 1100 (B) cure of disease;
- 1101 (C) mitigation of disease;
- 1102 (D) treatment of disease; or
- 1103 (E) prevention of disease; or
- 1104 (iii) intended to affect:
- 1105 (A) the structure of the body; or
- 1106 (B) any function of the body.
- 1107 (b) "Drug" does not include:
- 1108 (i) food and food ingredients;
- 1109 (ii) a dietary supplement;
- 1110 (iii) an alcoholic beverage; or
- 1111 (iv) a prosthetic device.
- 1112 [~~(30)~~] (35) (a) Except as provided in Subsection [~~(30)~~] (35)(c), "durable medical
- 1113 equipment" means equipment that:
- 1114 (i) can withstand repeated use;
- 1115 (ii) is primarily and customarily used to serve a medical purpose;
- 1116 (iii) generally is not useful to a person in the absence of illness or injury; and
- 1117 (iv) is not worn in or on the body.
- 1118 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 1119 equipment described in Subsection [~~(30)~~] (35)(a).
- 1120 (c) Notwithstanding Subsection [~~(30)~~] (35)(a), "durable medical equipment" does not
- 1121 include mobility enhancing equipment.

- 1122 [~~(31)~~] (36) "Electronic" means:
- 1123 (a) relating to technology; and
- 1124 (b) having:
- 1125 (i) electrical capabilities;
- 1126 (ii) digital capabilities;
- 1127 (iii) magnetic capabilities;
- 1128 (iv) wireless capabilities;
- 1129 (v) optical capabilities;
- 1130 (vi) electromagnetic capabilities; or
- 1131 (vii) capabilities similar to Subsections [~~(31)~~] (36)(b)(i) through (vi).
- 1132 [~~(32)~~] (37) "Employee" is as defined in Section 59-10-401.
- 1133 [~~(33)~~] (38) "Fixed guideway" means a public transit facility that uses and occupies:
- 1134 (a) rail for the use of public transit; or
- 1135 (b) a separate right-of-way for the use of public transit.
- 1136 (39) "Fixed wireless service" means a telecommunications service that provides radio
- 1137 communication between fixed points.
- 1138 [~~(34)~~] (40) (a) "Food and food ingredients" means substances:
- 1139 (i) regardless of whether the substances are in:
- 1140 (A) liquid form;
- 1141 (B) concentrated form;
- 1142 (C) solid form;
- 1143 (D) frozen form;
- 1144 (E) dried form; or
- 1145 (F) dehydrated form; and
- 1146 (ii) that are:
- 1147 (A) sold for:
- 1148 (I) ingestion by humans; or
- 1149 (II) chewing by humans; and

1150 (B) consumed for the substance's:
1151 (I) taste; or
1152 (II) nutritional value.
1153 (b) "Food and food ingredients" includes an item described in Subsection [~~(66)~~]
1154 (75)(b)(iii).
1155 (c) "Food and food ingredients" does not include:
1156 (i) an alcoholic beverage;
1157 (ii) tobacco; or
1158 (iii) prepared food.
1159 [~~(35)~~] (41) (a) "Fundraising sales" means sales:
1160 (i) (A) made by a school; or
1161 (B) made by a school student;
1162 (ii) that are for the purpose of raising funds for the school to purchase equipment,
1163 materials, or provide transportation; and
1164 (iii) that are part of an officially sanctioned school activity.
1165 (b) For purposes of Subsection [~~(35)~~] (41)(a)(iii), "officially sanctioned school activity"
1166 means a school activity:
1167 (i) that is conducted in accordance with a formal policy adopted by the school or school
1168 district governing the authorization and supervision of fundraising activities;
1169 (ii) that does not directly or indirectly compensate an individual teacher or other
1170 educational personnel by direct payment, commissions, or payment in kind; and
1171 (iii) the net or gross revenues from which are deposited in a dedicated account
1172 controlled by the school or school district.
1173 [~~(36)~~] (42) "Geothermal energy" means energy contained in heat that continuously
1174 flows outward from the earth that is used as the sole source of energy to produce electricity.
1175 [~~(37)~~] (43) "Governing board of the agreement" means the governing board of the
1176 agreement that is:
1177 (a) authorized to administer the agreement; and

1178 (b) established in accordance with the agreement.

1179 ~~[(38)]~~ (44) (a) For purposes of Subsection 59-12-104(41), "governmental entity"

1180 means:

1181 (i) the executive branch of the state, including all departments, institutions, boards,

1182 divisions, bureaus, offices, commissions, and committees;

1183 (ii) the judicial branch of the state, including the courts, the Judicial Council, the Office

1184 of the Court Administrator, and similar administrative units in the judicial branch;

1185 (iii) the legislative branch of the state, including the House of Representatives, the

1186 Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel,

1187 the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

1188 (iv) the National Guard;

1189 (v) an independent entity as defined in Section 63E-1-102; or

1190 (vi) a political subdivision as defined in Section 17B-1-102.

1191 (b) "Governmental entity" does not include the state systems of public and higher

1192 education, including:

1193 (i) a college campus of the Utah College of Applied Technology;

1194 (ii) a school;

1195 (iii) the State Board of Education;

1196 (iv) the State Board of Regents; or

1197 (v) a state institution of higher education as defined in Section 53B-3-102.

1198 ~~[(39) (a) "Hearing aid" means:]~~

1199 ~~[(i) an instrument or device having an electronic component that is designed to:]~~

1200 ~~[(A) (I) improve impaired human hearing; or]~~

1201 ~~[(H) correct impaired human hearing; and]~~

1202 ~~[(B) (I) be worn in the human ear; or]~~

1203 ~~[(H) affixed behind the human ear;]~~

1204 ~~[(ii) an instrument or device that is surgically implanted into the cochlea; or]~~

1205 ~~[(iii) a telephone amplifying device.]~~

1206 ~~[(b) "Hearing aid" does not include:]~~

1207 ~~[(i) except as provided in Subsection (39)(a)(i)(B) or (39)(a)(ii), an instrument or~~

1208 ~~device having an electronic component that is designed to be worn on the body;]~~

1209 ~~[(ii) except as provided in Subsection (39)(a)(iii), an assistive listening device or system~~

1210 ~~designed to be used by one individual, including:]~~

1211 ~~[(A) a personal amplifying system;]~~

1212 ~~[(B) a personal FM system;]~~

1213 ~~[(C) a television listening system; or]~~

1214 ~~[(D) a device or system similar to a device or system described in Subsections~~

1215 ~~(39)(b)(ii)(A) through (C); or]~~

1216 ~~[(iii) an assistive listening device or system designed to be used by more than one~~

1217 ~~individual, including:]~~

1218 ~~[(A) a device or system installed in:]~~

1219 ~~[(I) an auditorium;]~~

1220 ~~[(II) a church;]~~

1221 ~~[(III) a conference room;]~~

1222 ~~[(IV) a synagogue; or]~~

1223 ~~[(V) a theater; or]~~

1224 ~~[(B) a device or system similar to a device or system described in Subsections~~

1225 ~~(39)(b)(iii)(A)(I) through (V).]~~

1226 ~~[(40) (a) "Hearing aid accessory" means a hearing aid:]~~

1227 ~~[(i) component;]~~

1228 ~~[(ii) attachment; or]~~

1229 ~~[(iii) accessory.]~~

1230 ~~[(b) "Hearing aid accessory" includes:]~~

1231 ~~[(i) a hearing aid neck loop;]~~

1232 ~~[(ii) a hearing aid cord;]~~

1233 ~~[(iii) a hearing aid ear mold;]~~

1234 [~~(iv) hearing aid tubing;~~
1235 [~~(v) a hearing aid ear hook; or~~
1236 [~~(vi) a hearing aid remote control.~~]
1237 [~~(c) "Hearing aid accessory" does not include:~~
1238 [~~(i) a component, attachment, or accessory designed to be used only with an:~~
1239 [~~(A) instrument or device described in Subsection (39)(b)(i); or~~
1240 [~~(B) assistive listening device or system described in Subsection (39)(b)(ii) or (iii); or~~
1241 [~~(ii) a hearing aid battery.~~]
1242 [~~(41)~~] (45) "Hydroelectric energy" means water used as the sole source of energy to
1243 produce electricity.
1244 [~~(42)~~] (46) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
1245 or other fuels:
1246 (a) in mining or extraction of minerals;
1247 (b) in agricultural operations to produce an agricultural product up to the time of
1248 harvest or placing the agricultural product into a storage facility, including:
1249 (i) commercial greenhouses;
1250 (ii) irrigation pumps;
1251 (iii) farm machinery;
1252 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
1253 registered under Title 41, Chapter 1a, Part 2, Registration; and
1254 (v) other farming activities;
1255 (c) in manufacturing tangible personal property at an establishment described in SIC
1256 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
1257 Executive Office of the President, Office of Management and Budget;
1258 (d) by a scrap recycler if:
1259 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
1260 one or more of the following items into prepared grades of processed materials for use in new
1261 products:

1262 (A) iron;
1263 (B) steel;
1264 (C) nonferrous metal;
1265 (D) paper;
1266 (E) glass;
1267 (F) plastic;
1268 (G) textile; or
1269 (H) rubber; and
1270 (ii) the new products under Subsection [~~(42)~~] (46)(d)(i) would otherwise be made with
1271 nonrecycled materials; or
1272 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
1273 cogeneration facility as defined in Section 54-2-1.
1274 [~~(43)~~] (47) (a) Except as provided in Subsection [~~(43)~~] (47)(b), "installation charge"
1275 means a charge for installing:
1276 (i) tangible personal property; or
1277 (ii) a product transferred electronically.
1278 (b) [~~Notwithstanding Subsection (43)(a), "installation"~~] "Installation charge" does not
1279 include a charge for repairs or renovations of:
1280 (i) tangible personal property; or
1281 (ii) a product transferred electronically.
1282 [~~(44)~~] (48) (a) "Lease" or "rental" means a transfer of possession or control of tangible
1283 personal property or a product transferred electronically for:
1284 (i) (A) a fixed term; or
1285 (B) an indeterminate term; and
1286 (ii) consideration.
1287 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
1288 amount of consideration may be increased or decreased by reference to the amount realized
1289 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue

- 1290 Code.
- 1291 (c) "Lease" or "rental" does not include:
- 1292 (i) a transfer of possession or control of property under a security agreement or
- 1293 deferred payment plan that requires the transfer of title upon completion of the required
- 1294 payments;
- 1295 (ii) a transfer of possession or control of property under an agreement that requires the
- 1296 transfer of title:
- 1297 (A) upon completion of required payments; and
- 1298 (B) if the payment of an option price does not exceed the greater of:
- 1299 (I) \$100; or
- 1300 (II) 1% of the total required payments; or
- 1301 (iii) providing tangible personal property along with an operator for a fixed period of
- 1302 time or an indeterminate period of time if the operator is necessary for equipment to perform as
- 1303 designed.
- 1304 (d) For purposes of Subsection [~~(44)~~] (48)(c)(iii), an operator is necessary for
- 1305 equipment to perform as designed if the operator's duties exceed the:
- 1306 (i) set-up of tangible personal property;
- 1307 (ii) maintenance of tangible personal property; or
- 1308 (iii) inspection of tangible personal property.
- 1309 [~~(45)~~] (49) "Load and leave" means delivery to a purchaser by use of a tangible storage
- 1310 media if the tangible storage media is not physically transferred to the purchaser.
- 1311 [~~(46)~~] (50) "Local taxing jurisdiction" means a:
- 1312 (a) county that is authorized to impose an agreement sales and use tax;
- 1313 (b) city that is authorized to impose an agreement sales and use tax; or
- 1314 (c) town that is authorized to impose an agreement sales and use tax.
- 1315 [~~(47)~~] (51) "Manufactured home" is as defined in Section 58-56-3.
- 1316 [~~(48)~~] (52) For purposes of Section 59-12-104, "manufacturing facility" means:
- 1317 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard

1318 Industrial Classification Manual of the federal Executive Office of the President, Office of
1319 Management and Budget;

1320 (b) a scrap recycler if:

1321 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
1322 one or more of the following items into prepared grades of processed materials for use in new
1323 products:

1324 (A) iron;

1325 (B) steel;

1326 (C) nonferrous metal;

1327 (D) paper;

1328 (E) glass;

1329 (F) plastic;

1330 (G) textile; or

1331 (H) rubber; and

1332 (ii) the new products under Subsection [~~(48)~~] (52)(b)(i) would otherwise be made with
1333 nonrecycled materials; or

1334 (c) a cogeneration facility as defined in Section 54-2-1.

1335 [~~(49)~~] (53) "Member of the immediate family of the producer" means a person who is
1336 related to a producer described in Subsection 59-12-104(20)(a) as a:

1337 (a) child or stepchild, regardless of whether the child or stepchild is:

1338 (i) an adopted child or adopted stepchild; or

1339 (ii) a foster child or foster stepchild;

1340 (b) grandchild or stepgrandchild;

1341 (c) grandparent or stepgrandparent;

1342 (d) nephew or stepnephew;

1343 (e) niece or stepniece;

1344 (f) parent or stepparent;

1345 (g) sibling or stepsibling;

1346 (h) spouse;
1347 (i) person who is the spouse of a person described in Subsections [~~(49)~~] (53)(a) through
1348 (g); or
1349 (j) person similar to a person described in Subsections [~~(49)~~] (53)(a) through (i) as
1350 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah
1351 Administrative Rulemaking Act.
1352 [~~(50)~~] (54) "Mobile home" is as defined in Section 58-56-3.
1353 [~~(51)~~] (55) "Mobile telecommunications service" is as defined in the Mobile
1354 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
1355 (56) (a) "Mobile wireless service" means a telecommunications service, regardless of
1356 the technology used, if:
1357 (i) the origination point of the conveyance, routing, or transmission is not fixed;
1358 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
1359 (iii) the origination point described in Subsection (56)(a)(i) and the termination point
1360 described in Subsection (56)(a)(ii) are not fixed.
1361 (b) "Mobile wireless service" includes a telecommunications service that is provided by
1362 a commercial mobile radio service provider.
1363 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1364 commission may by rule define "commercial mobile radio service provider."
1365 [~~(52)~~] (57) (a) Except as provided in Subsection [~~(52)~~] (57)(c), "mobility enhancing
1366 equipment" means equipment that is:
1367 (i) primarily and customarily used to provide or increase the ability to move from one
1368 place to another;
1369 (ii) appropriate for use in a:
1370 (A) home; or
1371 (B) motor vehicle; and
1372 (iii) not generally used by persons with normal mobility.
1373 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of

1374 the equipment described in Subsection [~~(52)~~] (57)(a).

1375 (c) Notwithstanding Subsection [~~(52)~~] (57)(a), "mobility enhancing equipment" does
1376 not include:

1377 (i) a motor vehicle;

1378 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
1379 vehicle manufacturer;

1380 (iii) durable medical equipment; or

1381 (iv) a prosthetic device.

1382 [~~(53)~~] (58) "Model 1 seller" means a seller that has selected a certified service provider
1383 as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales
1384 and use taxes other than the seller's obligation under Section 59-12-107.4 to remit a tax on the
1385 seller's own purchases.

1386 [~~(54)~~] (59) "Model 2 seller" means a seller that:

1387 (a) except as provided in Subsection [~~(54)~~] (59)(b), has selected a certified automated
1388 system to perform the seller's sales tax functions for agreement sales and use taxes; and

1389 (b) notwithstanding Subsection [~~(54)~~] (59)(a), retains responsibility for remitting all of
1390 the sales tax:

1391 (i) collected by the seller; and

1392 (ii) to the appropriate local taxing jurisdiction.

1393 [~~(55)~~] (60) (a) Subject to Subsection [~~(55)~~] (60)(b), "model 3 seller" means a seller that
1394 has:

1395 (i) sales in at least five states that are members of the agreement;

1396 (ii) total annual sales revenues of at least \$500,000,000;

1397 (iii) a proprietary system that calculates the amount of tax:

1398 (A) for an agreement sales and use tax; and

1399 (B) due to each local taxing jurisdiction; and

1400 (iv) entered into a performance agreement with the governing board of the agreement.

1401 (b) For purposes of Subsection [~~(55)~~] (60)(a), "model 3 seller" includes an affiliated

1402 group of sellers using the same proprietary system.

1403 ~~[(56)]~~ (61) "Modular home" means a modular unit as defined in Section 58-56-3.

1404 ~~[(57)]~~ (62) "Motor vehicle" is as defined in Section 41-1a-102.

1405 ~~[(58)]~~ (63) "Oil shale" means a group of fine black to dark brown shales containing
1406 bituminous material that yields petroleum upon distillation.

1407 ~~[(59)]~~ (64) (a) "Other fuels" means products that burn independently to produce heat or
1408 energy.

1409 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
1410 personal property.

1411 (65) (a) "Paging service" means a telecommunications service that provides
1412 transmission of a coded radio signal for the purpose of activating a specific pager.

1413 (b) For purposes of Subsection (65)(a), the transmission of a coded radio signal
1414 includes a transmission by message or sound.

1415 ~~[(60)]~~ (66) "Pawnbroker" is as defined in Section 13-32a-102.

1416 ~~[(61)]~~ (67) "Pawn transaction" is as defined in Section 13-32a-102.

1417 ~~[(62)]~~ (68) (a) "Permanently attached to real property" means that for tangible personal
1418 property attached to real property:

1419 (i) the attachment of the tangible personal property to the real property:

1420 (A) is essential to the use of the tangible personal property; and

1421 (B) suggests that the tangible personal property will remain attached to the real
1422 property in the same place over the useful life of the tangible personal property; or

1423 (ii) if the tangible personal property is detached from the real property, the detachment
1424 would:

1425 (A) cause substantial damage to the tangible personal property; or

1426 (B) require substantial alteration or repair of the real property to which the tangible
1427 personal property is attached.

1428 (b) "Permanently attached to real property" includes:

1429 (i) the attachment of an accessory to the tangible personal property if the accessory is:

1430 (A) essential to the operation of the tangible personal property; and
1431 (B) attached only to facilitate the operation of the tangible personal property;
1432 (ii) a temporary detachment of tangible personal property from real property for a repair
1433 or renovation if the repair or renovation is performed where the tangible personal property and
1434 real property are located; or
1435 (iii) an attachment of the following tangible personal property to real property,
1436 regardless of whether the attachment to real property is only through a line that supplies water,
1437 electricity, gas, ~~[telephone]~~ telecommunications service, cable, or supplies a similar item as
1438 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah
1439 Administrative Rulemaking Act:
1440 (A) property attached to oil, gas, or water pipelines, other than the property listed in
1441 Subsection ~~[(62)]~~ (68)(c)(iii);
1442 (B) a hot water heater;
1443 (C) a water softener system; or
1444 (D) a water filtration system, other than a water filtration system manufactured as part
1445 of a refrigerator.
1446 (c) "Permanently attached to real property" does not include:
1447 (i) the attachment of portable or movable tangible personal property to real property if
1448 that portable or movable tangible personal property is attached to real property only for:
1449 (A) convenience;
1450 (B) stability; or
1451 (C) for an obvious temporary purpose;
1452 (ii) the detachment of tangible personal property from real property other than the
1453 detachment described in Subsection ~~[(62)]~~ (68)(b)(ii); or
1454 (iii) an attachment of the following tangible personal property to real property if the
1455 attachment to real property is only through a line that supplies water, electricity, gas,
1456 ~~[telephone]~~ telecommunications, cable, or supplies a similar item as determined by the
1457 commission by rule made in accordance with Title 63, Chapter 46a, Utah Administrative

1458 Rulemaking Act:

1459 (A) a refrigerator;

1460 (B) a washer;

1461 (C) a dryer;

1462 (D) a stove;

1463 (E) a television;

1464 (F) a computer;

1465 (G) a telephone; or

1466 (H) tangible personal property similar to Subsections ~~[(62)]~~ (68)(c)(iii)(A) through (G)

1467 as determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah

1468 Administrative Rulemaking Act.

1469 ~~[(63)]~~ (69) "Person" includes any individual, firm, partnership, joint venture,

1470 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,

1471 city, municipality, district, or other local governmental entity of the state, or any group or

1472 combination acting as a unit.

1473 ~~[(64)]~~ (70) "Place of primary use":

1474 (a) for ~~[telephone]~~ telecommunications service other than mobile telecommunications

1475 service, means the street address representative of where the purchaser's use of the ~~[telephone]~~

1476 telecommunications service primarily occurs, which shall be:

1477 (i) the residential street address of the purchaser; or

1478 (ii) the primary business street address of the purchaser; or

1479 (b) for mobile telecommunications service, is as defined in the Mobile

1480 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1481 (71) (a) "Postpaid calling service" means a telecommunications service a person obtains

1482 by making a payment on a call-by-call basis:

1483 (i) through the use of a:

1484 (A) bank card;

1485 (B) credit card;

- 1486 (C) debit card; or
1487 (D) travel card; or
1488 (ii) by a charge made to a telephone number that is not associated with the origination
1489 or termination of the telecommunications service.
1490 (b) "Postpaid calling service" includes a service that would be a prepaid wireless calling
1491 service if the service were exclusively a telecommunications service.
1492 ~~[(65)]~~ (72) "Postproduction" means an activity related to the finishing or duplication of
1493 a medium described in Subsection 59-12-104~~[(56)]~~ (55)(a).
1494 (73) "Prepaid calling service" means a telecommunications service:
1495 (a) that allows a purchaser access to telecommunications service that is exclusively
1496 telecommunications service;
1497 (b) that:
1498 (i) is paid for in advance; and
1499 (ii) enables the origination of a call using an:
1500 (A) access number; or
1501 (B) authorization code;
1502 (c) that is dialed:
1503 (i) manually; or
1504 (ii) electronically; and
1505 (d) sold in predetermined units or dollars that decline:
1506 (i) by a known amount; and
1507 (ii) with use.
1508 (74) "Prepaid wireless calling service" means a telecommunications service:
1509 (a) that provides the right to utilize:
1510 (i) mobile wireless service; and
1511 (ii) other service that is not a telecommunications service, including:
1512 (A) the download of a product transferred electronically;
1513 (B) a content service; or

1514 (C) an ancillary service;
 1515 (b) that:
 1516 (i) is paid for in advance; and
 1517 (ii) enables the origination of a call using an:
 1518 (A) access number; or
 1519 (B) authorization code;
 1520 (c) that is dialed:
 1521 (i) manually; or
 1522 (ii) electronically; and
 1523 (d) sold in predetermined units or dollars that decline:
 1524 (i) by a known amount; and
 1525 (ii) with use.
 1526 ~~[(66)]~~ (75) (a) "Prepared food" means:
 1527 (i) food:
 1528 (A) sold in a heated state; or
 1529 (B) heated by a seller;
 1530 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
 1531 item; or
 1532 (iii) except as provided in Subsection ~~[(66)]~~ (75)(c), food sold with an eating utensil
 1533 provided by the seller, including a:
 1534 (A) plate;
 1535 (B) knife;
 1536 (C) fork;
 1537 (D) spoon;
 1538 (E) glass;
 1539 (F) cup;
 1540 (G) napkin; or
 1541 (H) straw.

- 1542 (b) "Prepared food" does not include:
- 1543 (i) food that a seller only:
- 1544 (A) cuts;
- 1545 (B) repackages; or
- 1546 (C) pasteurizes; or
- 1547 (ii) (A) the following:
- 1548 (I) raw egg;
- 1549 (II) raw fish;
- 1550 (III) raw meat;
- 1551 (IV) raw poultry; or
- 1552 (V) a food containing an item described in Subsections [~~(66)~~] (75)(b)(ii)(A)(I) through
- 1553 (IV); and
- 1554 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 1555 Food and Drug Administration's Food Code that a consumer cook the items described in
- 1556 Subsection [~~(66)~~] (75)(b)(ii)(A) to prevent food borne illness; or
- 1557 (iii) the following if sold without eating utensils provided by the seller:
- 1558 (A) food and food ingredients sold by a seller if the seller's proper primary classification
- 1559 under the 2002 North American Industry Classification System of the federal Executive Office
- 1560 of the President, Office of Management and Budget, is manufacturing in Sector 311, Food
- 1561 Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;
- 1562 (B) food and food ingredients sold in an unheated state:
- 1563 (I) by weight or volume; and
- 1564 (II) as a single item; or
- 1565 (C) a bakery item, including:
- 1566 (I) a bagel;
- 1567 (II) a bar;
- 1568 (III) a biscuit;
- 1569 (IV) bread;

- 1570 (V) a bun;
- 1571 (VI) a cake;
- 1572 (VII) a cookie;
- 1573 (VIII) a croissant;
- 1574 (IX) a danish;
- 1575 (X) a donut;
- 1576 (XI) a muffin;
- 1577 (XII) a pastry;
- 1578 (XIII) a pie;
- 1579 (XIV) a roll;
- 1580 (XV) a tart;
- 1581 (XVI) a torte; or
- 1582 (XVII) a tortilla.

1583 (c) Notwithstanding Subsection [~~(66)~~] (75)(a)(iii), an eating utensil provided by the
 1584 seller does not include the following used to transport the food:

- 1585 (i) a container; or
- 1586 (ii) packaging.
- 1587 [~~(67)~~] (76) "Prescription" means an order, formula, or recipe that is issued:
- 1588 (a) (i) orally;
- 1589 (ii) in writing;
- 1590 (iii) electronically; or
- 1591 (iv) by any other manner of transmission; and

1592 (b) by a licensed practitioner authorized by the laws of a state.

1593 [~~(68)~~] (77) (a) Except as provided in Subsection [~~(68)~~] (77)(b)(ii) or (iii), "prewritten
 1594 computer software" means computer software that is not designed and developed:

- 1595 (i) by the author or other creator of the computer software; and
- 1596 (ii) to the specifications of a specific purchaser.
- 1597 (b) "Prewritten computer software" includes:

1598 (i) a prewritten upgrade to computer software if the prewritten upgrade to the
1599 computer software is not designed and developed:
1600 (A) by the author or other creator of the computer software; and
1601 (B) to the specifications of a specific purchaser;
1602 (ii) notwithstanding Subsection ~~[(68)]~~ (77)(a), computer software designed and
1603 developed by the author or other creator of the computer software to the specifications of a
1604 specific purchaser if the computer software is sold to a person other than the purchaser; or
1605 (iii) notwithstanding Subsection ~~[(68)]~~ (77)(a) and except as provided in Subsection
1606 ~~[(68)]~~ (77)(c), prewritten computer software or a prewritten portion of prewritten computer
1607 software:
1608 (A) that is modified or enhanced to any degree; and
1609 (B) if the modification or enhancement described in Subsection ~~[(68)]~~ (77)(b)(iii)(A) is
1610 designed and developed to the specifications of a specific purchaser.
1611 (c) Notwithstanding Subsection ~~[(68)]~~ (77)(b)(iii), "prewritten computer software" does
1612 not include a modification or enhancement described in Subsection ~~[(68)]~~ (77)(b)(iii) if the
1613 charges for the modification or enhancement are:
1614 (i) reasonable; and
1615 (ii) separately stated on the invoice or other statement of price provided to the
1616 purchaser.
1617 (78) (a) "Private communication service" means a telecommunications service:
1618 (i) that entitles a customer to exclusive or priority use of one or more communications
1619 channels between or among termination points; and
1620 (ii) regardless of the manner in which the one or more communications channels are
1621 connected.
1622 (b) "Private communications service" includes the following provided in connection
1623 with the use of one or more communications channels:
1624 (i) an extension line;
1625 (ii) a station; or

1626 (iii) switching capacity.
1627 ~~[(69)]~~ (79) (a) "Prosthetic device" means a device that is worn on or in the body to:
1628 (i) artificially replace a missing portion of the body;
1629 (ii) prevent or correct a physical deformity or physical malfunction; or
1630 (iii) support a weak or deformed portion of the body.
1631 (b) "Prosthetic device" includes:
1632 (i) parts used in the repairs or renovation of a prosthetic device;
1633 (ii) replacement parts for a prosthetic device; ~~[or]~~
1634 (iii) a dental prosthesis~~[-];~~ or
1635 (iv) a hearing aid.
1636 (c) "Prosthetic device" does not include:
1637 (i) corrective eyeglasses; or
1638 (ii) contact lenses~~[-or]~~.
1639 ~~[(iii) hearing aids.]~~
1640 ~~[(70)]~~ (80) (a) "Protective equipment" means an item:
1641 (i) for human wear; and
1642 (ii) that is:
1643 (A) designed as protection:
1644 (I) to the wearer against injury or disease; or
1645 (II) against damage or injury of other persons or property; and
1646 (B) not suitable for general use.
1647 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1648 commission shall make rules:
1649 (i) listing the items that constitute "protective equipment"; and
1650 (ii) that are consistent with the list of items that constitute "protective equipment" under
1651 the agreement.
1652 ~~[(71)]~~ (81) (a) For purposes of Subsection 59-12-104(41), "publication" means any
1653 written or printed matter, other than a photocopy:

- 1654 (i) regardless of:
1655 (A) characteristics;
1656 (B) copyright;
1657 (C) form;
1658 (D) format;
1659 (E) method of reproduction; or
1660 (F) source; and
1661 (ii) made available in printed or electronic format.
- 1662 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1663 commission may by rule define the term "photocopy."
- 1664 ~~[(72)]~~ (82) (a) "Purchase price" and "sales price" mean the total amount of
1665 consideration:
- 1666 (i) valued in money; and
1667 (ii) for which tangible personal property, a product transferred electronically, or
1668 services are:
- 1669 (A) sold;
1670 (B) leased; or
1671 (C) rented.
- 1672 (b) "Purchase price" and "sales price" include:
- 1673 (i) the seller's cost of the tangible personal property, a product transferred
1674 electronically, or services sold;
- 1675 (ii) expenses of the seller, including:
1676 (A) the cost of materials used;
1677 (B) a labor cost;
1678 (C) a service cost;
1679 (D) interest;
1680 (E) a loss;
1681 (F) the cost of transportation to the seller; or

1682 (G) a tax imposed on the seller; ~~[or]~~
1683 (iii) a charge by the seller for any service necessary to complete the sale~~[-]; or~~
1684 (iv) consideration a seller receives from a person other than the purchaser if:
1685 (A) (I) the seller actually receives consideration from a person other than the purchaser;
1686 and
1687 (II) the consideration described in Subsection (82)(b)(iv)(A)(I) is directly related to a
1688 price reduction or discount on the sale;
1689 (B) the seller has an obligation to pass the price reduction or discount through to the
1690 purchaser;
1691 (C) the amount of the consideration attributable to the sale is fixed and determinable by
1692 the seller at the time of the sale to the purchaser; and
1693 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
1694 seller to claim a price reduction or discount; and
1695 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
1696 coupon, or other documentation with the understanding that the person other than the seller will
1697 reimburse any seller to whom the certificate, coupon, or other documentation is presented;
1698 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1699 organization allowed a price reduction or discount, except that a preferred customer card that is
1700 available to any patron of a seller does not constitute membership in a group or organization
1701 allowed a price reduction or discount; or
1702 (III) the price reduction or discount is identified as a third party price reduction or
1703 discount on the:
1704 (Aa) invoice the purchaser receives; or
1705 (Bb) certificate, coupon, or other documentation the purchaser presents.
1706 (c) "Purchase price" and "sales price" do not include:
1707 (i) a discount:
1708 (A) in a form including:
1709 (I) cash;

1710 (II) term; or
1711 (III) coupon;
1712 (B) that is allowed by a seller;
1713 (C) taken by a purchaser on a sale; and
1714 (D) that is not reimbursed by a third party; or
1715 (ii) the following if separately stated on an invoice, bill of sale, or similar document
1716 provided to the purchaser:
1717 [~~(A) the amount of a trade-in;~~]
1718 [~~(B)~~] (A) the following from credit extended on the sale of tangible personal property
1719 or services:
1720 (I) [~~interest charges~~] a carrying charge;
1721 (II) a financing [~~charges~~] charge; or
1722 (III) [~~carrying charges~~] an interest charge;
1723 [~~(C) a tax or fee legally imposed directly on the consumer;~~]
1724 [~~(D)~~] (B) a delivery charge; [or]
1725 [~~(E)~~] (C) an installation charge[-];
1726 (D) a manufacturer rebate on a motor vehicle; or
1727 (E) a tax or fee legally imposed directly on the consumer.
1728 [~~(73)~~] (83) "Purchaser" means a person to whom:
1729 (a) a sale of tangible personal property is made; [~~or~~]
1730 (b) a product is transferred electronically; or
1731 [~~(b)~~] (c) a service is furnished.
1732 [~~(74)~~] (84) "Regularly rented" means:
1733 (a) rented to a guest for value three or more times during a calendar year; or
1734 (b) advertised or held out to the public as a place that is regularly rented to guests for
1735 value.
1736 [~~(75)~~] (85) "Renewable energy" means:
1737 (a) biomass energy;

1738 (b) hydroelectric energy;

1739 (c) geothermal energy;

1740 (d) solar energy; or

1741 (e) wind energy.

1742 ~~[(76)]~~ (86) (a) "Renewable energy production facility" means a facility that:

1743 (i) uses renewable energy to produce electricity; and

1744 (ii) has a production capacity of 20 kilowatts or greater.

1745 (b) A facility is a renewable energy production facility regardless of whether the facility

1746 is:

1747 (i) connected to an electric grid; or

1748 (ii) located on the premises of an electricity consumer.

1749 ~~[(77)]~~ (87) "Rental" is as defined in Subsection ~~[(44)]~~ (48).

1750 ~~[(78)]~~ (88) "Repairs or renovations of tangible personal property" means:

1751 (a) a repair or renovation of tangible personal property that is not permanently attached

1752 to real property; or

1753 (b) attaching tangible personal property or a product that is transferred electronically to

1754 other tangible personal property if the other tangible personal property to which the tangible

1755 personal property or product that is transferred electronically is attached is not permanently

1756 attached to real property.

1757 ~~[(79)]~~ (89) "Research and development" means the process of inquiry or

1758 experimentation aimed at the discovery of facts, devices, technologies, or applications and the

1759 process of preparing those devices, technologies, or applications for marketing.

1760 (90) (a) "Residential telecommunications services" means a telecommunications service

1761 or an ancillary service that is provided to an individual for personal use:

1762 (i) at a residential address; or

1763 (ii) at an institution, including a nursing home or a school, if the telecommunications

1764 service or ancillary service is provided to and paid for by the individual residing at the institution

1765 rather than the institution.

1766 (b) For purposes of Subsection (90)(a), a residential address includes an:

1767 (i) apartment; or

1768 (ii) other individual dwelling unit.

1769 ~~[(80)]~~ (91) "Residential use" means the use in or around a home, apartment building,
1770 sleeping quarters, and similar facilities or accommodations.

1771 ~~[(81)]~~ (92) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
1772 other than:

1773 (a) resale;

1774 (b) sublease; or

1775 (c) subrent.

1776 ~~[(82)]~~ (93) (a) "Retailer" means any person engaged in a regularly organized business in
1777 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
1778 who is selling to the user or consumer and not for resale.

1779 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1780 engaged in the business of selling to users or consumers within the state.

1781 ~~[(83)]~~ (94) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1782 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1783 Subsection 59-12-103(1), for consideration.

1784 (b) "Sale" includes:

1785 (i) installment and credit sales;

1786 (ii) any closed transaction constituting a sale;

1787 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1788 chapter;

1789 (iv) any transaction if the possession of property is transferred but the seller retains the
1790 title as security for the payment of the price; and

1791 (v) any transaction under which right to possession, operation, or use of any article of
1792 tangible personal property is granted under a lease or contract and the transfer of possession
1793 would be taxable if an outright sale were made.

1794 ~~[(84)]~~ (95) "Sale at retail" is as defined in Subsection ~~[(81)]~~ (92).

1795 ~~[(85)]~~ (96) "Sale-leaseback transaction" means a transaction by which title to tangible

1796 personal property or a product transferred electronically that is subject to a tax under this

1797 chapter is transferred:

1798 (a) by a purchaser-lessee;

1799 (b) to a lessor;

1800 (c) for consideration; and

1801 (d) if:

1802 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase

1803 of the tangible personal property or product transferred electronically;

1804 (ii) the sale of the tangible personal property or product transferred electronically to the

1805 lessor is intended as a form of financing:

1806 (A) for the tangible personal property or product transferred electronically; and

1807 (B) to the purchaser-lessee; and

1808 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee is

1809 required to:

1810 (A) capitalize the tangible personal property or product transferred electronically for

1811 financial reporting purposes; and

1812 (B) account for the lease payments as payments made under a financing arrangement.

1813 ~~[(86)]~~ (97) "Sales price" is as defined in Subsection ~~[(72)]~~ (82).

1814 ~~[(87)]~~ (98) (a) "Sales relating to schools" means the following sales by, amounts paid

1815 to, or amounts charged by a school:

1816 (i) sales that are directly related to the school's educational functions or activities

1817 including:

1818 (A) the sale of:

1819 (I) textbooks;

1820 (II) textbook fees;

1821 (III) laboratory fees;

1822 (IV) laboratory supplies; or
1823 (V) safety equipment;
1824 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
1825 that:
1826 (I) a student is specifically required to wear as a condition of participation in a
1827 school-related event or school-related activity; and
1828 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1829 place of ordinary clothing;
1830 (C) sales of the following if the net or gross revenues generated by the sales are
1831 deposited into a school district fund or school fund dedicated to school meals:
1832 (I) food and food ingredients; or
1833 (II) prepared food; or
1834 (D) transportation charges for official school activities; or
1835 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1836 event or school-related activity.
1837 (b) "Sales relating to schools" does not include:
1838 (i) bookstore sales of items that are not educational materials or supplies;
1839 (ii) except as provided in Subsection [~~(87)~~] (98)(a)(i)(B):
1840 (A) clothing;
1841 (B) clothing accessories or equipment;
1842 (C) protective equipment; or
1843 (D) sports or recreational equipment; or
1844 (iii) amounts paid to or amounts charged by a school for admission to a school-related
1845 event or school-related activity if the amounts paid or charged are passed through to a person:
1846 (A) other than a:
1847 (I) school;
1848 (II) nonprofit organization authorized by a school board or a governing body of a
1849 private school to organize and direct a competitive secondary school activity; or

1850 (III) nonprofit association authorized by a school board or a governing body of a
1851 private school to organize and direct a competitive secondary school activity; and

1852 (B) that is required to collect sales and use taxes under this chapter.

1853 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1854 commission may make rules defining the term "passed through."

1855 ~~[(88)]~~ (99) For purposes of this section and Section 59-12-104, "school":

1856 (a) means:

1857 (i) an elementary school or a secondary school that:

1858 (A) is a:

1859 (I) public school; or

1860 (II) private school; and

1861 (B) provides instruction for one or more grades kindergarten through 12; or

1862 (ii) a public school district; and

1863 (b) includes the Electronic High School as defined in Section 53A-15-1002.

1864 ~~[(89)]~~ (100) "Seller" means a person that makes a sale, lease, or rental of:

1865 (a) tangible personal property; ~~[or]~~

1866 (b) a product transferred electronically; or

1867 ~~[(b)]~~ (c) a service.

1868 ~~[(90)]~~ (101) (a) "Semiconductor fabricating, processing, research, or development
1869 materials" means tangible personal property or a product transferred electronically if the
1870 tangible personal property or product transferred electronically is:

1871 (i) used primarily in the process of:

1872 (A) (I) manufacturing a semiconductor;

1873 (II) fabricating a semiconductor; or

1874 (III) research or development of a:

1875 (Aa) semiconductor; or

1876 (Bb) semiconductor manufacturing process; or

1877 (B) maintaining an environment suitable for a semiconductor; or

- 1878 (ii) consumed primarily in the process of:
- 1879 (A) (I) manufacturing a semiconductor;
- 1880 (II) fabricating a semiconductor; or
- 1881 (III) research or development of a:
- 1882 (Aa) semiconductor; or
- 1883 (Bb) semiconductor manufacturing process; or
- 1884 (B) maintaining an environment suitable for a semiconductor.
- 1885 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1886 includes:
- 1887 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1888 transferred electronically described in Subsection [~~(90)~~] (101)(a); or
- 1889 (ii) a chemical, catalyst, or other material used to:
- 1890 (A) produce or induce in a semiconductor a:
- 1891 (I) chemical change; or
- 1892 (II) physical change;
- 1893 (B) remove impurities from a semiconductor; or
- 1894 (C) improve the marketable condition of a semiconductor.
- 1895 [~~(91)~~] (102) "Senior citizen center" means a facility having the primary purpose of
- 1896 providing services to the aged as defined in Section 62A-3-101.
- 1897 [~~(92)~~] (103) "Simplified electronic return" means the electronic return:
- 1898 (a) described in Section 318(C) of the agreement; and
- 1899 (b) approved by the governing board of the agreement.
- 1900 [~~(93)~~] (104) "Solar energy" means the sun used as the sole source of energy for
- 1901 producing electricity.
- 1902 [~~(94)~~] (105) (a) "Sports or recreational equipment" means an item:
- 1903 (i) designed for human use; and
- 1904 (ii) that is:
- 1905 (A) worn in conjunction with:

1906 (I) an athletic activity; or
1907 (II) a recreational activity; and
1908 (B) not suitable for general use.
1909 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1910 commission shall make rules:
1911 (i) listing the items that constitute "sports or recreational equipment"; and
1912 (ii) that are consistent with the list of items that constitute "sports or recreational
1913 equipment" under the agreement.
1914 ~~[(95)]~~ (106) "State" means the state of Utah, its departments, and agencies.
1915 ~~[(96)]~~ (107) "Storage" means any keeping or retention of tangible personal property or
1916 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
1917 except sale in the regular course of business.
1918 ~~[(97)]~~ (108) (a) Except as provided in Subsection (108)(c), "[Tangible] tangible
1919 personal property" means personal property that:
1920 (i) may be:
1921 (A) seen;
1922 (B) weighed;
1923 (C) measured;
1924 (D) felt; or
1925 (E) touched; or
1926 (ii) is in any manner perceptible to the senses.
1927 (b) "Tangible personal property" includes:
1928 (i) electricity;
1929 (ii) water;
1930 (iii) gas;
1931 (iv) steam; or
1932 (v) prewritten computer software.
1933 (c) "Tangible personal property" does not include a product that is transferred

1934 electronically.

1935 ~~[(98)]~~ (109) "Tar sands" means impregnated sands that yield mixtures of liquid
1936 hydrocarbon and require further processing other than mechanical blending before becoming
1937 finished petroleum products.

1938 ~~[(99)]~~ (110) (a) "Telecommunications enabling or facilitating equipment, machinery, or
1939 software" means an item listed in Subsection ~~[(99)]~~ (110)(b) if that item is purchased or leased
1940 primarily to enable or facilitate one or more of the following to function:

1941 (i) telecommunications switching or routing equipment, machinery, or software; or

1942 (ii) telecommunications transmission equipment, machinery, or software.

1943 (b) The following apply to Subsection ~~[(99)]~~ (110)(a):

1944 (i) a pole;

1945 (ii) software;

1946 (iii) a supplementary power supply;

1947 (iv) temperature or environmental equipment or machinery;

1948 (v) test equipment;

1949 (vi) a tower; or

1950 (vii) equipment, machinery, or software that functions similarly to an item listed in
1951 Subsections ~~[(99)]~~ (110)(b)(i) through (vi) as determined by the commission by rule made in
1952 accordance with Subsection ~~[(99)]~~ (110)(c).

1953 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1954 commission may by rule define what constitutes equipment, machinery, or software that
1955 functions similarly to an item listed in Subsections ~~[(99)]~~ (110)(b)(i) through (vi).

1956 ~~[(100)]~~ (111) "Telecommunications equipment, machinery, or software required for 911
1957 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
1958 Sec. 20.18.

1959 ~~[(101)]~~ (112) "Telecommunications maintenance or repair equipment, machinery, or
1960 software" means equipment, machinery, or software purchased or leased primarily to maintain
1961 or repair one or more of the following, regardless of whether the equipment, machinery, or

1962 software is purchased or leased as a spare part or as an upgrade or modification to one or more
1963 of the following:

1964 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1965 (b) telecommunications switching or routing equipment, machinery, or software; or

1966 (c) telecommunications transmission equipment, machinery, or software.

1967 (113) (a) "Telecommunications service" means the electronic conveyance, routing, or
1968 transmission of audio, data, video, voice, or any other information or signal to a point, or
1969 among or between points.

1970 (b) "Telecommunications service" includes:

1971 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1972 processing application is used to act:

1973 (A) on the code, form, or protocol of the content;

1974 (B) for the purpose of electronic conveyance, routing, or transmission; and

1975 (C) regardless of whether the service:

1976 (I) is referred to as voice over Internet protocol service; or

1977 (II) is classified by the Federal Communications Commission as enhanced or value
1978 added;

1979 (ii) an 800 service;

1980 (iii) a 900 service;

1981 (iv) a fixed wireless service;

1982 (v) a mobile wireless service;

1983 (vi) a postpaid calling service;

1984 (vii) a prepaid calling service;

1985 (viii) a prepaid wireless calling service; or

1986 (ix) a private communications service.

1987 (c) "Telecommunications service" does not include:

1988 (i) advertising, including directory advertising;

1989 (ii) an ancillary service;

- 1990 (iii) a billing and collection service provided to a third party;
- 1991 (iv) a data processing and information service if:
- 1992 (A) the data processing and information service allows data to be:
- 1993 (I) (Aa) acquired;
- 1994 (Bb) generated;
- 1995 (Cc) processed;
- 1996 (Dd) retrieved; or
- 1997 (Ee) stored; and
- 1998 (II) delivered by an electronic transmission to a purchaser; and
- 1999 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 2000 or information;
- 2001 (v) installation or maintenance of the following on a customer's premises:
- 2002 (A) equipment; or
- 2003 (B) wiring;
- 2004 (vi) Internet access service;
- 2005 (vii) a paging service;
- 2006 (viii) a product transferred electronically, including:
- 2007 (A) music;
- 2008 (B) reading material;
- 2009 (C) a ring tone;
- 2010 (D) software; or
- 2011 (E) video;
- 2012 (ix) a radio and television audio and video programming service:
- 2013 (A) regardless of the medium; and
- 2014 (B) including:
- 2015 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 2016 programming service by a programming service provider;
- 2017 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or

2018 (III) audio and video programming services delivered by a commercial mobile radio
2019 service provider as defined in 47 C.F.R. Sec. 20.3;
2020 (x) a value-added nonvoice data service; or
2021 (xi) tangible personal property.
2022 ~~[(106)]~~ (114) (a) "[Telephone] Telecommunications service provider" means a person
2023 that:
2024 (i) owns, controls, operates, or manages a ~~[telephone]~~ telecommunications service; and
2025 (ii) engages in an activity described in Subsection ~~[(106)]~~ (114)(a)(i) for the shared use
2026 with or resale to any person of the ~~[telephone]~~ telecommunications service.
2027 (b) A person described in Subsection ~~[(106)]~~ (114)(a) is a ~~[telephone]~~
2028 telecommunications service provider whether or not the Public Service Commission of Utah
2029 regulates:
2030 (i) that person; or
2031 (ii) the ~~[telephone]~~ telecommunications service that the person owns, controls,
2032 operates, or manages.
2033 ~~[(102)]~~ (115) (a) "Telecommunications switching or routing equipment, machinery, or
2034 software" means an item listed in Subsection ~~[(102)]~~ (115)(b) if that item is purchased or leased
2035 primarily for switching or routing:
2036 (i) an ancillary service;
2037 ~~[(i)-voice]~~ (ii) data communications;
2038 ~~[(ii)-data]~~ (iii) voice communications; or
2039 ~~[(iii)-telephone]~~ (iv) telecommunications service.
2040 (b) The following apply to Subsection ~~[(102)]~~ (115)(a):
2041 (i) a bridge;
2042 (ii) a computer;
2043 (iii) a cross connect;
2044 (iv) a modem;
2045 (v) a multiplexer;

2046 (vi) plug in circuitry;
2047 (vii) a router;
2048 (viii) software;
2049 (ix) a switch; or
2050 (x) equipment, machinery, or software that functions similarly to an item listed in
2051 Subsections ~~[(102)]~~ (115)(b)(i) through (ix) as determined by the commission by rule made in
2052 accordance with Subsection ~~[(102)]~~ (115)(c).
2053 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2054 commission may by rule define what constitutes equipment, machinery, or software that
2055 functions similarly to an item listed in Subsections ~~[(102)]~~ (115)(b)(i) through (ix).
2056 ~~[(103)]~~ (116) (a) "Telecommunications transmission equipment, machinery, or
2057 software" means an item listed in Subsection ~~[(103)]~~ (116)(b) if that item is purchased or leased
2058 primarily for sending, receiving, or transporting:
2059 (i) an ancillary service;
2060 ~~[(i) voice]~~ (ii) data communications;
2061 ~~[(ii) data]~~ (iii) voice communications; or
2062 ~~[(iii) telephone]~~ (iv) telecommunications service.
2063 (b) The following apply to Subsection ~~[(103)]~~ (116)(a):
2064 (i) an amplifier;
2065 (ii) a cable;
2066 (iii) a closure;
2067 (iv) a conduit;
2068 (v) a controller;
2069 (vi) a duplexer;
2070 (vii) a filter;
2071 (viii) an input device;
2072 (ix) an input/output device;
2073 (x) an insulator;

2074 (xi) microwave machinery or equipment;
2075 (xii) an oscillator;
2076 (xiii) an output device;
2077 (xiv) a pedestal;
2078 (xv) a power converter;
2079 (xvi) a power supply;
2080 (xvii) a radio channel;
2081 (xviii) a radio receiver;
2082 (xix) a radio transmitter;
2083 (xx) a repeater;
2084 (xxi) software;
2085 (xxii) a terminal;
2086 (xxiii) a timing unit;
2087 (xxiv) a transformer;
2088 (xxv) a wire; or
2089 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
2090 Subsections ~~[(103)]~~ (116)(b)(i) through (xxv) as determined by the commission by rule made in
2091 accordance with Subsection ~~[(103)]~~ (116)(c).
2092 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2093 commission may by rule define what constitutes equipment, machinery, or software that
2094 functions similarly to an item listed in Subsections ~~[(103)]~~ (116)(b)(i) through (xxv).
2095 ~~[(104) (a) "Telephone service" means a two-way transmission:]~~
2096 ~~[(i) by:]~~
2097 ~~[(A) wire;]~~
2098 ~~[(B) radio;]~~
2099 ~~[(C) lightwave; or]~~
2100 ~~[(D) other electromagnetic means; and]~~
2101 ~~[(ii) of one or more of the following:]~~

2102 ~~[(A) a sign;]~~
2103 ~~[(B) a signal;]~~
2104 ~~[(C) writing;]~~
2105 ~~[(D) an image;]~~
2106 ~~[(E) sound;]~~
2107 ~~[(F) a message;]~~
2108 ~~[(G) data; or]~~
2109 ~~[(H) other information of any nature.]~~
2110 ~~[(b) "Telephone service" includes:]~~
2111 ~~[(i) mobile telecommunications service;]~~
2112 ~~[(ii) private communications service; or]~~
2113 ~~[(iii) automated digital telephone answering service.]~~
2114 ~~[(c) "Telephone service" does not include a service or a transaction that a state or a~~
2115 ~~political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet~~
2116 ~~Tax Freedom Act, Pub. L. No. 105-277.]~~
2117 ~~[(105) Notwithstanding where a call is billed or paid, "telephone service address"~~
2118 ~~means:]~~
2119 ~~[(a) if the location described in this Subsection (105)(a) is known, the location of the~~
2120 ~~telephone service equipment:]~~
2121 ~~[(i) to which a call is charged; and]~~
2122 ~~[(ii) from which the call originates or terminates;]~~
2123 ~~[(b) if the location described in Subsection (105)(a) is not known but the location~~
2124 ~~described in this Subsection (105)(b) is known, the location of the origination point of the signal~~
2125 ~~of the telephone service first identified by:]~~
2126 ~~[(i) the telecommunications system of the seller; or]~~
2127 ~~[(ii) if the system used to transport the signal is not that of the seller, information~~
2128 ~~received by the seller from its service provider; or]~~
2129 ~~[(c) if the locations described in Subsection (105)(a) or (b) are not known, the location~~

2130 of a purchaser's primary place of use.]

2131 [(107)] (117) "Tobacco" means:

2132 (a) a cigarette;

2133 (b) a cigar;

2134 (c) chewing tobacco;

2135 (d) pipe tobacco; or

2136 (e) any other item that contains tobacco.

2137 [(108)] (118) "Unassisted amusement device" means an amusement device, skill device,
2138 or ride device that is started and stopped by the purchaser or renter of the right to use or
2139 operate the amusement device, skill device, or ride device.

2140 [(109)] (119) (a) "Use" means the exercise of any right or power over tangible personal
2141 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
2142 incident to the ownership or the leasing of that tangible personal property, ~~[item]~~ product
2143 transferred electronically, or service.

2144 (b) "Use" does not include the sale, display, demonstration, or trial of ~~[that property]~~
2145 tangible personal property, a product transferred electronically, or a service in the regular
2146 course of business and held for resale.

2147 (120) "Value-added nonvoice data service" means a service:

2148 (a) that otherwise meets the definition of a telecommunications service except that a
2149 computer processing application is used to act primarily for a purpose other than conveyance,
2150 routing, or transmission; and

2151 (b) with respect to which a computer processing application is used to act on data or
2152 information:

2153 (i) code;

2154 (ii) content;

2155 (iii) form; or

2156 (iv) protocol.

2157 [(110)] (121) (a) Subject to Subsection [(110)] (121)(b), "vehicle" means the following

2158 that are required to be titled, registered, or titled and registered:

2159 (i) an aircraft as defined in Section 72-10-102;

2160 (ii) a vehicle as defined in Section 41-1a-102;

2161 (iii) an off-highway vehicle as defined in Section 41-22-2; or

2162 (iv) a vessel as defined in Section 41-1a-102.

2163 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

2164 (i) a vehicle described in Subsection [~~(110)~~] (121)(a); or

2165 (ii) (A) a locomotive;

2166 (B) a freight car;

2167 (C) railroad work equipment; or

2168 (D) other railroad rolling stock.

2169 [~~(111)~~] (122) "Vehicle dealer" means a person engaged in the business of buying,

2170 selling, or exchanging a vehicle as defined in Subsection [~~(110)~~] (121).

2171 (123) (a) "Vertical service" means an ancillary service that:

2172 (i) is offered in connection with one or more telecommunications services; and

2173 (ii) offers an advanced calling feature that allows a customer to:

2174 (A) identify a caller; and

2175 (B) manage multiple calls and call connections.

2176 (b) "Vertical service" includes an ancillary service that allows a customer to manage a

2177 conference bridging service.

2178 (124) (a) "Voice mail service" means an ancillary service that enables a customer to

2179 receive, send, or store a recorded message.

2180 (b) "Voice mail service" does not include a vertical service that a customer is required

2181 to have in order to utilize a voice mail service.

2182 [~~(112)~~] (125) (a) Except as provided in Subsection [~~(112)~~] (125)(b), "waste energy

2183 facility" means a facility that generates electricity:

2184 (i) using as the primary source of energy waste materials that would be placed in a

2185 landfill or refuse pit if it were not used to generate electricity, including:

2186 (A) tires;
2187 (B) waste coal; or
2188 (C) oil shale; and
2189 (ii) in amounts greater than actually required for the operation of the facility.
2190 (b) "Waste energy facility" does not include a facility that incinerates:
2191 (i) municipal solid waste;
2192 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or
2193 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
2194 ~~[(H3)]~~ (126) "Watercraft" means a vessel as defined in Section 73-18-2.
2195 ~~[(H4)]~~ (127) "Wind energy" means wind used as the sole source of energy to produce
2196 electricity.
2197 ~~[(H5)]~~ (128) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
2198 geographic location by the United States Postal Service.
2199 Section 9. Section **59-12-102.3** is enacted to read:
2200 **59-12-102.3. Authority to enter into agreement -- Delegates.**
2201 (1) The commission may apply to the governing board for the state to become a party
2202 to the agreement.
2203 (2) If the state becomes a party to the agreement, the commission may:
2204 (a) establish standards for certification of a:
2205 (i) certified automated system; and
2206 (ii) certified service provider;
2207 (b) act jointly with other states that are parties to the agreement to establish
2208 performance standards for multistate sellers; and
2209 (c) take other actions reasonably required to implement provisions of the agreement:
2210 (i) if those actions are not in conflict with statute; and
2211 (ii) subject to Subsection (1)(c)(i), including:
2212 (A) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
2213 adopting administrative rules; and

2214 (B) in furtherance of the agreement, jointly procuring goods or services with other
2215 states that are parties to the agreement.

2216 (3) Subject to Subsection (4), delegates shall be appointed to the governing board of
2217 the agreement to:

2218 (a) assist in implementing the provisions of the agreement; and

2219 (b) address other matters as determined by the governing board.

2220 (4) Delegates shall be appointed as follows:

2221 (a) one delegate shall be a member of the House of Representatives appointed by the
2222 speaker of the House of Representatives;

2223 (b) one delegate shall be a member of the Senate appointed by the president of the
2224 Senate; and

2225 (c) two delegates shall be appointed by the governor, at least one of whom shall be
2226 from the commission.

2227 Section 10. Section **59-12-103** is amended to read:

2228 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
2229 **tax revenues.**

2230 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
2231 charged for the following transactions:

2232 (a) retail sales of tangible personal property made within the state;

2233 (b) amounts paid for:

2234 ~~[(i) to a:]~~

2235 ~~[(A) telephone service provider regardless of whether the telephone service provider is~~
2236 ~~municipally or privately owned; or]~~

2237 ~~[(B) telegraph corporation:]~~

2238 ~~[(F) as defined in Section 54-2-1; and]~~

2239 ~~[(H) regardless of whether the telegraph corporation is municipally or privately owned;~~
2240 ~~and]~~

2241 ~~[(ii) for:]~~

2242 ~~[(A)]~~ (i) ~~[telephone]~~ telecommunications service, other than mobile telecommunications
2243 service, that originates and terminates within the boundaries of this state;
2244 ~~[(B)]~~ (ii) mobile telecommunications service that originates and terminates within the
2245 boundaries of one state only to the extent permitted by the Mobile Telecommunications
2246 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
2247 ~~[(C)] telegraph service;~~
2248 (iii) an ancillary service associated with a:
2249 (A) telecommunications service described in Subsection (1)(b)(i); or
2250 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
2251 (c) sales of the following for commercial use:
2252 (i) gas;
2253 (ii) electricity;
2254 (iii) heat;
2255 (iv) coal;
2256 (v) fuel oil; or
2257 (vi) other fuels;
2258 (d) sales of the following for residential use:
2259 (i) gas;
2260 (ii) electricity;
2261 (iii) heat;
2262 (iv) coal;
2263 (v) fuel oil; or
2264 (vi) other fuels;
2265 (e) sales of prepared food;
2266 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
2267 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
2268 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs,
2269 races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit

2270 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
2271 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis
2272 courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
2273 horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition,
2274 cultural, or athletic activity;

2275 (g) amounts paid or charged for services for repairs or renovations of tangible personal
2276 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

2277 (i) the tangible personal property; and

2278 (ii) parts used in the repairs or renovations of the tangible personal property described
2279 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
2280 of that tangible personal property;

2281 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
2282 assisted cleaning or washing of tangible personal property;

2283 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
2284 accommodations and services that are regularly rented for less than 30 consecutive days;

2285 (j) amounts paid or charged for laundry or dry cleaning services;

2286 (k) amounts paid or charged for leases or rentals of tangible personal property if within
2287 this state the tangible personal property is:

2288 (i) stored;

2289 (ii) used; or

2290 (iii) otherwise consumed;

2291 (l) amounts paid or charged for tangible personal property if within this state the
2292 tangible personal property is:

2293 (i) stored;

2294 (ii) used; or

2295 (iii) consumed; ~~and~~

2296 (m) amounts paid or charged for prepaid telephone calling cards[-]; and

2297 (n) amounts paid or charged for a sale;

- 2298 (i) (A) of a product that:
2299 (I) is transferred electronically; and
2300 (II) would be subject to a tax under this chapter if the product was transferred in a
2301 manner other than electronically; or
2302 (B) of a repair or renovation of a product that:
2303 (I) is transferred electronically; and
2304 (II) would be subject to a tax under this chapter if the product was transferred in a
2305 manner other than electronically; and
2306 (ii) regardless of whether the sale provides:
2307 (A) a right of permanent use of the product; or
2308 (B) a right to use the product that is less than a permanent use, including a right:
2309 (I) for a definite or specified length of time; and
2310 (II) that terminates upon the occurrence of a condition.
2311 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
2312 is imposed on a transaction described in Subsection (1) equal to the sum of:
2313 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
2314 (A) 4.65%; and
2315 (B) the tax rate the state imposes in accordance with Part 18, Additional State Sales
2316 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
2317 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
2318 State Sales and Use Tax Act; and
2319 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2320 transaction under this chapter other than this part.
2321 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
2322 on a transaction described in Subsection (1)(d) equal to the sum of:
2323 (i) a state tax imposed on the transaction at a tax rate of 2%; and
2324 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2325 transaction under this chapter other than this part.

2326 (c) Except as provided in Subsection (2)(d) or (e), beginning on January 1, 2007, a
2327 state tax and a local tax is imposed on amounts paid or charged for food and food ingredients
2328 equal to the sum of:

2329 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
2330 a tax rate of 1.75%; and

2331 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2332 amounts paid or charged for food and food ingredients under this chapter other than this part.

2333 ~~[(d) Except as provided in Subsection (2)(e), if a seller collects a tax in accordance with~~
2334 ~~Subsection 59-12-107(1)(b) on a transaction described in Subsection (1), a state tax and a local~~
2335 ~~tax is imposed on the transaction equal to the sum of:]~~

2336 ~~[(i) a state tax imposed on the transaction at a tax rate of:]~~

2337 ~~[(A) 4.65% for a transaction other than a transaction described in Subsection~~
2338 ~~(2)(d)(i)(B) or (2)(d)(i)(C);]~~

2339 ~~[(B) 2% for a transaction described in Subsection (1)(d); or]~~

2340 ~~[(C) beginning on January 1, 2007, 1.75% on the amounts paid or charged for food and~~
2341 ~~food ingredients; and]~~

2342 ~~[(ii) a local tax imposed on the transaction at a tax rate equal to the sum of the~~
2343 ~~following tax rates:]~~

2344 ~~[(A) the tax rate authorized by Section 59-12-204, but only if all of the counties, cities,~~
2345 ~~and towns in the state impose the tax authorized by Section 59-12-204; and]~~

2346 ~~[(B) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the~~
2347 ~~state impose the tax authorized by Section 59-12-1102:]~~

2348 ~~[(e)]~~ (d) (i) ~~[A state tax and a local tax is imposed on an entire]~~ For a bundled
2349 transaction ~~[as provided in this Subsection (2)(e) if the bundled transaction]~~ that is attributable
2350 to food and food ingredients and tangible personal property other than food and food
2351 ingredients~~[- (ii) If the tax on a bundled transaction described in Subsection (2)(e)(i) is~~
2352 ~~collected by a seller other than a seller that collects a tax in accordance with Subsection~~
2353 ~~59-12-107(1)(b), beginning on January 1, 2007], a state tax and a local tax is imposed on the~~

2354 entire bundled transaction equal to the sum of:

2355 (A) a state tax imposed on the entire bundled transaction ~~[at]~~ equal to the sum of:

2356 (I) the tax rate described in Subsection (2)(a)(i)(A); and

2357 (II) the tax rate the state imposes in accordance with Part 18, Additional State Sales

2358 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

2359 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional

2360 State Sales and Use Tax Act; and

2361 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates

2362 described in Subsection (2)(a)(ii).

2363 ~~[(iii) If the tax on a bundled transaction described in Subsection (2)(c)(i) is collected by~~

2364 ~~a seller in accordance with Subsection 59-12-107(1)(b), beginning on January 1, 2007, a state~~

2365 ~~tax and a local tax is imposed on the entire bundled transaction equal to the sum of:]~~

2366 ~~[(A) a state tax imposed on the entire bundled transaction at the tax rate described in~~

2367 ~~Subsection (2)(d)(i)(A); and]~~

2368 ~~[(B) a local tax imposed on the entire bundled transaction at a tax rate equal to the sum~~

2369 ~~of the following tax rates:]~~

2370 ~~[(F) the tax rate authorized by Section 59-12-204, but only if all of the counties, cities,~~

2371 ~~and towns in the state impose the tax authorized by Section 59-12-204; and]~~

2372 ~~[(H) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the~~

2373 ~~state impose the tax authorized by Section 59-12-1102.]~~

2374 (ii) Subject to Subsection (2)(d)(iii), for a bundled transaction other than a bundled

2375 transaction described in Subsection (2)(d)(i):

2376 (A) if the sales price of the bundled transaction is attributable to tangible personal

2377 property, a product, or a service that is subject to taxation under this chapter and tangible

2378 personal property, a product, or service that is not subject to taxation under this chapter, the

2379 entire bundled transaction is subject to taxation under this chapter unless:

2380 (I) the seller is able to identify by reasonable and verifiable standards the tangible

2381 personal property, product, or service that is not subject to taxation under this chapter from the

2382 books and records the seller keeps in the seller's regular course of business; or

2383 (II) state or federal law provides otherwise; or

2384 (B) if the sales price of a bundled transaction is attributable to two or more items of
2385 tangible personal property, products, or services that are subject to taxation under this chapter
2386 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
2387 higher tax rate unless:

2388 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2389 personal property, product, or service that is subject to taxation under this chapter at the lower
2390 tax rate from the books and records the seller keeps in the seller's regular course of business; or

2391 (II) state or federal law provides otherwise.

2392 (iii) For purposes of Subsection (2)(d)(ii), books and records that a seller keeps in the
2393 seller's regular course of business includes books and records the seller keeps in the regular
2394 course of business for nontax purposes.

2395 ~~[(f)]~~ (e) Subject to Subsections (2)~~[(g)]~~ (f) and ~~[(h)]~~ (g), a tax rate repeal or tax rate
2396 change for a tax rate imposed under the following shall take effect on the first day of a calendar
2397 quarter:

2398 (i) Subsection (2)(a)(i)~~(A)~~;

2399 (ii) Subsection (2)(b)(i);

2400 (iii) Subsection (2)(c)(i); or

2401 (iv) Subsection (2)(d)(i)~~(A)~~(I)~~;~~;

2402 ~~[(v) Subsection (2)(e)(ii)(A); or]~~

2403 ~~[(vi) Subsection (2)(e)(iii)(A).]~~

2404 ~~[(g)]~~ (f) (i) ~~[For a transaction described in Subsection (2)(g)(iii), a]~~ A tax rate increase
2405 shall take effect on the first day of the first billing period that begins after the effective date of
2406 the tax rate increase if the billing period for the transaction begins before the effective date of a
2407 tax rate increase imposed under:

2408 (A) Subsection (2)(a)(i)~~(A)~~;

2409 (B) Subsection (2)(b)(i);

2410 (C) Subsection (2)(c)(i); or
 2411 (D) Subsection (2)(d)(i)(A)(I)[;].
 2412 [~~(E) Subsection (2)(e)(ii)(A); or~~]
 2413 [~~(F) Subsection (2)(e)(iii)(A);~~]
 2414 (ii) [~~For a transaction described in Subsection (2)(g)(iii), the~~] The repeal of a tax or a
 2415 tax rate decrease shall take effect on the first day of the last billing period that began before the
 2416 effective date of the repeal of the tax or the tax rate decrease if the billing period for the
 2417 transaction begins before the effective date of the repeal of the tax or the tax rate decrease
 2418 imposed under:
 2419 (A) Subsection (2)(a)(i)(A);
 2420 (B) Subsection (2)(b)(i);
 2421 (C) Subsection (2)(c)(i); or
 2422 (D) Subsection (2)(d)(i)(A)(I)[;].
 2423 [~~(E) Subsection (2)(e)(ii)(A); or~~]
 2424 [~~(F) Subsection (2)(e)(iii)(A);~~]
 2425 [~~(iii) Subsections (2)(g)(i) and (ii) apply to transactions subject to a tax under:~~]
 2426 [~~(A) Subsection (1)(b);~~]
 2427 [~~(B) Subsection (1)(c);~~]
 2428 [~~(C) Subsection (1)(d);~~]
 2429 [~~(D) Subsection (1)(e);~~]
 2430 [~~(E) Subsection (1)(f);~~]
 2431 [~~(F) Subsection (1)(g);~~]
 2432 [~~(G) Subsection (1)(h);~~]
 2433 [~~(H) Subsection (1)(i);~~]
 2434 [~~(I) Subsection (1)(j); or~~]
 2435 [~~(J) Subsection (1)(k);~~]
 2436 [~~(h)~~] (g) (i) For a tax rate described in Subsection (2)[~~(h)~~] (g)(ii), if a tax due on a
 2437 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a

2438 tax rate repeal or change in a tax rate takes effect:

2439 (A) on the first day of a calendar quarter; and

2440 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

2441 (ii) Subsection (2)[~~(h)~~] (g)(i) applies to the tax rates described in the following:

2442 (A) Subsection (2)(a)(i)(A);

2443 (B) Subsection (2)(b)(i);

2444 (C) Subsection (2)(c)(i); or

2445 (D) Subsection (2)(d)(i)(A)(I)[;].

2446 [~~(E) Subsection (2)(c)(ii)(A); or~~]

2447 [~~(F) Subsection (2)(c)(iii)(A);~~]

2448 (iii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2449 commission may by rule define the term "catalogue sale."

2450 (3) (a) Except as provided in Subsections (4) through [~~(10)~~] (9), the following state
2451 taxes shall be deposited into the General Fund:

2452 (i) the tax imposed by Subsection (2)(a)(i)(A);

2453 (ii) the tax imposed by Subsection (2)(b)(i);

2454 (iii) the tax imposed by Subsection (2)(c)(i); or

2455 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I)[;].

2456 [~~(v) the tax imposed by Subsection (2)(c)(ii)(A); and~~]

2457 [~~(vi) the tax imposed by Subsection (2)(c)(iii)(A);~~]

2458 (b) The following local taxes shall be distributed to a county, city, or town as provided
2459 in this chapter:

2460 (i) the tax imposed by Subsection (2)(a)(ii);

2461 (ii) the tax imposed by Subsection (2)(b)(ii);

2462 (iii) the tax imposed by Subsection (2)(c)(ii); and

2463 (iv) the tax imposed by Subsection [~~(2)(c)(ii)(B)~~] (2)(d)(i)(B).

2464 [~~(c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the~~
2465 ~~state shall receive the county's, city's, or town's proportionate share of the revenues generated~~

2466 by the following local taxes as provided in Subsection (3)(c)(ii):]

2467 [~~(A) the local tax described in Subsection (2)(d)(ii); and~~

2468 [~~(B) the local tax described in Subsection (2)(e)(iii)(B).~~]

2469 [~~(ii) For revenues generated by a tax described in Subsection (3)(c)(i), the commission~~

2470 ~~shall determine a county's, city's, or town's proportionate share of the revenues by:~~]

2471 [~~(A) calculating an amount equal to the population of the unincorporated area of the~~

2472 ~~county, city, or town divided by the total population of the state; and~~]

2473 [~~(B) multiplying the amount determined under Subsection (3)(c)(ii)(A) by the total~~

2474 ~~amount of revenues generated by the taxes described in Subsection (3)(c)(i) for all counties,~~

2475 ~~cities, and towns.]~~

2476 [~~(iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for~~

2477 ~~purposes of this section shall be derived from the most recent official census or census estimate~~

2478 ~~of the United States Census Bureau.]~~

2479 [~~(B) If a needed population estimate is not available from the United States Census~~

2480 ~~Bureau, population figures shall be derived from the estimate from the Utah Population~~

2481 ~~Estimates Committee created by executive order of the governor.]~~

2482 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,

2483 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)

2484 through (g):

2485 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

2486 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

2487 (B) for the fiscal year; or

2488 (ii) \$17,500,000.

2489 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described

2490 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of

2491 Natural Resources to:

2492 (A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to

2493 protect sensitive plant and animal species; or

2494 (B) award grants, up to the amount authorized by the Legislature in an appropriations
2495 act, to political subdivisions of the state to implement the measures described in Subsections
2496 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

2497 (ii) Money transferred to the Department of Natural Resources under Subsection
2498 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
2499 person to list or attempt to have listed a species as threatened or endangered under the
2500 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

2501 (iii) At the end of each fiscal year:

2502 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2503 Conservation and Development Fund created in Section 73-10-24;

2504 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
2505 Program Subaccount created in Section 73-10c-5; and

2506 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
2507 Program Subaccount created in Section 73-10c-5.

2508 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
2509 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
2510 created in Section 4-18-6.

2511 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
2512 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
2513 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water
2514 rights.

2515 (ii) At the end of each fiscal year:

2516 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2517 Conservation and Development Fund created in Section 73-10-24;

2518 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
2519 Program Subaccount created in Section 73-10c-5; and

2520 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
2521 Program Subaccount created in Section 73-10c-5.

2522 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
2523 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
2524 Fund created in Section 73-10-24 for use by the Division of Water Resources.

2525 (ii) In addition to the uses allowed of the Water Resources Conservation and
2526 Development Fund under Section 73-10-24, the Water Resources Conservation and
2527 Development Fund may also be used to:

2528 (A) conduct hydrologic and geotechnical investigations by the Division of Water
2529 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
2530 quantifying surface and ground water resources and describing the hydrologic systems of an
2531 area in sufficient detail so as to enable local and state resource managers to plan for and
2532 accommodate growth in water use without jeopardizing the resource;

2533 (B) fund state required dam safety improvements; and

2534 (C) protect the state's interest in interstate water compact allocations, including the
2535 hiring of technical and legal staff.

2536 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2537 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
2538 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

2539 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2540 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount created
2541 in Section 73-10c-5 for use by the Division of Drinking Water to:

2542 (i) provide for the installation and repair of collection, treatment, storage, and
2543 distribution facilities for any public water system, as defined in Section 19-4-102;

2544 (ii) develop underground sources of water, including springs and wells; and

2545 (iii) develop surface water sources.

2546 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2547 2006, the difference between the following amounts shall be expended as provided in this
2548 Subsection (5), if that difference is greater than \$1:

2549 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the

2550 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and
2551 (ii) \$17,500,000.

2552 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:
2553 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
2554 credits; and
2555 (B) expended by the Department of Natural Resources for watershed rehabilitation or
2556 restoration.

2557 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
2558 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
2559 created in Section 73-10-24.

2560 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
2561 remaining difference described in Subsection (5)(a) shall be:
2562 (A) transferred each fiscal year to the Division of Water Resources as dedicated credits;
2563 and
2564 (B) expended by the Division of Water Resources for cloud-seeding projects authorized
2565 by Title 73, Chapter 15, Modification of Weather.

2566 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
2567 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
2568 created in Section 73-10-24.

2569 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
2570 remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources
2571 Conservation and Development Fund created in Section 73-10-24 for use by the Division of
2572 Water Resources for:

2573 (i) preconstruction costs:
2574 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
2575 26, Bear River Development Act; and
2576 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
2577 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

2578 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
2579 Chapter 26, Bear River Development Act;

2580 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
2581 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

2582 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
2583 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

2584 (e) Any unexpended monies described in Subsection (5)(d) that remain in the Water
2585 Resources Conservation and Development Fund at the end of the fiscal year are nonlapsing.

2586 (f) After making the transfers required by Subsections (5)(b) and (c) and subject to
2587 Subsection (5)(g), 6% of the remaining difference described in Subsection (5)(a) shall be
2588 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
2589 incurred for employing additional technical staff for the administration of water rights.

2590 (g) At the end of each fiscal year, any unexpended dedicated credits described in
2591 Subsection (5)(f) over \$150,000 lapse to the Water Resources Conservation and Development
2592 Fund created in Section 73-10-24.

2593 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2594 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
2595 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
2596 the Transportation Fund created by Section 72-2-102.

2597 (7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies, beginning
2598 on January 1, 2000, the Division of Finance shall deposit into the Centennial Highway Fund
2599 Restricted Account created in Section 72-2-118 a portion of the taxes listed under Subsection
2600 (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable transactions under
2601 Subsection (1).

2602 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds have
2603 been paid off and the highway projects completed that are intended to be paid from revenues
2604 deposited in the Centennial Highway Fund Restricted Account as determined by the Executive
2605 Appropriations Committee under Subsection 72-2-118(6)(d), the Division of Finance shall

deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 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).

~~[(8) (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 (8)(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 (8)(a) is equal to the difference between:]~~

~~[(i) the total amount of the revenues the commission received from sellers collecting the taxes described in Subsections (2)(d)(i) and (2)(e)(iii)(A) for the fiscal year immediately preceding the September 30 described in Subsection (8)(a); and]~~

~~[(ii) \$7,279,673.]~~

~~[(9)]~~ (8) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in Subsection (7)(a), and until Subsection ~~[(9)]~~ (8)(b) applies, for a fiscal year beginning on or after July 1, 2007, the Division of Finance shall deposit into the Centennial Highway Fund Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection (3)(a) equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection ~~[(2)(e)(ii)(A)]~~ (2)(d)(i)(A)(I).

(b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under Subsection (7)(b), when the highway general obligation bonds have been paid off and the highway projects completed that are intended to be paid from revenues deposited in the Centennial Highway Fund Restricted Account as determined by the Executive Appropriations

Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

- (i) the tax imposed by Subsection (2)(a)(i)(A);
- (ii) the tax imposed by Subsection (2)(b)(i);
- (iii) the tax imposed by Subsection (2)(c)(i); and
- (iv) the tax imposed by Subsection ~~[(2)(c)(ii)(A)]~~ (2)(d)(i)(A)(I).

~~[(10)]~~ (9) (a) Notwithstanding Subsection (3)(a) and until Subsection ~~[(10)]~~ (9)(b) applies, the Division of Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Critical Highway Needs Fund created by Section 72-2-125.

(b) Notwithstanding Subsection (3)(a) and in addition to any amounts deposited under Subsections (7) and ~~[(9)]~~ (8), when the general obligation bonds authorized by Section 63B-16-101 have been paid off and the highway projects completed that are included in the prioritized project list under Subsection 72-2-125(4) as determined in accordance with Subsection 72-2-125(6), the Division of Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

Section 11. Section **59-12-104** is amended to read:

59-12-104. 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:

2662 (i) construction materials purchased by or on behalf of institutions of the public
2663 education system as defined in Utah Constitution Article X, Section 2, provided the
2664 construction materials are clearly identified and segregated and installed or converted to real
2665 property which is owned by institutions of the public education system; and

2666 (ii) construction materials purchased by the state, its institutions, or its political
2667 subdivisions which are installed or converted to real property by employees of the state, its
2668 institutions, or its political subdivisions; or

2669 (b) tangible personal property in connection with the construction, operation,
2670 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
2671 providing additional project capacity, as defined in Section 11-13-103;

2672 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

2673 (i) the proceeds of each sale do not exceed \$1; and

2674 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
2675 the cost of the item described in Subsection (3)(b) as goods consumed; and

2676 (b) Subsection (3)(a) applies to:

2677 (i) food and food ingredients; or

2678 (ii) prepared food;

2679 (4) sales of the following to a commercial airline carrier for in-flight consumption:

2680 (a) food and food ingredients;

2681 (b) prepared food; or

2682 (c) services related to Subsection (4)(a) or (b);

2683 (5) sales of parts and equipment for installation in aircraft operated by common carriers
2684 in interstate or foreign commerce;

2685 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
2686 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
2687 exhibitor, distributor, or commercial television or radio broadcaster;

2688 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
2689 property if the cleaning or washing of the tangible personal property is not assisted cleaning or

2690 washing of tangible personal property;

2691 (b) if a seller that sells at the same business location assisted cleaning or washing of
2692 tangible personal property and cleaning or washing of tangible personal property that is not
2693 assisted cleaning or washing of tangible personal property, the exemption described in
2694 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or
2695 washing of the tangible personal property; and

2696 (c) for purposes of Subsection (7)(b) and in accordance with Title 63, Chapter 46a,
2697 Utah Administrative Rulemaking Act, the commission may make rules:

2698 (i) governing the circumstances under which sales are at the same business location; and

2699 (ii) establishing the procedures and requirements for a seller to separately account for
2700 sales of assisted cleaning or washing of tangible personal property;

2701 (8) sales made to or by religious or charitable institutions in the conduct of their regular
2702 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
2703 fulfilled;

2704 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
2705 this state if the vehicle is:

2706 (a) not registered in this state; and

2707 (b) (i) not used in this state; or

2708 (ii) used in this state:

2709 (A) if the vehicle is not used to conduct business, for a time period that does not exceed
2710 the longer of:

2711 (I) 30 days in any calendar year; or

2712 (II) the time period necessary to transport the vehicle to the borders of this state; or

2713 (B) if the vehicle is used to conduct business, for the time period necessary to transport
2714 the vehicle to the borders of this state;

2715 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

2716 (i) the item is intended for human use; and

2717 (ii) (A) a prescription was issued for the item; or

2718 (B) the item was purchased by a hospital or other medical facility; and
2719 (b) (i) Subsection (10)(a) applies to:
2720 (A) a drug;
2721 (B) a syringe; or
2722 (C) a stoma supply; and
2723 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2724 commission may by rule define the terms:
2725 (A) "syringe"; or
2726 (B) "stoma supply";
2727 (11) sales or use of property, materials, or services used in the construction of or
2728 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
2729 (12) (a) sales of an item described in Subsection (12)(c) served by:
2730 (i) the following if the item described in Subsection (12)(c) is not available to the
2731 general public:
2732 (A) a church; or
2733 (B) a charitable institution;
2734 (ii) an institution of higher education if:
2735 (A) the item described in Subsection (12)(c) is not available to the general public; or
2736 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
2737 offered by the institution of higher education; or
2738 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
2739 (i) a medical facility; or
2740 (ii) a nursing facility; and
2741 (c) Subsections (12)(a) and (b) apply to:
2742 (i) food and food ingredients;
2743 (ii) prepared food; or
2744 (iii) alcoholic beverages;
2745 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property

2746 or a product transferred electronically by a person:

2747 (i) regardless of the number of transactions involving the sale of that tangible personal
2748 property or product transferred electronically by that person; and

2749 (ii) not regularly engaged in the business of selling that type of tangible personal
2750 property or product transferred electronically;

2751 (b) this Subsection (13) does not apply if:

2752 (i) the sale is one of a series of sales of a character to indicate that the person is
2753 regularly engaged in the business of selling that type of tangible personal property or product
2754 transferred electronically;

2755 (ii) the person holds that person out as regularly engaged in the business of selling that
2756 type of tangible personal property or product transferred electronically;

2757 (iii) the person sells an item of tangible personal property or product transferred
2758 electronically that the person purchased as a sale that is exempt under Subsection (25); or

2759 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
2760 this state in which case the tax is based upon:

2761 (A) the bill of sale or other written evidence of value of the vehicle or vessel being sold;
2762 or

2763 (B) in the absence of a bill of sale or other written evidence of value, the fair market
2764 value of the vehicle or vessel being sold at the time of the sale as determined by the commission;
2765 and

2766 (c) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2767 commission shall make rules establishing the circumstances under which:

2768 (i) a person is regularly engaged in the business of selling a type of tangible personal
2769 property or product transferred electronically;

2770 (ii) a sale of tangible personal property or a product transferred electronically is one of a
2771 series of sales of a character to indicate that a person is regularly engaged in the business of
2772 selling that type of tangible personal property or product transferred electronically; or

2773 (iii) a person holds that person out as regularly engaged in the business of selling a type

2774 of tangible personal property or product transferred electronically;

2775 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
2776 July 1, 2006, for a purchase or lease by a manufacturing facility other than a cogeneration
2777 facility, for the following:

2778 (i) machinery and equipment that:

2779 (A) is used:

2780 (I) for a manufacturing facility other than a manufacturing facility that is a scrap
2781 recycler described in Subsection 59-12-102[~~(48)~~] (52)(b):

2782 (Aa) in the manufacturing process; and

2783 (Bb) to manufacture an item sold as tangible personal property; or

2784 (II) for a manufacturing facility that is a scrap recycler described in Subsection
2785 59-12-102[~~(48)~~] (52)(b), to process an item sold as tangible personal property; and

2786 (B) has an economic life of three or more years; and

2787 (ii) normal operating repair or replacement parts that:

2788 (A) have an economic life of three or more years; and

2789 (B) are used:

2790 (I) for a manufacturing facility in the state other than a manufacturing facility that is a
2791 scrap recycler described in Subsection 59-12-102[~~(48)~~] (52)(b), in the manufacturing process;
2792 or

2793 (II) for a manufacturing facility in the state that is a scrap recycler described in
2794 Subsection 59-12-102[~~(48)~~] (52)(b), to process an item sold as tangible personal property;

2795 (b) (i) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
2796 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
2797 for the following:

2798 (A) machinery and equipment that:

2799 (I) is used:

2800 (Aa) in the manufacturing process; and

2801 (Bb) to manufacture an item sold as tangible personal property; and

2802 (II) has an economic life of three or more years; and
 2803 (B) normal operating repair or replacement parts that:
 2804 (I) are used in the manufacturing process in a manufacturing facility in the state; and
 2805 (II) have an economic life of three or more years; and
 2806 (ii) for amounts paid or charged on or after July 1, 2005, but on or before June 30,
 2807 2006, for a purchase or lease described in Subsection (14)(b)(i), a cogeneration facility may
 2808 claim the exemption allowed by Subsection (14)(b)(i) by filing for a refund:
 2809 (A) for sales and use taxes paid under this chapter on the purchase or lease payment;
 2810 and
 2811 (B) in accordance with Section 59-12-110;
 2812 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
 2813 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
 2814 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
 2815 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
 2816 of the 2002 North American Industry Classification System of the federal Executive Office of
 2817 the President, Office of Management and Budget:
 2818 (i) machinery and equipment that:
 2819 (A) are used in:
 2820 (I) the production process, other than the production of real property; or
 2821 (II) research and development; and
 2822 (B) have an economic life of three or more years; and
 2823 (ii) normal operating repair or replacement parts that:
 2824 (A) have an economic life of three or more years; and
 2825 (B) are used in:
 2826 (I) the production process, other than the production of real property, in an
 2827 establishment described in this Subsection (14)(c) in the state; or
 2828 (II) research and development in an establishment described in this Subsection (14)(c)
 2829 in the state;

2830 (d) for purposes of this Subsection (14) and in accordance with Title 63, Chapter 46a,
2831 Utah Administrative Rulemaking Act, the commission:

2832 (i) shall by rule define the term "establishment"; and

2833 (ii) may by rule define what constitutes:

2834 (A) processing an item sold as tangible personal property;

2835 (B) the production process, other than the production of real property; or

2836 (C) research and development; and

2837 (e) on or before October 1, 2011, and every five years after October 1, 2011, the
2838 commission shall:

2839 (i) review the exemptions described in this Subsection (14) and make recommendations
2840 to the Revenue and Taxation Interim Committee concerning whether the exemptions should be
2841 continued, modified, or repealed; and

2842 (ii) include in its report:

2843 (A) the cost of the exemptions;

2844 (B) the purpose and effectiveness of the exemptions; and

2845 (C) the benefits of the exemptions to the state;

2846 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

2847 (i) tooling;

2848 (ii) special tooling;

2849 (iii) support equipment;

2850 (iv) special test equipment; or

2851 (v) parts used in the repairs or renovations of tooling or equipment described in
2852 Subsections (15)(a)(i) through (iv); and

2853 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

2854 (i) the tooling, equipment, or parts are used or consumed exclusively in the performance
2855 of any aerospace or electronics industry contract with the United States government or any
2856 subcontract under that contract; and

2857 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),

2858 title to the tooling, equipment, or parts is vested in the United States government as evidenced
2859 by:

2860 (A) a government identification tag placed on the tooling, equipment, or parts; or

2861 (B) listing on a government-approved property record if placing a government
2862 identification tag on the tooling, equipment, or parts is impractical;

2863 (16) sales of newspapers or newspaper subscriptions;

2864 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
2865 product transferred electronically traded in as full or part payment of the purchase price, except
2866 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
2867 trade-ins are limited to other vehicles only, and the tax is based upon:

2868 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
2869 vehicle being traded in; or

2870 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
2871 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
2872 commission; and

2873 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the
2874 following items of tangible personal property or products transferred electronically traded in as
2875 full or part payment of the purchase price:

2876 (i) money;

2877 (ii) electricity;

2878 (iii) water;

2879 (iv) gas; or

2880 (v) steam;

2881 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
2882 or a product transferred electronically used or consumed primarily and directly in farming
2883 operations, regardless of whether the tangible personal property or product transferred
2884 electronically:

2885 (A) becomes part of real estate; or

2886 (B) is installed by a:
2887 (I) farmer;
2888 (II) contractor; or
2889 (III) subcontractor; or
2890 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
2891 product transferred electronically if the tangible personal property or product transferred
2892 electronically is exempt under Subsection (18)(a)(i); and
2893 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following
2894 [~~tangible personal property~~] are subject to the taxes imposed by this chapter:
2895 (i) (A) subject to Subsection (18)(b)(i)(B), the following [~~tangible personal property~~] if
2896 [~~the tangible personal property is~~] used in a manner that is incidental to farming:
2897 (I) machinery;
2898 (II) equipment;
2899 (III) materials; or
2900 (IV) supplies; and
2901 (B) tangible personal property that is considered to be used in a manner that is
2902 incidental to farming includes:
2903 (I) hand tools; or
2904 (II) maintenance and janitorial equipment and supplies;
2905 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
2906 transferred electronically if the tangible personal property or product transferred electronically is
2907 used in an activity other than farming; and
2908 (B) tangible personal property or a product transferred electronically that is considered
2909 to be used in an activity other than farming includes:
2910 (I) office equipment and supplies; or
2911 (II) equipment and supplies used in:
2912 (Aa) the sale or distribution of farm products;
2913 (Bb) research; or

2914 (Cc) transportation; or
2915 (iii) a vehicle required to be registered by the laws of this state during the period ending
2916 two years after the date of the vehicle's purchase;
2917 (19) sales of hay;
2918 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
2919 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
2920 garden, farm, or other agricultural produce is sold by:
2921 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
2922 agricultural produce;
2923 (b) an employee of the producer described in Subsection (20)(a); or
2924 (c) a member of the immediate family of the producer described in Subsection (20)(a);
2925 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
2926 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
2927 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
2928 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
2929 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
2930 manufacturer, processor, wholesaler, or retailer;
2931 (23) [~~property~~] a product stored in the state for resale;
2932 (24) (a) purchases of [~~property~~] a product if:
2933 (i) the [~~property~~] product is:
2934 (A) purchased outside of this state;
2935 (B) brought into this state:
2936 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
2937 (II) by a nonresident person who is not living or working in this state at the time of the
2938 purchase;
2939 (C) used for the personal use or enjoyment of the nonresident person described in
2940 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
2941 (D) not used in conducting business in this state; and

2942 (ii) for:

2943 (A) [~~property~~] a product other than [~~the property~~] a boat described in Subsection

2944 (24)(a)(ii)(B), the first use of the [~~property~~] product for a purpose for which the [~~property~~]

2945 product is designed occurs outside of this state;

2946 (B) a boat, the boat is registered outside of this state; or

2947 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

2948 outside of this state;

2949 (b) the exemption provided for in Subsection (24)(a) does not apply to:

2950 (i) a lease or rental of [~~property~~] a product; or

2951 (ii) a sale of a vehicle exempt under Subsection (33); and

2952 (c) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for

2953 purposes of Subsection (24)(a), the commission may by rule define what constitutes the

2954 following:

2955 (i) conducting business in this state if that phrase has the same meaning in this

2956 Subsection (24) as in Subsection (66);

2957 (ii) the first use of [~~property~~] a product if that phrase has the same meaning in this

2958 Subsection (24) as in Subsection (66); or

2959 (iii) a purpose for which [~~property~~] a product is designed if that phrase has the same

2960 meaning in this Subsection (24) as in Subsection (66);

2961 (25) [~~property~~] a product purchased for resale in this state, in the regular course of

2962 business, either in its original form or as an ingredient or component part of a manufactured or

2963 compounded product;

2964 (26) [~~property~~] a product upon which a sales or use tax was paid to some other state,

2965 or one of its subdivisions, except that the state shall be paid any difference between the tax paid

2966 and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is

2967 allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and

2968 Use Tax Act;

2969 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a

- 2970 person for use in compounding a service taxable under the subsections;
- 2971 (28) purchases made in accordance with the special supplemental nutrition program for
- 2972 women, infants, and children established in 42 U.S.C. Sec. 1786;
- 2973 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
- 2974 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
- 2975 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual
- 2976 of the federal Executive Office of the President, Office of Management and Budget;
- 2977 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
- 2978 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
- 2979 (a) not registered in this state; and
- 2980 (b) (i) not used in this state; or
- 2981 (ii) used in this state:
- 2982 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
- 2983 time period that does not exceed the longer of:
- 2984 (I) 30 days in any calendar year; or
- 2985 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
- 2986 the borders of this state; or
- 2987 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
- 2988 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
- 2989 state;
- 2990 (31) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah
- 2991 where a sales or use tax is not imposed, even if the title is passed in Utah;
- 2992 (32) amounts paid for the purchase of [~~telephone~~] telecommunications service for
- 2993 purposes of providing [~~telephone~~] telecommunications service;
- 2994 (33) sales, leases, or uses of the following:
- 2995 (a) a vehicle by an authorized carrier; or
- 2996 (b) tangible personal property that is installed on a vehicle:
- 2997 (i) sold or leased to or used by an authorized carrier; and

2998 (ii) before the vehicle is placed in service for the first time;
2999 (34) (a) 45% of the sales price of any new manufactured home; and
3000 (b) 100% of the sales price of any used manufactured home;
3001 (35) sales relating to schools and fundraising sales;
3002 (36) sales or rentals of durable medical equipment if:
3003 (a) a person presents a prescription for the durable medical equipment; and
3004 (b) the durable medical equipment is used for home use only;
3005 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
3006 Section 72-11-102; and
3007 (b) the commission shall by rule determine the method for calculating sales exempt
3008 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
3009 (38) sales to a ski resort of:
3010 (a) snowmaking equipment;
3011 (b) ski slope grooming equipment;
3012 (c) passenger ropeways as defined in Section 72-11-102; or
3013 (d) parts used in the repairs or renovations of equipment or passenger ropeways
3014 described in Subsections (38)(a) through (c);
3015 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
3016 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
3017 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
3018 59-12-102;
3019 (b) if a seller that sells or rents at the same business location the right to use or operate
3020 for amusement, entertainment, or recreation one or more unassisted amusement devices and one
3021 or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if
3022 the seller separately accounts for the sales or rentals of the right to use or operate for
3023 amusement, entertainment, or recreation for the assisted amusement devices; and
3024 (c) for purposes of Subsection (40)(b) and in accordance with Title 63, Chapter 46a,
3025 Utah Administrative Rulemaking Act, the commission may make rules:

3026 (i) governing the circumstances under which sales are at the same business location; and
3027 (ii) establishing the procedures and requirements for a seller to separately account for
3028 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
3029 assisted amusement devices;

3030 (41) (a) sales of photocopies by:
3031 (i) a governmental entity; or
3032 (ii) an entity within the state system of public education, including:
3033 (A) a school; or
3034 (B) the State Board of Education; or
3035 (b) sales of publications by a governmental entity;

3036 (42) amounts paid for admission to an athletic event at an institution of higher
3037 education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20
3038 U.S.C. Sec. 1681 et seq.;

3039 (43) sales of ~~[telephone]~~ telecommunications service charged to a prepaid telephone
3040 calling card;

3041 ~~[(44)(a) sales of:]~~
3042 ~~[(i) hearing aids;]~~
3043 ~~[(ii) hearing aid accessories; or]~~
3044 ~~[(iii) except as provided in Subsection (44)(b), parts used in the repairs or renovations~~
3045 ~~of hearing aids or hearing aid accessories; and]~~
3046 ~~[(b) for purposes of this Subsection (44), notwithstanding Subsection (44)(a)(iii),~~
3047 ~~"parts" does not include batteries;]~~

3048 ~~[(45)]~~ (44) (a) sales made to or by:
3049 (i) an area agency on aging; or
3050 (ii) a senior citizen center owned by a county, city, or town; or
3051 (b) sales made by a senior citizen center that contracts with an area agency on aging;

3052 ~~[(46)]~~ (45) sales or leases of semiconductor fabricating, processing, research, or
3053 development materials regardless of whether the semiconductor fabricating, processing,

3054 research, or development materials:

3055 (a) actually come into contact with a semiconductor; or

3056 (b) ultimately become incorporated into real property;

3057 ~~[(47)]~~ (46) an amount paid by or charged to a purchaser for accommodations and

3058 services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under

3059 Section 59-12-104.2;

3060 ~~[(48)]~~ (47) beginning on September 1, 2001, the lease or use of a vehicle issued a

3061 temporary sports event registration certificate in accordance with Section 41-3-306 for the

3062 event period specified on the temporary sports event registration certificate;

3063 ~~[(49)]~~ (48) sales or uses of electricity, if the sales or uses are:

3064 (a) made under a tariff adopted by the Public Service Commission of Utah only for

3065 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy

3066 source, as designated in the tariff by the Public Service Commission of Utah; and

3067 (b) for an amount of electricity that is:

3068 (i) unrelated to the amount of electricity used by the person purchasing the electricity

3069 under the tariff described in Subsection ~~[(49)]~~ (48)(a); and

3070 (ii) equivalent to the number of kilowatthours specified in the tariff described in

3071 Subsection ~~[(49)]~~ (48)(a) that may be purchased under the tariff described in Subsection ~~[(49)]~~

3072 (48)(a);

3073 ~~[(50)]~~ (49) sales or rentals of mobility enhancing equipment if a person presents a

3074 prescription for the mobility enhancing equipment;

3075 ~~[(51)]~~ (50) sales of water in a:

3076 (a) pipe;

3077 (b) conduit;

3078 (c) ditch; or

3079 (d) reservoir;

3080 ~~[(52)]~~ (51) sales of currency or coinage that constitute legal tender of the United States

3081 or of a foreign nation;

3082 ~~[(53)]~~ (52) (a) sales of an item described in Subsection ~~[(53)]~~ (52)(b) if the item:

3083 (i) does not constitute legal tender of any nation; and

3084 (ii) has a gold, silver, or platinum content of 80% or more; and

3085 (b) Subsection ~~[(53)]~~ (52)(a) applies to a gold, silver, or platinum:

3086 (i) ingot;

3087 (ii) bar;

3088 (iii) medallion; or

3089 (iv) decorative coin;

3090 ~~[(54)]~~ (53) amounts paid on a sale-leaseback transaction;

3091 ~~[(55)]~~ (54) sales of a prosthetic device:

3092 (a) for use on or in a human;

3093 (b) for which a prescription is issued; and

3094 (c) to a person that presents a prescription for the prosthetic device;

3095 ~~[(56)]~~ (55) (a) except as provided in Subsection ~~[(56)]~~ (55)(b), purchases, leases, or

3096 rentals of machinery or equipment by an establishment described in Subsection ~~[(56)]~~ (55)(c) if

3097 the machinery or equipment is primarily used in the production or postproduction of the

3098 following media for commercial distribution:

3099 (i) a motion picture;

3100 (ii) a television program;

3101 (iii) a movie made for television;

3102 (iv) a music video;

3103 (v) a commercial;

3104 (vi) a documentary; or

3105 (vii) a medium similar to Subsections ~~[(56)]~~ (55)(a)(i) through (vi) as determined by the

3106 commission by administrative rule made in accordance with Subsection ~~[(56)]~~ (55)(d); or

3107 (b) notwithstanding Subsection ~~[(56)]~~ (55)(a), purchases, leases, or rentals of

3108 machinery or equipment by an establishment described in Subsection ~~[(56)]~~ (55)(c) that is used

3109 for the production or postproduction of the following are subject to the taxes imposed by this

3110 chapter:

3111 (i) a live musical performance;

3112 (ii) a live news program; or

3113 (iii) a live sporting event;

3114 (c) the following establishments listed in the 1997 North American Industry

3115 Classification System of the federal Executive Office of the President, Office of Management

3116 and Budget, apply to Subsections [~~56~~] (55)(a) and (b):

3117 (i) NAICS Code 512110; or

3118 (ii) NAICS Code 51219; and

3119 (d) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

3120 commission may by rule:

3121 (i) prescribe what constitutes a medium similar to Subsections [~~56~~] (55)(a)(i) through

3122 (vi); or

3123 (ii) define:

3124 (A) "commercial distribution";

3125 (B) "live musical performance";

3126 (C) "live news program"; or

3127 (D) "live sporting event";

3128 [~~57~~] (56) (a) leases of seven or more years or purchases made on or after July 1, 2004

3129 but on or before June 30, 2009, of machinery or equipment that:

3130 (i) is leased or purchased for or by a facility that:

3131 (A) is a renewable energy production facility;

3132 (B) is located in the state; and

3133 (C) (I) becomes operational on or after July 1, 2004; or

3134 (II) has its generation capacity increased by one or more megawatts on or after July 1,

3135 2004 as a result of the use of the machinery or equipment;

3136 (ii) has an economic life of five or more years; and

3137 (iii) is used to make the facility or the increase in capacity of the facility described in

3138 Subsection [~~(57)~~] (56)(a)(i) operational up to the point of interconnection with an existing
3139 transmission grid including:

- 3140 (A) a wind turbine;
- 3141 (B) generating equipment;
- 3142 (C) a control and monitoring system;
- 3143 (D) a power line;
- 3144 (E) substation equipment;
- 3145 (F) lighting;
- 3146 (G) fencing;
- 3147 (H) pipes; or
- 3148 (I) other equipment used for locating a power line or pole; and

3149 (b) this Subsection [~~(57)~~] (56) does not apply to:

- 3150 (i) machinery or equipment used in construction of:
- 3151 (A) a new renewable energy production facility; or
- 3152 (B) the increase in the capacity of a renewable energy production facility;
- 3153 (ii) contracted services required for construction and routine maintenance activities; and
- 3154 (iii) unless the machinery or equipment is used or acquired for an increase in capacity of
- 3155 the facility described in Subsection [~~(57)~~] (56)(a)(i)(C)(II), machinery or equipment used or
- 3156 acquired after:
- 3157 (A) the renewable energy production facility described in Subsection [~~(57)~~] (56)(a)(i) is
- 3158 operational as described in Subsection [~~(57)~~] (56)(a)(iii); or
- 3159 (B) the increased capacity described in Subsection [~~(57)~~] (56)(a)(i) is operational as
- 3160 described in Subsection [~~(57)~~] (56)(a)(iii);
- 3161 [~~(58)~~] (57) (a) leases of seven or more years or purchases made on or after July 1, 2004
- 3162 but on or before June 30, 2009, of machinery or equipment that:
- 3163 (i) is leased or purchased for or by a facility that:
- 3164 (A) is a waste energy production facility;
- 3165 (B) is located in the state; and

3166 (C) (I) becomes operational on or after July 1, 2004; or
3167 (II) has its generation capacity increased by one or more megawatts on or after July 1,
3168 2004 as a result of the use of the machinery or equipment;
3169 (ii) has an economic life of five or more years; and
3170 (iii) is used to make the facility or the increase in capacity of the facility described in
3171 Subsection [~~(58)~~] (57)(a)(i) operational up to the point of interconnection with an existing
3172 transmission grid including:
3173 (A) generating equipment;
3174 (B) a control and monitoring system;
3175 (C) a power line;
3176 (D) substation equipment;
3177 (E) lighting;
3178 (F) fencing;
3179 (G) pipes; or
3180 (H) other equipment used for locating a power line or pole; and
3181 (b) this Subsection [~~(58)~~] (57) does not apply to:
3182 (i) machinery or equipment used in construction of:
3183 (A) a new waste energy facility; or
3184 (B) the increase in the capacity of a waste energy facility;
3185 (ii) contracted services required for construction and routine maintenance activities; and
3186 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
3187 described in Subsection [~~(58)~~] (57)(a)(i)(C)(II), machinery or equipment used or acquired after:
3188 (A) the waste energy facility described in Subsection [~~(58)~~] (57)(a)(i) is operational as
3189 described in Subsection [~~(58)~~] (57)(a)(iii); or
3190 (B) the increased capacity described in Subsection [~~(58)~~] (57)(a)(i) is operational as
3191 described in Subsection [~~(58)~~] (57)(a)(iii);
3192 [~~(59)~~] (58) (a) leases of five or more years or purchases made on or after July 1, 2004
3193 but on or before June 30, 2009, of machinery or equipment that:

3194 (i) is leased or purchased for or by a facility that:
3195 (A) is located in the state;
3196 (B) produces fuel from biomass energy including:
3197 (I) methanol; or
3198 (II) ethanol; and
3199 (C) (I) becomes operational on or after July 1, 2004; or
3200 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as
3201 a result of the installation of the machinery or equipment;
3202 (ii) has an economic life of five or more years; and
3203 (iii) is installed on the facility described in Subsection ~~[(59)]~~ (58)(a)(i);
3204 (b) this Subsection ~~[(59)]~~ (58) does not apply to:
3205 (i) machinery or equipment used in construction of:
3206 (A) a new facility described in Subsection ~~[(59)]~~ (58)(a)(i); or
3207 (B) the increase in capacity of the facility described in Subsection ~~[(59)]~~ (58)(a)(i); or
3208 (ii) contracted services required for construction and routine maintenance activities; and
3209 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
3210 described in Subsection ~~[(59)]~~ (58)(a)(i)(C)(II), machinery or equipment used or acquired after:
3211 (A) the facility described in Subsection ~~[(59)]~~ (58)(a)(i) is operational; or
3212 (B) the increased capacity described in Subsection ~~[(59)]~~ (58)(a)(i) is operational;
3213 ~~[(60) amounts paid to a purchaser as a rebate from the manufacturer of a new vehicle~~
3214 ~~for purchasing the new vehicle;]~~
3215 ~~[(61)]~~ (59) (a) subject to Subsection ~~[(61)]~~ (59)(b), sales of tangible personal property
3216 or a product transferred electronically to [persons] a person within this state [that] if that
3217 tangible personal property or product transferred electronically is subsequently shipped outside
3218 the state and incorporated pursuant to contract into and becomes a part of real property located
3219 outside of this state, except to the extent that the other state or political entity imposes a sales,
3220 use, gross receipts, or other similar transaction excise tax on it against which the other state or
3221 political entity allows a credit for taxes imposed by this chapter; and

3222 (b) the exemption provided for in Subsection ~~[(61)]~~ (59)(a):
3223 (i) is allowed only if the exemption is applied:
3224 (A) in calculating the purchase price of the tangible personal property or product
3225 transferred electronically; and
3226 (B) to a written contract that is in effect on July 1, 2004; and
3227 (ii) (A) does not apply beginning on the day on which the contract described in
3228 Subsection ~~[(61)]~~ (59)(b)(i):
3229 (I) is substantially modified; or
3230 (II) terminates; and
3231 (B) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
3232 commission may by rule prescribe the circumstances under which a contract is substantially
3233 modified;
3234 ~~[(62)]~~ (60) purchases:
3235 (a) of one or more of the following items in printed or electronic format:
3236 (i) a list containing information that includes one or more:
3237 (A) names; or
3238 (B) addresses; or
3239 (ii) a database containing information that includes one or more:
3240 (A) names; or
3241 (B) addresses; and
3242 (b) used to send direct mail;
3243 ~~[(63)]~~ (61) redemptions or repurchases of ~~[property]~~ a product by a person if that
3244 ~~[property]~~ product was:
3245 (a) delivered to a pawnbroker as part of a pawn transaction; and
3246 (b) redeemed or repurchased within the time period established in a written agreement
3247 between the person and the pawnbroker for redeeming or repurchasing the ~~[property]~~ product;
3248 ~~[(64)]~~ (62) (a) purchases or leases of an item described in Subsection ~~[(64)]~~ (62)(b) if
3249 the item:

3250 (i) is purchased or leased by, or on behalf of, a ~~[telephone]~~ telecommunications service
3251 provider; and

3252 (ii) has a useful economic life of one or more years; and

3253 (b) the following apply to Subsection ~~[(64)]~~ (62)(a):

3254 (i) telecommunications enabling or facilitating equipment, machinery, or software;

3255 (ii) telecommunications equipment, machinery, or software required for 911 service;

3256 (iii) telecommunications maintenance or repair equipment, machinery, or software;

3257 (iv) telecommunications switching or routing equipment, machinery, or software; or

3258 (v) telecommunications transmission equipment, machinery, or software;

3259 ~~[(65)]~~ (63) (a) beginning on July 1, 2006, and ending on June 30, 2016, purchases of
3260 tangible personal property or a product transferred electronically that are used in the research
3261 and development of coal-to-liquids, oil shale, or tar sands technology; and

3262 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
3263 commission may, for purposes of Subsection ~~[(65)]~~ (63)(a), make rules defining what
3264 constitutes purchases of tangible personal property or a product transferred electronically that
3265 are used in the research and development of coal-to-liquids, oil shale, and tar sands technology;

3266 ~~[(66)]~~ (64) (a) purchases of tangible personal property or a product transferred
3267 electronically if:

3268 (i) the tangible personal property or product transferred electronically is:

3269 (A) purchased outside of this state;

3270 (B) brought into this state at any time after the purchase described in Subsection ~~[(66)]~~
3271 (64)(a)(i)(A); and

3272 (C) used in conducting business in this state; and

3273 (ii) for:

3274 (A) tangible personal property or a product transferred electronically other than the
3275 tangible personal property described in Subsection ~~[(66)]~~ (64)(a)(ii)(B), the first use of the
3276 property for a purpose for which the property is designed occurs outside of this state; or

3277 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

3278 outside of this state;

3279 (b) the exemption provided for in Subsection [~~(66)~~] (64)(a) does not apply to:

3280 (i) a lease or rental of tangible personal property or a product transferred electronically;

3281 or

3282 (ii) a sale of a vehicle exempt under Subsection (33); and

3283 (c) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for
3284 purposes of Subsection [~~(66)~~] (64)(a), the commission may by rule define what constitutes the
3285 following:

3286 (i) conducting business in this state if that phrase has the same meaning in this
3287 Subsection [~~(66)~~] (64) as in Subsection (24);

3288 (ii) the first use of tangible personal property or a product transferred electronically if
3289 that phrase has the same meaning in this Subsection [~~(66)~~] (64) as in Subsection (24); or

3290 (iii) a purpose for which tangible personal property or a product transferred
3291 electronically is designed if that phrase has the same meaning in this Subsection [~~(66)~~] (64) as in
3292 Subsection (24);

3293 [~~(67)~~] (65) sales of disposable home medical equipment or supplies if:

3294 (a) a person presents a prescription for the disposable home medical equipment or
3295 supplies;

3296 (b) the disposable home medical equipment or supplies are used exclusively by the
3297 person to whom the prescription described in Subsection [~~(67)~~] (65)(a) is issued; and

3298 (c) the disposable home medical equipment and supplies are listed as eligible for
3299 payment under:

3300 (i) Title XVIII, federal Social Security Act; or

3301 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

3302 and

3303 [~~(68)~~] (66) sales to a public transit district under Title 17B, Chapter 2a, Part 8, Public
3304 Transit District Act, or to a subcontractor of a public transit district, including sales of
3305 construction materials that are to be installed or converted to real property owned by the public

3306 transit district.

3307 Section 12. Section **59-12-104.5** is amended to read:

3308 **59-12-104.5. Utah Tax Review Commission review of sales and use tax system.**

3309 (1) ~~[Beginning with the 2001 interim, the]~~ The Utah Tax Review Commission, in
3310 cooperation with the governor's office and the ~~[tax]~~ commission, shall ~~[conduct a]~~ review ~~[of]~~
3311 the sales and use tax ~~[exemptions created by Section 59-12-104]~~ system of the state as provided
3312 in this section.

3313 (2) (a) ~~[The]~~ Beginning with the 2009 interim, and one or more times every ten years
3314 after the 2009 interim, the Utah Tax Review Commission shall make findings and
3315 recommendations as to whether:

- 3316 (i) the sales and use tax is broadly based;
3317 (ii) the sales and use tax base reflects the overall economy;
3318 (iii) the sales and use tax mitigates regressive impacts;
3319 (iv) the sales and use tax is administratively simple; and
3320 (v) the sales and use tax promotes compliance.

3321 (b) On or before the November interim meeting of the year in which the Utah Tax
3322 Review Commission makes the findings and recommendations required by Subsection (2)(a),
3323 the Utah Tax Review Commission shall report its findings and recommendations made in
3324 accordance with Subsection (2)(a) to:

- 3325 (i) the governor; and
3326 (ii) the Revenue and Taxation Interim Committee.

3327 ~~[(a) review each of the sales and use tax exemptions created by Section 59-12-104 one~~
3328 ~~or more times every eight years; and]~~

3329 ~~[(b) subject to Subsection (2)(a) and except as provided in Subsection (3), for each year~~
3330 ~~select the exemptions that the Utah Tax Review Commission will review for that year.]~~

3331 (3) Notwithstanding Subsection (2):

3332 (a) the Utah Tax Review Commission shall review Subsection 59-12-104(28) before
3333 October 1 of the year after the year in which Congress permits a state to participate in the

3334 special supplemental nutrition program under 42 U.S.C. Sec. 1786 even if state or local sales
3335 taxes are collected within the state on purchases of food under that program;

3336 (b) the Utah Tax Review Commission shall review Subsection 59-12-104(21) before
3337 October 1 of the year after the year in which Congress permits a state to participate in the food
3338 stamp program under the Food Stamp Act, 7 U.S.C. Sec. 2011 et seq., even if state or local
3339 sales taxes are collected within the state on purchases of food under that program; and

3340 (c) the Utah Tax Review Commission shall review Subsection 59-12-104~~[(65)]~~ (63)
3341 before the October 2011 interim meeting.

3342 ~~[(4) The Utah Tax Review Commission shall for each sales and use tax exemption the~~
3343 ~~Utah Tax Review Commission reviews make a report to the governor and the Revenue and~~
3344 ~~Taxation Interim Committee;]~~

3345 ~~[(a) on or before the November interim meeting in the year in which the Utah Tax~~
3346 ~~Review Commission reviews the sales and use tax exemption;]~~

3347 ~~[(b) including;]~~

3348 ~~[(i) a review of the cost of the sales and use tax exemption;]~~

3349 ~~[(ii) a review of the following criteria for granting or extending incentives for~~
3350 ~~businesses;]~~

3351 ~~[(A) whether the business is willing to make a substantial capital investment in the state~~
3352 ~~indicating that it will be a long-term member of the community in which the business is or will~~
3353 ~~be located;]~~

3354 ~~[(B) whether the business brings new dollars into the state, which generally means the~~
3355 ~~business must export goods or services outside of the state, not just recirculate existing dollars;]~~

3356 ~~[(C) subject to Subsection (5), whether the business pays higher than average wages in~~
3357 ~~the area in which the business is or will be located, increasing the state's overall household~~
3358 ~~income;]~~

3359 ~~[(D) whether the same incentives offered to a new business locating in the state from~~
3360 ~~another state are available to existing in-state businesses so as not to discriminate against the~~
3361 ~~in-state businesses; and]~~

3362 ~~[(E) whether the incentives clearly produce a positive return on investment as~~
3363 ~~determined by state economic modeling formulas;]~~

3364 ~~[(iii) a determination of whether the sales and use tax exemption is consistent with the~~
3365 ~~Legislature's sales and use tax policy positions adopted in 1990 General Session H.J.R. 32;]~~

3366 ~~[(iv) a review of the purpose of the sales and use tax exemption;]~~

3367 ~~[(v) a review of the effectiveness of the sales and use tax exemption; and]~~

3368 ~~[(vi) a review of the benefits of the sales and use tax exemption to the state;]~~

3369 ~~[(c) recommending whether the sales and use tax exemption should be;]~~

3370 ~~[(i) continued;]~~

3371 ~~[(ii) modified; or]~~

3372 ~~[(iii) repealed; and]~~

3373 ~~[(d) reviewing any other issue the Utah Tax Review Commission determines to study.]~~

3374 ~~[(5) For purposes of Subsection (4)(b)(ii)(C), in determining whether a business pays~~
3375 ~~higher than average wages in the area in which the business is or will be located, the Utah Tax~~
3376 ~~Review Commission may not include wages of the following in making average wage~~
3377 ~~calculations:]~~

3378 ~~[(a) wages of school district employees;]~~

3379 ~~[(b) wages of county, city, or town employees;]~~

3380 ~~[(c) wages of state employees; or]~~

3381 ~~[(d) wages of federal government employees.]~~

3382 Section 13. Section **59-12-105** is amended to read:

3383 **59-12-105. Certain exempt sales to be reported -- Penalties.**

3384 (1) An owner or purchaser shall report to the commission the amount of sales or uses
3385 exempt under Subsection 59-12-104(14) or ~~[(46)]~~ (45).

3386 (2) A report required by Subsection (1) shall be filed:

3387 (a) with the commission; and

3388 (b) on a form prescribed by the commission.

3389 (3) (a) Notwithstanding Section 59-1-401, and except as provided in Subsections (3)(b)

and (4), if the owner or purchaser fails to report the full amount of the exemptions granted under Subsection 59-12-104(14) or ~~[(46)]~~ (45) on the report required by Subsection (1), the commission shall impose a penalty equal to the lesser of:

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

(ii) \$1,000.

(b) Notwithstanding Subsection (3)(a)(i), the commission may not impose a penalty under Subsection (3)(a)(i) if the owner or purchaser files an amended report:

(i) containing the amount of the exemption; and

(ii) before the owner or purchaser receives a notice of audit from the commission.

(4) (a) 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)(a), the commission shall make a record of the grounds for waiving, reducing, or compromising the penalty.

Section 14. Section **59-12-106** is amended to read:

59-12-106. Definitions -- Sales and use tax license requirements -- Penalty -- Application process and requirements -- No fee -- Bonds -- Presumption of taxability -- Exemption certificates -- Exemption certificate license number to accompany contract bids.

(1) As used in this section:

(a) "applicant" means a person that:

(i) is required by this section to obtain a license; and

(ii) submits an application:

(A) to the commission; and

(B) for a license under this section;

(b) "application" means an application for a license under this section;

- 3418 (c) "fiduciary of the applicant" means a person that:
- 3419 (i) is required to collect, truthfully account for, and pay over a tax under this chapter for
- 3420 an applicant; and
- 3421 (ii) (A) is a corporate officer of the applicant described in Subsection (1)(c)(i);
- 3422 (B) is a director of the applicant described in Subsection (1)(c)(i);
- 3423 (C) is an employee of the applicant described in Subsection (1)(c)(i);
- 3424 (D) is a partner of the applicant described in Subsection (1)(c)(i);
- 3425 (E) is a trustee of the applicant described in Subsection (1)(c)(i); or
- 3426 (F) has a relationship to the applicant described in Subsection (1)(c)(i) that is similar to
- 3427 a relationship described in Subsections (1)(c)(ii)(A) through (E) as determined by the
- 3428 commission by rule made in accordance with Title 63, Chapter 46a, Utah Administrative
- 3429 Rulemaking Act;
- 3430 (d) "fiduciary of the licensee" means a person that:
- 3431 (i) is required to collect, truthfully account for, and pay over a tax under this chapter for
- 3432 a licensee; and
- 3433 (ii) (A) is a corporate officer of the licensee described in Subsection (1)(d)(i);
- 3434 (B) is a director of the licensee described in Subsection (1)(d)(i);
- 3435 (C) is an employee of the licensee described in Subsection (1)(d)(i);
- 3436 (D) is a partner of the licensee described in Subsection (1)(d)(i);
- 3437 (E) is a trustee of the licensee described in Subsection (1)(d)(i); or
- 3438 (F) has a relationship to the licensee described in Subsection (1)(d)(i) that is similar to a
- 3439 relationship described in Subsections (1)(d)(ii)(A) through (E) as determined by the commission
- 3440 by rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act;
- 3441 (e) "license" means a license under this section; and
- 3442 (f) "licensee" means a person that is licensed under this section by the commission.
- 3443 (2) (a) It is unlawful for any person required to collect a tax under this chapter to
- 3444 engage in business within the state without first having obtained a license to do so.
- 3445 (b) The license described in Subsection (2)(a):

3446 (i) shall be granted and issued by the commission;
3447 (ii) is not assignable;
3448 (iii) is valid only for the person in whose name the license is issued;
3449 (iv) is valid until:
3450 (A) the person described in Subsection (2)(b)(iii):
3451 (I) ceases to do business; or
3452 (II) changes that person's business address; or
3453 (B) the license is revoked by the commission; and
3454 (v) subject to Subsection (2)(d), shall be granted by the commission only upon an
3455 application that:
3456 (A) states the name and address of the applicant; and
3457 (B) provides other information the commission may require.
3458 (c) At the time an applicant makes an application under Subsection (2)(b)(v), the
3459 commission shall notify the applicant of the responsibilities and liability of a business owner
3460 successor under Section 59-12-112.
3461 (d) The commission shall review an application and determine whether the applicant:
3462 (i) meets the requirements of this section to be issued a license; and
3463 (ii) is required to post a bond with the commission in accordance with Subsections
3464 (2)(e) and (f) before the applicant may be issued a license.
3465 (e) (i) An applicant shall post a bond with the commission before the commission may
3466 issue the applicant a license if:
3467 (A) a license under this section was revoked for a delinquency under this chapter for:
3468 (I) the applicant;
3469 (II) a fiduciary of the applicant; or
3470 (III) a person for which the applicant or the fiduciary of the applicant is required to
3471 collect, truthfully account for, and pay over a tax under this chapter; or
3472 (B) there is a delinquency in paying a tax under this chapter for:
3473 (I) the applicant;

3474 (II) a fiduciary of the applicant; or
3475 (III) a person for which the applicant or the fiduciary of the applicant is required to
3476 collect, truthfully account for, and pay over a tax under this chapter.
3477 (ii) If the commission determines it is necessary to ensure compliance with this chapter,
3478 the commission may require a licensee to:
3479 (A) for a licensee that has not posted a bond under this section with the commission,
3480 post a bond with the commission in accordance with Subsection (2)(f); or
3481 (B) for a licensee that has posted a bond under this section with the commission,
3482 increase the amount of the bond posted with the commission.
3483 (f) (i) A bond required by Subsection (2)(e) shall be:
3484 (A) executed by:
3485 (I) for an applicant, the applicant as principal, with a corporate surety; or
3486 (II) for a licensee, the licensee as principal, with a corporate surety; and
3487 (B) payable to the commission conditioned upon the faithful performance of all of the
3488 requirements of this chapter including:
3489 (I) the payment of any tax under this chapter;
3490 (II) the payment of any:
3491 (Aa) penalty as provided in Section 59-1-401; or
3492 (Bb) interest as provided in Section 59-1-402; or
3493 (III) any other obligation of the:
3494 (Aa) applicant under this chapter; or
3495 (Bb) licensee under this chapter.
3496 (ii) Except as provided in Subsection (2)(f)(iv), the commission shall calculate the
3497 amount of a bond required by Subsection (2)(e) on the basis of:
3498 (A) commission estimates of:
3499 (I) an applicant's tax liability under this chapter; or
3500 (II) a licensee's tax liability under this chapter; and
3501 (B) any amount of a delinquency described in Subsection (2)(f)(iii).

3502 (iii) Except as provided in Subsection (2)(f)(iv), for purposes of Subsection
3503 (2)(f)(ii)(B):
3504 (A) for an applicant, the amount of the delinquency is the sum of:
3505 (I) the amount of any delinquency that served as a basis for revoking the license under
3506 this section of:
3507 (Aa) the applicant;
3508 (Bb) a fiduciary of the applicant; or
3509 (Cc) a person for which the applicant or the fiduciary of the applicant is required to
3510 collect, truthfully account for, and pay over a tax under this chapter; or
3511 (II) the amount of tax that any of the following owe under this chapter:
3512 (Aa) the applicant;
3513 (Bb) a fiduciary of the applicant; and
3514 (Cc) a person for which the applicant or the fiduciary of the applicant is required to
3515 collect, truthfully account for, and pay over a tax under this chapter; or
3516 (B) for a licensee, the amount of the delinquency is the sum of:
3517 (I) the amount of any delinquency that served as a basis for revoking the license under
3518 this section of:
3519 (Aa) the licensee;
3520 (Bb) a fiduciary of the licensee; or
3521 (Cc) a person for which the licensee or the fiduciary of the licensee is required to
3522 collect, truthfully account for, and pay over a tax under this chapter; or
3523 (II) the amount of tax that any of the following owe under this chapter:
3524 (Aa) the licensee;
3525 (Bb) a fiduciary of the licensee; and
3526 (Cc) a person for which the licensee or the fiduciary of the licensee is required to
3527 collect, truthfully account for, and pay over a tax under this chapter.
3528 (iv) Notwithstanding Subsection (2)(f)(ii) or (2)(f)(iii), a bond required by Subsection
3529 (2)(e) may not:

3530 (A) be less than \$25,000; or
3531 (B) exceed \$500,000.

3532 (g) If business is transacted at two or more separate places by one person, a separate
3533 license for each place of business is required.

3534 (h) (i) The commission shall, on a reasonable notice and after a hearing, revoke the
3535 license of any licensee violating any provisions of this chapter.

3536 (ii) A license may not be issued to a licensee described in Subsection (2)(h)(i) until the
3537 licensee has complied with the requirements of this chapter, including:

3538 (A) paying any:

3539 (I) tax due under this chapter;

3540 (II) penalty as provided in Section 59-1-401; or

3541 (III) interest as provided in Section 59-1-402; and

3542 (B) posting a bond in accordance with Subsections (2)(e) and (f).

3543 (i) Any person required to collect a tax under this chapter within this state without
3544 having secured a license to do so is guilty of a criminal violation as provided in Section
3545 59-1-401.

3546 (j) A license:

3547 (i) is not required for any person engaged exclusively in the business of selling
3548 commodities that are exempt from taxation under this chapter; and

3549 (ii) shall be issued to the person by the commission without a license fee.

3550 (3) (a) For the purpose of the proper administration of this chapter and to prevent
3551 evasion of the tax and the duty to collect the tax, it shall be presumed that tangible personal
3552 property or any other taxable transaction under Subsection 59-12-103(1) sold by any person for
3553 delivery in this state is sold for storage, use, or other consumption in this state unless the person
3554 selling the property, item, or service has taken from the purchaser an exemption certificate:

3555 (i) bearing the name and address of the purchaser; and

3556 (ii) providing that the property, item, or service was exempted under Section
3557 59-12-104.

3558 (b) An exemption certificate described in Subsection (3)(a):
3559 (i) shall contain information as prescribed by the commission; and
3560 (ii) if a paper exemption certificate is used, shall be signed by the purchaser.
3561 (c) (i) Subject to Subsection (3)(c)(ii), a seller or certified service provider is not liable
3562 to collect a tax under this chapter if the seller or certified service provider obtains within 90
3563 days after a transaction is complete:
3564 (A) an exemption certificate containing the information required by Subsections (3)(a)
3565 and (b); or
3566 (B) the information required by Subsections (3)(a) and (b).
3567 (ii) A seller or certified service provider that does not obtain the exemption certificate
3568 or information described in Subsection (3)(c)(i) with respect to a transaction may, within 120
3569 days after the commission requests the seller or certified service provider to substantiate the
3570 exemption:
3571 (A) establish that the transaction is not subject to taxation under this chapter by a means
3572 other than providing an exemption certificate containing the information required by
3573 Subsections (3)(a) and (b); or
3574 (B) obtain an exemption certificate containing the information required by Subsections
3575 (3)(a) and (b), taken in good faith.
3576 ~~[(c)]~~ (d) Except as provided in Subsection (3)~~[(d)]~~ (e), a seller or certified service
3577 provider that [has taken] takes an exemption certificate from a purchaser in accordance with
3578 this Subsection (3) with respect to a transaction is not liable to collect a tax under this chapter:
3579 (i) on that transaction; and
3580 (ii) if the commission or a court of competent jurisdiction subsequently determines that
3581 the purchaser improperly claimed the exemption.
3582 ~~[(d)]~~ (e) ~~[Notwithstanding Subsection (3)(c);]~~ Subsection (3)~~[(c)]~~ (d) does not apply to
3583 a seller or certified service provider that:
3584 (i) fraudulently fails to collect a tax under this chapter; ~~[or]~~
3585 (ii) solicits a purchaser to participate in improperly claiming an exemption from a tax

3586 under this chapter[-]; or

3587 (iii) accepts an exemption certificate for an exemption that is allowed on the basis of the
3588 entity claiming the exemption if:

3589 (A) the purchaser receives the tangible personal property, product, or service that is the
3590 subject of the exemption certificate at a location operated by the seller; and

3591 (B) the exemption certificate states that the tangible personal property, product, or
3592 service is not exempt from taxation under this chapter.

3593 (4) A person filing a contract bid with the state or a political subdivision of the state for
3594 the sale of tangible personal property or any other taxable transaction under Subsection
3595 59-12-103(1) shall include with the bid the number of the license issued to that person under
3596 Subsection (2).

3597 Section 15. Section **59-12-107** is amended to read:

3598 **59-12-107. Collection, remittance, and payment of tax by sellers or other persons**

3599 **-- Returns -- Reports -- Direct payment by purchaser of vehicle -- Other liability for**
3600 **collection -- Rulemaking authority -- Credits -- Treatment of bad debt -- Penalties.**

3601 (1) (a) Except as provided in Subsection (1)(d) or Section 59-12-107.1 or 59-12-123
3602 and subject to Subsection (1)(e), each seller shall pay or collect and remit the sales and use
3603 taxes imposed by this chapter if within this state the seller:

3604 (i) has or utilizes:

3605 (A) an office;

3606 (B) a distribution house;

3607 (C) a sales house;

3608 (D) a warehouse;

3609 (E) a service enterprise; or

3610 (F) a place of business similar to Subsections (1)(a)(i)(A) through (E);

3611 (ii) maintains a stock of goods;

3612 (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the
3613 state, unless the seller's only activity in the state is:

- 3614 (A) advertising; or
3615 (B) solicitation by:
3616 (I) direct mail;
3617 (II) electronic mail;
3618 (III) the Internet;
3619 (IV) ~~[telephone]~~ telecommunications service; or
3620 (V) a means similar to Subsection (1)(a)(iii)(A) or (B);
3621 (iv) regularly engages in the delivery of property in the state other than by:
3622 (A) common carrier; or
3623 (B) United States mail; or
3624 (v) regularly engages in an activity directly related to the leasing or servicing of
3625 property located within the state.
3626 (b) A seller that does not meet one or more of the criteria provided for in Subsection
3627 (1)(a):
3628 (i) except as provided in Subsection (1)(b)(ii), may voluntarily:
3629 (A) collect a tax on a transaction described in Subsection 59-12-103(1); and
3630 (B) remit the tax to the commission as provided in this part; or
3631 (ii) notwithstanding Subsection (1)(b)(i), shall collect a tax on a transaction described in
3632 Subsection 59-12-103(1) if Section 59-12-103.1 requires the seller to collect the tax.
3633 (c) The collection and remittance of a tax under this chapter by a seller that is registered
3634 under the agreement may not be used as a factor in determining whether that seller is required
3635 by Subsection (1)(a) to:
3636 (i) pay a tax, fee, or charge under:
3637 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
3638 (B) Section 19-6-716;
3639 (C) Section 19-6-805;
3640 (D) Section 69-2-5;
3641 (E) Section 69-2-5.5;

- 3642 (F) Section 69-2-5.6; or
3643 (G) this title; or
3644 (ii) collect and remit a tax, fee, or charge under:
3645 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
3646 (B) Section 19-6-716;
3647 (C) Section 19-6-805;
3648 (D) Section 69-2-5;
3649 (E) Section 69-2-5.5;
3650 (F) Section 69-2-5.6; or
3651 (G) this title.
- 3652 ~~[(c)]~~ (d) A person shall pay a use tax imposed by this chapter on a transaction described
3653 in Subsection 59-12-103(1) if:
- 3654 (i) the seller did not collect a tax imposed by this chapter on the transaction; and
3655 (ii) the person:
- 3656 (A) stores the tangible personal property or product transferred electronically in the
3657 state;
3658 (B) uses the tangible personal property or product transferred electronically in the state;
3659 or
3660 (C) consumes the tangible personal property or product transferred electronically in the
3661 state.
- 3662 ~~[(d)]~~ (e) The ownership of property that is located at the premises of a printer's facility
3663 with which the retailer has contracted for printing and that consists of the final printed product,
3664 property that becomes a part of the final printed product, or copy from which the printed
3665 product is produced, shall not result in the retailer being considered to have or maintain an
3666 office, distribution house, sales house, warehouse, service enterprise, or other place of business,
3667 or to maintain a stock of goods, within this state.
- 3668 ~~[(e)]~~ (f) (i) As used in this Subsection (1)~~[(e)]~~ (f):
- 3669 (A) "affiliated group" is as defined in Section 59-7-101, except that "affiliated group"

3670 includes a corporation that is qualified to do business but is not otherwise doing business in this
3671 state;

3672 (B) "common ownership" is as defined in Section 59-7-101;

3673 (C) "related seller" means a seller that:

3674 (I) is not required to pay or collect and remit sales and use taxes under Subsection
3675 (1)(a) or Section 59-12-103.1;

3676 (II) is:

3677 (Aa) related to a seller that is required to pay or collect and remit sales and use taxes
3678 under Subsection (1)(a) as part of an affiliated group or because of common ownership; or

3679 (Bb) a limited liability company owned by the parent corporation of an affiliated group
3680 if that parent corporation of the affiliated group is required to pay or collect and remit sales and
3681 use taxes under Subsection (1)(a); and

3682 (III) does not voluntarily collect and remit a tax under Subsection (1)(b)(i).

3683 (ii) A seller is not required to pay or collect and remit sales and use taxes under
3684 Subsection (1)(a):

3685 (A) if the seller is a related seller;

3686 (B) if the seller to which the related seller is related does not engage in any of the
3687 following activities on behalf of the related seller:

3688 (I) advertising;

3689 (II) marketing;

3690 (III) sales; or

3691 (IV) other services; and

3692 (C) if the seller to which the related seller is related accepts the return of an item sold by
3693 the related seller, the seller to which the related seller is related accepts the return of that item:

3694 (I) sold by a seller that is not a related seller; and

3695 (II) on the same terms as the return of an item sold by that seller to which the related
3696 seller is related.

3697 (2) (a) Except as provided in Section 59-12-107.1, a tax under this chapter shall be

3698 collected from a purchaser.

3699 (b) A seller may not collect as tax an amount, without regard to fractional parts of one
3700 cent, in excess of the tax computed at the rates prescribed by this chapter.

3701 (c) (i) Each seller shall:

3702 (A) give the purchaser a receipt for the tax collected; or

3703 (B) bill the tax as a separate item and declare the name of this state and the seller's sales
3704 and use tax license number on the invoice for the sale.

3705 (ii) The receipt or invoice is prima facie evidence that the seller has collected the tax
3706 and relieves the purchaser of the liability for reporting the tax to the commission as a consumer.

3707 (d) A seller is not required to maintain a separate account for the tax collected, but is
3708 considered to be a person charged with receipt, safekeeping, and transfer of public moneys.

3709 (e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the
3710 benefit of the state and for payment to the commission in the manner and at the time provided
3711 for in this chapter.

3712 (f) If any seller, during any reporting period, collects as a tax an amount in excess of the
3713 lawful state and local percentage of total taxable sales allowed under this chapter, the seller shall
3714 remit to the commission the full amount of the tax imposed under this chapter, plus any excess.

3715 (g) If the accounting methods regularly employed by the seller in the transaction of the
3716 seller's business are such that reports of sales made during a calendar month or quarterly period
3717 will impose unnecessary hardships, the commission may accept reports at intervals that will, in
3718 the commission's opinion, better suit the convenience of the taxpayer or seller and will not
3719 jeopardize collection of the tax.

3720 (3) (a) Except as provided in ~~Subsection~~ Subsections (4) through (6) and Section
3721 59-12-108, the sales or use tax imposed by this chapter is due and payable to the commission
3722 quarterly on or before the last day of the month next succeeding each calendar quarterly period.

3723 (b) (i) Each seller shall, on or before the last day of the month next succeeding each
3724 calendar quarterly period, file with the commission a return for the preceding quarterly period.

3725 (ii) The seller shall remit with the return under Subsection (3)(b)(i) the amount of the

3726 tax required under this chapter to be collected or paid for the period covered by the return.

3727 (c) ~~[Each]~~ Except as provided in Subsection (4)(c), a return shall contain information
3728 and be in a form the commission prescribes by rule.

3729 (d) The sales tax as computed in the return shall be based upon the total nonexempt
3730 sales made during the period, including both cash and charge sales.

3731 (e) The use tax as computed in the return shall be based upon the total amount of sales
3732 and purchases for storage, use, or other consumption in this state made during the period,
3733 including both by cash and by charge.

3734 (f) (i) Subject to Subsection (3)(f)(ii) and in accordance with Title 63, Chapter 46a,
3735 Utah Administrative Rulemaking Act, the commission may by rule extend the time for making
3736 returns and paying the taxes.

3737 (ii) An extension under Subsection (3)(f)(i) may not be for more than 90 days.

3738 (g) The commission may require returns and payment of the tax to be made for other
3739 than quarterly periods if the commission considers it necessary in order to ensure the payment
3740 of the tax imposed by this chapter.

3741 (h) (i) The commission may require a seller that files a simplified electronic return with
3742 the commission to file an additional electronic report with the commission.

3743 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
3744 commission may make rules providing:

3745 (A) the information required to be included in the additional electronic report described
3746 in Subsection (3)(h)(i); and

3747 (B) one or more due dates for filing the additional electronic report described in
3748 Subsection (3)(h)(i).

3749 (4) (a) As used in this Subsection (4) and Subsection (5)(b), "remote seller" means a
3750 seller that is:

3751 (i) registered under the agreement;

3752 (ii) described in Subsection (1)(b); and

3753 (iii) not a:

3754 (A) model 1 seller;
3755 (B) model 2 seller; or
3756 (C) model 3 seller.
3757 (b) (i) Except as provided in Subsection (4)(b)(ii), a tax a remote seller collects in
3758 accordance with Subsection (1)(b) is due and payable:
3759 (A) to the commission;
3760 (B) annually; and
3761 (C) on or before the last day of the month immediately following the last day of each
3762 calendar year.
3763 (ii) The commission may require that a tax a remote seller collects in accordance with
3764 Subsection (1)(b) be due and payable:
3765 (A) to the commission; and
3766 (B) on the last day of the month immediately following any month in which the seller
3767 accumulates a total of at least \$1,000 in agreement sales and use tax.
3768 (c) (i) If a remote seller remits a tax to the commission in accordance with Subsection
3769 (4)(b), the remote seller shall file a return:
3770 (A) with the commission;
3771 (B) with respect to the tax;
3772 (C) containing information prescribed by the commission; and
3773 (D) on a form prescribed by the commission.
3774 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
3775 commission shall make rules prescribing:
3776 (A) the information required to be contained in a return described in Subsection
3777 (4)(a)(i); and
3778 (B) the form described in Subsection (4)(c)(i)(D).
3779 (d) A tax a remote seller collects in accordance with this Subsection (4) shall be
3780 calculated on the basis of the total amount of taxable transactions under Subsection
3781 59-12-103(1) the remote seller completes, including:

3782 (i) a cash transaction; and

3783 (ii) a charge transaction.

3784 (5) (a) Except as provided in Subsection (5)(b), a tax a seller that files a simplified
3785 electronic return collects in accordance with this chapter is due and payable:

3786 (i) monthly on or before the last day of the month immediately following the month for
3787 which the seller collects a tax under this chapter; and

3788 (ii) for the month for which the seller collects a tax under this chapter.

3789 (b) A tax a remote seller that files a simplified electronic return collects in accordance
3790 with this chapter is due and payable as provided in Subsection (4).

3791 ~~[(4)]~~ (6) (a) On each vehicle sale made by other than a regular licensed vehicle dealer,
3792 the purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to
3793 titling or registration under the laws of this state.

3794 (b) The commission shall collect the tax described in Subsection ~~[(4)]~~ (6)(a) when the
3795 vehicle is titled or registered.

3796 ~~[(5)]~~ (7) If any sale of tangible personal property or any other taxable transaction under
3797 Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not responsible
3798 for the collection or payment of the tax imposed on the sale and the retailer is responsible for
3799 the collection or payment of the tax imposed on the sale if:

3800 (a) the retailer represents that the personal property is purchased by the retailer for
3801 resale; and

3802 (b) the personal property is not subsequently resold.

3803 ~~[(6)]~~ (8) If any sale of property or service subject to the tax is made to a person
3804 prepaying sales or use tax in accordance with Title 63, Chapter 51, Resource Development, or
3805 to a contractor or subcontractor of that person, the person to whom such payment or
3806 consideration is payable is not responsible for the collection or payment of the sales or use tax
3807 and the person prepaying the sales or use tax is responsible for the collection or payment of the
3808 sales or use tax if the person prepaying the sales or use tax represents that the amount prepaid
3809 as sales or use tax has not been fully credited against sales or use tax due and payable under the

3810 rules promulgated by the commission.

3811 ~~[(7)]~~ (9) (a) For purposes of this Subsection ~~[(7)]~~ (9):

3812 (i) Except as provided in Subsection ~~[(7)]~~ (9)(a)(ii), "bad debt" is as defined in Section
3813 166, Internal Revenue Code.

3814 (ii) Notwithstanding Subsection ~~[(7)]~~ (9)(a)(i), "bad debt" does not include:

3815 (A) an amount included in the purchase price of tangible personal property, a product
3816 transferred electronically, or a service that is:

3817 (I) not a transaction described in Subsection 59-12-103(1); or

3818 (II) exempt under Section 59-12-104;

3819 (B) a financing charge;

3820 (C) interest;

3821 (D) a tax imposed under this chapter on the purchase price of tangible personal
3822 property, a product transferred electronically, or a service;

3823 (E) an uncollectible amount on tangible personal property or a product transferred
3824 electronically that:

3825 (I) is subject to a tax under this chapter; and

3826 (II) remains in the possession of a seller until the full purchase price is paid;

3827 (F) an expense incurred in attempting to collect any debt; or

3828 (G) an amount that a seller does not collect on repossessed property.

3829 (b) A seller may deduct bad debt from the total amount from which a tax under this
3830 chapter is calculated on a return.

3831 (c) A seller may file a refund claim with the commission if:

3832 (i) the amount of bad debt for the time period described in Subsection ~~[(7)]~~ (9)(e)

3833 exceeds the amount of the seller's sales that are subject to a tax under this chapter for that same
3834 time period; and

3835 (ii) as provided in Section 59-12-110.

3836 (d) A bad debt deduction under this section may not include interest.

3837 (e) A bad debt may be deducted under this Subsection ~~[(7)]~~ (9) on a return for the time

3838 period during which the bad debt:

3839 (i) is written off as uncollectible in the seller's books and records; and

3840 (ii) would be eligible for a bad debt deduction:

3841 (A) for federal income tax purposes; and

3842 (B) if the seller were required to file a federal income tax return.

3843 (f) If a seller recovers any portion of bad debt for which the seller makes a deduction or
3844 claims a refund under this Subsection [~~(7)~~] (9), the seller shall report and remit a tax under this
3845 chapter:

3846 (i) on the portion of the bad debt the seller recovers; and

3847 (ii) on a return filed for the time period for which the portion of the bad debt is
3848 recovered.

3849 (g) For purposes of reporting a recovery of a portion of bad debt under Subsection
3850 [~~(7)~~] (9)(f), a seller shall apply amounts received on the bad debt in the following order:

3851 (i) in a proportional amount:

3852 (A) to the purchase price of the tangible personal property, product transferred
3853 electronically, or service; and

3854 (B) to the tax due under this chapter on the tangible personal property, product
3855 transferred electronically, or service; and

3856 (ii) to:

3857 (A) interest charges;

3858 (B) service charges; and

3859 (C) other charges.

3860 (h) A seller's certified service provider may make a deduction or claim a refund for bad
3861 debt on behalf of the seller:

3862 (i) in accordance with this Subsection (9); and

3863 (ii) if the certified service provider credits or refunds the entire amount of the bad debt
3864 deduction or refund to the seller.

3865 (i) A seller may allocate bad debt among the states that are members of the agreement if

3866 the seller's books and records support that allocation.

3867 ~~[(8)]~~ (10) (a) A seller may not, with intent to evade any tax, fail to timely remit the full
3868 amount of tax required by this chapter.

3869 (b) A violation of this section is punishable as provided in Section 59-1-401.

3870 (c) Each person who fails to pay any tax to the state or any amount of tax required to
3871 be paid to the state, except amounts determined to be due by the commission under Sections
3872 59-12-110 and 59-12-111, within the time required by this chapter, or who fails to file any
3873 return as required by this chapter, shall pay, in addition to the tax, penalties and interest as
3874 provided in Section 59-12-110.

3875 (d) For purposes of prosecution under this section, each quarterly tax period in which a
3876 seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the
3877 tax required to be remitted, constitutes a separate offense.

3878 Section 16. Section **59-12-107.1** is amended to read:

3879 **59-12-107.1. Direct payment permit.**

3880 (1) The commission may issue a direct payment permit to a seller that:

3881 (a) obtains a license under Section 59-12-106;

3882 (b) ~~[is required to remit taxes under this chapter by electronic funds transfer in~~
3883 ~~accordance with Subsection 59-12-108(1)]~~ makes aggregate purchases of at least \$1,500,000
3884 for each of the three years prior to the year in which the commission issues the direct payment
3885 permit to the seller;

3886 (c) has a record of timely payment of taxes under this chapter as determined by the
3887 commission; and

3888 (d) demonstrates to the commission that the seller has the ability to determine the
3889 appropriate location of a transaction;

3890 (i) under ~~[Section 59-12-207]~~;

3891 (A) Section 59-12-211;

3892 (B) Section 59-12-212; or

3893 (C) Section 59-12-213; and

3894 (ii) for each transaction for which the seller makes a purchase using the direct payment
3895 permit.

3896 (2) The commission shall within 120 days after the date a seller applies for a direct
3897 payment permit notify the seller of the commission's decision to issue or deny the issuance of
3898 the direct payment permit.

3899 ~~[(2)]~~ (3) A direct payment permit may not be used in connection with the following
3900 transactions:

3901 (a) a purchase of the following purchased in the same transaction:

3902 (i) prepared food; and

3903 (ii) food and food ingredients;

3904 (b) amounts paid or charged for accommodations and services described in Subsection
3905 59-12-103(1)(i);

3906 (c) amounts paid or charged for admission or user fees under Subsection
3907 59-12-103(1)(f);

3908 (d) a purchase of:

3909 (i) a motor vehicle;

3910 (ii) an aircraft;

3911 (iii) a watercraft;

3912 (iv) a modular home;

3913 (v) a manufactured home; or

3914 (vi) a mobile home;

3915 (e) amounts paid under Subsection 59-12-103(1)(b); or

3916 (f) sales under Subsection 59-12-103(1)(c).

3917 ~~[(3)]~~ (4) The holder of a direct payment permit shall:

3918 (a) present evidence of the direct payment permit to a seller at the time the holder of the
3919 direct payment permit makes a purchase using the direct payment permit;

3920 (b) determine the appropriate location of a transaction under:

3921 (i) (A) Section ~~[59-12-207]~~ 59-12-211;

3922 (B) Section 59-12-212; or
3923 (C) Section 59-12-213; and
3924 (ii) for each transaction for which the holder of the direct payment permit makes a
3925 purchase using the direct payment permit;
3926 (c) notwithstanding Section 59-12-107, determine the amount of any sales and use tax
3927 due on each transaction for which the holder of the direct payment permit uses the direct
3928 payment permit;
3929 (d) report and remit to the commission the sales and use tax described in Subsection
3930 ~~[(3)]~~ (4)(c) at the same time and in the same manner as the holder of the direct payment permit
3931 reports and remits a tax under this chapter; and
3932 (e) maintain records:
3933 (i) that indicate the appropriate location of a transaction under;
3934 (A) (I) Section ~~[59-12-207]~~ 59-12-211;
3935 (II) Section 59-12-212; or
3936 (III) Section 59-12-213; and
3937 (B) for each transaction for which a purchase is made using the direct payment permit;
3938 and
3939 (ii) necessary to determine the amount described in Subsection ~~[(3)]~~ (4)(c) for each
3940 transaction for which the holder of the direct payment permit uses the direct payment permit.
3941 ~~[(4)]~~ (5) A seller that is presented evidence of a direct payment permit at the time of a
3942 transaction:
3943 (a) notwithstanding Section 59-12-107, may not collect sales and use tax on the
3944 transaction;
3945 (b) shall, for a period of three years from the date the seller files a return with the
3946 commission reporting the transaction, retain records to verify that the transaction was made
3947 using a direct payment permit; and
3948 (c) notwithstanding Section 59-12-107, is not liable for sales and use tax on the
3949 transaction.

3950 ~~[(5)]~~ (6) The holder of a direct payment permit may calculate the amount the holder of
3951 the direct payment permit may retain under Section 59-12-108 on the amount described in
3952 Subsection ~~[(3)]~~ (4)(c):

3953 (a) for each transaction for which the holder of the direct payment permit uses the
3954 direct payment permit; and

3955 (b) that the holder of the direct payment permit remits to the commission under this
3956 section.

3957 ~~[(6)]~~ (7) The commission may revoke a direct payment permit issued under this section
3958 at any time if the holder of the direct payment permit fails to comply with any provision of this
3959 chapter.

3960 ~~[(7)]~~ (8) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
3961 Act, the commission may make rules to administer this section.

3962 Section 17. Section **59-12-108** is amended to read:

3963 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**
3964 **Certain amounts allocated to local taxing jurisdictions.**

3965 (1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this
3966 chapter of \$50,000 or more for the previous calendar year shall:

3967 (i) file a return with the commission:

3968 (A) monthly on or before the last day of the month immediately following the month for
3969 which the seller collects a tax under this chapter; and

3970 (B) for the month for which the seller collects a tax under this chapter; and

3971 (ii) except as provided in Subsection (1)(b), remit with the return required by
3972 Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax,
3973 fee, or charge described in Subsection (1)~~[(b)]~~(c):

3974 (A) if that seller's tax liability under this chapter for the previous calendar year is less
3975 than \$96,000, by any method permitted by the commission; or

3976 (B) if that seller's tax liability under this chapter for the previous calendar year is
3977 \$96,000 or more, by electronic funds transfer.

3978 **(b) A seller shall remit electronically with the return required by Subsection (1)(a)(i) the**
3979 **amount the seller is required to remit to the commission for each tax, fee, or charge described in**
3980 **Subsection (1)(c) if that seller:**

3981 **(i) is required by Section 59-12-107 to file the return electronically; or**
3982 **(ii) (A) is required to collect and remit a tax under Subsection 59-12-107(1)(a); and**
3983 **(B) files a simplified electronic return.**

3984 ~~[(b)]~~ **(c) Subsections (1)(a)[~~(i) and (ii)~~] and (b) apply to the following taxes, fees, or**
3985 **charges:**

3986 **(i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;**

3987 **(ii) a fee under Section 19-6-716;**

3988 **(iii) a fee under Section 19-6-805;**

3989 **(iv) a charge under Section 69-2-5;**

3990 ~~[(iv)]~~ **(v) a charge under Section 69-2-5.5; [or]**

3991 **(vi) a charge under Section 69-2-5.6; or**

3992 ~~[(v)]~~ **(vii) a tax under this chapter.**

3993 ~~[(e)]~~ **(d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63, Chapter**
3994 **46a, Utah Administrative Rulemaking Act, the commission shall make rules providing for a**
3995 **method for making same-day payments other than by electronic funds transfer if making**
3996 **payments by electronic funds transfer fails.**

3997 ~~[(d)]~~ **(e) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking**
3998 **Act, the commission shall establish by rule procedures and requirements for determining the**
3999 **amount a seller is required to remit to the commission under this Subsection (1).**

4000 **(2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a**
4001 **seller described in Subsection (4) may retain each month the amount allowed by this Subsection**
4002 **(2).**

4003 **(b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain**
4004 **each month 1.31% of any amounts the seller is required to remit to the commission:**

4005 **(i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax**

4006 and a local tax imposed in accordance with the following, for the month for which the seller is
4007 filing a return in accordance with Subsection (1):

4008 (A) Subsection 59-12-103(2)(a);

4009 (B) Subsection 59-12-103(2)(b); and

4010 [~~(C) Subsection 59-12-103(2)(d), except for the state tax and the local tax imposed on~~
4011 ~~the amounts paid or charged for food and food ingredients in accordance with Subsections~~
4012 ~~59-12-103(2)(d)(i)(C) and (2)(d)(ii); and]~~

4013 [~~(D)~~ (C)] Subsection 59-12-103(2)[~~(e)~~] (d); and

4014 (ii) for an agreement sales and use tax.

4015 (c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may
4016 retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described
4017 in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in
4018 accordance with Subsection 59-12-103(2)(c).

4019 (ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount
4020 equal to the sum of:

4021 (A) 1.31% of any amounts the seller is required to remit to the commission for:

4022 (I) the state tax and the local tax imposed in accordance with Subsection
4023 59-12-103(2)(c);

4024 (II) the month for which the seller is filing a return in accordance with Subsection (1);
4025 and

4026 (III) an agreement sales and use tax; and

4027 (B) 1.31% of the difference between:

4028 (I) the amounts the seller would have been required to remit to the commission:

4029 (Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject
4030 to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(a);

4031 (Bb) for the month for which the seller is filing a return in accordance with Subsection
4032 (1); and

4033 (Cc) for an agreement sales and use tax; and

4034 (II) the amounts the seller is required to remit to the commission for:
4035 (Aa) the state tax and the local tax imposed in accordance with Subsection
4036 59-12-103(2)(c);
4037 (Bb) the month for which the seller is filing a return in accordance with Subsection (1);
4038 and
4039 (Cc) an agreement sales and use tax.
4040 ~~[(d)(i) A seller subject to Subsection (1) or a seller described in Subsection (4) may~~
4041 ~~retain each month the amount calculated under Subsection (2)(d)(ii) for a transaction described~~
4042 ~~in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed on the~~
4043 ~~amounts paid or charged for food and food ingredients in accordance with Subsections~~
4044 ~~59-12-103(2)(d)(i)(C) and (2)(d)(ii).]~~
4045 ~~[(ii) For purposes of Subsection (2)(d)(i), the amount a seller may retain is an amount~~
4046 ~~equal to the sum of:]~~
4047 ~~[(A) 1.31% of any amounts the seller is required to remit to the commission for:]~~
4048 ~~[(F) the state tax and the local tax imposed on the amounts paid or charged for food and~~
4049 ~~food ingredients in accordance with Subsections 59-12-103(2)(d)(i)(C) and (2)(d)(ii);]~~
4050 ~~[(H) the month for which the seller is filing a return in accordance with Subsection (1);~~
4051 ~~and]~~
4052 ~~[(H) an agreement sales and use tax; and]~~
4053 ~~[(B) 1.31% of the difference between:]~~
4054 ~~[(I) the amounts the seller would have been required to remit to the commission:]~~
4055 ~~[(Aa) in accordance with Subsections 59-12-103(2)(d)(i)(A) and (2)(d)(ii) if the~~
4056 ~~transaction had been subject to the state tax and the local tax imposed in accordance with~~
4057 ~~Subsections 59-12-103(2)(d)(i)(A) and (2)(d)(ii);]~~
4058 ~~[(Bb) for the month for which the seller is filing a return in accordance with Subsection~~
4059 ~~(1); and]~~
4060 ~~[(Cc) for an agreement sales and use tax; and]~~
4061 ~~[(H) the amounts the seller is required to remit to the commission for:]~~

4062 ~~[(Aa) the state tax and the local tax imposed in accordance with Subsections~~
4063 ~~59-12-103(2)(d)(i)(C) and (2)(d)(ii);]~~
4064 ~~[(Bb) the month for which the seller is filing a return in accordance with Subsection (1);~~
4065 ~~and]~~
4066 ~~[(Cc) an agreement sales and use tax;]~~
4067 ~~[(e)]~~ (d) A seller subject to Subsection (1) or a seller described in Subsection (4) may
4068 retain each month 1% of any amounts the seller is required to remit to the commission:
4069 (i) for the month for which the seller is filing a return in accordance with Subsection
4070 (1); and
4071 (ii) under:
4072 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
4073 (B) Subsection 59-12-603(1)(a)(i)(A); or
4074 (C) Subsection 59-12-603(1)(a)(i)(B).
4075 (3) A state government entity that is required to remit taxes monthly in accordance with
4076 Subsection (1) may not retain any amount under Subsection (2).
4077 (4) A seller that has a tax liability under this chapter for the previous calendar year of
4078 less than \$50,000 may:
4079 (a) voluntarily meet the requirements of Subsection (1); and
4080 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the amounts
4081 allowed by Subsection (2).
4082 (5) Penalties for late payment shall be as provided in Section 59-1-401.
4083 (6) (a) For any amounts required to be remitted to the commission under this part, the
4084 commission shall each month calculate an amount equal to the difference between:
4085 (i) the total amount retained for that month by all sellers had the percentages listed
4086 under Subsections (2)(b)[;] and (2)(c)(ii)[, ~~and (2)(d)(ii)]~~ been 1.5%; and
4087 (ii) the total amount retained for that month by all sellers at the percentages listed under
4088 Subsections (2)(b)[;] and (2)(c)(ii)[, ~~and (2)(d)(ii)]~~.
4089 (b) The commission shall each month allocate the amount calculated under Subsection

(6)(a) to each county, city, and town on the basis of the proportion of agreement sales and use tax that the commission distributes to each county, city, and town for that month compared to the total agreement sales and use tax that the commission distributes for that month to all counties, cities, and towns.

Section 18. Section **59-12-110** is amended to read:

59-12-110. 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

- 4118 (ii) the commission and the taxpayer sign a written agreement:
4119 (A) authorizing the extension; and
4120 (B) providing for the length of the extension.
- 4121 (d) Notwithstanding Subsection (2)(b), a seller that files a claim for a refund under
4122 Subsection 59-12-107 [~~(7)~~] (9)(c) for bad debt shall file the claim with the commission within
4123 three years from the date on which the seller could first claim the refund for the bad debt.
- 4124 (e) A taxpayer may file a claim to obtain a refund or credit under this Subsection (2)
4125 regardless of whether the taxpayer received or objected to a notice of deficiency or a notice of
4126 assessment as provided in Subsection 59-12-114(1).
- 4127 (f) A taxpayer may obtain a refund under this Subsection (2) of a tax paid under this
4128 chapter on a transaction that is taxable under Section 59-12-103 if:
- 4129 (i) the sale or use was exempt from sales and use taxes under Section 59-12-104 on the
4130 date of purchase; and
- 4131 (ii) except as provided in Subsection (2)(c), the taxpayer files a claim for a refund with
4132 the commission as provided in Subsections (2)(b) through (e).
- 4133 (g) If the commission denies a claim for a refund or credit under this Subsection (2), the
4134 taxpayer may request a redetermination of the denial by filing a petition or request for agency
4135 action with the commission as provided in Title 63, Chapter 46b, Administrative Procedures
4136 Act.
- 4137 (3) If the commission erroneously determines an amount to be due from a taxpayer, the
4138 commission shall authorize the amounts to be cancelled upon its records.
- 4139 (4) (a) Subject to the provisions of Subsection (4)(b), the commission may impose on a
4140 deficiency under this section:
- 4141 (i) a penalty as provided in Section 59-1-401; and
4142 (ii) interest as provided in Section 59-1-402.
- 4143 (b) The commission may impose a penalty and interest on the entire deficiency if any
4144 part of the deficiency is due to:
- 4145 (i) negligence;

4146 (ii) intentional disregard of law or rule; or

4147 (iii) fraud with intent to evade the tax.

4148 (5) (a) Except as provided in Subsection (5)(b), a taxpayer shall pay a tax deficiency,
4149 including penalties or interest under this section, within ten days after the commission provides
4150 the taxpayer notice and demand of the deficiency, penalty, or interest.

4151 (b) Notwithstanding Subsection (5)(a), a taxpayer may pay a tax deficiency, penalty, or
4152 interest within 30 days after the commission provides the taxpayer notice and demand of the
4153 deficiency, penalty, or interest if the commission determines:

4154 (i) that a greater amount was due than was shown on the return; and

4155 (ii) the tax is not in jeopardy.

4156 (6) (a) Except as provided in Subsections (6)(c) through (f), the commission shall
4157 assess the amount of taxes imposed by this chapter, and any penalties and interest, within three
4158 years after a taxpayer files a return.

4159 (b) Except as provided in Subsections (6)(c) through (f), if the commission does not
4160 make an assessment under Subsection (6)(a) within three years, the commission may not
4161 commence a proceeding for the collection of the taxes after the expiration of the three-year
4162 period.

4163 (c) Notwithstanding Subsections (6)(a) and (b), the commission may make an
4164 assessment or commence a proceeding to collect a tax at any time if a deficiency is due to:

4165 (i) fraud; or

4166 (ii) failure to file a return.

4167 (d) Notwithstanding Subsections (6)(a) and (b), beginning on July 1, 1998, the
4168 commission may extend the period to make an assessment or to commence a proceeding to
4169 collect the tax under this chapter if:

4170 (i) the three-year period under this Subsection (6) has not expired; and

4171 (ii) the commission and the taxpayer sign a written agreement:

4172 (A) authorizing the extension; and

4173 (B) providing for the length of the extension.

4174 (e) If the commission delays an audit at the request of a taxpayer, the commission may
4175 make an assessment as provided in Subsection (6)(f) if:

4176 (i) the taxpayer subsequently refuses to agree to an extension request by the
4177 commission; and

4178 (ii) the three-year period under this Subsection (6) expires before the commission
4179 completes the audit.

4180 (f) An assessment under Subsection (6)(e) shall be:

4181 (i) for the time period for which the commission could not make an assessment because
4182 of the expiration of the three-year period; and

4183 (ii) in an amount equal to the difference between:

4184 (A) the commission's estimate of the amount of taxes the taxpayer would have been
4185 assessed for the time period described in Subsection (6)(f)(i); and

4186 (B) the amount of taxes the taxpayer actually paid for the time period described in
4187 Subsection (6)(f)(i).

4188 Section 19. Section **59-12-110.1** is amended to read:

4189 **59-12-110.1. Refund or credit for taxes overpaid by a purchaser -- Seller**
4190 **reasonable business practice.**

4191 (1) Subject to the other provisions of this section, a purchaser may request from a seller
4192 a refund or credit of any amount that:

4193 (a) the purchaser overpaid in taxes under this chapter; and

4194 (b) was collected by the seller.

4195 (2) (a) Except as provided in Subsection (2)(b), the procedure described in Subsection
4196 (1) is in addition to the process for a taxpayer to file a claim for a refund or credit with the
4197 commission under Section 59-12-110.

4198 (b) Notwithstanding Subsection (2)(a):

4199 (i) the commission is not required to make a refund or credit of an amount for which as
4200 of the date the refund or credit is to be given the purchaser has requested or received a refund
4201 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

(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 collects 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) collects the tax under this chapter that exceeds the amount the seller is required to collect under this chapter through the use of:

(i) a certified service provider; or

(ii) a system certified by the state, including a proprietary system certified by the state; and

(b) remits to the commission all taxes the seller is required to remit to the commission under this chapter.

Section 20. Section **59-12-123** is enacted to read:

59-12-123. Collection, remittance, and payment of a tax on direct mail.

(1) Notwithstanding Section 59-12-107 and except as provided in Subsection (6), a purchaser of direct mail that is not a holder of a direct payment permit under Section 59-12-107.1 shall provide to a seller at the time of a transaction:

(a) a form:

(i) prescribed by the commission; and

4230 (ii) indicating that the transaction is a direct mail transaction; or
4231 (b) information that indicates the locations of the recipients to which the direct mail is
4232 delivered.
4233 (2) If a seller receives a form described in Subsection (1)(a), the seller:
4234 (a) is not liable to collect or remit an agreement sales and use tax for that transaction;
4235 and
4236 (b) shall keep a record of the form described in Subsection (1)(a) for three years from
4237 the date the seller files a return with the commission reporting that transaction.
4238 (3) The purchaser described in Subsection (1) shall:
4239 (a) determine the amount of an agreement sales and use tax due on the transaction in
4240 accordance with Sections 59-12-211 and 59-12-212; and
4241 (b) report and remit to the commission the agreement sales and use tax due on the
4242 transaction.
4243 (4) The form described in Subsection (1)(a) is in effect for all transactions between the
4244 seller described in Subsection (2)(a) and the purchaser described in Subsection (1):
4245 (a) beginning when the seller receives the form in accordance with Subsection (2); and
4246 (b) ending when the purchaser revokes the form in writing.
4247 (5) (a) If a seller receives the information described in Subsection (1)(b) from a
4248 purchaser that indicates the locations of the recipients to which direct mail is delivered, the
4249 seller shall collect and remit agreement sales and use tax in accordance with the information the
4250 purchaser provides.
4251 (b) If a seller collects and remits an agreement sales and use tax to the commission in
4252 accordance with Subsection (5)(a), the seller is not liable for any further obligation to collect or
4253 remit an agreement sales and use tax to the commission on the transaction unless the seller acts
4254 in bad faith.
4255 (6) If a purchaser of direct mail provides a seller with a direct payment permit in
4256 accordance with Section 59-12-107.1, the purchaser may not be required to provide to the
4257 seller:

4258 (a) the form required by Subsection (1)(a); or
4259 (b) the information required by Subsection (1)(b).
4260 (7) A seller shall collect and remit an agreement sales and use tax in accordance with
4261 Section 59-12-107 if a purchaser of direct mail does not provide the seller with:
4262 (a) a direct payment permit in accordance with Section 59-12-107.1; or
4263 (b) the:
4264 (i) form required by Subsection (1)(a); or
4265 (ii) information required by Subsection (1)(b).
4266 Section 21. Section **59-12-124** is enacted to read:
4267 **59-12-124. Certified service provider liability.**
4268 (1) Notwithstanding Section 59-12-107 and except as provided in Subsection (2), if a
4269 model 1 seller selects a certified service provider as the model 1 seller's agent:
4270 (a) the certified service provider shall collect and remit an agreement sales and use tax
4271 to the commission:
4272 (i) that the model 1 seller would otherwise be required to remit to the commission
4273 under this chapter; and
4274 (ii) as provided in this chapter; and
4275 (b) the model 1 seller is not liable for the certified service provider's failure to collect
4276 and remit an agreement sales and use tax to the commission that the model 1 seller would
4277 otherwise be required to remit to the commission under this chapter.
4278 (2) The model 1 seller described in Subsection (1):
4279 (a) shall remit to the commission a sales and use tax imposed by this chapter:
4280 (i) on the model 1 seller's purchases; and
4281 (ii) as provided in this chapter; and
4282 (b) is liable for a sales and use tax liability arising from fraud by the model 1 seller.
4283 Section 22. Section **59-12-125** is enacted to read:
4284 **59-12-125. Seller or certified service provider reliance on commission information**
4285 **or certain systems.**

4286 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
4287 imposed under this part if:

4288 (1) the tax rate at which the seller or certified service provider collects the tax is derived
4289 from a database created by the commission containing tax rates; and

4290 (2) the seller's or certified service provider's failure to collect the tax is as a result of the
4291 seller's or certified service provider's reliance on incorrect data provided by the commission in
4292 the database created by the commission containing tax rates.

4293 Section 23. Section **59-12-126** is enacted to read:

4294 **59-12-126. Certified service provider or model 2 seller reliance on commission**
4295 **certified software.**

4296 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified
4297 service provider or model 2 seller is not liable for failing to collect a tax required under this part
4298 if:

4299 (a) the certified service provider or model 2 seller relies on software the commission
4300 certifies; and

4301 (b) the certified service provider's or model 2 seller's failure to collect a tax required
4302 under this part is as a result of the seller's or certified service provider's reliance on incorrect
4303 data:

4304 (i) provided by the commission; or

4305 (ii) in the software the commission certifies.

4306 (2) The relief from liability described in Subsection (1) does not apply if a certified
4307 service provider or model 2 seller incorrectly classifies an item or transaction into a product
4308 category the commission certifies.

4309 (3) If the taxability of a product category is incorrectly classified in software the
4310 commission certifies, the commission shall:

4311 (a) notify a certified service provider or model 2 seller of the incorrect classification of
4312 the taxability of a product category in software the commission certifies; and

4313 (b) state in the notice required by Subsection (3)(a) that the certified service provider or

4314 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
4315 incorrectly classified product category if the certified service provider or model 2 seller fails to
4316 correct the taxability of the item or transaction within ten days after the day on which the
4317 certified service provider or model 2 seller receives the notice.

4318 (4) If a certified service provider or model 2 seller fails to correct the taxability of an
4319 item or transaction within ten days after the day on which the certified service provider or
4320 model 2 seller receives the notice described in Subsection (3), the certified service provider or
4321 model 2 seller is liable for failing to collect the correct amount of tax under this part on the item
4322 or transaction.

4323 Section 24. Section **59-12-127** is enacted to read:

4324 **59-12-127. Purchaser relief from liability.**

4325 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
4326 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

4327 (i) the purchaser's seller or certified service provider relies on incorrect data provided
4328 by the commission:

4329 (A) on a tax rate;

4330 (B) on a boundary;

4331 (C) on a taxing jurisdiction; or

4332 (D) in the taxability matrix the commission provides in accordance with the agreement;

4333 or

4334 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
4335 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

4336 (A) on a tax rate;

4337 (B) on a boundary;

4338 (C) on a taxing jurisdiction; or

4339 (D) in the taxability matrix the commission provides in accordance with the agreement.

4340 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
4341 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the

4342 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
4343 incorrect data provided by the commission is as a result of conduct that is:

4344 (i) fraudulent;

4345 (ii) intentional; or

4346 (iii) willful.

4347 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
4348 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
4349 or an underpayment if:

4350 (a) the purchaser's seller or certified service provider relies on:

4351 (i) incorrect data provided by the commission:

4352 (A) on a tax rate;

4353 (B) on a boundary; or

4354 (C) on a taxing jurisdiction; or

4355 (ii) an erroneous classification by the commission:

4356 (A) in the taxability matrix the commission provides in accordance with the agreement;

4357 and

4358 (B) with respect to a term:

4359 (I) in the library of definitions; and

4360 (II) that is:

4361 (Aa) listed as taxable or exempt;

4362 (Bb) included in or excluded from "sales price"; or

4363 (Cc) included in or excluded from a definition; or

4364 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
4365 accordance with Section 59-12-107.1, relies on:

4366 (i) incorrect data provided by the commission:

4367 (A) on a tax rate;

4368 (B) on a boundary; or

4369 (C) on a taxing jurisdiction; or

4370 (ii) an erroneous classification by the commission:
4371 (A) in the taxability matrix the commission provides in accordance with the agreement;
4372 and
4373 (B) with respect to a term:
4374 (I) in the library of definitions; and
4375 (II) that is:
4376 (Aa) listed as taxable or exempt;
4377 (Bb) included in or excluded from "sales price"; or
4378 (Cc) included in or excluded from a definition.
4379 Section 25. Section **59-12-128** is enacted to read:
4380 **59-12-128. Amnesty.**
4381 (1) As used in this section, "amnesty" means that a seller is not required to pay the
4382 following amounts that the seller would otherwise be required to pay:
4383 (a) a tax, fee, or charge under:
4384 (i) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
4385 (ii) Section 19-6-714;
4386 (iii) Section 19-6-805;
4387 (iv) Section 69-2-5;
4388 (v) Section 69-2-5.5;
4389 (vi) Section 69-2-5.6; or
4390 (vii) this chapter;
4391 (b) a penalty on a tax, fee, or charge described in Subsection (1)(a); or
4392 (c) interest on a tax, fee, or charge described in Subsection (1)(a).
4393 (2) The commission shall grant a seller amnesty under this section if the seller:
4394 (a) was not licensed under Section 59-12-106 at any time during the 12-month period
4395 prior to the effective date of the state's participation in the agreement;
4396 (b) obtains a license under Section 59-12-106 within a 12-month period after the
4397 effective date of the state's participation in the agreement; and

4398 (c) is registered under the agreement.

4399 (3) A seller may not receive amnesty under this section for a tax, fee, or charge:

4400 (a) the seller collects;

4401 (b) the seller remits to the commission;

4402 (c) that the seller is required to remit to the commission on the seller's purchase; or

4403 (d) arising from a transaction that occurs within a time period that is under audit by the

4404 commission if:

4405 (i) the seller receives notice of the commencement of the audit prior to obtaining a

4406 license under Section 59-12-106; and

4407 (ii) (A) the audit described in Subsection (3)(d)(i) is not complete; or

4408 (B) the seller has not exhausted all administrative and judicial remedies in connection

4409 with the audit described in Subsection (3)(d)(i).

4410 (4) (a) Except as provided in Subsection (4)(b), amnesty the commission grants to a

4411 seller under this section:

4412 (i) applies to the time period during which the seller is not licensed under Section

4413 59-12-106; and

4414 (ii) remains in effect if, for a period of three years, the seller:

4415 (A) remains registered under the agreement;

4416 (B) collects a tax, fee, or charge on a transaction subject to a tax, fee, or charge

4417 described in Subsection (1)(a); and

4418 (C) remits to the commission the taxes, fees, and charges the seller collects in

4419 accordance with Subsection (4)(a)(ii)(B).

4420 (b) The commission may not grant a seller amnesty under this section if, with respect to

4421 a tax, fee, or charge for which the seller would otherwise be granted amnesty under this section,

4422 the seller commits:

4423 (i) fraud; or

4424 (ii) an intentional misrepresentation of a material fact.

4425 (5) (a) If a seller does not meet a requirement of Subsection (4)(a)(ii), the commission

4426 shall require the seller to pay the amounts described in Subsection (1) that the seller would have
4427 otherwise been required to pay.

4428 (b) Notwithstanding Section 59-12-110, for purposes of requiring a seller to pay an
4429 amount in accordance with Subsection (5)(a), the time period for the commission to make an
4430 assessment under Section 59-12-110 is extended for a time period beginning on the date the
4431 seller does not meet a requirement of Subsection (4)(a)(ii) and ends three years after that date.

4432 Section 26. Section **59-12-129** is enacted to read:

4433 **59-12-129. Monetary allowance under the agreement.**

4434 The commission shall provide a monetary allowance to a seller or certified service
4435 provider as determined:

4436 (1) by the governing board of the agreement; and

4437 (2) in accordance with the agreement.

4438 Section 27. Section **59-12-205** is amended to read:

4439 **59-12-205. Ordinances to conform with statutory amendments -- Distribution of**
4440 **tax revenues -- Determination of population.**

4441 (1) Each county, city, and town, in order to maintain in effect sales and use tax
4442 ordinances adopted pursuant to Section 59-12-204, shall, within 30 days of any amendment of
4443 any applicable provisions of Part 1, Tax Collection, adopt amendments of their respective sales
4444 and use tax ordinances to conform with the amendments to Part 1, Tax Collection, insofar as
4445 they relate to sales and use taxes.

4446 (2) Except as provided in Subsections (3) through (5):

4447 (a) 50% of each dollar collected from the sales and use tax authorized by this part shall
4448 be paid to each county, city, and town on the basis of the percentage that the population of the
4449 county, city, or town bears to the total population of all counties, cities, and towns in the state;
4450 and

4451 (b) 50% of each dollar collected from the sales and use tax authorized by this part shall
4452 be paid to each county, city, and town on the basis of the location where the transaction is
4453 consummated as determined under [~~Section 59-12-207~~] Sections 59-12-211 through

4454 59-12-214.

4455 (3) (a) For fiscal years beginning with fiscal year 1983-84 and ending with fiscal year
4456 2005-06, a county, city, or town may not receive a tax revenue distribution less than .75% of
4457 the taxable sales within the boundaries of the county, city, or town.

4458 (b) The commission shall proportionally reduce monthly distributions to any county,
4459 city, or town that, but for the reduction, would receive a distribution in excess of 1% of the
4460 sales and use tax revenue collected within the boundaries of the county, city, or town.

4461 (4) (a) As used in this Subsection (4):

4462 (i) "Eligible county, city, or town" means a county, city, or town that receives \$2,000 or
4463 more in tax revenue distributions in accordance with Subsection (3) for each of the following
4464 fiscal years:

4465 (A) fiscal year 2002-03;

4466 (B) fiscal year 2003-04; and

4467 (C) fiscal year 2004-05.

4468 (ii) "Minimum tax revenue distribution" means the greater of:

4469 (A) the total amount of tax revenue distributions an eligible county, city, or town
4470 receives from a tax imposed in accordance with this part for fiscal year 2000-01; or

4471 (B) the total amount of tax revenue distributions an eligible county, city, or town
4472 receives from a tax imposed in accordance with this part for fiscal year 2004-05.

4473 (b) (i) Notwithstanding Subsection (2) and except as provided in Subsection (4)(b)(ii),
4474 beginning with fiscal year 2006-07 and ending with fiscal year 2012-13, an eligible county, city,
4475 or town shall receive a tax revenue distribution for a tax imposed in accordance with this part
4476 equal to the greater of:

4477 (A) the payment required by Subsection (2); or

4478 (B) the minimum tax revenue distribution.

4479 (ii) If the tax revenue distribution required by Subsection (4)(b)(i) for an eligible county,
4480 city, or town is equal to the amount described in Subsection (4)(b)(i)(A) for three consecutive
4481 fiscal years, for fiscal years beginning with the fiscal year immediately following that three

consecutive fiscal year period, the eligible county, city, or town shall receive the tax revenue distribution equal to the payment required by Subsection (2).

(c) For a fiscal year beginning with fiscal year 2013-14 and ending with fiscal year 2015-16, an eligible county, city, or town shall receive the minimum tax revenue distribution for that fiscal year if for fiscal year 2012-13 the payment required by Subsection (2) to that eligible county, city, or town is less than or equal to the product of:

(i) the minimum tax revenue distribution; and

(ii) .90.

~~[(5) Notwithstanding Subsection (2), if a county, city, or town imposes a tax authorized by this part on any amounts paid or charged by a seller that collects a tax in accordance with Subsection 59-12-107(1)(b), the revenues generated by the tax shall be distributed as provided in Subsection 59-12-103(3)(c).]~~

~~[(6)]~~ (5) (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.

~~[(7)]~~ (6) The population of a county for purposes of this section shall be determined solely from the unincorporated area of the county.

Section 28. Section **59-12-208.1** is amended to read:

59-12-208.1. 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

4510 effect:

4511 (i) on the first day of a calendar quarter; and

4512 (ii) after a 90-day period beginning on the date the commission receives notice meeting
4513 the requirements of Subsection (2)(b) from the county, city, or town.

4514 (b) The notice described in Subsection (2)(a)(ii) shall state:

4515 (i) that the county, city, or town will enact or repeal a tax under this part;

4516 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

4517 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

4518 (iv) if the county, city, or town enacts the tax described in Subsection (2)(b)(i), the rate
4519 of the tax.

4520 (c) (i) [~~Notwithstanding Subsection (2)(a), for a transaction described in Subsection~~
4521 ~~(2)(c)(iii), the~~] The enactment of a tax shall take effect on the first day of the first billing period:

4522 (A) that begins after the effective date of the enactment of the tax; and

4523 (B) if the billing period for the transaction begins before the effective date of the
4524 enactment of the tax under Section 59-12-204.

4525 (ii) [~~Notwithstanding Subsection (2)(a), for a transaction described in Subsection~~
4526 ~~(2)(c)(iii), the~~] The repeal of a tax shall take effect on the first day of the last billing period:

4527 (A) that began before the effective date of the repeal of the tax; and

4528 (B) if the billing period for the transaction begins before the effective date of the repeal
4529 of the tax imposed under Section 59-12-204.

4530 [~~(iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:~~]

4531 [~~(A) Subsection 59-12-103(1)(b);~~]

4532 [~~(B) Subsection 59-12-103(1)(c);~~]

4533 [~~(C) Subsection 59-12-103(1)(d);~~]

4534 [~~(D) Subsection 59-12-103(1)(e);~~]

4535 [~~(E) Subsection 59-12-103(1)(f);~~]

4536 [~~(F) Subsection 59-12-103(1)(g);~~]

4537 [~~(G) Subsection 59-12-103(1)(h);~~]

4538 ~~[(H) Subsection 59-12-103(1)(i);]~~

4539 ~~[(I) Subsection 59-12-103(1)(j); or]~~

4540 ~~[(J) Subsection 59-12-103(1)(k).]~~

4541 (d) (i) ~~[Notwithstanding Subsection (2)(a), if]~~ If a tax due under this chapter on a
4542 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
4543 enactment or repeal of a tax described in Subsection (2)(a) takes effect:

4544 (A) on the first day of a calendar quarter; and

4545 (B) beginning 60 days after the effective date of the enactment or repeal under
4546 Subsection (2)(a).

4547 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4548 commission may by rule define the term "catalogue sale."

4549 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs
4550 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
4551 part for an annexing area, the enactment or repeal shall take effect:

4552 (i) on the first day of a calendar quarter; and

4553 (ii) after a 90-day period beginning on the date the commission receives notice meeting
4554 the requirements of Subsection (3)(b) from the county, city, or town that annexes the annexing
4555 area.

4556 (b) The notice described in Subsection (3)(a)(ii) shall state:

4557 (i) that the annexation described in Subsection (3)(a) will result in an enactment or
4558 repeal of a tax under this part for the annexing area;

4559 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);

4560 (iii) the effective date of the tax described in Subsection (3)(b)(i); and

4561 (iv) the rate of the tax described in Subsection (3)(b)(i).

4562 (c) (i) ~~[Notwithstanding Subsection (3)(a), for a transaction described in Subsection~~
4563 ~~(3)(c)(iii), the]~~ The enactment of a tax shall take effect on the first day of the first billing period:

4564 (A) that begins after the effective date of the enactment of the tax; and

4565 (B) if the billing period for the transaction begins before the effective date of the

4566 enactment of the tax under Section 59-12-204.

4567 (ii) ~~[(Notwithstanding Subsection (3)(a), for a transaction described in Subsection~~
4568 ~~(3)(c)(iii), the]~~ The repeal of a tax shall take effect on the first day of the last billing period:

4569 (A) that began before the effective date of the repeal of the tax; and

4570 (B) if the billing period for the transaction begins before the effective date of the repeal
4571 of the tax imposed under Section 59-12-204.

4572 ~~[(iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:]~~

4573 ~~[(A) Subsection 59-12-103(1)(b);]~~

4574 ~~[(B) Subsection 59-12-103(1)(c);]~~

4575 ~~[(C) Subsection 59-12-103(1)(d);]~~

4576 ~~[(D) Subsection 59-12-103(1)(e);]~~

4577 ~~[(E) Subsection 59-12-103(1)(f);]~~

4578 ~~[(F) Subsection 59-12-103(1)(g);]~~

4579 ~~[(G) Subsection 59-12-103(1)(h);]~~

4580 ~~[(H) Subsection 59-12-103(1)(i);]~~

4581 ~~[(I) Subsection 59-12-103(1)(j); or]~~

4582 ~~[(J) Subsection 59-12-103(1)(k).]~~

4583 (d) (i) ~~[(Notwithstanding Subsection (3)(a), if]~~ If a tax due under this chapter on a
4584 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
4585 enactment or repeal of a tax described in Subsection (3)(a) takes effect:

4586 (A) on the first day of a calendar quarter; and

4587 (B) beginning 60 days after the effective date of the enactment or repeal under
4588 Subsection (3)(a).

4589 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4590 commission may by rule define the term "catalogue sale."

4591 Section 29. Section **59-12-210** is amended to read:

4592 **59-12-210. Commission to provide data to counties.**

4593 (1) (a) The commission shall provide to each county the sales and use tax collection

4594 data necessary to verify that the local sales and use tax revenues collected by the commission
4595 are distributed to each county, city, and town in accordance with Sections [~~59-12-205,~~
4596 ~~59-12-206, 59-12-207, and 59-12-207.4~~] 59-12-211 through 59-12-215.

4597 (b) The data described in Subsection (1)(a) shall include the commission's reports of
4598 seller sales, sales and use tax distribution reports, and a breakdown of local revenues.

4599 (2) (a) In addition to the access to information provided in Subsection (1) and Section
4600 59-12-109, the commission shall provide a county, city, or town with copies of returns and
4601 other information required by this chapter relating to a tax under this chapter.

4602 (b) The information described in Subsection (2)(a) is available only in official matters
4603 and must be requested in writing by the chief executive officer or the chief executive officer's
4604 designee.

4605 (c) The request described in Subsection (2)(b) shall specifically indicate the information
4606 being sought and how the information will be used.

4607 (d) Information received pursuant to the request described in Subsection (2)(b) shall be:

4608 (i) classified as private or protected under Section 63-2-302 or 63-2-304; and

4609 (ii) subject to the confidentiality provisions of Section 59-1-403.

4610 Section 30. Section **59-12-211** is enacted to read:

4611 **59-12-211. Definitions -- Location of certain transactions -- Reports to**
4612 **commission -- Direct payment provision for a seller making certain purchases --**
4613 **Exceptions.**

4614 (1) As used in this section:

4615 (a) (i) "Receipt" and "receive" mean:

4616 (A) taking possession of tangible personal property;

4617 (B) making first use of a service; or

4618 (C) for a product transferred electronically, the earlier of:

4619 (I) taking possession of the product transferred electronically; or

4620 (II) making first use of the product transferred electronically.

4621 (ii) "Receipt" and "receive" do not include possession by a shipping company on behalf

4622 of a purchaser.

4623 (b) "Transportation equipment" means:

4624 (i) a locomotive or rail car that is used to carry a person or property in interstate

4625 commerce;

4626 (ii) a truck or truck-tractor:

4627 (A) with a gross vehicle weight rating of 10,001 pounds or more;

4628 (B) registered under Section 41-1a-301; and

4629 (C) operated under the authority of a carrier authorized and certificated:

4630 (I) by the United States Department of Transportation or another federal authority; and

4631 (II) to engage in carrying a person or property in interstate commerce;

4632 (iii) a trailer, semitrailer, or passenger bus that is:

4633 (A) registered under Section 41-1a-301; and

4634 (B) operated under the authority of a carrier authorized and certificated:

4635 (I) by the United States Department of Transportation or another federal authority; and

4636 (II) to engage in carrying a person or property in interstate commerce;

4637 (iv) an aircraft that is operated by an air carrier authorized and certificated:

4638 (A) by the United States Department of Transportation or another federal or foreign

4639 authority; and

4640 (B) to engage in carrying a person or property in interstate commerce; or

4641 (v) a container designed for use on, or a component part attached or secured on an item

4642 of equipment listed in, Subsections (1)(b)(i) through (iv).

4643 (2) Except as provided in Subsections (8) and (13), if tangible personal property, a

4644 product transferred electronically, or a service that is subject to taxation under this chapter is

4645 received by a purchaser at a business location of a seller, the location of the transaction is the

4646 business location of the seller.

4647 (3) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),

4648 and (13), if tangible personal property, a product transferred electronically, or a service that is

4649 subject to taxation under this chapter is not received by a purchaser at a business location of a

4650 seller, the location of the transaction is the location where the purchaser takes receipt of the
4651 tangible personal property or service.

4652 (4) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),
4653 and (13), if Subsection (2) or (3) does not apply, the location of the transaction is the location
4654 indicated by an address for or other information on the purchaser if:

4655 (a) the address or other information is available from the seller's business records; and

4656 (b) use of the address or other information from the seller's records does not constitute
4657 bad faith.

4658 (5) (a) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9),
4659 (11), and (13), if Subsection (2), (3), or (4) does not apply, the location of the transaction is the
4660 location indicated by an address for the purchaser if:

4661 (i) the address is obtained during the consummation of the transaction; and

4662 (ii) use of the address described in Subsection (5)(a)(i) does not constitute bad faith.

4663 (b) An address used under Subsection (5)(a) includes the address of a purchaser's
4664 payment instrument if no other address is available.

4665 (6) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),
4666 and (13), if Subsection (2), (3), (4), or (5) does not apply or if a seller does not have sufficient
4667 information to apply Subsection (2), (3), (4), or (5), the location of the transaction is the
4668 location indicated by the address from which:

4669 (a) except as provided in Subsection (6)(b), for tangible personal property that is
4670 subject to taxation under this chapter, the tangible personal property is shipped;

4671 (b) for computer software delivered electronically or for a product transferred
4672 electronically that is subject to taxation under this chapter, the computer software or product
4673 transferred electronically is first available for transmission by the seller; or

4674 (c) for a service that is subject to taxation under this chapter, the service is provided.

4675 (7) (a) For purposes of this Subsection (7), "shared ZIP Code" means a nine-digit ZIP
4676 Code that is located within two or more local taxing jurisdictions.

4677 (b) If the location of a transaction determined under Subsections (3) through (6) is in a

4678 shared ZIP Code, the location of the transaction is:

4679 (i) if there is only one local taxing jurisdiction that imposes the lowest agreement
4680 combined tax rate for the shared ZIP Code, the local taxing jurisdiction that imposes the lowest
4681 agreement combined tax rate; or

4682 (ii) if two or more local taxing jurisdictions impose the lowest agreement combined tax
4683 rate for the shared ZIP Code, the local taxing jurisdiction that:

4684 (A) imposes the lowest agreement combined tax rate for the shared ZIP Code; and

4685 (B) has located within the local taxing jurisdiction the largest number of street
4686 addresses within the shared ZIP Code.

4687 (c) For purposes of Subsection (7)(b), a seller shall collect a tax imposed under this
4688 chapter at the lowest agreement combined tax rate imposed within the local taxing jurisdiction
4689 in which the transaction is located under Subsection (7)(b) notwithstanding:

4690 (i) Section 59-12-204;

4691 (ii) Section 59-12-401;

4692 (iii) Section 59-12-402;

4693 (iv) Section 59-12-501;

4694 (v) Section 59-12-502;

4695 (vi) Section 59-12-703;

4696 (vii) Section 59-12-802;

4697 (viii) Section 59-12-804;

4698 (ix) Section 59-12-1001;

4699 (x) Section 59-12-1102;

4700 (xi) Section 59-12-1302;

4701 (xii) Section 59-12-1402;

4702 (xiii) Section 59-12-1503;

4703 (xiv) Section 59-12-1703; or

4704 (xv) Section 59-12-1802.

4705 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

4706 commission may make rules:

4707 (i) providing for the circumstances under which a seller has exercised due diligence in
4708 determining the nine-digit ZIP Code for an address; or

4709 (ii) notwithstanding Subsection (7)(b), for determining the local taxing jurisdiction
4710 within which a transaction is located if a seller is unable to determine the local taxing
4711 jurisdiction within which the transaction is located under Subsection (7)(b).

4712 (8) The location of a transaction made with a direct payment permit described in
4713 Section 59-12-107.1 is the location where receipt of the tangible personal property, product, or
4714 service by the purchaser occurs.

4715 (9) The location of a purchase of direct mail is the location described in Subsection (6),
4716 if the purchaser of the direct mail:

4717 (a) has not been issued a direct payment permit under Section 59-12-107.1; and

4718 (b) does not provide the seller the form or information described in Subsection
4719 59-12-123(1).

4720 (10) (a) Except as provided in Subsection (10)(b), the location of a transaction
4721 determined under Subsections (3) through (6), (8), or (9), is the local taxing jurisdiction within
4722 which:

4723 (i) the nine-digit ZIP Code assigned to the location determined under Subsections (3)
4724 through (6), (8), or (9) is located; or

4725 (ii) the five-digit ZIP Code assigned to the location determined under Subsections (3)
4726 through (6), (8), or (9) is located if:

4727 (A) a nine-digit ZIP Code is not available for the location determined under Subsections
4728 (3) through (6), (8), or (9); or

4729 (B) after exercising due diligence, a seller or certified service provider is unable to
4730 determine a nine-digit ZIP Code for the location determined under Subsections (3) through (6),
4731 (8), or (9).

4732 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4733 commission may make rules for determining the local taxing jurisdiction within which a

4734 transaction is located if a seller or certified service provider is unable to determine the local
4735 taxing jurisdiction within which the transaction is located under Subsection (10)(a).

4736 (11) (a) As used in this Subsection (11), "florist delivery transaction" means a
4737 transaction commenced by a florist that transmits an order:

4738 (i) by:

4739 (A) telegraph;

4740 (B) telephone; or

4741 (C) a means of communication similar to Subsection (11)(a)(i)(A) or (B); and

4742 (ii) for delivery to another place:

4743 (A) in this state; or

4744 (B) outside this state.

4745 (b) Notwithstanding Subsections (3) through (6), beginning on January 1, 2009, and
4746 ending on December 31, 2009, the location of a florist delivery transaction is the business
4747 location of the florist that commences the florist delivery transaction.

4748 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4749 commission may by rule:

4750 (i) define:

4751 (A) "business location"; and

4752 (B) "florist";

4753 (ii) define what constitutes a means of communication similar to Subsection
4754 (11)(a)(i)(A) or (B); and

4755 (iii) provide procedures for determining when a transaction is commenced.

4756 (12) (a) A tax collected under this chapter shall be reported to the commission on a
4757 form that identifies the location of each transaction that occurs during the return filing period.

4758 (b) The form described in Subsection (12)(a) shall be filed with the commission as
4759 required under this chapter.

4760 (13) This section does not apply to:

4761 (a) amounts charged by a seller for:

4762 (i) telecommunications service; or
4763 (ii) the retail sale or transfer of:
4764 (A) a motor vehicle other than a motor vehicle that is transportation equipment;
4765 (B) an aircraft other than an aircraft that is transportation equipment;
4766 (C) a watercraft;
4767 (D) a modular home;
4768 (E) a manufactured home; or
4769 (F) a mobile home; or
4770 (iii) except as provided in Section 59-12-214, the lease or rental of tangible personal
4771 property other than tangible personal property that is transportation equipment;
4772 (b) a tax paid under this chapter:
4773 (i) by a seller; and
4774 (ii) for the seller's purchases; or
4775 (c) a retail sale of tangible personal property or a product transferred electronically if:
4776 (i) the seller receives the order for the tangible personal property or product transferred
4777 electronically in this state;
4778 (ii) receipt of the tangible personal property or product transferred electronically by the
4779 purchaser or the purchaser's donee occurs in this state;
4780 (iii) the location where receipt of the tangible personal property or product transferred
4781 electronically by the purchaser occurs is determined in accordance with Subsections (3) through
4782 (5); and
4783 (iv) at the time the seller receives the order, the record keeping system that the seller
4784 uses to calculate the proper amount of tax imposed under this chapter captures the location
4785 where the order is received.
4786 Section 31. Section **59-12-212** is enacted to read:
4787 **59-12-212. Location of certain transactions if receipt of order and receipt of**
4788 **tangible personal property or product take place in this state -- Exception from tax,**
4789 **penalty, or interest.**

4790 (1) The location of the sale of tangible personal property or a product transferred
4791 electronically is the location where the seller receives the order if:
4792 (a) the seller receives the order for the tangible personal property or product transferred
4793 electronically in this state;
4794 (b) receipt of the tangible personal property or product transferred electronically by the
4795 purchaser or the purchaser's donee occurs in this state;
4796 (c) the location where receipt of the tangible personal property or product transferred
4797 electronically by the purchaser occurs is determined in accordance with Subsections (3) through
4798 (5); and
4799 (d) at the time the seller receives the order, the record keeping system that the seller
4800 uses to calculate the proper amount of tax imposed under this chapter captures the location
4801 where the order is received.
4802 (2) (a) Subject to Subsections (2)(b) through (d), for purposes of this section, the
4803 location where a seller receives an order is:
4804 (i) a physical location of the seller or a third party; and
4805 (ii) where an order is initially received by or on behalf of the seller.
4806 (b) A physical location of a seller or third party includes the following if operated by or
4807 on behalf of the seller:
4808 (i) an automated order receipt system;
4809 (ii) an office; or
4810 (iii) an outlet.
4811 (c) The location where a seller receives an order does not include the location:
4812 (i) where an order is accepted, completed, or fulfilled; or
4813 (ii) from which tangible personal property or a product transferred electronically is
4814 shipped.
4815 (d) For purposes of this Subsection (2), an order is considered to be received when all
4816 of the information necessary to the determination of whether the order can be accepted has been
4817 received by or on behalf of the seller.

(3) (a) A purchaser is not liable for a tax, penalty, or interest on a sale for which the purchaser remits a tax under this chapter to the seller in the amount the seller invoices if the amount is calculated at the total tax rate applicable to the location where:

(i) receipt by the purchaser occurs; or

(ii) the seller receives the order.

(b) A purchaser may rely on a written representation by the seller as to the location where the seller receives the order for the sale.

(c) If a purchaser does not have a written representation by the seller as to the location where the seller receives the order for the sale, the purchaser may determine the total tax rate applicable to the location where the order is received by using a location indicated by a business address for the seller that is available from the business records:

(i) of the purchaser; and

(ii) that are maintained in the ordinary course of the purchaser's business.

(4) If an item of tangible personal property or an item that is a product transferred electronically is sold with an item that is subject to Section 59-12-211, all of the items are subject to this section if the items are:

(a) sold under a single contract;

(b) sold in the same transaction; and

(c) billed on the same billing statement.

(5) This section does not apply to the lease or rental of:

(a) tangible personal property; or

(b) a product transferred electronically.

Section 32. Section **59-12-213** is enacted to read:

59-12-213. Location of a transaction involving a sale of aircraft, a manufactured home, a mobile home, a modular home, a motor vehicle, or watercraft.

(1) (a) Except as provided in Subsection (1)(b) or (4), the location of a sale of the following tangible personal property is determined as provided in this section:

(i) aircraft;

4846 (ii) a manufactured home;

4847 (iii) a mobile home;

4848 (iv) a modular home;

4849 (v) a motor vehicle; or

4850 (vi) watercraft.

4851 (b) The location of the sale of tangible personal property described in Subsection (1)(a)
4852 is determined in accordance with Sections 59-12-211 and 59-12-212 if the tangible personal
4853 property described in Subsection (1)(a) is transportation equipment as defined in Section
4854 59-12-211.

4855 (2) If an item of tangible personal property described in Subsection (1)(a) is sold by a
4856 dealer of that tangible personal property, the location of the sale of that tangible personal
4857 property is the business location of the dealer.

4858 (3) If an item of tangible personal property described in Subsection (1)(a) is sold by a
4859 person other than a dealer of that tangible personal property, the location of the sale of that
4860 tangible personal property is:

4861 (a) if the tangible personal property is required to be registered with the state before the
4862 tangible personal property is used on a public highway, on a public waterway, on public land, or
4863 in the air, the location of the street address at which the tangible personal property is registered;
4864 or

4865 (b) if the tangible personal property is not required to be registered as provided in
4866 Subsection (3)(a), the location of the street address at which the purchaser of the tangible
4867 personal property resides.

4868 (4) This section does not apply to the lease or rental of tangible personal property
4869 described in Subsection (1)(a).

4870 Section 33. Section **59-12-214** is enacted to read:

4871 **59-12-214. Location of a transaction involving the lease or rental of certain**
4872 **tangible personal property or a product transferred electronically.**

4873 (1) As used in this section:

4874 (a) "Primary property location" means an address for tangible personal property or a
4875 product transferred electronically:

4876 (i) a lessee provides to a lessor; and

4877 (ii) that is available to the lessor from the lessor's records maintained in the ordinary
4878 course of business.

4879 (b) "Primary property location" does not include an address described in Subsection
4880 (1)(a) if use of that address constitutes bad faith.

4881 (2) (a) Except as provided in Subsection (2)(b) and notwithstanding Section 59-12-211,
4882 if a lease or rental of tangible personal property or a product transferred electronically that is
4883 subject to taxation under this part requires recurring periodic payments:

4884 (i) the location of the transaction for any down payment and for the first recurring
4885 periodic payment is as provided in Section 59-12-211; and

4886 (ii) the location of the transaction for the second recurring periodic payment and
4887 subsequent recurring periodic payments is the primary property or product location for each
4888 time period covered by the recurring periodic payment.

4889 (b) If a transaction subject to taxation under this chapter involving a lease or rental of
4890 an aircraft or a motor vehicle, semitrailer, or trailer that is not transportation equipment as
4891 defined in Section 59-12-211 requires recurring periodic payments, the location of the
4892 transaction for a down payment and for each recurring periodic payment is the primary property
4893 location for each time period covered by the recurring periodic payment.

4894 (3) Notwithstanding Section 59-12-211, if a transaction involving a lease or rental of
4895 the following does not require recurring periodic payments, the location of the transaction is as
4896 provided in Section 59-12-211 for each lease or rental payment for:

4897 (a) tangible personal property or a product transferred electronically that is subject to
4898 taxation under this chapter; or

4899 (b) an aircraft or a motor vehicle, semitrailer, or trailer that is:

4900 (i) not transportation equipment under Section 59-12-211; and

4901 (ii) subject to taxation under this chapter.

4902 (4) This section does not affect the imposition or computation of a tax under this
4903 chapter on:

4904 (a) a lease or rental of tangible personal property or a product transferred electronically
4905 that is subject to taxation under this chapter on:

4906 (i) the basis of a lump sum; or

4907 (ii) an accelerated basis; or

4908 (b) the acquisition of tangible personal property or a product transferred electronically if
4909 that tangible personal property or product transferred electronically is:

4910 (i) subject to taxation under this chapter; and

4911 (ii) for lease.

4912 Section 34. Section **59-12-215**, which is renumbered from Section 59-12-207.4 is
4913 renumbered and amended to read:

4914 ~~**[59-12-207.4].**~~ **59-12-215. Location of transaction involving**
4915 **telecommunications service or other related service.**

4916 (1) As used in this section:

4917 (a) "Air-to-ground radiotelephone service" means a radio service:

4918 (i) as defined in 47 C.F.R. Sec. 22.99; and

4919 (ii) for which a common carrier is authorized to offer and provide radio
4920 telecommunications service:

4921 (A) for hire; and

4922 (B) to a subscriber in an aircraft.

4923 (b) "Call-by-call basis" means a method of charging for ~~[telephone]~~ telecommunications
4924 service that is measured by individual calls.

4925 (c) "Communications channel" means a physical or virtual path of communications over
4926 which a signal is transmitted between or among customer channel termination points.

4927 (d) (i) Subject to Subsection (1)(d)(ii), "customer" means:

4928 (A) a person that is obligated under a contract with a ~~[telephone]~~ telecommunications
4929 service provider to pay for [telephone] telecommunications service received under the contract;

4930 or

4931 (B) if the end user is not the person described in Subsection (1)(d)(i)(A), the end user
4932 of ~~[telephone]~~ telecommunications service.

4933 (ii) "Customer" does not include a reseller:

4934 (A) of ~~[telephone]~~ telecommunications service; or

4935 (B) for mobile telecommunications service, of a serving carrier under an agreement to
4936 serve a customer outside the home service provider's licensed service area.

4937 (e) "Customer channel termination point" means the location where a customer:

4938 (i) inputs communications; or

4939 (ii) receives communications.

4940 (f) "End user" means:

4941 (i) an individual who uses a ~~[telephone]~~ telecommunications service; or

4942 (ii) for ~~[telephone]~~ a telecommunications service provided to a person who is not an
4943 individual, an individual who uses a ~~[telephone]~~ telecommunications service on behalf of the
4944 person who is provided the ~~[telephone]~~ telecommunications service.

4945 (g) "Home service provider" is as defined in the Mobile Telecommunications Sourcing
4946 Act, 4 U.S.C. Sec. 124.

4947 (h) "Mobile telecommunications service" is as defined in the Mobile
4948 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

4949 ~~[(h)]~~ (i) "Place of primary use":

4950 (i) for ~~[telephone]~~ telecommunications service other than mobile telecommunications
4951 service, means the street address representative of where a customer's use of the ~~[telephone]~~
4952 telecommunications service primarily occurs, which shall be:

4953 (A) the residential street address of the customer; or

4954 (B) the primary business street address of the customer; or

4955 (ii) for mobile telecommunications service, is as defined in the Mobile
4956 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

4957 ~~[(i)] (i) "Postpaid calling service" means a telephone service obtained by making a~~

4958 ~~payment on a call-by-call basis:]~~
4959 ~~[(A) through the use of a:]~~
4960 ~~[(I) credit card;]~~
4961 ~~[(II) bank card;]~~
4962 ~~[(III) travel card; or]~~
4963 ~~[(IV) debit card; or]~~
4964 ~~[(B) by a charge made to a telephone number that is not associated with the origination~~
4965 ~~or termination of the telephone service:]~~
4966 ~~[(ii) "Postpaid calling service" includes a telephone service that would be a prepaid~~
4967 ~~calling service if the service were exclusively a telephone service:]~~
4968 ~~[(j) "Prepaid calling service" means a telephone service:]~~
4969 ~~[(i) that allows a purchaser access to exclusively telephone service;]~~
4970 ~~[(ii) that:]~~
4971 ~~[(A) must be paid for in advance; and]~~
4972 ~~[(B) enables the origination of calls using an:]~~
4973 ~~[(I) access number; or]~~
4974 ~~[(II) authorization code;]~~
4975 ~~[(iii) dialed:]~~
4976 ~~[(A) manually; or]~~
4977 ~~[(B) electronically; and]~~
4978 ~~[(iv) sold in predetermined units or dollars that decline:]~~
4979 ~~[(A) by a known amount; and]~~
4980 ~~[(B) with use:]~~
4981 ~~[(k) (i) (A) Subject to Subsection (1)(k)(i)(B), "private communication service" means~~
4982 ~~a telephone service that entitles a customer to exclusive or priority use of a communications~~
4983 ~~channel or group of communications channels between or among termination points:]~~
4984 ~~[(B) The determination of whether a telephone service is a private communication~~
4985 ~~service may not be based on the manner in which the communications channels or group of~~

4986 ~~communications channels are connected.]~~

4987 ~~[(ii) "Private communication service" includes the following services provided in~~
4988 ~~connection with the use of a communications channel or group of communications channels:]~~

4989 ~~[(A) switching capacity;]~~

4990 ~~[(B) an extension line; or]~~

4991 ~~[(C) a station.]~~

4992 ~~[(H)]~~ (j) Notwithstanding where a call is billed or paid, "service address" means:

4993 (i) if the location of where a call is billed or paid is known, the location of the
4994 telecommunications equipment:

4995 (A) to which a customer's call is charged; and

4996 (B) from which the call:

4997 (I) originates; or

4998 (II) terminates;

4999 (ii) if the location of where a call is billed or paid is not known but the location of the
5000 origination point of the signal of the [telephone] telecommunications service is known, the
5001 location of the origination point of the signal of the [telephone] telecommunications service first
5002 identified by:

5003 (A) the telecommunications system of the [telephone] telecommunications service
5004 provider; or

5005 (B) if the system used to transport the signal of the [telephone] telecommunications
5006 service is not a system of the [telephone] telecommunications service provider, information
5007 received by the [telephone] telecommunications service provider from the [telephone]
5008 telecommunications service provider's [telephone] telecommunications service provider; or

5009 (iii) if the following are not known, the location of a customer's place of primary use:

5010 (A) the location of where a call is billed or paid; and

5011 (B) the location of the origination point of the signal of the [telephone]
5012 telecommunications service.

5013 (2) Except as provided in Subsection (4), the location of a sale of a [telephone]

5014 telecommunications service sold on a call-by-call basis is:

5015 (a) the location at which the call originates and terminates; or

5016 (b) the location at which:

5017 (i) the call:

5018 (A) originates; or

5019 (B) terminates; and

5020 (ii) the service address is located.

5021 (3) Except as provided in Subsection (4), the location of a sale of a ~~[telephone]~~

5022 telecommunications service sold on a basis other than a call-by-call basis is the customer's place
5023 of primary use.

5024 (4) Notwithstanding Subsection (2) or (3):

5025 (a) the location of a sale of a mobile telecommunications service, other than an
5026 air-to-ground radiotelephone service or a prepaid calling service, is the location required by the
5027 Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; ~~[and]~~

5028 (b) the location of a sale of a postpaid calling service is the origination point of the
5029 telecommunications signal as first identified by:

5030 (i) the seller's telecommunications system; or

5031 (ii) if the system used to transport the telecommunications signal is not that of the seller,
5032 information received by the seller from the seller's telephone service provider[-];

5033 (c) the location of a sale of a prepaid calling service is the location determined under
5034 Section 59-12-211; and

5035 (d) (i) subject to Subsection (4)(d)(ii), the location of a sale of a prepaid wireless calling
5036 service is the location determined under Section 59-12-211; and

5037 (ii) for purposes of Subsection (4)(d)(i), the location of a transaction determined under
5038 Subsection 59-12-211(6) is considered to include the location associated with the mobile
5039 telephone number.

5040 (5) The location of a sale of a private communication service is:

5041 (a) if all of the customer channel termination points are located entirely within one

county, city, or town, the location of the sale is the county, city, or town in which all of the customer channel termination points are located;

(b) if a charge for a service related to a customer channel termination point is separately stated, the location of the sale is the location in which the customer channel termination point is located;

(c) if a charge for service for a segment of a channel between two customer channel termination points located in different counties, cities, or towns is separately stated, the location of the sale is each county, city, or town:

(i) in which the customer channel termination points are located; and

(ii) in equal proportions; and

(d) if a charge for service for a segment of a channel located in more than one county, city, or town is not separately stated, the location of the sale is:

(i) each county, city, or town in which a segment of the channel is located; and

(ii) in proportion to the percentage of customer channel termination points in each county, city, or town compared to the total customer channel termination points in all counties, cities, and towns.

(6) The location of a sale of Internet access service is the customer's place of primary use.

(7) The location of a sale of an ancillary service is the customer's place of primary use.

Section 35. Section **59-12-216** is enacted to read:

59-12-216. 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 a tax at a tax rate imposed under this part if:

(1) the tax rate at which the seller or certified service provider collects the tax is derived from a database created by the commission containing tax rates; and

(2) the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in

5070 the database created by the commission containing tax rates.

5071 Section 36. Section **59-12-217** is enacted to read:

5072 **59-12-217. Certified service provider or model 2 seller reliance on commission**
5073 **certified software.**

5074 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified
5075 service provider or model 2 seller is not liable for failing to collect a tax required under this part
5076 if:

5077 (a) the certified service provider or model 2 seller relies on software the commission
5078 certifies; and

5079 (b) the certified service provider's or model 2 seller's failure to collect a tax required
5080 under this part is as a result of the seller's or certified service provider's reliance on incorrect
5081 data:

5082 (i) provided by the commission; or

5083 (ii) in the software the commission certifies.

5084 (2) The relief from liability described in Subsection (1) does not apply if a certified
5085 service provider or model 2 seller incorrectly classifies an item or transaction into a product
5086 category the commission certifies.

5087 (3) If the taxability of a product category is incorrectly classified in software the
5088 commission certifies, the commission shall:

5089 (a) notify a certified service provider or model 2 seller of the incorrect classification of
5090 the taxability of a product category in software the commission certifies; and

5091 (b) state in the notice required by Subsection (3)(a) that the certified service provider or
5092 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
5093 incorrectly classified product category if the certified service provider or model 2 seller fails to
5094 correct the taxability of the item or transaction within ten days after the day on which the
5095 certified service provider or model 2 seller receives the notice.

5096 (4) If a certified service provider or model 2 seller fails to correct the taxability of an
5097 item or transaction within ten days after the day on which the certified service provider or

5098 model 2 seller receives the notice described in Subsection (3), the certified service provider or
5099 model 2 seller is liable for failing to collect the correct amount of tax under this part on the item
5100 or transaction.

5101 Section 37. Section **59-12-218** is enacted to read:

5102 **59-12-218. Purchaser relief from liability.**

5103 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
5104 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

5105 (i) the purchaser's seller or certified service provider relies on incorrect data provided
5106 by the commission:

5107 (A) on a tax rate;

5108 (B) on a boundary;

5109 (C) on a taxing jurisdiction; or

5110 (D) in the taxability matrix the commission provides in accordance with the agreement;

5111 or

5112 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
5113 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

5114 (A) on a tax rate;

5115 (B) on a boundary;

5116 (C) on a taxing jurisdiction; or

5117 (D) in the taxability matrix the commission provides in accordance with the agreement.

5118 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
5119 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
5120 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
5121 incorrect data provided by the commission is as a result of conduct that is:

5122 (i) fraudulent;

5123 (ii) intentional; or

5124 (iii) willful.

5125 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is

5126 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
5127 or an underpayment if:
5128 (a) the purchaser's seller or certified service provider relies on:
5129 (i) incorrect data provided by the commission:
5130 (A) on a tax rate;
5131 (B) on a boundary; or
5132 (C) on a taxing jurisdiction; or
5133 (ii) an erroneous classification by the commission:
5134 (A) in the taxability matrix the commission provides in accordance with the agreement;
5135 and
5136 (B) with respect to a term:
5137 (I) in the library of definitions; and
5138 (II) that is:
5139 (Aa) listed as taxable or exempt;
5140 (Bb) included in or excluded from "sales price"; or
5141 (Cc) included in or excluded from a definition; or
5142 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
5143 accordance with Section 59-12-107.1, relies on:
5144 (i) incorrect data provided by the commission:
5145 (A) on a tax rate;
5146 (B) on a boundary; or
5147 (C) on a taxing jurisdiction; or
5148 (ii) an erroneous classification by the commission:
5149 (A) in the taxability matrix the commission provides in accordance with the agreement;
5150 and
5151 (B) with respect to a term:
5152 (I) in the library of definitions; and
5153 (II) that is:

5154 (Aa) listed as taxable or exempt;

5155 (Bb) included in or excluded from "sales price"; or

5156 (Cc) included in or excluded from a definition.

5157 Section 38. Section **59-12-302** is amended to read:

5158 **59-12-302. Collection of tax -- Administrative fee -- Penalties -- Commission to**
5159 **interpret, audit, and adjudicate transient room tax.**

5160 (1) (a) Except as provided in Subsection (1)(b) or (c), the tax authorized under this part
5161 shall be administered, collected, and enforced in accordance with:

5162 (i) the same procedures used to administer, collect, and enforce the tax under:

5163 (A) Part 1, Tax Collection; or

5164 (B) Part 2, Local Sales and Use Tax Act; and

5165 (ii) Chapter 1, General Taxation Policies.

5166 (b) (i) Notwithstanding Section 59-12-206, each county may collect the tax imposed by
5167 the county and need not transmit the tax to the commission or contract with the commission to
5168 collect the tax.

5169 (ii) The amount of tax collected shall be reported to the commission as provided in
5170 ~~[Section 59-12-207]~~ Sections 59-12-211 through 59-12-215.

5171 (c) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or
5172 Subsections 59-12-205(2) through ~~[(7)]~~ (6).

5173 (d) (i) If the commission collects a tax under this part, the commission:

5174 (A) except as provided in Subsection (1)(d)(i)(B), shall distribute the revenues
5175 generated by the tax to the county within which the revenues were generated; and

5176 (B) notwithstanding Subsection (1)(d)(i)(A), may retain an amount of tax collected
5177 under this part of not to exceed the lesser of:

5178 (I) 1.5%; or

5179 (II) an amount equal to the cost to the commission of administering this part.

5180 (ii) Any amount the commission retains under Subsection (1)(d)(i)(B) shall be:

5181 (A) placed in the Sales and Use Tax Administrative Fees Account; and

5182 (B) used as provided in Subsection 59-12-206(2).

5183 (2) (a) The tax ordinance adopted by a county pursuant to Section 59-12-301 may
5184 include provisions for the imposition of penalties and interest if a person or entity required to
5185 pay a tax under this part fails to timely remit the tax to the collecting agent.

5186 (b) A county legislative body may not establish penalties and interest by ordinance that
5187 exceed the penalties and interest rates authorized for the commission in Sections 59-1-401 and
5188 59-1-402.

5189 (3) A county may adopt an ordinance imposing penalties and interest under Subsection
5190 (2) only if the county does not contract with the commission to collect the tax.

5191 (4) If a county elects to collect the tax as provided in Subsection (1), the commission
5192 shall interpret, audit, and adjudicate the tax imposed under this part.

5193 Section 39. Section **59-12-304** is enacted to read:

5194 **59-12-304. Seller or certified service provider reliance on commission information**
5195 **or certain systems.**

5196 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
5197 imposed under this part if:

5198 (1) the tax rate at which the seller or certified service provider collects the tax is derived
5199 from a database created by the commission containing tax rates; and

5200 (2) the seller's or certified service provider's failure to collect the tax is as a result of the
5201 seller's or certified service provider's reliance on incorrect data provided by the commission in
5202 the database created by the commission containing tax rates.

5203 Section 40. Section **59-12-305** is enacted to read:

5204 **59-12-305. Certified service provider or model 2 seller reliance on commission**
5205 **certified software.**

5206 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified
5207 service provider or model 2 seller is not liable for failing to collect a tax required under this part
5208 if:

5209 (a) the certified service provider or model 2 seller relies on software the commission

5210 certifies; and

5211 (b) the certified service provider's or model 2 seller's failure to collect a tax required
5212 under this part is as a result of the seller's or certified service provider's reliance on incorrect
5213 data:

5214 (i) provided by the commission; or

5215 (ii) in the software the commission certifies.

5216 (2) The relief from liability described in Subsection (1) does not apply if a certified
5217 service provider or model 2 seller incorrectly classifies an item or transaction into a product
5218 category the commission certifies.

5219 (3) If the taxability of a product category is incorrectly classified in software the
5220 commission certifies, the commission shall:

5221 (a) notify a certified service provider or model 2 seller of the incorrect classification of
5222 the taxability of a product category in software the commission certifies; and

5223 (b) state in the notice required by Subsection (3)(a) that the certified service provider or
5224 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
5225 incorrectly classified product category if the certified service provider or model 2 seller fails to
5226 correct the taxability of the item or transaction within ten days after the day on which the
5227 certified service provider or model 2 seller receives the notice.

5228 (4) If a certified service provider or model 2 seller fails to correct the taxability of an
5229 item or transaction within ten days after the day on which the certified service provider or
5230 model 2 seller receives the notice described in Subsection (3), the certified service provider or
5231 model 2 seller is liable for failing to collect the correct amount of tax under this part on the item
5232 or transaction.

5233 Section 41. Section **59-12-306** is enacted to read:

5234 **59-12-306. Purchaser relief from liability.**

5235 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
5236 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

5237 (i) the purchaser's seller or certified service provider relies on incorrect data provided

5238 by the commission:

5239 (A) on a tax rate;

5240 (B) on a boundary;

5241 (C) on a taxing jurisdiction; or

5242 (D) in the taxability matrix the commission provides in accordance with the agreement;

5243 or

5244 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in

5245 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

5246 (A) on a tax rate;

5247 (B) on a boundary;

5248 (C) on a taxing jurisdiction; or

5249 (D) in the taxability matrix the commission provides in accordance with the agreement.

5250 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under

5251 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the

5252 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on

5253 incorrect data provided by the commission is as a result of conduct that is:

5254 (i) fraudulent;

5255 (ii) intentional; or

5256 (iii) willful.

5257 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is

5258 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part

5259 or an underpayment if:

5260 (a) the purchaser's seller or certified service provider relies on:

5261 (i) incorrect data provided by the commission:

5262 (A) on a tax rate;

5263 (B) on a boundary; or

5264 (C) on a taxing jurisdiction; or

5265 (ii) an erroneous classification by the commission:

5266 (A) in the taxability matrix the commission provides in accordance with the agreement;
5267 and
5268 (B) with respect to a term;
5269 (I) in the library of definitions; and
5270 (II) that is:
5271 (Aa) listed as taxable or exempt;
5272 (Bb) included in or excluded from "sales price"; or
5273 (Cc) included in or excluded from a definition; or
5274 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
5275 accordance with Section 59-12-107.1, relies on:
5276 (i) incorrect data provided by the commission:
5277 (A) on a tax rate;
5278 (B) on a boundary; or
5279 (C) on a taxing jurisdiction; or
5280 (ii) an erroneous classification by the commission:
5281 (A) in the taxability matrix the commission provides in accordance with the agreement;
5282 and
5283 (B) with respect to a term;
5284 (I) in the library of definitions; and
5285 (II) that is:
5286 (Aa) listed as taxable or exempt;
5287 (Bb) included in or excluded from "sales price"; or
5288 (Cc) included in or excluded from a definition.
5289 Section 42. Section **59-12-354** is amended to read:
5290 **59-12-354. Collection of tax -- Administrative fee -- Penalties -- Commission to**
5291 **interpret, audit, and adjudicate transient room tax.**
5292 (1) Except as provided in Subsections (2) and (3), the tax authorized under this part
5293 shall be administered, collected, and enforced in accordance with:

5294 (a) the same procedures used to administer, collect, and enforce the tax under:
5295 (i) Part 1, Tax Collection; or
5296 (ii) Part 2, Local Sales and Use Tax Act; and
5297 (b) Chapter 1, General Taxation Policies.
5298 (2) Notwithstanding Section 59-12-206, a municipality imposing a tax under this part:
5299 (a) may collect the tax and is not required to:
5300 (i) transmit revenues generated by the tax to the commission; or
5301 (ii) contract with the commission to collect the tax;
5302 (b) shall report the revenues it collects to the commission as provided in [Section
5303 ~~59-12-207~~] Sections 59-12-211 through 59-12-215; and
5304 (c) subject to the limitations of Subsections (4) and (5), may adopt an ordinance
5305 imposing penalties and interest on a person who:
5306 (i) is required to pay the tax under this part; and
5307 (ii) does not remit the tax to the collecting agent in a timely manner.
5308 (d) (i) If the commission collects a tax under this part, the commission:
5309 (A) except as provided in Subsection (2)(d)(i)(B), shall distribute the revenues
5310 generated by the tax to the municipality within which the revenues were generated; and
5311 (B) notwithstanding Subsection (2)(d)(i)(A), may retain an amount of tax collected
5312 under this part of not to exceed the lesser of:
5313 (I) 1.5%; or
5314 (II) an amount equal to the cost to the commission of administering this part.
5315 (ii) Any amount the commission retains under Subsection (2)(d)(i)(B) shall be:
5316 (A) placed in the Sales and Use Tax Administrative Fees Account; and
5317 (B) used as provided in Subsection 59-12-206(2).
5318 (3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or
5319 Subsections 59-12-205(2) through [~~(7)~~] (6).
5320 (4) A governing body of a municipality adopting an ordinance imposing penalties and
5321 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 43. Section **59-12-357** is enacted to read:

59-12-357. 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 a tax at a tax rate imposed under this part if:

(1) the tax rate at which the seller or certified service provider collects the tax is derived from a database created by the commission containing tax rates; and

(2) the seller's or certified service provider's failure to collect 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 database created by the commission containing tax rates.

Section 44. Section **59-12-358** is enacted to read:

59-12-358. Certified service provider or model 2 seller reliance on commission certified software.

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:

(a) the certified service provider or model 2 seller relies on software the commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:

5350 (i) provided by the commission; or

5351 (ii) in the software the commission certifies.

5352 (2) The relief from liability described in Subsection (1) does not apply if a certified
5353 service provider or model 2 seller incorrectly classifies an item or transaction into a product
5354 category the commission certifies.

5355 (3) If the taxability of a product category is incorrectly classified in software the
5356 commission certifies, the commission shall:

5357 (a) notify a certified service provider or model 2 seller of the incorrect classification of
5358 the taxability of a product category in software the commission certifies; and

5359 (b) state in the notice required by Subsection (3)(a) that the certified service provider or
5360 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
5361 incorrectly classified product category if the certified service provider or model 2 seller fails to
5362 correct the taxability of the item or transaction within ten days after the day on which the
5363 certified service provider or model 2 seller receives the notice.

5364 (4) If a certified service provider or model 2 seller fails to correct the taxability of an
5365 item or transaction within ten days after the day on which the certified service provider or
5366 model 2 seller receives the notice described in Subsection (3), the certified service provider or
5367 model 2 seller is liable for failing to collect the correct amount of tax under this part on the item
5368 or transaction.

5369 Section 45. Section **59-12-359** is enacted to read:

5370 **59-12-359. Purchaser relief from liability.**

5371 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
5372 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

5373 (i) the purchaser's seller or certified service provider relies on incorrect data provided
5374 by the commission;

5375 (A) on a tax rate;

5376 (B) on a boundary;

5377 (C) on a taxing jurisdiction; or

5378 (D) in the taxability matrix the commission provides in accordance with the agreement;
5379 or
5380 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
5381 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:
5382 (A) on a tax rate;
5383 (B) on a boundary;
5384 (C) on a taxing jurisdiction; or
5385 (D) in the taxability matrix the commission provides in accordance with the agreement.
5386 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
5387 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
5388 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
5389 incorrect data provided by the commission is as a result of conduct that is:
5390 (i) fraudulent;
5391 (ii) intentional; or
5392 (iii) willful.
5393 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
5394 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
5395 or an underpayment if:
5396 (a) the purchaser's seller or certified service provider relies on:
5397 (i) incorrect data provided by the commission:
5398 (A) on a tax rate;
5399 (B) on a boundary; or
5400 (C) on a taxing jurisdiction; or
5401 (ii) an erroneous classification by the commission:
5402 (A) in the taxability matrix the commission provides in accordance with the agreement;
5403 and
5404 (B) with respect to a term;
5405 (I) in the library of definitions; and

5406 (II) that is:
5407 (Aa) listed as taxable or exempt;
5408 (Bb) included in or excluded from "sales price"; or
5409 (Cc) included in or excluded from a definition; or
5410 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
5411 accordance with Section 59-12-107.1, relies on:
5412 (i) incorrect data provided by the commission:
5413 (A) on a tax rate;
5414 (B) on a boundary; or
5415 (C) on a taxing jurisdiction; or
5416 (ii) an erroneous classification by the commission:
5417 (A) in the taxability matrix the commission provides in accordance with the agreement;
5418 and
5419 (B) with respect to a term:
5420 (I) in the library of definitions; and
5421 (II) that is:
5422 (Aa) listed as taxable or exempt;
5423 (Bb) included in or excluded from "sales price"; or
5424 (Cc) included in or excluded from a definition.
5425 Section 46. Section **59-12-401** is amended to read:
5426 **59-12-401. Resort communities tax -- Base -- Rate -- Collection fees.**
5427 (1) (a) In addition to other sales and use taxes, a city or town in which the transient
5428 room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the
5429 municipality's permanent census population may impose a sales and use tax of up to 1.1% on
5430 the transactions described in Subsection 59-12-103(1) located within the city or town.
5431 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
5432 section on:
5433 (i) the sale of:

5434 (A) a motor vehicle;

5435 (B) an aircraft;

5436 (C) a watercraft;

5437 (D) a modular home;

5438 (E) a manufactured home; or

5439 (F) a mobile home;

5440 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
5441 are exempt from taxation under Section 59-12-104; and

5442 ~~[(iii) amounts paid or charged by a seller that collects a tax under Subsection~~
5443 ~~59-12-107(1)(b); and]~~

5444 ~~[(iv)]~~ (iii) except as provided in Subsection (1)(d), amounts paid or charged for food
5445 and food ingredients.

5446 (c) For purposes of this Subsection (1), the location of a transaction shall be determined
5447 in accordance with ~~[Section 59-12-207]~~ Sections 59-12-211 through 59-12-215.

5448 (d) A city or town imposing a tax under this section shall impose the tax on amounts
5449 paid or charged for food and food ingredients if~~[-(i)]~~ the food and food ingredients are sold as
5450 part of a bundled transaction attributable to food and food ingredients and tangible personal
5451 property other than food and food ingredients~~[-; and (ii) the seller collecting the tax is a seller~~
5452 ~~other than a seller that collects a tax in accordance with Subsection 59-12-107(1)(b)].~~

5453 (2) (a) An amount equal to the total of any costs incurred by the state in connection
5454 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
5455 the state from its collection fees received in connection with the implementation of Subsection
5456 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
5457 provided for in Subsection (1).

5458 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those
5459 cities and towns according to the amount of revenue the respective cities and towns generate in
5460 that year through imposition of that tax.

5461 Section 47. Section **59-12-402** is amended to read:

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

(1) (a) Subject to Subsections (2) through (6), the governing body of a municipality in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's 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 .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;

(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; and

~~[(iii) amounts paid or charged by a seller that collects a tax under Subsection 59-12-107(1)(b); and]~~

~~[(iv)]~~ (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with ~~[Section 59-12-207]~~ Sections 59-12-211 through 59-12-215.

(d) A municipality imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if ~~[(i)]~~ the food and food ingredients are sold as

part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients[; and (ii) ~~the seller collecting the tax is a seller other than a seller that collects a tax in accordance with Subsection 59-12-107(1)(b)].~~

(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

5518 municipality imposed a license fee or tax on businesses based on gross receipts pursuant to
5519 Section 10-1-203.

5520 (b) The exception from the voter approval requirements in Subsection (6)(a) does not
5521 apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only
5522 one class of businesses based on gross receipts pursuant to Section 10-1-203.

5523 Section 48. Section **59-12-403** is amended to read:

5524 **59-12-403. Enactment or repeal of tax -- Tax rate change -- Effective date --**
5525 **Notice requirements -- Administration, collection, and enforcement of tax.**

5526 (1) For purposes of this section:

5527 (a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
5528 4, Annexation.

5529 (b) "Annexing area" means an area that is annexed into a city or town.

5530 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after April 1, 2008, a
5531 city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment,
5532 repeal, or change shall take effect:

5533 (i) on the first day of a calendar quarter; and

5534 (ii) after a 90-day period beginning on the date the commission receives notice meeting
5535 the requirements of Subsection (2)(b) from the city or town.

5536 (b) The notice described in Subsection (2)(a)(ii) shall state:

5537 (i) that the city or town will enact or repeal a tax or change the rate of a tax under this
5538 part;

5539 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

5540 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

5541 (iv) if the city or town enacts the tax or changes the rate of the tax described in
5542 Subsection (2)(b)(i), the rate of the tax.

5543 (c) (i) ~~[Notwithstanding Subsection (2)(a), for a transaction described in Subsection~~
5544 ~~(2)(c)(iii), the]~~ The enactment of a tax or a tax rate increase shall take effect on the first day of
5545 the first billing period:

5546 (A) that begins after the effective date of the enactment of the tax or the tax rate
5547 increase; and

5548 (B) if the billing period for the transaction begins before the effective date of the
5549 enactment of the tax or the tax rate increase imposed under:

5550 (I) Section 59-12-401; or

5551 (II) Section 59-12-402.

5552 (ii) ~~[Notwithstanding Subsection (2)(a), for a transaction described in Subsection~~
5553 ~~(2)(c)(iii), the]~~ The repeal of a tax or a tax rate decrease shall take effect on the first day of the
5554 last billing period:

5555 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
5556 and

5557 (B) if the billing period for the transaction begins before the effective date of the repeal
5558 of the tax or the tax rate decrease imposed under:

5559 (I) Section 59-12-401; or

5560 (II) Section 59-12-402.

5561 ~~[(iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:]~~

5562 ~~[(A) Subsection 59-12-103(1)(b);]~~

5563 ~~[(B) Subsection 59-12-103(1)(c);]~~

5564 ~~[(C) Subsection 59-12-103(1)(d);]~~

5565 ~~[(D) Subsection 59-12-103(1)(e);]~~

5566 ~~[(E) Subsection 59-12-103(1)(f);]~~

5567 ~~[(F) Subsection 59-12-103(1)(g);]~~

5568 ~~[(G) Subsection 59-12-103(1)(h);]~~

5569 ~~[(H) Subsection 59-12-103(1)(i);]~~

5570 ~~[(I) Subsection 59-12-103(1)(j); or]~~

5571 ~~[(J) Subsection 59-12-103(1)(k);]~~

5572 (d) (i) ~~[Notwithstanding Subsection (2)(a), if]~~ If a tax due under this chapter on a
5573 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an

5574 enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:

5575 (A) on the first day of a calendar quarter; and

5576 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
5577 rate of the tax under Subsection (2)(a).

5578 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
5579 commission may by rule define the term "catalogue sale."

5580 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs
5581 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate
5582 of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

5583 (i) on the first day of a calendar quarter; and

5584 (ii) after a 90-day period beginning on the date the commission receives notice meeting
5585 the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.

5586 (b) The notice described in Subsection (3)(a)(ii) shall state:

5587 (i) that the annexation described in Subsection (3)(a) will result in an enactment, repeal,
5588 or change in the rate of a tax under this part for the annexing area;

5589 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);

5590 (iii) the effective date of the tax described in Subsection (3)(b)(i); and

5591 (iv) if the city or town enacts the tax or changes the rate of the tax described in
5592 Subsection (3)(b)(i), the rate of the tax.

5593 (c) (i) ~~[Notwithstanding Subsection (3)(a), for a transaction described in Subsection~~
5594 ~~(3)(c)(iii), the]~~ The enactment of a tax or a tax rate increase shall take effect on the first day of
5595 the first billing period:

5596 (A) that begins after the effective date of the enactment of the tax or the tax rate
5597 increase; and

5598 (B) if the billing period for the transaction begins before the effective date of the
5599 enactment of the tax or the tax rate increase imposed under:

5600 (I) Section 59-12-401; or

5601 (II) Section 59-12-402.

5602 (ii) ~~[Notwithstanding Subsection (3)(a), for a transaction described in Subsection~~
5603 ~~(3)(c)(iii), the]~~ The repeal of a tax or a tax rate decrease shall take effect on the first day of the
5604 last billing period:

5605 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
5606 and

5607 (B) if the billing period for the transaction begins before the effective date of the repeal
5608 of the tax or the tax rate decrease imposed under:

5609 (I) Section 59-12-401; or
5610 (II) Section 59-12-402.

5611 ~~[(iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:]~~
5612 ~~[(A) Subsection 59-12-103(1)(b);]~~
5613 ~~[(B) Subsection 59-12-103(1)(c);]~~
5614 ~~[(C) Subsection 59-12-103(1)(d);]~~
5615 ~~[(D) Subsection 59-12-103(1)(e);]~~
5616 ~~[(E) Subsection 59-12-103(1)(f);]~~
5617 ~~[(F) Subsection 59-12-103(1)(g);]~~
5618 ~~[(G) Subsection 59-12-103(1)(h);]~~
5619 ~~[(H) Subsection 59-12-103(1)(i);]~~
5620 ~~[(I) Subsection 59-12-103(1)(j); or]~~
5621 ~~[(J) Subsection 59-12-103(1)(k).]~~

5622 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue
5623 sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment,
5624 repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:

5625 (A) on the first day of a calendar quarter; and
5626 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
5627 rate of the tax under Subsection (3)(a).

5628 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
5629 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 ~~[(7)]~~ (6).

Section 49. Section **59-12-406** is enacted to read:

59-12-406. 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 a tax at a tax rate imposed under this part if:

(1) the tax rate at which the seller or certified service provider collects the tax is derived from a database created by the commission containing tax rates; and

(2) the seller's or certified service provider's failure to collect 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 database created by the commission containing tax rates.

Section 50. Section **59-12-407** is enacted to read:

59-12-407. Certified service provider or model 2 seller reliance on commission certified software.

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:

(a) the certified service provider or model 2 seller relies on software the commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect

5658 data:

5659 (i) provided by the commission; or

5660 (ii) in the software the commission certifies.

5661 (2) The relief from liability described in Subsection (1) does not apply if a certified
5662 service provider or model 2 seller incorrectly classifies an item or transaction into a product
5663 category the commission certifies.

5664 (3) If the taxability of a product category is incorrectly classified in software the
5665 commission certifies, the commission shall:

5666 (a) notify a certified service provider or model 2 seller of the incorrect classification of
5667 the taxability of a product category in software the commission certifies; and

5668 (b) state in the notice required by Subsection (3)(a) that the certified service provider or
5669 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
5670 incorrectly classified product category if the certified service provider or model 2 seller fails to
5671 correct the taxability of the item or transaction within ten days after the day on which the
5672 certified service provider or model 2 seller receives the notice.

5673 (4) If a certified service provider or model 2 seller fails to correct the taxability of an
5674 item or transaction within ten days after the day on which the certified service provider or
5675 model 2 seller receives the notice described in Subsection (3), the certified service provider or
5676 model 2 seller is liable for failing to collect the correct amount of tax under this part on the item
5677 or transaction.

5678 Section 51. Section **59-12-408** is enacted to read:

5679 **59-12-408. Purchaser relief from liability.**

5680 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
5681 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

5682 (i) the purchaser's seller or certified service provider relies on incorrect data provided
5683 by the commission:

5684 (A) on a tax rate;

5685 (B) on a boundary;

5686 (C) on a taxing jurisdiction; or
5687 (D) in the taxability matrix the commission provides in accordance with the agreement;
5688 or
5689 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
5690 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:
5691 (A) on a tax rate;
5692 (B) on a boundary;
5693 (C) on a taxing jurisdiction; or
5694 (D) in the taxability matrix the commission provides in accordance with the agreement.
5695 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
5696 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
5697 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
5698 incorrect data provided by the commission is as a result of conduct that is:
5699 (i) fraudulent;
5700 (ii) intentional; or
5701 (iii) willful.
5702 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
5703 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
5704 or an underpayment if:
5705 (a) the purchaser's seller or certified service provider relies on:
5706 (i) incorrect data provided by the commission:
5707 (A) on a tax rate;
5708 (B) on a boundary; or
5709 (C) on a taxing jurisdiction; or
5710 (ii) an erroneous classification by the commission:
5711 (A) in the taxability matrix the commission provides in accordance with the agreement;
5712 and
5713 (B) with respect to a term;

5714 (I) in the library of definitions; and
5715 (II) that is:
5716 (Aa) listed as taxable or exempt;
5717 (Bb) included in or excluded from "sales price"; or
5718 (Cc) included in or excluded from a definition; or
5719 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
5720 accordance with Section 59-12-107.1, relies on:
5721 (i) incorrect data provided by the commission:
5722 (A) on a tax rate;
5723 (B) on a boundary; or
5724 (C) on a taxing jurisdiction; or
5725 (ii) an erroneous classification by the commission:
5726 (A) in the taxability matrix the commission provides in accordance with the agreement;
5727 and
5728 (B) with respect to a term:
5729 (I) in the library of definitions; and
5730 (II) that is:
5731 (Aa) listed as taxable or exempt;
5732 (Bb) included in or excluded from "sales price"; or
5733 (Cc) included in or excluded from a definition.
5734 Section 52. Section **59-12-501** is amended to read:
5735 **59-12-501. Public transit tax -- Base -- Rate -- Voter approval.**
5736 (1) (a) (i) In addition to other sales and use taxes, any county, city, or town may impose
5737 a sales and use tax of up to:
5738 (A) beginning on January 1, 1988, and ending on December 31, 2007, .25% on the
5739 transactions described in Subsection 59-12-103(1) located within the county, city, or town, to
5740 fund a public transportation system; or
5741 (B) beginning on January 1, 2008, if within the boundaries of the county, city, or town a

tax is not imposed under Part 15, County Option Sales and Use Tax for Highways, Fixed Guideways, or Systems for Public Transit Act, .30% 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:

(A) 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

~~[(B) amounts paid or charged by a seller that collects a tax under Subsection 59-12-107(1)(b); and]~~

~~[(C)]~~ (B) except as provided in Subsection (1)(c), amounts paid or charged for food and food ingredients.

(b) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with ~~[Section 59-12-207]~~ Sections 59-12-211 through 59-12-215.

(c) A county, city, or town imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if ~~[(i)]~~ the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients ~~[-; and (ii) the seller collecting the tax is a seller other than a seller that collects a tax in accordance with Subsection 59-12-107(1)(b)].~~

(d) Except as provided in Subsection (3) or (4), 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.

(2) (a) 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.

(b) 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.

5770 (4) A county, city, or town is not subject to the voter approval requirements of this
5771 section if:

5772 (a) on December 31, 2007, the county, city, or town imposes a tax of .25% under this
5773 section; and

5774 (b) on or after January 1, 2008, subject to Subsection (1)(a)(i)(B), the county, city, or
5775 town increases the tax rate under this section to up to .30%.

5776 Section 53. Section **59-12-502** is amended to read:

5777 **59-12-502. Additional public transit tax for expanded public transit system and**
5778 **fixed guideway and state highway improvements -- Base -- Rate -- Voter approval.**

5779 (1) (a) (i) In addition to other sales and use taxes, including the public transit district tax
5780 authorized by Section 59-12-501, a county, city, or town may impose a sales and use tax of
5781 .25% on the transactions described in Subsection 59-12-103(1) located within the county, city,
5782 or town, to fund a fixed guideway and expanded public transportation system.

5783 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax
5784 under this section on:

5785 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses
5786 are exempt from taxation under Section 59-12-104; and

5787 [~~(B) amounts paid or charged by a seller that collects a tax under Subsection~~
5788 ~~59-12-107(1)(b); and]~~

5789 [~~(C)~~] (B) except as provided in Subsection (1)(c), amounts paid or charged for food
5790 and food ingredients.

5791 (b) For purposes of this Subsection (1), the location of a transaction shall be determined
5792 in accordance with [~~Section 59-12-207~~] Sections 59-12-211 through 59-12-215.

5793 (c) A county, city, or town imposing a tax under this section shall impose the tax on
5794 amounts paid or charged for food and food ingredients if [~~:(i)~~] the food and food ingredients are
5795 sold as part of a bundled transaction attributable to food and food ingredients and tangible
5796 personal property other than food and food ingredients [~~; and (ii) the seller collecting the tax is a~~
5797 ~~seller other than a seller that collects a tax in accordance with Subsection 59-12-107(1)(b)].~~

5798 (d) (i) A county, city, or town may impose the tax under this section only if the
5799 governing body of the county, city, or town submits, by resolution, the proposal to all the
5800 qualified voters within the county, city, or town for approval at a general or special election
5801 conducted in the manner provided by statute.

5802 (ii) Notice of the election under Subsection (1)(d)(i) shall be given by the county, city,
5803 or town governing body 15 days in advance in the manner prescribed by statute.

5804 (2) If the majority of the voters voting in this election approve the proposal, it shall
5805 become effective on the date provided by the county, city, or town governing body.

5806 (3) (a) This section may not be construed to require an election in jurisdictions where
5807 voters have previously approved a public transit sales or use tax.

5808 (b) This section shall be construed to require an election to impose the sales and use tax
5809 authorized by this section, including jurisdictions where the voters have previously approved the
5810 sales and use tax authorized by Section 59-12-501, but this section may not be construed to
5811 affect the sales and use tax authorized by Section 59-12-501.

5812 (4) No public funds shall be spent to promote the required election.

5813 (5) Notwithstanding the designated use of revenues in Subsection (1), of the revenues
5814 generated by the tax imposed under this section by any county of the first class:

5815 (a) 80% shall be allocated to fund a fixed guideway and expanded public transportation
5816 system; and

5817 (b) 20% shall be deposited into the County of the First Class State Highway Projects
5818 Fund created by Section 72-2-121.

5819 Section 54. Section **59-12-504** is amended to read:

5820 **59-12-504. Enactment or repeal of tax -- Effective date -- Notice requirements --**
5821 **Administration, collection, and enforcement of tax.**

5822 (1) For purposes of this section:

5823 (a) "Annexation" means an annexation to:

5824 (i) a county under Title 17, Chapter 2, Annexation to County; or

5825 (ii) a city or town under Title 10, Chapter 2, Part 4, Annexation.

5826 (b) "Annexing area" means an area that is annexed into a county, city, or town.

5827 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after April 1, 2008, a

5828 county, city, or town enacts or repeals a tax under this part, the enactment or repeal shall take

5829 effect:

5830 (i) on the first day of a calendar quarter; and

5831 (ii) after a 90-day period beginning on the date the commission receives notice meeting

5832 the requirements of Subsection (2)(b) from the county, city, or town.

5833 (b) The notice described in Subsection (2)(a)(ii) shall state:

5834 (i) that the county, city, or town will enact or repeal a tax under this part;

5835 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

5836 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

5837 (iv) if the county, city, or town enacts the tax described in Subsection (2)(b)(i), the rate

5838 of the tax.

5839 (c) (i) ~~[Notwithstanding Subsection (2)(a), for a transaction described in Subsection~~

5840 ~~(2)(c)(iii), the]~~ The enactment of a tax shall take effect on the first day of the first billing period:

5841 (A) that begins after the effective date of the enactment of the tax; and

5842 (B) if the billing period for the transaction begins before the effective date of the

5843 enactment of the tax under:

5844 (I) Section 59-12-501; or

5845 (II) Section 59-12-502.

5846 (ii) ~~[Notwithstanding Subsection (2)(a), for a transaction described in Subsection~~

5847 ~~(2)(c)(iii), the]~~ The repeal of a tax shall take effect on the first day of the last billing period:

5848 (A) that began before the effective date of the repeal of the tax; and

5849 (B) if the billing period for the transaction begins before the effective date of the repeal

5850 of the tax imposed under:

5851 (I) Section 59-12-501; or

5852 (II) Section 59-12-502.

5853 ~~[(iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under.]~~

5854 [~~(A) Subsection 59-12-103(1)(b);~~]

5855 [~~(B) Subsection 59-12-103(1)(c);~~]

5856 [~~(C) Subsection 59-12-103(1)(d);~~]

5857 [~~(D) Subsection 59-12-103(1)(e);~~]

5858 [~~(E) Subsection 59-12-103(1)(f);~~]

5859 [~~(F) Subsection 59-12-103(1)(g);~~]

5860 [~~(G) Subsection 59-12-103(1)(h);~~]

5861 [~~(H) Subsection 59-12-103(1)(i);~~]

5862 [~~(I) Subsection 59-12-103(1)(j); or~~]

5863 [~~(J) Subsection 59-12-103(1)(k);~~]

5864 (d) (i) [~~Notwithstanding Subsection (2)(a), if~~] If a tax due under this chapter on a
5865 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
5866 enactment or repeal of a tax described in Subsection (2)(a) takes effect:

5867 (A) on the first day of a calendar quarter; and

5868 (B) beginning 60 days after the effective date of the enactment or repeal under
5869 Subsection (2)(a).

5870 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
5871 commission may by rule define the term "catalogue sale."

5872 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs
5873 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
5874 part for an annexing area, the enactment or repeal shall take effect:

5875 (i) on the first day of a calendar quarter; and

5876 (ii) after a 90-day period beginning on the date the commission receives notice meeting
5877 the requirements of Subsection (3)(b) from the county, city, or town that annexes the annexing
5878 area.

5879 (b) The notice described in Subsection (3)(a)(ii) shall state:

5880 (i) that the annexation described in Subsection (3)(a) will result in an enactment or
5881 repeal of a tax under this part for the annexing area;

5882 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);
5883 (iii) the effective date of the tax described in Subsection (3)(b)(i); and
5884 (iv) the rate of the tax described in Subsection (3)(b)(i).
5885 (c) (i) ~~[Notwithstanding Subsection (3)(a), for a transaction described in Subsection~~
5886 ~~(3)(c)(iii), the]~~ The enactment of a tax shall take effect on the first day of the first billing period:
5887 (A) that begins after the effective date of the enactment of the tax; and
5888 (B) if the billing period for the transaction begins before the effective date of the
5889 enactment of the tax under:
5890 (I) Section 59-12-501; or
5891 (II) Section 59-12-502.
5892 (ii) ~~[Notwithstanding Subsection (3)(a), for a transaction described in Subsection~~
5893 ~~(3)(c)(iii), the]~~ The repeal of a tax shall take effect on the first day of the last billing period:
5894 (A) that began before the effective date of the repeal of the tax; and
5895 (B) if the billing period for the transaction begins before the effective date of the repeal
5896 of the tax imposed under:
5897 (I) Section 59-12-501; or
5898 (II) Section 59-12-502.
5899 ~~[(iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:]~~
5900 ~~[(A) Subsection 59-12-103(1)(b);]~~
5901 ~~[(B) Subsection 59-12-103(1)(c);]~~
5902 ~~[(C) Subsection 59-12-103(1)(d);]~~
5903 ~~[(D) Subsection 59-12-103(1)(e);]~~
5904 ~~[(E) Subsection 59-12-103(1)(f);]~~
5905 ~~[(F) Subsection 59-12-103(1)(g);]~~
5906 ~~[(G) Subsection 59-12-103(1)(h);]~~
5907 ~~[(H) Subsection 59-12-103(1)(i);]~~
5908 ~~[(I) Subsection 59-12-103(1)(j); or]~~
5909 ~~[(J) Subsection 59-12-103(1)(k).]~~

(d) (i) ~~[Notwithstanding Subsection (3)(a), if]~~ 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 ~~[(7)]~~ (6).

Section 55. Section **59-12-506** is enacted to read:

59-12-506. 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 a tax at a tax rate imposed under this part if:

(1) the tax rate at which the seller or certified service provider collects the tax is derived from a database created by the commission containing tax rates; and

(2) the seller's or certified service provider's failure to collect 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 database created by the commission containing tax rates.

Section 56. Section **59-12-507** is enacted to read:

59-12-507. Certified service provider or model 2 seller reliance on commission

certified software.

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:

(a) the certified service provider or model 2 seller relies on software the commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:

(i) provided by the commission; or

(ii) in the software the commission certifies.

(2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.

(3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:

(a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and

(b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within ten days after the day on which the certified service provider or model 2 seller receives the notice.

(4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within ten days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

5966 Section 57. Section **59-12-508** is enacted to read:

5967 **59-12-508. Purchaser relief from liability.**

5968 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
5969 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

5970 (i) the purchaser's seller or certified service provider relies on incorrect data provided
5971 by the commission:

5972 (A) on a tax rate;

5973 (B) on a boundary;

5974 (C) on a taxing jurisdiction; or

5975 (D) in the taxability matrix the commission provides in accordance with the agreement;

5976 or

5977 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
5978 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

5979 (A) on a tax rate;

5980 (B) on a boundary;

5981 (C) on a taxing jurisdiction; or

5982 (D) in the taxability matrix the commission provides in accordance with the agreement.

5983 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
5984 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
5985 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
5986 incorrect data provided by the commission is as a result of conduct that is:

5987 (i) fraudulent;

5988 (ii) intentional; or

5989 (iii) willful.

5990 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
5991 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
5992 or an underpayment if:

5993 (a) the purchaser's seller or certified service provider relies on:

- 5994 (i) incorrect data provided by the commission:
5995 (A) on a tax rate;
5996 (B) on a boundary; or
5997 (C) on a taxing jurisdiction; or
5998 (ii) an erroneous classification by the commission:
5999 (A) in the taxability matrix the commission provides in accordance with the agreement;
6000 and
6001 (B) with respect to a term:
6002 (I) in the library of definitions; and
6003 (II) that is:
6004 (Aa) listed as taxable or exempt;
6005 (Bb) included in or excluded from "sales price"; or
6006 (Cc) included in or excluded from a definition; or
6007 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
6008 accordance with Section 59-12-107.1, relies on:
6009 (i) incorrect data provided by the commission:
6010 (A) on a tax rate;
6011 (B) on a boundary; or
6012 (C) on a taxing jurisdiction; or
6013 (ii) an erroneous classification by the commission:
6014 (A) in the taxability matrix the commission provides in accordance with the agreement;
6015 and
6016 (B) with respect to a term:
6017 (I) in the library of definitions; and
6018 (II) that is:
6019 (Aa) listed as taxable or exempt;
6020 (Bb) included in or excluded from "sales price"; or
6021 (Cc) included in or excluded from a definition.

Section 58. Section **59-12-603** is amended to read:

59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Adoption of ordinance required -- Advisory board -- Administration -- Collection -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.

(1) (a) In addition to any other taxes, a county legislative body may, as provided in this part, impose a tax as follows:

(i) (A) 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; and

(B) beginning on or after January 1, 1999, a county legislative body of any county imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), 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;

(ii) a county legislative body of any county may impose a tax of not to exceed 1% of all sales of the following that are sold by a restaurant:

(A) prepared food; or

(B) food and food ingredients; and

(iii) a county legislative body of a county of the first class may impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i).

(b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section 17-31-5.5.

(2) (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided for in Subsections (1)(a)(i) through (iii) may be used for the purposes of:

(i) financing tourism promotion; and

(ii) the development, operation, and maintenance of tourist, recreation, cultural, and convention facilities as defined in Section 59-12-602.

(b) A county of the first class shall expend at least \$450,000 each year of the revenues from the imposition of a tax authorized by Subsection (1)(a)(iii) within the county to fund a marketing and ticketing system designed to:

(i) promote tourism in ski areas within the county by persons that do not reside within the state; and

(ii) combine the sale of:

(A) ski lift tickets; and

(B) accommodations and services described in Subsection 59-12-103(1)(i).

(3) 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, Local Government Bonding Act, to finance tourism, recreation, cultural, and convention facilities.

(4) (a) In order to impose the tax under Subsection (1), each county legislative body shall annually adopt an ordinance imposing the tax.

(b) The ordinance under Subsection (4)(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).

(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.

(5) 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.

(6) (a) Regardless of whether a county of the first class creates a tourism tax advisory board in accordance with Section 17-31-8, the county legislative body of the county of the first class shall create a tax advisory board in accordance with this Subsection (6).

6078 (b) The tax advisory board shall be composed of nine members appointed as follows:
6079 (i) four members shall be appointed by the county legislative body of the county of the
6080 first class as follows:
6081 (A) one member shall be a resident of the unincorporated area of the county;
6082 (B) two members shall be residents of the incorporated area of the county; and
6083 (C) one member shall be a resident of the unincorporated or incorporated area of the
6084 county; and
6085 (ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or
6086 towns within the county of the first class appointed by an organization representing all mayors
6087 of cities and towns within the county of the first class.
6088 (c) Five members of the tax advisory board constitute a quorum.
6089 (d) The county legislative body of the county of the first class shall determine:
6090 (i) terms of the members of the tax advisory board;
6091 (ii) procedures and requirements for removing a member of the tax advisory board;
6092 (iii) voting requirements, except that action of the tax advisory board shall be by at least
6093 a majority vote of a quorum of the tax advisory board;
6094 (iv) chairs or other officers of the tax advisory board;
6095 (v) how meetings are to be called and the frequency of meetings; and
6096 (vi) the compensation, if any, of members of the tax advisory board.
6097 (e) The tax advisory board under this Subsection (6) shall advise the county legislative
6098 body of the county of the first class on the expenditure of revenues collected within the county
6099 of the first class from the taxes described in Subsection (1)(a).
6100 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part
6101 shall be administered, collected, and enforced in accordance with:
6102 (A) the same procedures used to administer, collect, and enforce the tax under:
6103 (I) Part 1, Tax Collection; or
6104 (II) Part 2, Local Sales and Use Tax Act; and
6105 (B) Chapter 1, General Taxation Policies.

6106 (ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or
6107 Subsections 59-12-205(2) through [~~(7)~~] (6).

6108 (b) Except as provided in Subsection (7)(c):

6109 (i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the
6110 commission shall distribute the revenues to the county imposing the tax; and

6111 (ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenues
6112 according to the distribution formula provided in Subsection (8).

6113 (c) The commission shall deduct from the distributions under Subsection (7)(b) an
6114 administrative charge for collecting the tax as provided in Section 59-12-206.

6115 (8) The commission shall distribute the revenues generated by the tax under Subsection
6116 (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the
6117 following formula:

6118 (a) the commission shall distribute 70% of the revenues based on the percentages
6119 generated by dividing the revenues collected by each county under Subsection (1)(a)(i)(B) by
6120 the total revenues collected by all counties under Subsection (1)(a)(i)(B); and

6121 (b) the commission shall distribute 30% of the revenues based on the percentages
6122 generated by dividing the population of each county collecting a tax under Subsection
6123 (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

6124 (9) (a) For purposes of this Subsection (9):

6125 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
6126 Annexation to County.

6127 (ii) "Annexing area" means an area that is annexed into a county.

6128 (b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county
6129 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or
6130 change shall take effect:

6131 (A) on the first day of a calendar quarter; and

6132 (B) after a 90-day period beginning on the date the commission receives notice meeting
6133 the requirements of Subsection (9)(b)(ii) from the county.

6134 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:
6135 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;
6136 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);
6137 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and
6138 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
6139 (9)(b)(ii)(A), the rate of the tax.

6140 (c) (i) ~~[Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection~~
6141 ~~(9)(c)(iii), the]~~ The enactment of a tax or a tax rate increase shall take effect on the first day of
6142 the first billing period:
6143 (A) that begins after the effective date of the enactment of the tax or the tax rate
6144 increase; and
6145 (B) if the billing period for the transaction begins before the effective date of the
6146 enactment of the tax or the tax rate increase imposed under Subsection (1).

6147 (ii) ~~[Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection~~
6148 ~~(9)(c)(iii), the]~~ The repeal of a tax or a tax rate decrease shall take effect on the first day of the
6149 last billing period:
6150 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
6151 and
6152 (B) if the billing period for the transaction begins before the effective date of the repeal
6153 of the tax or the tax rate decrease imposed under Subsection (1).

6154 ~~[(iii) Subsections (9)(c)(i) and (ii) apply to transactions subject to a tax under:]~~
6155 ~~[(A) Subsection 59-12-103(1)(c);]~~
6156 ~~[(B) Subsection 59-12-103(1)(i); or]~~
6157 ~~[(C) Subsection 59-12-103(1)(k).]~~

6158 (d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or
6159 after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a
6160 tax under this part for an annexing area, the enactment, repeal, or change shall take effect:
6161 (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.

(e) (i) ~~[Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection (9)(e)(iii), the]~~ 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]~~ 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 59. Section **59-12-605** is enacted to read:

59-12-605. 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 a tax at a tax rate imposed under this part if:

(1) the tax rate at which the seller or certified service provider collects the tax is derived from a database created by the commission containing tax rates; and

(2) the seller's or certified service provider's failure to collect 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 database created by the commission containing tax rates.

Section 60. Section **59-12-606** is enacted to read:

59-12-606. Certified service provider or model 2 seller reliance on commission certified software.

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:

(a) the certified service provider or model 2 seller relies on software the commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:

(i) provided by the commission; or

(ii) in the software the commission certifies.

(2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.

(3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:

(a) notify a certified service provider or model 2 seller of the incorrect classification of

6218 the taxability of a product category in software the commission certifies; and

6219 (b) state in the notice required by Subsection (3)(a) that the certified service provider or
6220 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
6221 incorrectly classified product category if the certified service provider or model 2 seller fails to
6222 correct the taxability of the item or transaction within ten days after the day on which the
6223 certified service provider or model 2 seller receives the notice.

6224 (4) If a certified service provider or model 2 seller fails to correct the taxability of an
6225 item or transaction within ten days after the day on which the certified service provider or
6226 model 2 seller receives the notice described in Subsection (3), the certified service provider or
6227 model 2 seller is liable for failing to collect the correct amount of tax under this part on the item
6228 or transaction.

6229 Section 61. Section **59-12-607** is enacted to read:

6230 **59-12-607. Purchaser relief from liability.**

6231 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
6232 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

6233 (i) the purchaser's seller or certified service provider relies on incorrect data provided
6234 by the commission:

6235 (A) on a tax rate;

6236 (B) on a boundary;

6237 (C) on a taxing jurisdiction; or

6238 (D) in the taxability matrix the commission provides in accordance with the agreement;

6239 or

6240 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
6241 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

6242 (A) on a tax rate;

6243 (B) on a boundary;

6244 (C) on a taxing jurisdiction; or

6245 (D) in the taxability matrix the commission provides in accordance with the agreement.

6246 **(b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under**
6247 **Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the**
6248 **purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on**
6249 **incorrect data provided by the commission is as a result of conduct that is:**

6250 **(i) fraudulent;**

6251 **(ii) intentional; or**

6252 **(iii) willful.**

6253 **(2) In addition to the relief from a penalty described in Subsection (1), a purchaser is**
6254 **not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part**
6255 **or an underpayment if:**

6256 **(a) the purchaser's seller or certified service provider relies on:**

6257 **(i) incorrect data provided by the commission:**

6258 **(A) on a tax rate;**

6259 **(B) on a boundary; or**

6260 **(C) on a taxing jurisdiction; or**

6261 **(ii) an erroneous classification by the commission:**

6262 **(A) in the taxability matrix the commission provides in accordance with the agreement;**

6263 **and**

6264 **(B) with respect to a term:**

6265 **(I) in the library of definitions; and**

6266 **(II) that is:**

6267 **(Aa) listed as taxable or exempt;**

6268 **(Bb) included in or excluded from "sales price"; or**

6269 **(Cc) included in or excluded from a definition; or**

6270 **(b) the purchaser, regardless of whether the purchaser holds a direct payment permit in**
6271 **accordance with Section 59-12-107.1, relies on:**

6272 **(i) incorrect data provided by the commission:**

6273 **(A) on a tax rate;**

6274 (B) on a boundary; or
6275 (C) on a taxing jurisdiction; or
6276 (ii) an erroneous classification by the commission:
6277 (A) in the taxability matrix the commission provides in accordance with the agreement;
6278 and
6279 (B) with respect to a term:
6280 (I) in the library of definitions; and
6281 (II) that is:
6282 (Aa) listed as taxable or exempt;
6283 (Bb) included in or excluded from "sales price"; or
6284 (Cc) included in or excluded from a definition.

6285 Section 62. Section **59-12-703** is amended to read:

6286 **59-12-703. Opinion question election -- Base -- Rate -- Imposition of tax -- Uses of**
6287 **tax monies -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

6288 (1) (a) (i) A county legislative body may submit an opinion question to the residents of
6289 that county, by majority vote of all members of the legislative body, so that each resident of the
6290 county, except residents in municipalities that have already imposed a sales and use tax under
6291 Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological
6292 Organizations or Facilities, has an opportunity to express the resident's opinion on the
6293 imposition of a local sales and use tax of .1% on the transactions described in Subsection
6294 59-12-103(1) located within the county, to fund recreational and zoological facilities, botanical,
6295 cultural, and zoological organizations, and rural radio stations, in that county.

6296 (ii) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
6297 tax under this section on:

6298 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses
6299 are exempt from taxation under Section 59-12-104;

6300 (B) sales and uses within municipalities that have already imposed a sales and use tax
6301 under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and

6302 Zoological Organizations or Facilities; and

6303 ~~[(C) amounts paid or charged by a seller that collects a tax under Subsection~~

6304 ~~59-12-107(1)(b); and]~~

6305 ~~[(D)]~~ (C) except as provided in Subsection (1)(c), amounts paid or charged for food

6306 and food ingredients.

6307 (b) For purposes of this Subsection (1), the location of a transaction shall be determined

6308 in accordance with ~~[Section 59-12-207]~~ Sections 59-12-211 through 59-12-215.

6309 (c) A county legislative body imposing a tax under this section shall impose the tax on

6310 amounts paid or charged for food and food ingredients if~~[(i)]~~ the food and food ingredients are

6311 sold as part of a bundled transaction attributable to food and food ingredients and tangible

6312 personal property other than food and food ingredients~~[-; and (ii) the seller collecting the tax is a~~

6313 ~~seller other than a seller that collects a tax in accordance with Subsection 59-12-107(1)(b)].~~

6314 (d) The election shall follow the procedures outlined in Title 11, Chapter 14, Local

6315 Government Bonding Act.

6316 (2) (a) If the county legislative body determines that a majority of the county's

6317 registered voters voting on the imposition of the tax have voted in favor of the imposition of the

6318 tax as prescribed in Subsection (1)(a), the county legislative body may impose the tax by a

6319 majority vote of all members of the legislative body on the transactions:

6320 (i) described in Subsection (1); and

6321 (ii) within the county, including the cities and towns located in the county, except those

6322 cities and towns that have already imposed a sales and use tax under Part 14, City or Town

6323 Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or

6324 Facilities.

6325 (b) A county legislative body may revise county ordinances to reflect statutory changes

6326 to the distribution formula or eligible recipients of revenues generated from a tax imposed under

6327 Subsection (2)(a):

6328 (i) after the county legislative body submits an opinion question to residents of the

6329 county in accordance with Subsection (1) giving them the opportunity to express their opinion

6330 on the proposed revisions to county ordinances; and

6331 (ii) if the county legislative body determines that a majority of those voting on the

6332 opinion question have voted in favor of the revisions.

6333 (3) The monies generated from any tax imposed under Subsection (2) shall be used for

6334 funding:

6335 (a) recreational and zoological facilities located within the county or a city or town

6336 located in the county, except a city or town that has already imposed a sales and use tax under

6337 Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological

6338 Organizations or Facilities; and

6339 (b) ongoing operating expenses of:

6340 (i) recreational facilities described in Subsection (3)(a);

6341 (ii) botanical, cultural, and zoological organizations within the county; and

6342 (iii) rural radio stations within the county.

6343 (4) (a) A tax authorized under this part shall be:

6344 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in

6345 accordance with:

6346 (A) the same procedures used to administer, collect, and enforce the tax under:

6347 (I) Part 1, Tax Collection; or

6348 (II) Part 2, Local Sales and Use Tax Act; and

6349 (B) Chapter 1, General Taxation Policies; and

6350 (ii) levied for a period of ten years and may be reauthorized at the end of the ten-year

6351 period in accordance with this section.

6352 (b) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to

6353 Subsections 59-12-205(2) through [~~67~~] (6).

6354 (5) (a) For purposes of this Subsection (5):

6355 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,

6356 Annexation to County.

6357 (ii) "Annexing area" means an area that is annexed into a county.

6358 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
6359 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:
6360 (A) on the first day of a calendar quarter; and
6361 (B) after a 90-day period beginning on the date the commission receives notice meeting
6362 the requirements of Subsection (5)(b)(ii) from the county.

6363 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:
6364 (A) that the county will enact or repeal a tax under this part;
6365 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
6366 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
6367 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

6368 (c) (i) ~~[Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection~~
6369 ~~(5)(c)(iii), the]~~ The enactment of a tax shall take effect on the first day of the first billing period:
6370 (A) that begins after the effective date of the enactment of the tax; and
6371 (B) if the billing period for the transaction begins before the effective date of the
6372 enactment of the tax under this section.

6373 (ii) ~~[Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection~~
6374 ~~(5)(c)(iii), the]~~ The repeal of a tax shall take effect on the first day of the last billing period:
6375 (A) that began before the effective date of the repeal of the tax; and
6376 (B) if the billing period for the transaction begins before the effective date of the repeal
6377 of the tax imposed under this section.

6378 ~~[(iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:]~~
6379 ~~[(A) Subsection 59-12-103(1)(b);]~~
6380 ~~[(B) Subsection 59-12-103(1)(c);]~~
6381 ~~[(C) Subsection 59-12-103(1)(d);]~~
6382 ~~[(D) Subsection 59-12-103(1)(e);]~~
6383 ~~[(E) Subsection 59-12-103(1)(f);]~~
6384 ~~[(F) Subsection 59-12-103(1)(g);]~~
6385 ~~[(G) Subsection 59-12-103(1)(h);]~~

6386 ~~[(H) Subsection 59-12-103(1)(i);]~~

6387 ~~[(I) Subsection 59-12-103(1)(j); or]~~

6388 ~~[(J) Subsection 59-12-103(1)(k).]~~

6389 (d) (i) ~~[Notwithstanding Subsection (5)(b)(i), if]~~ If a tax due under this chapter on a
6390 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
6391 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

6392 (A) on the first day of a calendar quarter; and

6393 (B) beginning 60 days after the effective date of the enactment or repeal under
6394 Subsection (5)(b)(i).

6395 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
6396 commission may by rule define the term "catalogue sale."

6397 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
6398 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
6399 part for an annexing area, the enactment or repeal shall take effect:

6400 (A) on the first day of a calendar quarter; and

6401 (B) after a 90-day period beginning on the date the commission receives notice meeting
6402 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

6403 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

6404 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
6405 repeal of a tax under this part for the annexing area;

6406 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

6407 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

6408 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

6409 (f) (i) ~~[Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection~~
6410 ~~(5)(f)(iii), the]~~ The enactment of a tax shall take effect on the first day of the first billing period:

6411 (A) that begins after the effective date of the enactment of the tax; and

6412 (B) if the billing period for the transaction begins before the effective date of the
6413 enactment of the tax under this section.

6414 (ii) ~~[Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection~~
6415 ~~(5)(f)(iii), the]~~ The repeal of a tax shall take effect on the first day of the last billing period:

6416 (A) that began before the effective date of the repeal of the tax; and

6417 (B) if the billing period for the transaction begins before the effective date of the repeal
6418 of the tax imposed under this section.

6419 ~~[(iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:]~~

6420 ~~[(A) Subsection 59-12-103(1)(b);]~~

6421 ~~[(B) Subsection 59-12-103(1)(c);]~~

6422 ~~[(C) Subsection 59-12-103(1)(d);]~~

6423 ~~[(D) Subsection 59-12-103(1)(e);]~~

6424 ~~[(E) Subsection 59-12-103(1)(f);]~~

6425 ~~[(F) Subsection 59-12-103(1)(g);]~~

6426 ~~[(G) Subsection 59-12-103(1)(h);]~~

6427 ~~[(H) Subsection 59-12-103(1)(i);]~~

6428 ~~[(I) Subsection 59-12-103(1)(j); or]~~

6429 ~~[(J) Subsection 59-12-103(1)(k).]~~

6430 (g) (i) ~~[Notwithstanding Subsection (5)(e)(i), if]~~ If a tax due under this chapter on a
6431 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
6432 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

6433 (A) on the first day of a calendar quarter; and

6434 (B) beginning 60 days after the effective date of the enactment or repeal under
6435 Subsection (5)(e)(i).

6436 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
6437 commission may by rule define the term "catalogue sale."

6438 Section 63. Section **59-12-707** is enacted to read:

6439 **59-12-707. Seller or certified service provider reliance on commission information**
6440 **or certain systems.**

6441 A seller or certified service provider is not liable for failing to collect a tax at a tax rate

6442 imposed under this part if:

6443 (1) the tax rate at which the seller or certified service provider collects the tax is derived
6444 from a database created by the commission containing tax rates; and

6445 (2) the seller's or certified service provider's failure to collect the tax is as a result of the
6446 seller's or certified service provider's reliance on incorrect data provided by the commission in
6447 the database created by the commission containing tax rates.

6448 Section 64. Section **59-12-708** is enacted to read:

6449 **59-12-708. Certified service provider or model 2 seller reliance on commission**
6450 **certified software.**

6451 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified
6452 service provider or model 2 seller is not liable for failing to collect a tax required under this part
6453 if:

6454 (a) the certified service provider or model 2 seller relies on software the commission
6455 certifies; and

6456 (b) the certified service provider's or model 2 seller's failure to collect a tax required
6457 under this part is as a result of the seller's or certified service provider's reliance on incorrect
6458 data:

6459 (i) provided by the commission; or

6460 (ii) in the software the commission certifies.

6461 (2) The relief from liability described in Subsection (1) does not apply if a certified
6462 service provider or model 2 seller incorrectly classifies an item or transaction into a product
6463 category the commission certifies.

6464 (3) If the taxability of a product category is incorrectly classified in software the
6465 commission certifies, the commission shall:

6466 (a) notify a certified service provider or model 2 seller of the incorrect classification of
6467 the taxability of a product category in software the commission certifies; and

6468 (b) state in the notice required by Subsection (3)(a) that the certified service provider or
6469 model 2 seller is liable for failing to collect the correct amount of tax under this part on the

6470 incorrectly classified product category if the certified service provider or model 2 seller fails to
6471 correct the taxability of the item or transaction within ten days after the day on which the
6472 certified service provider or model 2 seller receives the notice.

6473 (4) If a certified service provider or model 2 seller fails to correct the taxability of an
6474 item or transaction within ten days after the day on which the certified service provider or
6475 model 2 seller receives the notice described in Subsection (3), the certified service provider or
6476 model 2 seller is liable for failing to collect the correct amount of tax under this part on the item
6477 or transaction.

6478 Section 65. Section **59-12-709** is enacted to read:

6479 **59-12-709. Purchaser relief from liability.**

6480 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
6481 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

6482 (i) the purchaser's seller or certified service provider relies on incorrect data provided
6483 by the commission:

6484 (A) on a tax rate;

6485 (B) on a boundary;

6486 (C) on a taxing jurisdiction; or

6487 (D) in the taxability matrix the commission provides in accordance with the agreement;

6488 or

6489 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
6490 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

6491 (A) on a tax rate;

6492 (B) on a boundary;

6493 (C) on a taxing jurisdiction; or

6494 (D) in the taxability matrix the commission provides in accordance with the agreement.

6495 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
6496 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
6497 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on

6498 incorrect data provided by the commission is as a result of conduct that is:
6499 (i) fraudulent;
6500 (ii) intentional; or
6501 (iii) willful.
6502 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
6503 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
6504 or an underpayment if:
6505 (a) the purchaser's seller or certified service provider relies on:
6506 (i) incorrect data provided by the commission:
6507 (A) on a tax rate;
6508 (B) on a boundary; or
6509 (C) on a taxing jurisdiction; or
6510 (ii) an erroneous classification by the commission:
6511 (A) in the taxability matrix the commission provides in accordance with the agreement;
6512 and
6513 (B) with respect to a term:
6514 (I) in the library of definitions; and
6515 (II) that is:
6516 (Aa) listed as taxable or exempt;
6517 (Bb) included in or excluded from "sales price"; or
6518 (Cc) included in or excluded from a definition; or
6519 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
6520 accordance with Section 59-12-107.1, relies on:
6521 (i) incorrect data provided by the commission:
6522 (A) on a tax rate;
6523 (B) on a boundary; or
6524 (C) on a taxing jurisdiction; or
6525 (ii) an erroneous classification by the commission:

6526 (A) in the taxability matrix the commission provides in accordance with the agreement;
6527 and

6528 (B) with respect to a term;

6529 (I) in the library of definitions; and

6530 (II) that is:

6531 (Aa) listed as taxable or exempt;

6532 (Bb) included in or excluded from "sales price"; or

6533 (Cc) included in or excluded from a definition.

6534 Section 66. Section **59-12-802** is amended to read:

6535 **59-12-802. Imposition of rural county health care facilities tax -- Expenditure of**
6536 **tax revenues -- Base -- Rate -- Administration, collection, and enforcement of tax.**

6537 (1) (a) A county legislative body of a county of the third, fourth, fifth, or sixth class
6538 may impose a sales and use tax of up to 1%:

6539 (i) on the transactions described in Subsection 59-12-103(1) located within the county;
6540 and

6541 (ii) subject to Subsection (3), to fund:

6542 (A) for a county of the third, fourth, or fifth class, rural county health care facilities in
6543 that county; or

6544 (B) for a county of the sixth class:

6545 (I) emergency medical services in that county;

6546 (II) federally qualified health centers in that county;

6547 (III) freestanding urgent care centers in that county;

6548 (IV) rural county health care facilities in that county;

6549 (V) rural health clinics in that county; or

6550 (VI) a combination of Subsections (1)(a)(ii)(B)(I) through (V).

6551 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
6552 tax under this section on:

6553 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are

6554 exempt from taxation under Section 59-12-104;

6555 (ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in a
6556 city that imposes a tax under Section 59-12-804; and

6557 ~~[(iii) amounts paid or charged by a seller that collects a tax under Subsection~~
6558 ~~59-12-107(1)(b); and]~~

6559 ~~[(iv)]~~ (iii) except as provided in Subsection (1)(d), amounts paid or charged for food
6560 and food ingredients.

6561 (c) For purposes of this Subsection (1), the location of a transaction shall be determined
6562 in accordance with ~~[Section 59-12-207]~~ Sections 59-12-211 through 59-12-215.

6563 (d) A county legislative body imposing a tax under this section shall impose the tax on
6564 amounts paid or charged for food and food ingredients if ~~[(i)]~~ the food and food ingredients are
6565 sold as part of a bundled transaction attributable to food and food ingredients and tangible
6566 personal property other than food and food ingredients ~~[-; and (ii) the seller collecting the tax is a~~
6567 ~~seller other than a seller that collects a tax in accordance with Subsection 59-12-107(1)(b)].~~

6568 (2) (a) Before imposing a tax under Subsection (1)(a), a county legislative body shall
6569 obtain approval to impose the tax from a majority of the:

6570 (i) members of the county's legislative body; and

6571 (ii) county's registered voters voting on the imposition of the tax.

6572 (b) The county legislative body shall conduct the election according to the procedures
6573 and requirements of Title 11, Chapter 14, Local Government Bonding Act.

6574 (3) (a) The monies generated by a tax imposed under Subsection (1) by a county
6575 legislative body of a county of the third, fourth, or fifth class may only be used for the financing
6576 of:

6577 (i) ongoing operating expenses of a rural county health care facility within that county;

6578 (ii) the acquisition of land for a rural county health care facility within that county; or

6579 (iii) the design, construction, equipping, or furnishing of a rural county health care
6580 facility within that county.

6581 (b) The monies generated by a tax imposed under Subsection (1) by a county of the

6582 sixth class may only be used for the financing of:

6583 (i) ongoing operating expenses of a center, clinic, or facility described in Subsection

6584 (1)(a)(ii)(B) within that county;

6585 (ii) the acquisition of land for a center, clinic, or facility described in Subsection

6586 (1)(a)(ii)(B) within that county;

6587 (iii) the design, construction, equipping, or furnishing of a center, clinic, or facility

6588 described in Subsection (1)(a)(ii)(B) within that county; or

6589 (iv) the provision of rural emergency medical services within that county.

6590 (4) (a) A tax under this section shall be:

6591 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
6592 accordance with:

6593 (A) the same procedures used to administer, collect, and enforce the tax under:

6594 (I) Part 1, Tax Collection; or

6595 (II) Part 2, Local Sales and Use Tax Act; and

6596 (B) Chapter 1, General Taxation Policies; and

6597 (ii) levied for a period of ten years and may be reauthorized at the end of the ten-year
6598 period by the county legislative body as provided in Subsection (1).

6599 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
6600 Subsections 59-12-205(2) through [~~(7)~~] (6).

6601 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected
6602 under this section for the cost of administering this tax.

6603 Section 67. Section **59-12-804** is amended to read:

6604 **59-12-804. Imposition of rural city hospital tax -- Base -- Rate -- Administration,**
6605 **collection, and enforcement of tax.**

6606 (1) (a) A city legislative body may impose a sales and use tax of up to 1%:

6607 (i) on the transactions described in Subsection 59-12-103(1) located within the city; and

6608 (ii) to fund rural city hospitals in that city.

6609 (b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax

6610 under this section on:

6611 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
6612 exempt from taxation under Section 59-12-104; and

6613 ~~[(ii) amounts paid or charged by a seller that collects a tax under Subsection~~
6614 ~~59-12-107(1)(b); and]~~

6615 ~~[(iii)]~~ (ii) except as provided in Subsection (1)(d), amounts paid or charged for food and
6616 food ingredients.

6617 (c) For purposes of this Subsection (1), the location of a transaction shall be determined
6618 in accordance with ~~[Section 59-12-207]~~ Sections 59-12-211 through 59-12-215.

6619 (d) A city legislative body imposing a tax under this section shall impose the tax on
6620 amounts paid or charged for food and food ingredients if ~~[(i)]~~ the food and food ingredients are
6621 sold as part of a bundled transaction attributable to food and food ingredients and tangible
6622 personal property other than food and food ingredients ~~[-; and (ii) the seller collecting the tax is a~~
6623 ~~seller other than a seller that collects a tax in accordance with Subsection 59-12-107(1)(b)].~~

6624 (2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall
6625 obtain approval to impose the tax from a majority of the:

6626 (i) members of the city legislative body; and

6627 (ii) city's registered voters voting on the imposition of the tax.

6628 (b) The city legislative body shall conduct the election according to the procedures and
6629 requirements of Title 11, Chapter 14, Local Government Bonding Act.

6630 (3) The monies generated by a tax imposed under Subsection (1) may only be used for
6631 the financing of:

6632 (a) ongoing operating expenses of a rural city hospital;

6633 (b) the acquisition of land for a rural city hospital; or

6634 (c) the design, construction, equipping, or furnishing of a rural city hospital.

6635 (4) (a) A tax under this section shall be:

6636 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
6637 accordance with:

6638 (A) the same procedures used to administer, collect, and enforce the tax under:
6639 (I) Part 1, Tax Collection; or
6640 (II) Part 2, Local Sales and Use Tax Act; and
6641 (B) Chapter 1, General Taxation Policies; and
6642 (ii) levied for a period of ten years and may be reauthorized at the end of the ten-year
6643 period by the city legislative body as provided in Subsection (1).

6644 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
6645 Subsections 59-12-205(2) through [~~7~~] (6).

6646 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected
6647 under this section for the cost of administering the tax.

6648 Section 68. Section **59-12-806** is amended to read:

6649 **59-12-806. Enactment or repeal of tax -- Tax rate change -- Effective date --**
6650 **Notice requirements.**

6651 (1) For purposes of this section:

6652 (a) "Annexation" means an annexation to:

6653 (i) a county under Title 17, Chapter 2, Annexation to County; or

6654 (ii) a city under Title 10, Chapter 2, Part 4, Annexation.

6655 (b) "Annexing area" means an area that is annexed into a county or city.

6656 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after July 1, 2004, a
6657 county or city enacts or repeals a tax or changes the rate of a tax under this part, the enactment,
6658 repeal, or change shall take effect:

6659 (i) on the first day of a calendar quarter; and

6660 (ii) after a 90-day period beginning on the date the commission receives notice meeting
6661 the requirements of Subsection (2)(b) from the county or city.

6662 (b) The notice described in Subsection (2)(a)(ii) shall state:

6663 (i) that the county or city will enact or repeal a tax or change the rate of a tax under this
6664 part;

6665 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

6666 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

6667 (iv) if the county or city enacts the tax or changes the rate of the tax described in
6668 Subsection (2)(b)(i), the rate of the tax.

6669 (c) (i) ~~[Notwithstanding Subsection (2)(a), for a transaction described in Subsection~~
6670 ~~(2)(c)(iii), the]~~ The enactment of a tax or a tax rate increase shall take effect on the first day of
6671 the first billing period:

6672 (A) that begins after the effective date of the enactment of the tax or the tax rate
6673 increase; and

6674 (B) if the billing period for the transaction begins before the effective date of the
6675 enactment of the tax or the tax rate increase imposed under:

6676 (I) Section 59-12-802; or

6677 (II) Section 59-12-804.

6678 (ii) ~~[Notwithstanding Subsection (2)(a), for a transaction described in Subsection~~
6679 ~~(2)(c)(iii), the]~~ The repeal of a tax or a tax rate decrease shall take effect on the first day of the
6680 last billing period:

6681 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
6682 and

6683 (B) if the billing period for the transaction begins before the effective date of the repeal
6684 of the tax or the tax rate decrease imposed under:

6685 (I) Section 59-12-802; or

6686 (II) Section 59-12-804.

6687 ~~[(iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:]~~

6688 ~~[(A) Subsection 59-12-103(1)(b);]~~

6689 ~~[(B) Subsection 59-12-103(1)(c);]~~

6690 ~~[(C) Subsection 59-12-103(1)(d);]~~

6691 ~~[(D) Subsection 59-12-103(1)(e);]~~

6692 ~~[(E) Subsection 59-12-103(1)(f);]~~

6693 ~~[(F) Subsection 59-12-103(1)(g);]~~

6694 ~~[(G) Subsection 59-12-103(1)(h);]~~

6695 ~~[(H) Subsection 59-12-103(1)(i);]~~

6696 ~~[(I) Subsection 59-12-103(1)(j); or]~~

6697 ~~[(J) Subsection 59-12-103(1)(k).]~~

6698 (d) (i) ~~[Notwithstanding Subsection (2)(a), if]~~ If a tax due under this chapter on a
6699 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
6700 enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:

6701 (A) on the first day of a calendar quarter; and

6702 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
6703 rate of the tax under Subsection (2)(a).

6704 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
6705 commission may by rule define the term "catalogue sale."

6706 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs
6707 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate
6708 of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

6709 (i) on the first day of a calendar quarter; and

6710 (ii) after a 90-day period beginning on the date the commission receives notice meeting
6711 the requirements of Subsection (3)(b) from the county or city that annexes the annexing area.

6712 (b) The notice described in Subsection (3)(a)(ii) shall state:

6713 (i) that the annexation described in Subsection (3)(a) will result in an enactment, repeal,
6714 or change in the rate of a tax under this part for the annexing area;

6715 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);

6716 (iii) the effective date of the tax described in Subsection (3)(b)(i); and

6717 (iv) if the county or city enacts the tax or changes the rate of the tax described in
6718 Subsection (3)(b)(i), the rate of the tax.

6719 (c) (i) ~~[Notwithstanding Subsection (3)(a), for a transaction described in Subsection~~
6720 ~~(3)(c)(iii), the]~~ The enactment of a tax or a tax rate increase shall take effect on the first day of
6721 the first billing period:

6722 (A) that begins after the effective date of the enactment of the tax or the tax rate
6723 increase; and

6724 (B) if the billing period for the transaction begins before the effective date of the
6725 enactment of the tax or the tax rate increase imposed under:

6726 (I) Section 59-12-802; or

6727 (II) Section 59-12-804.

6728 (ii) ~~[Notwithstanding Subsection (3)(a), for a transaction described in Subsection~~
6729 ~~(3)(c)(iii), the]~~ The repeal of a tax or a tax rate decrease shall take effect on the first day of the
6730 last billing period:

6731 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
6732 and

6733 (B) if the billing period for the transaction begins before the effective date of the repeal
6734 of the tax or the tax rate decrease imposed under:

6735 (I) Section 59-12-802; or

6736 (II) Section 59-12-804.

6737 ~~[(iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:]~~

6738 ~~[(A) Subsection 59-12-103(1)(b);]~~

6739 ~~[(B) Subsection 59-12-103(1)(c);]~~

6740 ~~[(C) Subsection 59-12-103(1)(d);]~~

6741 ~~[(D) Subsection 59-12-103(1)(e);]~~

6742 ~~[(E) Subsection 59-12-103(1)(f);]~~

6743 ~~[(F) Subsection 59-12-103(1)(g);]~~

6744 ~~[(G) Subsection 59-12-103(1)(h);]~~

6745 ~~[(H) Subsection 59-12-103(1)(i);]~~

6746 ~~[(I) Subsection 59-12-103(1)(j); or]~~

6747 ~~[(J) Subsection 59-12-103(1)(k);]~~

6748 (d) (i) ~~[Notwithstanding Subsection (3)(a), if]~~ If a tax due under this chapter on a
6749 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an

6750 enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:

6751 (A) on the first day of a calendar quarter; and

6752 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
6753 rate of a tax under Subsection (3)(a).

6754 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
6755 commission may by rule define the term "catalogue sale."

6756 Section 69. Section **59-12-808** is enacted to read:

6757 **59-12-808. Seller or certified service provider reliance on commission information**
6758 **or certain systems.**

6759 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
6760 imposed under this part if:

6761 (1) the tax rate at which the seller or certified service provider collects the tax is derived
6762 from a database created by the commission containing tax rates; and

6763 (2) the seller's or certified service provider's failure to collect the tax is as a result of the
6764 seller's or certified service provider's reliance on incorrect data provided by the commission in
6765 the database created by the commission containing tax rates.

6766 Section 70. Section **59-12-809** is enacted to read:

6767 **59-12-809. Certified service provider or model 2 seller reliance on commission**
6768 **certified software.**

6769 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified
6770 service provider or model 2 seller is not liable for failing to collect a tax required under this part
6771 if:

6772 (a) the certified service provider or model 2 seller relies on software the commission
6773 certifies; and

6774 (b) the certified service provider's or model 2 seller's failure to collect a tax required
6775 under this part is as a result of the seller's or certified service provider's reliance on incorrect
6776 data:

6777 (i) provided by the commission; or

6778 (ii) in the software the commission certifies.

6779 (2) The relief from liability described in Subsection (1) does not apply if a certified
6780 service provider or model 2 seller incorrectly classifies an item or transaction into a product
6781 category the commission certifies.

6782 (3) If the taxability of a product category is incorrectly classified in software the
6783 commission certifies, the commission shall:

6784 (a) notify a certified service provider or model 2 seller of the incorrect classification of
6785 the taxability of a product category in software the commission certifies; and

6786 (b) state in the notice required by Subsection (3)(a) that the certified service provider or
6787 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
6788 incorrectly classified product category if the certified service provider or model 2 seller fails to
6789 correct the taxability of the item or transaction within ten days after the day on which the
6790 certified service provider or model 2 seller receives the notice.

6791 (4) If a certified service provider or model 2 seller fails to correct the taxability of an
6792 item or transaction within ten days after the day on which the certified service provider or
6793 model 2 seller receives the notice described in Subsection (3), the certified service provider or
6794 model 2 seller is liable for failing to collect the correct amount of tax under this part on the item
6795 or transaction.

6796 Section 71. Section **59-12-810** is enacted to read:

6797 **59-12-810. Purchaser relief from liability.**

6798 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
6799 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

6800 (i) the purchaser's seller or certified service provider relies on incorrect data provided
6801 by the commission:

6802 (A) on a tax rate;

6803 (B) on a boundary;

6804 (C) on a taxing jurisdiction; or

6805 (D) in the taxability matrix the commission provides in accordance with the agreement;

6806 or

6807 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
6808 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

6809 (A) on a tax rate;

6810 (B) on a boundary;

6811 (C) on a taxing jurisdiction; or

6812 (D) in the taxability matrix the commission provides in accordance with the agreement.

6813 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
6814 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
6815 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
6816 incorrect data provided by the commission is as a result of conduct that is:

6817 (i) fraudulent;

6818 (ii) intentional; or

6819 (iii) willful.

6820 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
6821 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
6822 or an underpayment if:

6823 (a) the purchaser's seller or certified service provider relies on:

6824 (i) incorrect data provided by the commission:

6825 (A) on a tax rate;

6826 (B) on a boundary; or

6827 (C) on a taxing jurisdiction; or

6828 (ii) an erroneous classification by the commission:

6829 (A) in the taxability matrix the commission provides in accordance with the agreement;

6830 and

6831 (B) with respect to a term:

6832 (I) in the library of definitions; and

6833 (II) that is:

6834 (Aa) listed as taxable or exempt;
6835 (Bb) included in or excluded from "sales price"; or
6836 (Cc) included in or excluded from a definition; or
6837 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
6838 accordance with Section 59-12-107.1, relies on:
6839 (i) incorrect data provided by the commission:
6840 (A) on a tax rate;
6841 (B) on a boundary; or
6842 (C) on a taxing jurisdiction; or
6843 (ii) an erroneous classification by the commission:
6844 (A) in the taxability matrix the commission provides in accordance with the agreement;
6845 and
6846 (B) with respect to a term:
6847 (I) in the library of definitions; and
6848 (II) that is:
6849 (Aa) listed as taxable or exempt;
6850 (Bb) included in or excluded from "sales price"; or
6851 (Cc) included in or excluded from a definition.
6852 Section 72. Section **59-12-1001** is amended to read:
6853 **59-12-1001. Authority to impose tax for highways or to fund a system for public**
6854 **transit -- Base -- Rate -- Ordinance requirements -- Voter approval requirements --**
6855 **Election requirements -- Notice of election requirements -- Exceptions to voter approval**
6856 **requirements -- Enactment or repeal of tax -- Effective date -- Notice requirements.**
6857 (1) (a) A city or town in which the transactions described in Subsection 59-12-103(1)
6858 are not subject to a sales and use tax under Section 59-12-501 may as provided in this part
6859 impose a sales and use tax of:
6860 (i) beginning on January 1, 1998, and ending on December 31, 2007, .25% on the
6861 transactions described in Subsection 59-12-103(1) located within the city or town; or

6862 (ii) beginning on January 1, 2008, .30% on the transactions described in Subsection
6863 59-12-103(1) located within the city or town.

6864 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
6865 section on:

6866 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
6867 exempt from taxation under Section 59-12-104; and

6868 [~~(ii) amounts paid or charged by a seller that collects a tax under Subsection~~
6869 ~~59-12-107(1)(b); and]~~

6870 [~~(iii)~~ (ii)] except as provided in Subsection (1)(d), amounts paid or charged for food and
6871 food ingredients.

6872 (c) For purposes of this Subsection (1), the location of a transaction shall be determined
6873 in accordance with [~~Section 59-12-207~~] Sections 59-12-211 through 59-12-215.

6874 (d) A city or town imposing a tax under this section shall impose the tax on amounts
6875 paid or charged for food and food ingredients if[~~:(i)~~] the food and food ingredients are sold as
6876 part of a bundled transaction attributable to food and food ingredients and tangible personal
6877 property other than food and food ingredients[~~; and (ii) the seller collecting the tax is a seller~~
6878 ~~other than a seller that collects a tax in accordance with Subsection 59-12-107(1)(b)].~~

6879 (2) (a) A city or town imposing a tax under this part may use the revenues generated by
6880 the tax:

6881 (i) for the construction and maintenance of highways under the jurisdiction of the city
6882 or town imposing the tax;

6883 (ii) subject to Subsection (2)(b), to fund a system for public transit; or

6884 (iii) for a combination of the purposes described in Subsections (2)(a)(i) and (ii).

6885 (b) (i) For purposes of Subsection (2)(a)(ii) and except as provided in Subsection
6886 (2)(b)(ii), "public transit" is as defined in Section 17B-2a-802.

6887 (ii) Notwithstanding Subsection (2)(b)(i), "public transit" does not include a fixed
6888 guideway system.

6889 (3) To impose a tax under this part, the governing body of the city or town shall:

- 6890 (a) pass an ordinance approving the tax; and
- 6891 (b) except as provided in Subsection (7) or (8), obtain voter approval for the tax as
- 6892 provided in Subsection (4).
- 6893 (4) To obtain voter approval for a tax under Subsection (3)(b), a city or town shall:
- 6894 (a) hold an election during:
- 6895 (i) a regular general election; or
- 6896 (ii) a municipal general election; and
- 6897 (b) publish notice of the election:
- 6898 (i) 15 days or more before the day on which the election is held; and
- 6899 (ii) in a newspaper of general circulation in the city or town.
- 6900 (5) An ordinance approving a tax under this part shall provide an effective date for the
- 6901 tax as provided in Subsection (6).
- 6902 (6) (a) For purposes of this Subsection (6):
- 6903 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
- 6904 4, Annexation.
- 6905 (ii) "Annexing area" means an area that is annexed into a city or town.
- 6906 (b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after April 1, 2008, a city
- 6907 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:
- 6908 (A) on the first day of a calendar quarter; and
- 6909 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 6910 the requirements of Subsection (6)(b)(ii) from the city or town.
- 6911 (ii) The notice described in Subsection (6)(b)(i)(B) shall state:
- 6912 (A) that the city or town will enact or repeal a tax under this part;
- 6913 (B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);
- 6914 (C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and
- 6915 (D) if the city or town enacts the tax described in Subsection (6)(b)(ii)(A), the rate of
- 6916 the tax.
- 6917 (c) (i) ~~[Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection~~

6918 ~~(6)(c)(iii), the~~ The enactment of a tax shall take effect on the first day of the first billing period:

6919 (A) that begins after the effective date of the enactment of the tax; and

6920 (B) if the billing period for the transaction begins before the effective date of the
6921 enactment of the tax under Subsection (1).

6922 (ii) ~~[Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection~~

6923 ~~(6)(c)(iii), the~~ The repeal of a tax shall take effect on the first day of the last billing period:

6924 (A) that began before the effective date of the repeal of the tax; and

6925 (B) if the billing period for the transaction begins before the effective date of the repeal
6926 of the tax imposed under Subsection (1).

6927 ~~[(iii) Subsections (6)(c)(i) and (ii) apply to transactions subject to a tax under:]~~

6928 ~~[(A) Subsection 59-12-103(1)(b);]~~

6929 ~~[(B) Subsection 59-12-103(1)(c);]~~

6930 ~~[(C) Subsection 59-12-103(1)(d);]~~

6931 ~~[(D) Subsection 59-12-103(1)(e);]~~

6932 ~~[(E) Subsection 59-12-103(1)(f);]~~

6933 ~~[(F) Subsection 59-12-103(1)(g);]~~

6934 ~~[(G) Subsection 59-12-103(1)(h);]~~

6935 ~~[(H) Subsection 59-12-103(1)(i);]~~

6936 ~~[(I) Subsection 59-12-103(1)(j); or]~~

6937 ~~[(J) Subsection 59-12-103(1)(k).]~~

6938 (d) (i) ~~[Notwithstanding Subsection (6)(b)(i), if]~~ If a tax due under this chapter on a

6939 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
6940 enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:

6941 (A) on the first day of a calendar quarter; and

6942 (B) beginning 60 days after the effective date of the enactment or repeal under
6943 Subsection (6)(b)(i).

6944 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
6945 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]~~ 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 (6)(e)(i), for a transaction described in Subsection (6)(f)(iii), the]~~ 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);]~~

6974 ~~[(F) Subsection 59-12-103(1)(g);]~~

6975 ~~[(G) Subsection 59-12-103(1)(h);]~~

6976 ~~[(H) Subsection 59-12-103(1)(i);]~~

6977 ~~[(I) Subsection 59-12-103(1)(j); or]~~

6978 ~~[(J) Subsection 59-12-103(1)(k).]~~

6979 (g) (i) ~~[Notwithstanding Subsection (6)(e)(i), if]~~ If a tax due under this chapter on a
6980 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
6981 enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:

6982 (A) on the first day of a calendar quarter; and

6983 (B) beginning 60 days after the effective date of the enactment or repeal under
6984 Subsection (6)(e)(i).

6985 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
6986 commission may by rule define the term "catalogue sale."

6987 (7) (a) Except as provided in Subsection (7)(b), a city or town is not subject to the
6988 voter approval requirements of Subsection (3)(b) if:

6989 (i) on or before January 1, 1996, the city or town imposed a license fee or tax on
6990 businesses based on gross receipts pursuant to Section 10-1-203; or

6991 (ii) the city or town:

6992 (A) on or before June 30, 2002, obtained voter approval in accordance with Subsection
6993 (3)(b) to impose a tax under this part for a purpose described in Subsection (2)(a)(i); and

6994 (B) on or after July 1, 2002, uses the revenues generated by a tax under this part for a
6995 purpose described in Subsection (2)(a).

6996 (b) ~~[Notwithstanding Subsection (7)(a), the]~~ The exception from the voter approval
6997 requirements in Subsection (7)(a)(i) does not apply to a city or town that, on or before January
6998 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts
6999 pursuant to Section 10-1-203.

7000 (8) A city or town is not subject to the voter approval requirements of Subsection
7001 (3)(b) if:

7002 (a) on December 31, 2007, the city or town imposes a tax of .25% under this section;
7003 and

7004 (b) on or after January 1, 2008, the city or town increases the tax rate under this section
7005 to .30%.

7006 Section 73. Section **59-12-1002** is amended to read:

7007 **59-12-1002. Collection of taxes by commission -- Administration, collection, and**
7008 **enforcement of tax -- Charge for service.**

7009 (1) The commission shall:

7010 (a) collect the tax imposed by a city or town under this part; and

7011 (b) subject to Subsection (3), transmit to the city or town monthly by electronic funds
7012 transfer the revenues generated by the tax imposed by the city or town.

7013 (2) (a) Except as provided in Subsection (2)(b), a tax authorized under this part shall be
7014 administered, collected, and enforced in accordance with:

7015 (i) the same procedures used to administer, collect, and enforce the tax under:

7016 (A) Part 1, Tax Collection; or

7017 (B) Part 2, Local Sales and Use Tax Act; and

7018 (ii) Chapter 1, General Taxation Policies.

7019 (b) Notwithstanding Subsection (2)(a), a tax under this part is not subject to
7020 Subsections 59-12-205(2) through [~~7~~] (6).

7021 (3) (a) The commission shall charge a city or town imposing a tax under this part a fee
7022 for administering the tax as provided in Subsections (3)(b) and (c).

7023 (b) The fee shall be in an amount equal to the costs of administering the tax under this
7024 part, except that the fee may not exceed 1-1/2% of the revenues generated in the city or town
7025 by the tax under this part.

7026 (c) Fees under this Subsection (3) shall be:

7027 (i) placed in the Sales and Use Tax Administrative Fees Account; and

7028 (ii) used for sales tax administration as provided in Subsection 59-12-206(2).

7029 Section 74. Section **59-12-1004** is enacted to read:

59-12-1004. 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 a tax at a tax rate imposed under this part if:

(1) the tax rate at which the seller or certified service provider collects the tax is derived from a database created by the commission containing tax rates; and

(2) the seller's or certified service provider's failure to collect 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 database created by the commission containing tax rates.

Section 75. Section **59-12-1005** is enacted to read:

59-12-1005. Certified service provider or model 2 seller reliance on commission certified software.

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:

(a) the certified service provider or model 2 seller relies on software the commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:

(i) provided by the commission; or

(ii) in the software the commission certifies.

(2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.

(3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:

(a) notify a certified service provider or model 2 seller of the incorrect classification of

the taxability of a product category in software the commission certifies; and

(b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within ten days after the day on which the certified service provider or model 2 seller receives the notice.

(4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within ten days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Section 76. Section **59-12-1006** is enacted to read:

59-12-1006. Purchaser relief from liability.

(1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

(i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement;

or

(ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement.

7086 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
7087 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
7088 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
7089 incorrect data provided by the commission is as a result of conduct that is:

7090 (i) fraudulent;
7091 (ii) intentional; or
7092 (iii) willful.

7093 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
7094 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
7095 or an underpayment if:

7096 (a) the purchaser's seller or certified service provider relies on:

7097 (i) incorrect data provided by the commission:

7098 (A) on a tax rate;

7099 (B) on a boundary; or

7100 (C) on a taxing jurisdiction; or

7101 (ii) an erroneous classification by the commission:

7102 (A) in the taxability matrix the commission provides in accordance with the agreement;

7103 and

7104 (B) with respect to a term:

7105 (I) in the library of definitions; and

7106 (II) that is:

7107 (Aa) listed as taxable or exempt;

7108 (Bb) included in or excluded from "sales price"; or

7109 (Cc) included in or excluded from a definition; or

7110 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
7111 accordance with Section 59-12-107.1, relies on:

7112 (i) incorrect data provided by the commission:

7113 (A) on a tax rate;

- 7114 (B) on a boundary; or
 7115 (C) on a taxing jurisdiction; or
 7116 (ii) an erroneous classification by the commission:
 7117 (A) in the taxability matrix the commission provides in accordance with the agreement;
 7118 and
 7119 (B) with respect to a term:
 7120 (I) in the library of definitions; and
 7121 (II) that is:
 7122 (Aa) listed as taxable or exempt;
 7123 (Bb) included in or excluded from "sales price"; or
 7124 (Cc) included in or excluded from a definition.
 7125 Section 77. Section **59-12-1102** is amended to read:
 7126 **59-12-1102. Base -- Rate -- Imposition of tax -- Distribution of revenue --**
 7127 **Administration -- Enactment or repeal of tax -- Effective date -- Notice requirements.**
 7128 (1) (a) (i) Subject to Subsections (2) through (5), and in addition to any other tax
 7129 authorized by this chapter, a county may impose by ordinance a county option sales and use tax
 7130 of .25% upon the transactions described in Subsection 59-12-103(1).
 7131 (ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this
 7132 section on~~[(A)]~~ the sales and uses described in Section 59-12-104 to the extent the sales and
 7133 uses are exempt from taxation under Section 59-12-104~~[-and (B) any amounts paid or charged~~
 7134 ~~by a seller that collects a tax under Subsection 59-12-107(1)(b) unless all of the counties in the~~
 7135 ~~state impose a tax under this section].~~
 7136 (b) For purposes of this Subsection (1), the location of a transaction shall be determined
 7137 in accordance with ~~[Section 59-12-207]~~ Sections 59-12-211 through 59-12-215.
 7138 (c) The county option sales and use tax under this section shall be imposed:
 7139 (i) upon transactions that are located within the county, including transactions that are
 7140 located within municipalities in the county; and
 7141 (ii) except as provided in Subsection (1)(d) or (5), beginning on the first day of January:

7142 (A) of the next calendar year after adoption of the ordinance imposing the tax if the
7143 ordinance is adopted on or before May 25; or

7144 (B) of the second calendar year after adoption of the ordinance imposing the tax if the
7145 ordinance is adopted after May 25.

7146 (d) Notwithstanding Subsection (1)(c)(ii), the county option sales and use tax under this
7147 section shall be imposed:

7148 (i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before
7149 September 4, 1997; or

7150 (ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997
7151 but after September 4, 1997.

7152 (2) (a) Before imposing a county option sales and use tax under Subsection (1), a
7153 county shall hold two public hearings on separate days in geographically diverse locations in
7154 the county.

7155 (b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting
7156 time of no earlier than 6 p.m.

7157 (ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven
7158 days after the day the first advertisement required by Subsection (2)(c) is published.

7159 (c) (i) Before holding the public hearings required by Subsection (2)(a), the county shall
7160 advertise in a newspaper of general circulation in the county:

7161 (A) its intent to adopt a county option sales and use tax;

7162 (B) the date, time, and location of each public hearing; and

7163 (C) a statement that the purpose of each public hearing is to obtain public comments
7164 regarding the proposed tax.

7165 (ii) The advertisement shall be published once each week for the two weeks preceding
7166 the earlier of the two public hearings.

7167 (iii) The advertisement shall be no less than 1/8 page in size, and the type used shall be
7168 no smaller than 18 point and surrounded by a 1/4-inch border.

7169 (iv) The advertisement may not be placed in that portion of the newspaper where legal

7170 notices and classified advertisements appear.

7171 (v) Whenever possible:

7172 (A) the advertisement shall appear in a newspaper that is published at least five days a
7173 week, unless the only newspaper in the county is published less than five days a week; and

7174 (B) the newspaper selected shall be one of general interest and readership in the
7175 community, and not one of limited subject matter.

7176 (d) The adoption of an ordinance imposing a county option sales and use tax is subject
7177 to a local referendum election as provided in Title 20A, Chapter 7, Part 6, Local Referenda -
7178 Procedures, except that:

7179 (i) notwithstanding Subsection 20A-7-609(2)(a), the county clerk shall hold a
7180 referendum election that qualifies for the ballot on the earlier of the next regular general election
7181 date or the next municipal general election date more than 155 days after adoption of an
7182 ordinance under this section;

7183 (ii) for 1997 only, the 120-day period in Subsection 20A-7-606(1) shall be 30 days; and

7184 (iii) the deadlines in Subsections 20A-7-606(2) and (3) do not apply, and the clerk shall
7185 take the actions required by those subsections before the referendum election.

7186 (3) (a) If the aggregate population of the counties imposing a county option sales and
7187 use tax under Subsection (1) is less than 75% of the state population, the tax levied under
7188 Subsection (1) shall be distributed to the county in which the tax was collected.

7189 (b) If the aggregate population of the counties imposing a county option sales and use
7190 tax under Subsection (1) is greater than or equal to 75% of the state population:

7191 (i) 50% of the tax collected under Subsection (1) in each county shall be distributed to
7192 the county in which the tax was collected; and

7193 (ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection
7194 (1) in each county shall be distributed proportionately among all counties imposing the tax,
7195 based on the total population of each county.

7196 (c) If the amount to be distributed annually to a county under Subsection (3)(b)(ii),
7197 when combined with the amount distributed to the county under Subsection (3)(b)(i), does not

7198 equal at least \$75,000, then:

7199 (i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall
7200 be increased so that, when combined with the amount distributed to the county under

7201 Subsection (3)(b)(i), the amount distributed annually to the county is \$75,000; and

7202 (ii) the amount to be distributed annually to all other counties under Subsection
7203 (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under
7204 Subsection (3)(c)(i).

7205 (d) The commission shall establish rules to implement the distribution of the tax under
7206 Subsections (3)(a), (b), and (c).

7207 ~~[(e) Notwithstanding Subsections (3)(a) and (b), if a county imposes a tax under this~~
7208 ~~section on any amounts paid or charged by a seller that collects a tax in accordance with~~
7209 ~~Subsection 59-12-107(1)(b), the revenues generated by the tax shall be distributed as provided~~
7210 ~~in Subsection 59-12-103(3)(c).]~~

7211 (4) (a) Except as provided in Subsection (4)(b) or (c), a tax authorized under this part
7212 shall be administered, collected, and enforced in accordance with:

7213 (i) the same procedures used to administer, collect, and enforce the tax under:

7214 (A) Part 1, Tax Collection; or

7215 (B) Part 2, Local Sales and Use Tax Act; and

7216 (ii) Chapter 1, General Taxation Policies.

7217 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to
7218 Subsections 59-12-205(2) through ~~[(7)]~~ (6).

7219 (c) Notwithstanding Subsection (4)(a), the fee charged by the commission under
7220 Section 59-12-206 shall be based on the distribution amounts resulting after all the applicable
7221 distribution calculations under Subsection (3) have been made.

7222 (5) (a) For purposes of this Subsection (5):

7223 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
7224 Annexation to County.

7225 (ii) "Annexing area" means an area that is annexed into a county.

7226 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
7227 county enacts or repeals a tax under this part:

7228 (A) (I) the enactment shall take effect as provided in Subsection (1)(c); or
7229 (II) the repeal shall take effect on the first day of a calendar quarter; and
7230 (B) after a 90-day period beginning on the date the commission receives notice meeting
7231 the requirements of Subsection (5)(b)(ii) from the county.

7232 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

7233 (A) that the county will enact or repeal a tax under this part;
7234 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
7235 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
7236 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

7237 (c) (i) ~~[Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection~~
7238 ~~(5)(c)(iii), the]~~ The enactment of a tax shall take effect on the first day of the first billing period:

7239 (A) that begins after the effective date of the enactment of the tax; and
7240 (B) if the billing period for the transaction begins before the effective date of the
7241 enactment of the tax under Subsection (1).

7242 (ii) ~~[Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection~~
7243 ~~(5)(c)(iii), the]~~ The repeal of a tax shall take effect on the first day of the last billing period:

7244 (A) that began before the effective date of the repeal of the tax; and
7245 (B) if the billing period for the transaction begins before the effective date of the repeal
7246 of the tax imposed under Subsection (1).

7247 ~~[(iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:]~~
7248 ~~[(A) Subsection 59-12-103(1)(b);]~~
7249 ~~[(B) Subsection 59-12-103(1)(c);]~~
7250 ~~[(C) Subsection 59-12-103(1)(d);]~~
7251 ~~[(D) Subsection 59-12-103(1)(e);]~~
7252 ~~[(E) Subsection 59-12-103(1)(f);]~~
7253 ~~[(F) Subsection 59-12-103(1)(g);]~~

7254 [~~(G) Subsection 59-12-103(1)(h);~~]

7255 [~~(H) Subsection 59-12-103(1)(i);~~]

7256 [~~(I) Subsection 59-12-103(1)(j); or~~]

7257 [~~(J) Subsection 59-12-103(1)(k).~~]

7258 (d) (i) [~~Notwithstanding Subsection (5)(b)(i), if~~ If a tax due under this chapter on a
7259 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
7260 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

7261 (A) on the first day of a calendar quarter; and

7262 (B) beginning 60 days after the effective date of the enactment or repeal under
7263 Subsection (5)(b)(i).

7264 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
7265 commission may by rule define the term "catalogue sale."

7266 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
7267 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
7268 part for an annexing area, the enactment or repeal shall take effect:

7269 (A) on the first day of a calendar quarter; and

7270 (B) after a 90-day period beginning on the date the commission receives notice meeting
7271 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

7272 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

7273 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
7274 repeal of a tax under this part for the annexing area;

7275 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

7276 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

7277 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

7278 (f) (i) [~~Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection~~
7279 ~~(5)(f)(iii), the~~ The enactment of a tax shall take effect on the first day of the first billing period:

7280 (A) that begins after the effective date of the enactment of the tax; and

7281 (B) if the billing period for the transaction begins before the effective date of the

7282 enactment of the tax under Subsection (1).

7283 (ii) [~~Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection~~
7284 ~~(5)(f)(iii), the~~] The repeal of a tax shall take effect on the first day of the last billing period:

7285 (A) that began before the effective date of the repeal of the tax; and

7286 (B) if the billing period for the transaction begins before the effective date of the repeal
7287 of the tax imposed under Subsection (1).

7288 [~~(iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:~~]

7289 [~~(A) Subsection 59-12-103(1)(b);~~]

7290 [~~(B) Subsection 59-12-103(1)(c);~~]

7291 [~~(C) Subsection 59-12-103(1)(d);~~]

7292 [~~(D) Subsection 59-12-103(1)(e);~~]

7293 [~~(E) Subsection 59-12-103(1)(f);~~]

7294 [~~(F) Subsection 59-12-103(1)(g);~~]

7295 [~~(G) Subsection 59-12-103(1)(h);~~]

7296 [~~(H) Subsection 59-12-103(1)(i);~~]

7297 [~~(I) Subsection 59-12-103(1)(j); or~~]

7298 [~~(J) Subsection 59-12-103(1)(k).~~]

7299 (g) (i) [~~Notwithstanding Subsection (5)(e)(i), if~~] If a tax due under this chapter on a
7300 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
7301 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

7302 (A) on the first day of a calendar quarter; and

7303 (B) beginning 60 days after the effective date of the enactment or repeal under
7304 Subsection (5)(e)(i).

7305 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
7306 commission may by rule define the term "catalogue sale."

7307 Section 78. Section **59-12-1104** is enacted to read:

7308 **59-12-1104. Seller or certified service provider reliance on commission**
7309 **information or certain systems.**

7310 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
7311 imposed under this part if:

7312 (1) the tax rate at which the seller or certified service provider collects the tax is derived
7313 from a database created by the commission containing tax rates; and

7314 (2) the seller's or certified service provider's failure to collect the tax is as a result of the
7315 seller's or certified service provider's reliance on incorrect data provided by the commission in
7316 the database created by the commission containing tax rates.

7317 Section 79. Section **59-12-1105** is enacted to read:

7318 **59-12-1105. Certified service provider or model 2 seller reliance on commission**
7319 **certified software.**

7320 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified
7321 service provider or model 2 seller is not liable for failing to collect a tax required under this part
7322 if:

7323 (a) the certified service provider or model 2 seller relies on software the commission
7324 certifies; and

7325 (b) the certified service provider's or model 2 seller's failure to collect a tax required
7326 under this part is as a result of the seller's or certified service provider's reliance on incorrect
7327 data:

7328 (i) provided by the commission; or

7329 (ii) in the software the commission certifies.

7330 (2) The relief from liability described in Subsection (1) does not apply if a certified
7331 service provider or model 2 seller incorrectly classifies an item or transaction into a product
7332 category the commission certifies.

7333 (3) If the taxability of a product category is incorrectly classified in software the
7334 commission certifies, the commission shall:

7335 (a) notify a certified service provider or model 2 seller of the incorrect classification of
7336 the taxability of a product category in software the commission certifies; and

7337 (b) state in the notice required by Subsection (3)(a) that the certified service provider or

7338 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
7339 incorrectly classified product category if the certified service provider or model 2 seller fails to
7340 correct the taxability of the item or transaction within ten days after the day on which the
7341 certified service provider or model 2 seller receives the notice.

7342 (4) If a certified service provider or model 2 seller fails to correct the taxability of an
7343 item or transaction within ten days after the day on which the certified service provider or
7344 model 2 seller receives the notice described in Subsection (3), the certified service provider or
7345 model 2 seller is liable for failing to collect the correct amount of tax under this part on the item
7346 or transaction.

7347 Section 80. Section **59-12-1106** is enacted to read:

7348 **59-12-1106. Purchaser relief from liability.**

7349 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
7350 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

7351 (i) the purchaser's seller or certified service provider relies on incorrect data provided
7352 by the commission:

7353 (A) on a tax rate;

7354 (B) on a boundary;

7355 (C) on a taxing jurisdiction; or

7356 (D) in the taxability matrix the commission provides in accordance with the agreement;

7357 or

7358 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
7359 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

7360 (A) on a tax rate;

7361 (B) on a boundary;

7362 (C) on a taxing jurisdiction; or

7363 (D) in the taxability matrix the commission provides in accordance with the agreement.

7364 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
7365 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the

7366 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
7367 incorrect data provided by the commission is as a result of conduct that is:

7368 (i) fraudulent;
7369 (ii) intentional; or
7370 (iii) willful.

7371 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
7372 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
7373 or an underpayment if:

7374 (a) the purchaser's seller or certified service provider relies on:

7375 (i) incorrect data provided by the commission:

7376 (A) on a tax rate;
7377 (B) on a boundary; or
7378 (C) on a taxing jurisdiction; or

7379 (ii) an erroneous classification by the commission:

7380 (A) in the taxability matrix the commission provides in accordance with the agreement;
7381 and

7382 (B) with respect to a term:

7383 (I) in the library of definitions; and
7384 (II) that is:

7385 (Aa) listed as taxable or exempt;
7386 (Bb) included in or excluded from "sales price"; or
7387 (Cc) included in or excluded from a definition; or

7388 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
7389 accordance with Section 59-12-107.1, relies on:

7390 (i) incorrect data provided by the commission:

7391 (A) on a tax rate;
7392 (B) on a boundary; or
7393 (C) on a taxing jurisdiction; or

7394 (ii) an erroneous classification by the commission:
7395 (A) in the taxability matrix the commission provides in accordance with the agreement;
7396 and
7397 (B) with respect to a term:
7398 (I) in the library of definitions; and
7399 (II) that is:
7400 (Aa) listed as taxable or exempt;
7401 (Bb) included in or excluded from "sales price"; or
7402 (Cc) included in or excluded from a definition.
7403 Section 81. Section **59-12-1201** is amended to read:
7404 **59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration,**
7405 **collection, and enforcement of tax -- Administrative fee -- Deposits.**
7406 (1) (a) Except as provided in Subsection (3), there is imposed a tax of 2.5% on all
7407 short-term leases and rentals of motor vehicles not exceeding 30 days.
7408 (b) The tax imposed in this section is in addition to all other state, county, or municipal
7409 fees and taxes imposed on rentals of motor vehicles.
7410 (2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax
7411 imposed under Subsection (1) shall take effect on the first day of a calendar quarter.
7412 (b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall
7413 take effect on the first day of the first billing period:
7414 (A) that begins after the effective date of the tax rate increase; and
7415 (B) if the billing period for the transaction begins before the effective date of a tax rate
7416 increase imposed under Subsection (1).
7417 (ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax
7418 rate decrease shall take effect on the first day of the last billing period:
7419 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
7420 and
7421 (B) if the billing period for the transaction begins before the effective date of the repeal

7422 of the tax or the tax rate decrease imposed under Subsection (1).

7423 (3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

7424 (a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

7425 (b) the motor vehicle is rented as a personal household goods moving van; or

7426 (c) the lease or rental of the motor vehicle is made for the purpose of temporarily

7427 replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an

7428 insurance agreement.

7429 (4) (a) (i) The tax authorized under this section shall be administered, collected, and

7430 enforced in accordance with:

7431 (A) the same procedures used to administer, collect, and enforce the tax under Part 1,

7432 Tax Collection; and

7433 (B) Chapter 1, General Taxation Policies.

7434 (ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to

7435 Subsections 59-12-103(4) through (9) or Section 59-12-107.1 or 59-12-123.

7436 (b) The commission may retain a maximum of 1-1/2% of the tax collected under this

7437 section for the costs of rendering its services under this section.

7438 (c) Except as provided under Subsection (4)(b), all revenue received by the commission

7439 under this section shall be deposited daily with the state treasurer and credited monthly to the

7440 Transportation Corridor Preservation Revolving Loan Fund under Section 72-2-117.

7441 Section 82. Section **59-12-1202** is enacted to read:

7442 **59-12-1202. Seller or certified service provider reliance on commission**

7443 **information or certain systems.**

7444 A seller or certified service provider is not liable for failing to collect a tax at a tax rate

7445 imposed under this part if:

7446 (1) the tax rate at which the seller or certified service provider collects the tax is derived

7447 from a database created by the commission containing tax rates; and

7448 (2) the seller's or certified service provider's failure to collect the tax is as a result of the

7449 seller's or certified service provider's reliance on incorrect data provided by the commission in

7450 the database created by the commission containing tax rates.

7451 Section 83. Section **59-12-1203** is enacted to read:

7452 **59-12-1203. Certified service provider or model 2 seller reliance on commission**
7453 **certified software.**

7454 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified
7455 service provider or model 2 seller is not liable for failing to collect a tax required under this part
7456 if:

7457 (a) the certified service provider or model 2 seller relies on software the commission
7458 certifies; and

7459 (b) the certified service provider's or model 2 seller's failure to collect a tax required
7460 under this part is as a result of the seller's or certified service provider's reliance on incorrect
7461 data:

7462 (i) provided by the commission; or

7463 (ii) in the software the commission certifies.

7464 (2) The relief from liability described in Subsection (1) does not apply if a certified
7465 service provider or model 2 seller incorrectly classifies an item or transaction into a product
7466 category the commission certifies.

7467 (3) If the taxability of a product category is incorrectly classified in software the
7468 commission certifies, the commission shall:

7469 (a) notify a certified service provider or model 2 seller of the incorrect classification of
7470 the taxability of a product category in software the commission certifies; and

7471 (b) state in the notice required by Subsection (3)(a) that the certified service provider or
7472 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
7473 incorrectly classified product category if the certified service provider or model 2 seller fails to
7474 correct the taxability of the item or transaction within ten days after the day on which the
7475 certified service provider or model 2 seller receives the notice.

7476 (4) If a certified service provider or model 2 seller fails to correct the taxability of an
7477 item or transaction within ten days after the day on which the certified service provider or

7478 model 2 seller receives the notice described in Subsection (3), the certified service provider or
7479 model 2 seller is liable for failing to collect the correct amount of tax under this part on the item
7480 or transaction.

7481 Section 84. Section **59-12-1204** is enacted to read:

7482 **59-12-1204. Purchaser relief from liability.**

7483 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
7484 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

7485 (i) the purchaser's seller or certified service provider relies on incorrect data provided
7486 by the commission:

7487 (A) on a tax rate;

7488 (B) on a boundary;

7489 (C) on a taxing jurisdiction; or

7490 (D) in the taxability matrix the commission provides in accordance with the agreement;

7491 or

7492 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
7493 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

7494 (A) on a tax rate;

7495 (B) on a boundary;

7496 (C) on a taxing jurisdiction; or

7497 (D) in the taxability matrix the commission provides in accordance with the agreement.

7498 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
7499 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
7500 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
7501 incorrect data provided by the commission is as a result of conduct that is:

7502 (i) fraudulent;

7503 (ii) intentional; or

7504 (iii) willful.

7505 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is

7506 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
7507 or an underpayment if:
7508 (a) the purchaser's seller or certified service provider relies on:
7509 (i) incorrect data provided by the commission:
7510 (A) on a tax rate;
7511 (B) on a boundary; or
7512 (C) on a taxing jurisdiction; or
7513 (ii) an erroneous classification by the commission:
7514 (A) in the taxability matrix the commission provides in accordance with the agreement;
7515 and
7516 (B) with respect to a term:
7517 (I) in the library of definitions; and
7518 (II) that is:
7519 (Aa) listed as taxable or exempt;
7520 (Bb) included in or excluded from "sales price"; or
7521 (Cc) included in or excluded from a definition; or
7522 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
7523 accordance with Section 59-12-107.1, relies on:
7524 (i) incorrect data provided by the commission:
7525 (A) on a tax rate;
7526 (B) on a boundary; or
7527 (C) on a taxing jurisdiction; or
7528 (ii) an erroneous classification by the commission:
7529 (A) in the taxability matrix the commission provides in accordance with the agreement;
7530 and
7531 (B) with respect to a term:
7532 (I) in the library of definitions; and
7533 (II) that is:

7534 (Aa) listed as taxable or exempt;

7535 (Bb) included in or excluded from "sales price"; or

7536 (Cc) included in or excluded from a definition.

7537 Section 85. Section **59-12-1302** is amended to read:

7538 **59-12-1302. Imposition of tax -- Base -- Rate -- Enactment or repeal of tax -- Tax**
7539 **rate change -- Effective date -- Notice requirements.**

7540 (1) Beginning on or after January 1, 1998, the governing body of a town may impose a
7541 tax as provided in this part in an amount that does not exceed 1%.

7542 (2) A town may impose a tax as provided in this part if the town imposed a license fee
7543 or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1,
7544 1996.

7545 (3) A town imposing a tax under this section shall:

7546 (a) except as provided in Subsection (4), impose the tax on the transactions described in
7547 Subsection 59-12-103(1) located within the town; and

7548 (b) provide an effective date for the tax as provided in Subsection (5).

7549 (4) (a) Notwithstanding Subsection (3)(a), a town may not impose a tax under this
7550 section on:

7551 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
7552 exempt from taxation under Section 59-12-104; and

7553 ~~[(ii) amounts paid or charged by a seller that collects a tax under Subsection~~
7554 ~~59-12-107(1)(b); and]~~

7555 ~~[(iii)]~~ (ii) except as provided in Subsection (4)(c), amounts paid or charged for food and
7556 food ingredients.

7557 (b) For purposes of this Subsection (4), the location of a transaction shall be determined
7558 in accordance with ~~[Section 59-12-207]~~ Sections 59-12-211 through 59-12-215.

7559 (c) A town imposing a tax under this section shall impose the tax on amounts paid or
7560 charged for food and food ingredients if ~~[-(i)]~~ the food and food ingredients are sold as part of a
7561 bundled transaction attributable to food and food ingredients and tangible personal property

other than food and food ingredients[; and (ii) ~~the seller collecting the tax is a seller other than a seller that collects a tax in accordance with Subsection 59-12-107(1)(b)].~~

(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]~~ 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]~~ The repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

7590 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
7591 and

7592 (B) if the billing period for the transaction begins before the effective date of the repeal
7593 of the tax or the tax rate decrease imposed under Subsection (1).

7594 [~~(iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:~~]

7595 [~~(A) Subsection 59-12-103(1)(b);~~]

7596 [~~(B) Subsection 59-12-103(1)(c);~~]

7597 [~~(C) Subsection 59-12-103(1)(d);~~]

7598 [~~(D) Subsection 59-12-103(1)(e);~~]

7599 [~~(E) Subsection 59-12-103(1)(f);~~]

7600 [~~(F) Subsection 59-12-103(1)(g);~~]

7601 [~~(G) Subsection 59-12-103(1)(h);~~]

7602 [~~(H) Subsection 59-12-103(1)(i);~~]

7603 [~~(I) Subsection 59-12-103(1)(j); or~~]

7604 [~~(J) Subsection 59-12-103(1)(k);~~]

7605 (d) (i) [~~Notwithstanding Subsection (5)(b)(i), if~~] If a tax due under this chapter on a
7606 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
7607 enactment, repeal, or change in the rate of a tax described in Subsection (5)(b)(i) takes effect:

7608 (A) on the first day of a calendar quarter; and

7609 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
7610 rate of the tax under Subsection (5)(b)(i).

7611 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
7612 commission may by rule define the term "catalogue sale."

7613 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
7614 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate
7615 of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

7616 (A) on the first day of a calendar quarter; and

7617 (B) after a 90-day period beginning on the date the commission receives notice meeting

7618 the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

7619 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

7620 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment,
7621 repeal, or change in the rate of a tax under this part for the annexing area;

7622 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

7623 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

7624 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
7625 (5)(e)(ii)(A), the rate of the tax.

7626 (f) (i) [~~Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection~~
7627 ~~(5)(f)(iii), the~~] The enactment of a tax or a tax rate increase shall take effect on the first day of
7628 the first billing period:

7629 (A) that begins after the effective date of the enactment of the tax or the tax rate
7630 increase; and

7631 (B) if the billing period for the transaction begins before the effective date of the
7632 enactment of the tax or the tax rate increase imposed under Subsection (1).

7633 (ii) [~~Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection~~
7634 ~~(5)(f)(iii), the~~] The repeal of a tax or a tax rate decrease shall take effect on the first day of the
7635 last billing period:

7636 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
7637 and

7638 (B) if the billing period for the transaction begins before the effective date of the repeal
7639 of the tax or the tax rate decrease imposed under Subsection (1).

7640 [~~(iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:~~]

7641 [~~(A) Subsection 59-12-103(1)(b);~~]

7642 [~~(B) Subsection 59-12-103(1)(c);~~]

7643 [~~(C) Subsection 59-12-103(1)(d);~~]

7644 [~~(D) Subsection 59-12-103(1)(e);~~]

7645 [~~(E) Subsection 59-12-103(1)(f);~~]

7646 [~~(F) Subsection 59-12-103(1)(g);~~]

7647 [~~(G) Subsection 59-12-103(1)(h);~~]

7648 [~~(H) Subsection 59-12-103(1)(i);~~]

7649 [~~(I) Subsection 59-12-103(1)(j); or~~]

7650 [~~(J) Subsection 59-12-103(1)(k).~~]

7651 (g) (i) [~~Notwithstanding Subsection (5)(e)(i), if~~] If a tax due under this chapter on a
7652 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
7653 enactment, repeal, or change in the rate of a tax described in Subsection (5)(e)(i) takes effect:

7654 (A) on the first day of a calendar quarter; and

7655 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
7656 rate of the tax under Subsection (5)(e)(i).

7657 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
7658 commission may by rule define the term "catalogue sale."

7659 (6) The commission shall:

7660 (a) except as provided in Subsection (6)(c), distribute the revenues generated by the tax
7661 under this section to the town imposing the tax;

7662 (b) except as provided in Subsection (7), administer, collect, and enforce the tax
7663 authorized under this section in accordance with:

7664 (i) the same procedures used to administer, collect, and enforce the tax under:

7665 (A) Part 1, Tax Collection; or

7666 (B) Part 2, Local Sales and Use Tax Act; and

7667 (ii) Chapter 1, General Taxation Policies; and

7668 (c) deduct from the distribution under Subsection (6)(a) an administrative charge for
7669 collecting the tax as provided in Section 59-12-206.

7670 (7) Notwithstanding Subsection (6)(b), a tax under this section is not subject to
7671 Subsections 59-12-205(2) through [~~(7)~~] (6).

7672 Section 86. Section **59-12-1304** is enacted to read:

7673 **59-12-1304. 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 a tax at a tax rate imposed under this part if:

(1) the tax rate at which the seller or certified service provider collects the tax is derived from a database created by the commission containing tax rates; and

(2) the seller's or certified service provider's failure to collect 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 database created by the commission containing tax rates.

Section 87. Section **59-12-1305** is enacted to read:

59-12-1305. Certified service provider or model 2 seller reliance on commission certified software.

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:

(a) the certified service provider or model 2 seller relies on software the commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:

(i) provided by the commission; or

(ii) in the software the commission certifies.

(2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.

(3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:

(a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and

(b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within ten days after the day on which the certified service provider or model 2 seller receives the notice.

(4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within ten days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Section 88. Section **59-12-1306** is enacted to read:

59-12-1306. Purchaser relief from liability.

(1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

(i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement;

or

(ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement.

(b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under

7730 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
7731 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
7732 incorrect data provided by the commission is as a result of conduct that is:
7733 (i) fraudulent;
7734 (ii) intentional; or
7735 (iii) willful.
7736 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
7737 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
7738 or an underpayment if:
7739 (a) the purchaser's seller or certified service provider relies on:
7740 (i) incorrect data provided by the commission:
7741 (A) on a tax rate;
7742 (B) on a boundary; or
7743 (C) on a taxing jurisdiction; or
7744 (ii) an erroneous classification by the commission:
7745 (A) in the taxability matrix the commission provides in accordance with the agreement;
7746 and
7747 (B) with respect to a term:
7748 (I) in the library of definitions; and
7749 (II) that is:
7750 (Aa) listed as taxable or exempt;
7751 (Bb) included in or excluded from "sales price"; or
7752 (Cc) included in or excluded from a definition; or
7753 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
7754 accordance with Section 59-12-107.1, relies on:
7755 (i) incorrect data provided by the commission:
7756 (A) on a tax rate;
7757 (B) on a boundary; or

7758 (C) on a taxing jurisdiction; or
 7759 (ii) an erroneous classification by the commission;
 7760 (A) in the taxability matrix the commission provides in accordance with the agreement;

7761 and

7762 (B) with respect to a term;
 7763 (I) in the library of definitions; and

7764 (II) that is:
 7765 (Aa) listed as taxable or exempt;
 7766 (Bb) included in or excluded from "sales price"; or
 7767 (Cc) included in or excluded from a definition.

7768 Section 89. Section **59-12-1402** is amended to read:

7769 **59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax -- Uses**
 7770 **of tax monies -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

7771 (1) (a) (i) Subject to Subsection (6), beginning on January 1, 2003, a city or town
 7772 legislative body subject to this part may submit an opinion question to the residents of that city
 7773 or town, by majority vote of all members of the legislative body, so that each resident of the city
 7774 or town has an opportunity to express the resident's opinion on the imposition of a local sales
 7775 and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the
 7776 city or town, to fund recreational and zoological facilities and botanical, cultural, and zoological
 7777 organizations in that city or town.

7778 (ii) Notwithstanding Subsection (1)(a)(i), a city or town legislative body may not
 7779 impose a tax under this section:

7780 (A) if the county in which the city or town is located imposes a tax under Part 7,
 7781 County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or
 7782 Facilities;

7783 (B) on the sales and uses described in Section 59-12-104 to the extent the sales and
 7784 uses are exempt from taxation under Section 59-12-104; and

7785 ~~[(C) on amounts paid or charged by a seller that collects a tax under Subsection~~

7786 ~~59-12-107(1)(b); and]~~

7787 ~~[(D)]~~ (C) except as provided in Subsection (1)(c), on amounts paid or charged for food
7788 and food ingredients.

7789 (b) For purposes of this Subsection (1), the location of a transaction shall be determined
7790 in accordance with ~~[Section 59-12-207]~~ Sections 59-12-211 through 59-12-215.

7791 (c) A city or town legislative body imposing a tax under this section shall impose the tax
7792 on amounts paid or charged for food and food ingredients if~~[-(i)]~~ the food and food ingredients
7793 are sold as part of a bundled transaction attributable to food and food ingredients and tangible
7794 personal property other than food and food ingredients~~[-, and (ii) the seller collecting the tax is a~~
7795 ~~seller other than a seller that collects a tax in accordance with Subsection 59-12-107(1)(b)].~~

7796 (d) The election shall be held at a regular general election or a municipal general
7797 election, as those terms are defined in Section 20A-1-102, and shall follow the procedures
7798 outlined in Title 11, Chapter 14, Local Government Bonding Act, except as provided in
7799 Subsection (6).

7800 (2) If the city or town legislative body determines that a majority of the city's or town's
7801 registered voters voting on the imposition of the tax have voted in favor of the imposition of the
7802 tax as prescribed in Subsection (1)(a), the city or town legislative body may impose the tax by a
7803 majority vote of all members of the legislative body.

7804 (3) The monies generated from any tax imposed under Subsection (2) shall be used for
7805 financing:

7806 (a) recreational and zoological facilities within the city or town or within the geographic
7807 area of entities that are parties to an interlocal agreement, to which the city or town is a party,
7808 providing for recreational or zoological facilities; and

7809 (b) ongoing operating expenses of botanical, cultural, and zoological organizations
7810 within the city or town or within the geographic area of entities that are parties to an interlocal
7811 agreement, to which the city or town is a party, providing for the support of botanical, cultural,
7812 or zoological organizations.

7813 (4) (a) A tax authorized under this part shall be:

7814 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
7815 accordance with:

7816 (A) the same procedures used to administer, collect, and enforce the tax under:

7817 (I) Part 1, Tax Collection; or

7818 (II) Part 2, Local Sales and Use Tax Act; and

7819 (B) Chapter 1, General Taxation Policies; and

7820 (ii) (A) levied for a period of eight years; and

7821 (B) may be reauthorized at the end of the eight-year period in accordance with this
7822 section.

7823 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
7824 Subsections 59-12-205(2) through [(7)] (6).

7825 (5) (a) For purposes of this Subsection (5):

7826 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
7827 4, Annexation.

7828 (ii) "Annexing area" means an area that is annexed into a city or town.

7829 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city
7830 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

7831 (A) on the first day of a calendar quarter; and

7832 (B) after a 90-day period beginning on the date the commission receives notice meeting
7833 the requirements of Subsection (5)(b)(ii) from the city or town.

7834 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

7835 (A) that the city or town will enact or repeal a tax under this part;

7836 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

7837 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

7838 (D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of
7839 the tax.

7840 (c) (i) [~~Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection~~
7841 ~~(5)(c)(iii), the~~] The enactment of a tax shall take effect on the first day of the first billing period:

7842 (A) that begins after the effective date of the enactment of the tax; and

7843 (B) if the billing period for the transaction begins before the effective date of the
7844 enactment of the tax under this section.

7845 (ii) ~~[Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection~~
7846 ~~(5)(c)(iii), the]~~ The repeal of a tax shall take effect on the first day of the last billing period:

7847 (A) that began before the effective date of the repeal of the tax; and

7848 (B) if the billing period for the transaction begins before the effective date of the repeal
7849 of the tax imposed under this section.

7850 ~~[(iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:]~~

7851 ~~[(A) Subsection 59-12-103(1)(b);]~~

7852 ~~[(B) Subsection 59-12-103(1)(c);]~~

7853 ~~[(C) Subsection 59-12-103(1)(d);]~~

7854 ~~[(D) Subsection 59-12-103(1)(e);]~~

7855 ~~[(E) Subsection 59-12-103(1)(f);]~~

7856 ~~[(F) Subsection 59-12-103(1)(g);]~~

7857 ~~[(G) Subsection 59-12-103(1)(h);]~~

7858 ~~[(H) Subsection 59-12-103(1)(i);]~~

7859 ~~[(I) Subsection 59-12-103(1)(j); or]~~

7860 ~~[(J) Subsection 59-12-103(1)(k).]~~

7861 (d) (i) ~~[Notwithstanding Subsection (5)(b)(i), if]~~ If a tax due under this chapter on a
7862 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
7863 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

7864 (A) on the first day of a calendar quarter; and

7865 (B) beginning 60 days after the effective date of the enactment or repeal under
7866 Subsection (5)(b)(i).

7867 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
7868 commission may by rule define the term "catalogue sale."

7869 (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 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]~~ 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 this section.

(ii) ~~[Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection (5)(f)(iii), the]~~ 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);]~~

7898 ~~[(G) Subsection 59-12-103(1)(h);]~~

7899 ~~[(H) Subsection 59-12-103(1)(i);]~~

7900 ~~[(I) Subsection 59-12-103(1)(j); or]~~

7901 ~~[(J) Subsection 59-12-103(1)(k).]~~

7902 (g) (i) ~~[Notwithstanding Subsection (5)(e)(i), if]~~ If a tax due under this chapter on a
7903 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
7904 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

7905 (A) on the first day of a calendar quarter; and

7906 (B) beginning 60 days after the effective date of the enactment or repeal under
7907 Subsection (5)(e)(i).

7908 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
7909 commission may by rule define the term "catalogue sale."

7910 (6) (a) Before a city or town legislative body submits an opinion question to the
7911 residents of the city or town under Subsection (1)(a)(i), the city or town legislative body shall:

7912 (i) submit to the county legislative body in which the city or town is located a written
7913 notice of the intent to submit the opinion question to the residents of the city or town; and

7914 (ii) receive from the county legislative body:

7915 (A) a written resolution passed by the county legislative body stating that the county
7916 legislative body is not seeking to impose a tax under Part 7, County Option Funding for
7917 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

7918 (B) a written statement that in accordance with Subsection (6)(b) the results of a county
7919 opinion question submitted to the residents of the county under Part 7, County Option Funding
7920 for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city
7921 or town legislative body to submit the opinion question to the residents of the city or town in
7922 accordance with this part.

7923 (b) (i) Within 60 days after the day the county legislative body receives from a city or
7924 town legislative body described in Subsection (6)(a) the notice of the intent to submit an opinion
7925 question to the residents of the city or town, the county legislative body shall provide the city or

7926 town legislative body:

7927 (A) the written resolution described in Subsection (6)(a)(ii)(A); or

7928 (B) written notice that the county legislative body will submit an opinion question to the
7929 residents of the county under Part 7, County Option Funding for Botanical, Cultural,
7930 Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under
7931 that part.

7932 (ii) If the county legislative body provides the city or town legislative body the written
7933 notice that the county legislative body will submit an opinion question as provided in Subsection
7934 (6)(b)(i)(B), the county legislative body shall submit the opinion question by no later than, from
7935 the date the county legislative body sends the written notice, the later of:

7936 (A) a 12-month period;

7937 (B) the next regular primary election; or

7938 (C) the next regular general election.

7939 (iii) Within 30 days of the date of the canvass of the election at which the opinion
7940 question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the
7941 city or town legislative body described in Subsection (6)(a) written results of the opinion
7942 question submitted by the county legislative body under Part 7, County Option Funding for
7943 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

7944 (A) (I) the city or town legislative body may not impose a tax under this part because a
7945 majority of the county's registered voters voted in favor of the county imposing the tax and the
7946 county legislative body by a majority vote approved the imposition of the tax; or

7947 (II) for at least 12 months from the date the written results are submitted to the city or
7948 town legislative body, the city or town legislative body may not submit to the county legislative
7949 body a written notice of the intent to submit an opinion question under this part because a
7950 majority of the county's registered voters voted against the county imposing the tax and the
7951 majority of the registered voters who are residents of the city or town described in Subsection
7952 (6)(a) voted against the imposition of the county tax; or

7953 (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 90. Section **59-12-1405** is enacted to read:

59-12-1405. 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 a tax at a tax rate imposed under this part if:

(1) the tax rate at which the seller or certified service provider collects the tax is derived from a database created by the commission containing tax rates; and

(2) the seller's or certified service provider's failure to collect 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 database created by the commission containing tax rates.

Section 91. Section **59-12-1406** is enacted to read:

59-12-1406. Certified service provider or model 2 seller reliance on commission certified software.

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:

(a) the certified service provider or model 2 seller relies on software the commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect a tax required

7982 under this part is as a result of the seller's or certified service provider's reliance on incorrect
7983 data:

7984 (i) provided by the commission; or
7985 (ii) in the software the commission certifies.

7986 (2) The relief from liability described in Subsection (1) does not apply if a certified
7987 service provider or model 2 seller incorrectly classifies an item or transaction into a product
7988 category the commission certifies.

7989 (3) If the taxability of a product category is incorrectly classified in software the
7990 commission certifies, the commission shall:

7991 (a) notify a certified service provider or model 2 seller of the incorrect classification of
7992 the taxability of a product category in software the commission certifies; and

7993 (b) state in the notice required by Subsection (3)(a) that the certified service provider or
7994 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
7995 incorrectly classified product category if the certified service provider or model 2 seller fails to
7996 correct the taxability of the item or transaction within ten days after the day on which the
7997 certified service provider or model 2 seller receives the notice.

7998 (4) If a certified service provider or model 2 seller fails to correct the taxability of an
7999 item or transaction within ten days after the day on which the certified service provider or
8000 model 2 seller receives the notice described in Subsection (3), the certified service provider or
8001 model 2 seller is liable for failing to collect the correct amount of tax under this part on the item
8002 or transaction.

8003 Section 92. Section **59-12-1407** is enacted to read:

8004 **59-12-1407. Purchaser relief from liability.**

8005 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
8006 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

8007 (i) the purchaser's seller or certified service provider relies on incorrect data provided
8008 by the commission;

8009 (A) on a tax rate;

8010 (B) on a boundary;
8011 (C) on a taxing jurisdiction; or
8012 (D) in the taxability matrix the commission provides in accordance with the agreement;
8013 or
8014 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
8015 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission;
8016 (A) on a tax rate;
8017 (B) on a boundary;
8018 (C) on a taxing jurisdiction; or
8019 (D) in the taxability matrix the commission provides in accordance with the agreement.
8020 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
8021 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
8022 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
8023 incorrect data provided by the commission is as a result of conduct that is:
8024 (i) fraudulent;
8025 (ii) intentional; or
8026 (iii) willful.
8027 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
8028 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
8029 or an underpayment if:
8030 (a) the purchaser's seller or certified service provider relies on:
8031 (i) incorrect data provided by the commission:
8032 (A) on a tax rate;
8033 (B) on a boundary; or
8034 (C) on a taxing jurisdiction; or
8035 (ii) an erroneous classification by the commission:
8036 (A) in the taxability matrix the commission provides in accordance with the agreement;
8037 and

- 8038 (B) with respect to a term;
8039 (I) in the library of definitions; and
8040 (II) that is:
8041 (Aa) listed as taxable or exempt;
8042 (Bb) included in or excluded from "sales price"; or
8043 (Cc) included in or excluded from a definition; or
8044 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
8045 accordance with Section 59-12-107.1, relies on:
8046 (i) incorrect data provided by the commission:
8047 (A) on a tax rate;
8048 (B) on a boundary; or
8049 (C) on a taxing jurisdiction; or
8050 (ii) an erroneous classification by the commission:
8051 (A) in the taxability matrix the commission provides in accordance with the agreement;
8052 and
8053 (B) with respect to a term;
8054 (I) in the library of definitions; and
8055 (II) that is:
8056 (Aa) listed as taxable or exempt;
8057 (Bb) included in or excluded from "sales price"; or
8058 (Cc) included in or excluded from a definition.
8059 Section 93. Section **59-12-1503** is amended to read:
8060 **59-12-1503. Opinion question election -- Base -- Rate -- Imposition of tax -- Use**
8061 **of tax revenues -- Administration, collection, and enforcement of tax by commission --**
8062 **Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**
8063 (1) (a) Subject to the other provisions of this part, the county legislative body of a
8064 qualifying county may impose a sales and use tax of:
8065 (i) beginning on April 1, 2004, and ending on December 31, 2007, .25%:

8066 (A) on the transactions:
 8067 (I) described in Subsection 59-12-103(1); and
 8068 (II) within the county, including the cities and towns within the county;
 8069 (B) for the purposes determined by the county legislative body in accordance with
 8070 Subsection (2); and
 8071 (C) in addition to any other sales and use tax authorized under this chapter; or
 8072 (ii) beginning on January 1, 2008, up to .30%:
 8073 (A) on the transactions:
 8074 (I) described in Subsection 59-12-103(1); and
 8075 (II) within the county, including the cities and towns within the county;
 8076 (B) for the purposes determined by the county legislative body in accordance with
 8077 Subsection (2); and
 8078 (C) in addition to any other sales and use tax authorized under this chapter.
 8079 (b) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax
 8080 under this section on:
 8081 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
 8082 exempt from taxation under Section 59-12-104; and
 8083 ~~[(ii) amounts paid or charged by a seller that collects a tax under Subsection~~
 8084 ~~59-12-107(1)(b); and]~~
 8085 ~~[(iii)]~~ (ii) except as provided in Subsection (1)(d), amounts paid or charged for food and
 8086 food ingredients.
 8087 (c) For purposes of this Subsection (1), the location of a transaction shall be determined
 8088 in accordance with ~~[Section 59-12-207]~~ Sections 59-12-211 through 59-12-215.
 8089 (d) A county legislative body imposing a tax under this section shall impose the tax on
 8090 amounts paid or charged for food and food ingredients if~~[(i)]~~ the food and food ingredients are
 8091 sold as part of a bundled transaction attributable to food and food ingredients and tangible
 8092 personal property other than food and food ingredients~~[, and (ii) the seller collecting the tax is a~~
 8093 ~~seller other than a seller that collects a tax in accordance with Subsection 59-12-107(1)(b)].~~

8094 (2) (a) Subject to Subsection (2)(b), before obtaining the approval required by
8095 Subsection (3), a county legislative body shall adopt a resolution specifying the percentage of
8096 revenues the county will receive from the tax under this part that will be allocated to fund one
8097 or more of the following:

8098 (i) a project or service relating to a fixed guideway system for the portion of the project
8099 or service that is performed within the county;

8100 (ii) a project or service relating to a system for public transit for the portion of the
8101 project or service that is performed within the county; or

8102 (iii) the following relating to a state highway or a local highway of regional significance
8103 within the county:

8104 (A) a project beginning on or after the day on which a county legislative body imposes a
8105 tax under this part only within the county involving:

8106 (I) new construction;

8107 (II) a renovation;

8108 (III) an improvement; or

8109 (IV) an environmental study;

8110 (B) debt service on a project described in Subsections (2)(a)(iii)(A)(I) through (IV); or

8111 (C) bond issuance costs relating to a project described in Subsections (2)(a)(iii)(A)(I)
8112 through (IV).

8113 (b) (i) A county legislative body shall in the resolution required by Subsection (2)(a)
8114 allocate as required by Subsection (2)(a) 100% of the revenues the county will receive from the
8115 tax under this part.

8116 (ii) For purposes of this Subsection (2)(b), the revenues a county will receive from the
8117 tax under this part do not include amounts retained by the commission in accordance with
8118 Subsection (8).

8119 (3) (a) Except as provided in Subsection (3)(d), before imposing a tax under this part, a
8120 county legislative body shall:

8121 (i) obtain approval from a majority of the members of the county legislative body to:

8122 (A) impose the tax; and
8123 (B) allocate the revenues the county will receive from the tax in accordance with the
8124 resolution adopted in accordance with Subsection (2); and
8125 (ii) subject to Subsection (3)(b), submit an opinion question to the county's registered
8126 voters voting on the imposition of the tax so that each registered voter has the opportunity to
8127 express the registered voter's opinion on whether a tax should be imposed under this part.
8128 (b) The opinion question required by Subsection (3)(a)(ii) shall state the allocations
8129 specified in the resolution:
8130 (i) adopted in accordance with Subsection (2); and
8131 (ii) approved by the county legislative body in accordance with Subsection (3)(a).
8132 (c) The election required by this Subsection (3) shall be held:
8133 (i) (A) at a regular general election; and
8134 (B) in accordance with the procedures and requirements of Title 20A, Election Code,
8135 governing regular general elections; or
8136 (ii) (A) at a special election called by the county legislative body;
8137 (B) only on the date of a municipal general election provided in Subsection
8138 20A-1-202(1); and
8139 (C) in accordance with the procedures and requirements of Section 20A-1-203.
8140 (d) A county is not subject to the voter approval requirements of this section if:
8141 (i) on December 31, 2007, the county imposes a tax of .25% under this section; and
8142 (ii) on or after January 1, 2008, the county increases the tax rate under this section to
8143 up to .30%.
8144 (4) (a) Subject to Subsection (8), if a county legislative body determines that a majority
8145 of the county's registered voters voting on the imposition of the tax have voted in favor of the
8146 imposition of the tax in accordance with Subsection (3), the county legislative body may impose
8147 the tax by a majority vote of all of the members of the county legislative body.
8148 (b) If a county legislative body imposes a tax under Subsection (4)(a), the revenues
8149 generated by the tax shall be:

8150 (i) allocated in accordance with the allocations specified in the resolution under
8151 Subsection (2); and

8152 (ii) expended as provided in this part.

8153 (5) If a county legislative body allocates revenues generated by the tax for a project
8154 described in Subsection (2)(a)(iii)(A), before beginning the state highway project within the
8155 county, the county legislative body shall:

8156 (a) obtain approval from the Transportation Commission to complete the project; and
8157 (b) enter into an interlocal agreement:

8158 (i) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;
8159 (ii) with the Department of Transportation; and
8160 (iii) to complete the project.

8161 (6) (a) If after a county legislative body imposes a tax under Subsection (4) the county
8162 legislative body seeks to change the allocation of the tax specified in the resolution under
8163 Subsection (2), the county legislative body may change the allocation of the tax by:

8164 (i) adopting a resolution in accordance with Subsection (2) specifying the percentage of
8165 revenues the county will receive from the tax under this part that will be allocated to fund one
8166 or more of the systems or projects described in Subsection (2);

8167 (ii) obtaining approval to change the allocation of the tax from a majority of the
8168 members of the county legislative body; and

8169 (iii) (A) submitting an opinion question to the county's registered voters voting on
8170 changing the allocation of the tax so that each registered voter has the opportunity to express
8171 the registered voter's opinion on whether the allocation of the tax should be changed; and
8172 (B) obtaining approval to change the allocation of the tax from a majority of the
8173 county's registered voters voting on changing the allocation of the tax.

8174 (b) (i) The opinion question required by Subsection (6)(a)(iii) shall state the allocations
8175 specified in the resolution:

8176 (A) adopted in accordance with Subsection (6)(a)(i); and
8177 (B) approved by the county legislative body in accordance with Subsection (6)(a)(ii).

8178 (ii) The election required by Subsection (6)(a)(iii) shall follow the procedures and
8179 requirements of Title 11, Chapter 14, Local Government Bonding Act.

8180 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), revenues generated by a tax
8181 under this part that are allocated for a purpose described in Subsection (2)(a)(i) or (ii) shall be
8182 transmitted:

8183 (A) by the commission;

8184 (B) to the county;

8185 (C) monthly; and

8186 (D) by electronic funds transfer.

8187 (ii) Notwithstanding Subsection (7)(a)(i), a county may request that the commission
8188 transfer the revenues described in Subsection (7)(a)(i):

8189 (A) directly to a public transit district:

8190 (I) organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act; and

8191 (II) designated by the county; and

8192 (B) by providing written notice to the commission:

8193 (I) requesting the revenues to be transferred directly to a public transit district as
8194 provided in Subsection (7)(a)(ii)(A); and

8195 (II) designating the public transit district to which the revenues are requested to be
8196 transferred.

8197 (b) Revenues generated by a tax under this part that are allocated for a purpose
8198 described in Subsection (2)(a)(iii) shall be:

8199 (i) deposited into the State Highway Projects Within Counties Fund created by Section
8200 72-2-121.1; and

8201 (ii) expended as provided in Section 72-2-121.1.

8202 (8) (a) (i) Except as provided in Subsection (8)(a)(ii), the tax authorized under this part
8203 shall be administered, collected, and enforced in accordance with:

8204 (A) the same procedures used to administer, collect, and enforce the tax under:

8205 (I) Part 1, Tax Collection; or

8206 (II) Part 2, Local Sales and Use Tax Act; and
8207 (B) Chapter 1, General Taxation Policies.
8208 (ii) Notwithstanding Subsection (8)(a)(i), a tax under this part is not subject to
8209 Subsections 59-12-205(2) through ~~[(7)]~~ (6).
8210 (b) (i) The commission may retain an amount of tax collected under this part of not to
8211 exceed the lesser of:
8212 (A) 1.5%; or
8213 (B) an amount equal to the cost to the commission of administering this part.
8214 (ii) Any amount the commission retains under Subsection (8)(b)(i) shall be:
8215 (A) placed in the Sales and Use Tax Administrative Fees Account; and
8216 (B) used as provided in Subsection 59-12-206(2).
8217 (9) (a) (i) Except as provided in Subsection (9)(b) or (c), if, on or after April 1, 2008, a
8218 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:
8219 (A) on the first day of a calendar quarter; and
8220 (B) after a 90-day period beginning on the date the commission receives notice meeting
8221 the requirements of Subsection (9)(a)(ii) from the county.
8222 (ii) The notice described in Subsection (9)(a)(i)(B) shall state:
8223 (A) that the county will enact or repeal a tax under this part;
8224 (B) the statutory authority for the tax described in Subsection (9)(a)(ii)(A);
8225 (C) the effective date of the tax described in Subsection (9)(a)(ii)(A); and
8226 (D) if the county enacts the tax described in Subsection (9)(a)(ii)(A), the rate of the tax.
8227 (b) (i) ~~[Notwithstanding Subsection (9)(a)(i), for a transaction described in Subsection~~
8228 ~~(9)(b)(iii), the]~~ The enactment of a tax shall take effect on the first day of the first billing period:
8229 (A) that begins after the effective date of the enactment of the tax; and
8230 (B) if the billing period for the transaction begins before the effective date of the
8231 enactment of the tax under Subsection (1).
8232 (ii) ~~[Notwithstanding Subsection (9)(a)(i), for a transaction described in Subsection~~
8233 ~~(9)(b)(iii), the]~~ The repeal of a tax shall take effect on the first day of the last billing period:

8234 (A) that began before the effective date of the repeal of the tax; and
8235 (B) if the billing period for the transaction begins before the effective date of the repeal
8236 of the tax imposed under Subsection (1).

8237 [~~(iii) Subsections (9)(b)(i) and (ii) apply to transactions subject to a tax under:~~]

8238 [~~(A) Subsection 59-12-103(1)(b);~~]

8239 [~~(B) Subsection 59-12-103(1)(c);~~]

8240 [~~(C) Subsection 59-12-103(1)(d);~~]

8241 [~~(D) Subsection 59-12-103(1)(e);~~]

8242 [~~(E) Subsection 59-12-103(1)(f);~~]

8243 [~~(F) Subsection 59-12-103(1)(g);~~]

8244 [~~(G) Subsection 59-12-103(1)(h);~~]

8245 [~~(H) Subsection 59-12-103(1)(i);~~]

8246 [~~(I) Subsection 59-12-103(1)(j); or~~]

8247 [~~(J) Subsection 59-12-103(1)(k);~~]

8248 (c) (i) [~~Notwithstanding Subsection (9)(a)(i), if~~] If a tax due under this chapter on a
8249 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
8250 enactment or repeal of a tax described in Subsection (9)(a)(i) takes effect:

8251 (A) on the first day of a calendar quarter; and

8252 (B) beginning 60 days after the effective date of the enactment or repeal under
8253 Subsection (9)(a)(i).

8254 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
8255 commission may by rule define the term "catalogue sale."

8256 (d) (i) Except as provided in Subsection (9)(e) or (f), if, for an annexation that occurs
8257 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
8258 part for an annexing area, the enactment or repeal shall take effect:

8259 (A) on the first day of a calendar quarter; and

8260 (B) after a 90-day period beginning on the date the commission receives notice meeting
8261 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

8262 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

8263 (A) that the annexation described in Subsection (9)(d)(i)(B) will result in an enactment

8264 or repeal of a tax under this part for the annexing area;

8265 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

8266 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

8267 (D) the rate of the tax described in Subsection (9)(d)(ii)(A).

8268 (e) (i) [~~Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection~~

8269 ~~(9)(e)(iii), the~~] The enactment of a tax shall take effect on the first day of the first billing period:

8270 (A) that begins after the effective date of the enactment of the tax; and

8271 (B) if the billing period for the transaction begins before the effective date of the

8272 enactment of the tax under Subsection (1).

8273 (ii) [~~Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection~~

8274 ~~(9)(e)(iii), the~~] The repeal of a tax shall take effect on the first day of the last billing period:

8275 (A) that began before the effective date of the repeal of the tax; and

8276 (B) if the billing period for the transaction begins before the effective date of the repeal

8277 of the tax imposed under Subsection (1).

8278 [~~(iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:~~]

8279 [~~(A) Subsection 59-12-103(1)(b);~~]

8280 [~~(B) Subsection 59-12-103(1)(c);~~]

8281 [~~(C) Subsection 59-12-103(1)(d);~~]

8282 [~~(D) Subsection 59-12-103(1)(e);~~]

8283 [~~(E) Subsection 59-12-103(1)(f);~~]

8284 [~~(F) Subsection 59-12-103(1)(g);~~]

8285 [~~(G) Subsection 59-12-103(1)(h);~~]

8286 [~~(H) Subsection 59-12-103(1)(i);~~]

8287 [~~(I) Subsection 59-12-103(1)(j); or~~]

8288 [~~(J) Subsection 59-12-103(1)(k);~~]

8289 (f) (i) [~~Notwithstanding Subsection (9)(d)(i), if~~] If a tax due under this chapter on a

8290 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
8291 enactment or repeal of a tax described in Subsection (9)(d)(i) takes effect:

8292 (A) on the first day of a calendar quarter; and

8293 (B) beginning 60 days after the effective date of the enactment or repeal under
8294 Subsection (9)(d)(i).

8295 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
8296 commission may by rule define the term "catalogue sale."

8297 (10) A county that imposed a sales and use tax under this section prior to July 1, 2007,
8298 may expend revenues allocated in the resolution for the purpose described in Subsection
8299 (2)(a)(iii) on local highway of regional significance projects in addition to or in substitution of
8300 state highway projects within the county.

8301 Section 94. Section **59-12-1505** is enacted to read:

8302 **59-12-1505. Seller or certified service provider reliance on commission**
8303 **information or certain systems.**

8304 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
8305 imposed under this part if:

8306 (1) the tax rate at which the seller or certified service provider collects the tax is derived
8307 from a database created by the commission containing tax rates; and

8308 (2) the seller's or certified service provider's failure to collect the tax is as a result of the
8309 seller's or certified service provider's reliance on incorrect data provided by the commission in
8310 the database created by the commission containing tax rates.

8311 Section 95. Section **59-12-1506** is enacted to read:

8312 **59-12-1506. Certified service provider or model 2 seller reliance on commission**
8313 **certified software.**

8314 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified
8315 service provider or model 2 seller is not liable for failing to collect a tax required under this part
8316 if:

8317 (a) the certified service provider or model 2 seller relies on software the commission

8318 certifies; and

8319 (b) the certified service provider's or model 2 seller's failure to collect a tax required
8320 under this part is as a result of the seller's or certified service provider's reliance on incorrect
8321 data:

8322 (i) provided by the commission; or

8323 (ii) in the software the commission certifies.

8324 (2) The relief from liability described in Subsection (1) does not apply if a certified
8325 service provider or model 2 seller incorrectly classifies an item or transaction into a product
8326 category the commission certifies.

8327 (3) If the taxability of a product category is incorrectly classified in software the
8328 commission certifies, the commission shall:

8329 (a) notify a certified service provider or model 2 seller of the incorrect classification of
8330 the taxability of a product category in software the commission certifies; and

8331 (b) state in the notice required by Subsection (3)(a) that the certified service provider or
8332 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
8333 incorrectly classified product category if the certified service provider or model 2 seller fails to
8334 correct the taxability of the item or transaction within ten days after the day on which the
8335 certified service provider or model 2 seller receives the notice.

8336 (4) If a certified service provider or model 2 seller fails to correct the taxability of an
8337 item or transaction within ten days after the day on which the certified service provider or
8338 model 2 seller receives the notice described in Subsection (3), the certified service provider or
8339 model 2 seller is liable for failing to collect the correct amount of tax under this part on the item
8340 or transaction.

8341 Section 96. Section **59-12-1507** is enacted to read:

8342 **59-12-1507. Purchaser relief from liability.**

8343 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
8344 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

8345 (i) the purchaser's seller or certified service provider relies on incorrect data provided

8346 by the commission:

8347 (A) on a tax rate;

8348 (B) on a boundary;

8349 (C) on a taxing jurisdiction; or

8350 (D) in the taxability matrix the commission provides in accordance with the agreement;

8351 or

8352 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in

8353 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

8354 (A) on a tax rate;

8355 (B) on a boundary;

8356 (C) on a taxing jurisdiction; or

8357 (D) in the taxability matrix the commission provides in accordance with the agreement.

8358 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under

8359 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the

8360 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on

8361 incorrect data provided by the commission is as a result of conduct that is:

8362 (i) fraudulent;

8363 (ii) intentional; or

8364 (iii) willful.

8365 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is

8366 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part

8367 or an underpayment if:

8368 (a) the purchaser's seller or certified service provider relies on:

8369 (i) incorrect data provided by the commission:

8370 (A) on a tax rate;

8371 (B) on a boundary; or

8372 (C) on a taxing jurisdiction; or

8373 (ii) an erroneous classification by the commission:

8374 (A) in the taxability matrix the commission provides in accordance with the agreement;
8375 and
8376 (B) with respect to a term;
8377 (I) in the library of definitions; and
8378 (II) that is:
8379 (Aa) listed as taxable or exempt;
8380 (Bb) included in or excluded from "sales price"; or
8381 (Cc) included in or excluded from a definition; or
8382 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
8383 accordance with Section 59-12-107.1, relies on:
8384 (i) incorrect data provided by the commission:
8385 (A) on a tax rate;
8386 (B) on a boundary; or
8387 (C) on a taxing jurisdiction; or
8388 (ii) an erroneous classification by the commission:
8389 (A) in the taxability matrix the commission provides in accordance with the agreement;
8390 and
8391 (B) with respect to a term;
8392 (I) in the library of definitions; and
8393 (II) that is:
8394 (Aa) listed as taxable or exempt;
8395 (Bb) included in or excluded from "sales price"; or
8396 (Cc) included in or excluded from a definition.
8397 Section 97. Section **59-12-1703** is amended to read:
8398 **59-12-1703. Opinion question election -- Base -- Rate -- Imposition of tax -- Use**
8399 **of tax revenues -- Administration, collection, and enforcement of tax by commission --**
8400 **Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**
8401 (1) (a) Subject to the other provisions of this part, a county legislative body may impose

8402 a sales and use tax of up to .25%:

8403 (i) on the transactions:

8404 (A) described in Subsection 59-12-103(1); and

8405 (B) within the county, including the cities and towns within the county;

8406 (ii) for the purposes described in Subsection (4); and

8407 (iii) in addition to any other sales and use tax authorized under this chapter.

8408 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a

8409 tax under this section on:

8410 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are

8411 exempt from taxation under Section 59-12-104; and

8412 ~~[(ii) amounts paid or charged by a seller that collects a tax under Subsection~~

8413 ~~59-12-107(1)(b); and]~~

8414 ~~[(iii)]~~ (ii) except as provided in Subsection (1)(d), amounts paid or charged for food and

8415 food ingredients.

8416 (c) For purposes of this Subsection (1), the location of a transaction shall be determined

8417 in accordance with ~~[Section 59-12-207]~~ Sections 59-12-211 through 59-12-215.

8418 (d) A county legislative body imposing a tax under this section shall impose the tax on

8419 amounts paid or charged for food and food ingredients if~~[-(i)]~~ the food and food ingredients are

8420 sold as part of a bundled transaction attributable to food and food ingredients and tangible

8421 personal property other than food and food ingredients~~[-; and (ii) the seller collecting the tax is a~~

8422 ~~seller other than a seller that collects a tax in accordance with Subsection 59-12-107(1)(b)].~~

8423 (2) (a) Except as provided in Subsection (2)(d), before imposing a tax under this part, a

8424 county legislative body shall:

8425 (i) obtain approval from a majority of the members of the county legislative body to

8426 impose the tax; and

8427 (ii) submit an opinion question to the county's registered voters voting on the

8428 imposition of the tax so that each registered voter has the opportunity to express the registered

8429 voter's opinion on whether a tax should be imposed under this part.

8430 (b) (i) In a county of the first or second class, the opinion question required by
8431 Subsection (2)(a)(ii) shall state the following:
8432 "Shall (insert the name of the county), Utah, be authorized to impose a (insert the
8433 amount of the sales and use tax up to .25%) sales and use tax for corridor preservation,
8434 congestion mitigation, or to expand capacity for regionally significant transportation facilities?"
8435 (ii) In a county of the third, fourth, fifth, or sixth class, the opinion question required by
8436 Subsection (2)(a)(ii) shall state the following:
8437 "Shall (insert the name of the county), Utah, be authorized to impose a (insert the
8438 amount of the sales and use tax up to .25%) sales and use tax for transportation projects,
8439 corridor preservation, congestion mitigation, or to expand capacity for regionally significant
8440 transportation facilities?"
8441 (c) Except as provided in Subsection (2)(d), the election required by this Subsection (2)
8442 shall be held:
8443 (i) at a regular general election conducted in accordance with the procedures and
8444 requirements of Title 20A, Election Code, governing regular elections; or
8445 (ii) at a special election called by the county legislative body that is:
8446 (A) held only on the date of a municipal general election as provided in Subsection
8447 20A-1-202(1); and
8448 (B) authorized in accordance with the procedures and requirements of Section
8449 20A-1-203.
8450 (d) Notwithstanding Subsection (2)(a) or (c), if a county seeks to impose a tax under
8451 this part on or after April 1, 2007, but on or before December 31, 2007, the county legislative
8452 body shall:
8453 (i) obtain the approval required by Subsection (2)(a)(i) within five calendar days of
8454 September 20, 2006;
8455 (ii) direct the county clerk to submit the opinion question required by Subsection
8456 (2)(a)(ii) during the November 7, 2006 general election; and
8457 (iii) hold the election required by this section on November 7, 2006.

8458 (3) If a county legislative body determines that a majority of the county's registered
8459 voters voting on the imposition of the tax have voted in favor of the imposition of the tax in
8460 accordance with Subsection (2), the county legislative body shall impose the tax in accordance
8461 with this section.

8462 (4) (a) Subject to Subsections (5) and (6), the revenues generated by a tax under this
8463 part may only be expended for:

8464 (i) a project or service:

8465 (A) relating to a regionally significant transportation facility;

8466 (B) for the portion of the project or service that is performed within the county;

8467 (C) for new capacity or congestion mitigation if the project or service is performed
8468 within a county:

8469 (I) of the first class;

8470 (II) of the second class; or

8471 (III) that is part of an area metropolitan planning organization;

8472 (D) (I) if the project or service is a principal arterial highway or a minor arterial
8473 highway in a county of the first or second class, that is part of the county and municipal master
8474 plan and part of:

8475 (Aa) the statewide long-range plan; or

8476 (Bb) the regional transportation plan of the area metropolitan planning organization if a
8477 metropolitan planning organization exists for the area; or

8478 (II) if the project or service is for a fixed guideway or an airport, that is part of the
8479 regional transportation plan of the area metropolitan planning organization if a metropolitan
8480 planning organization exists for the area; and

8481 (E) that is on a priority list:

8482 (I) created by the county's council of governments in accordance with Subsection (5);

8483 and

8484 (II) approved by the county legislative body in accordance with Subsection (6);

8485 (ii) corridor preservation for a project described in Subsection (4)(a)(i) as provided in

8486 Subsection (7)(b); or

8487 (iii) any debt service and bond issuance costs related to a project described in

8488 Subsection (4)(a)(i) or (ii).

8489 (b) In a county of the first or second class, a regionally significant transportation facility

8490 project or service described in Subsection (4)(a)(i)(A) must have a funded year priority

8491 designation on a Statewide Transportation Improvement Program and Transportation

8492 Improvement Program if the project or service described in Subsection (4)(a)(i) is:

8493 (i) a principal arterial highway as defined in Section 72-4-102.5;

8494 (ii) a minor arterial highway as defined in Section 72-4-102.5; or

8495 (iii) a major collector highway:

8496 (A) as defined in Section 72-4-102.5; and

8497 (B) in a rural area.

8498 (c) Notwithstanding the designated use of revenues in Subsection (4)(a), of the

8499 revenues generated by the tax imposed under this section by any county of the first or second

8500 class, 25% or more shall be expended for the purpose described in Subsection (4)(a)(ii).

8501 (d) For purposes of this Subsection (4), the revenues a county will receive from a tax

8502 under this part do not include amounts retained by the commission in accordance with

8503 Subsection (8).

8504 (5) (a) The county's council of governments shall create a priority list of regionally

8505 significant transportation facility projects described in Subsection (4)(a) using the process

8506 described in Subsection (5)(b) and present the priority list to the county's legislative body for

8507 approval as described in Subsection (6).

8508 (b) Subject to Sections 59-12-1704 and 59-12-1705, a council of governments shall

8509 establish a council of governments' endorsement process which includes prioritization and

8510 application procedures for use of the revenues a county will receive from a tax under this part.

8511 (6) (a) The council of governments shall submit the priority list described in Subsection

8512 (5) to the county's legislative body and obtain approval of the list from a majority of the

8513 members of the county legislative body.

8514 (b) A county's council of governments may only submit one priority list per calendar
8515 year.

8516 (c) A county legislative body may only consider and approve one priority list per
8517 calendar year.

8518 (7) (a) (i) Except as provided in Subsections (7)(a)(ii) and (7)(b), revenues described in
8519 Subsection (4) shall be transmitted:

8520 (A) by the commission;

8521 (B) to the county;

8522 (C) monthly; and

8523 (D) by electronic funds transfer.

8524 (ii) A county may request that the commission transfer a portion of the revenues
8525 described in Subsection (4):

8526 (A) directly to a public transit district:

8527 (I) organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act; and

8528 (II) designated by the county; and

8529 (B) by providing written notice to the commission:

8530 (I) requesting the revenues to be transferred directly to a public transit district as
8531 provided in Subsection (7)(a)(ii)(A); and

8532 (II) designating the public transit district to which the revenues are requested to be
8533 transferred.

8534 (b) (i) Except as provided in Subsection (7)(b)(ii), revenues generated by a tax under
8535 this part that are allocated for a purpose described in Subsection (4)(a)(ii) shall be:

8536 (A) deposited in or transferred to the Local Transportation Corridor Preservation Fund
8537 created by Section 72-2-117.5; and

8538 (B) expended as provided in Section 72-2-117.5.

8539 (ii) In a county of the first class, revenues generated by a tax under this part that are
8540 allocated for a purpose described in Subsection (4)(a)(ii) shall be:

8541 (A) deposited in or transferred to the County of the First Class State Highway Projects

8542 Fund created by Section 72-2-121; and
8543 (B) expended as provided in Section 72-2-121.
8544 (8) (a) (i) Except as provided in Subsection (8)(b), the tax authorized under this part
8545 shall be administered, collected, and enforced in accordance with:
8546 (A) the same procedures used to administer, collect, and enforce the tax under:
8547 (I) Part 1, Tax Collection; or
8548 (II) Part 2, Local Sales and Use Tax Act; and
8549 (B) Chapter 1, General Taxation Policies.
8550 (ii) A tax under this part is not subject to Subsections 59-12-205(2) through [~~(7)~~] (6).
8551 (b) (i) The commission may retain an amount of tax collected under this part of not to
8552 exceed the lesser of:
8553 (A) 1.5%; or
8554 (B) an amount equal to the cost to the commission of administering this part.
8555 (ii) Any amount the commission retains under Subsection (8)(b)(i) shall be:
8556 (A) placed in the Sales and Use Tax Administrative Fees Account; and
8557 (B) used as provided in Subsection 59-12-206(2).
8558 (9) (a) (i) Except as provided in Subsection (9)(b) or (c), if, on or after April 1, 2007, a
8559 county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,
8560 or change shall take effect:
8561 (A) on the first day of a calendar quarter; and
8562 (B) after a 90-day period beginning on the date the commission receives notice meeting
8563 the requirements of Subsection (9)(a)(ii) from the county.
8564 (ii) The notice described in Subsection (9)(a)(i)(B) shall state:
8565 (A) that the county will enact, repeal, or change the rate of a tax under this part;
8566 (B) the statutory authority for the tax described in Subsection (9)(a)(ii)(A);
8567 (C) the effective date of the tax described in Subsection (9)(a)(ii)(A); and
8568 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
8569 (9)(a)(ii)(A), the rate of the tax.

8570 (b) (i) ~~[For a transaction described in Subsection (9)(b)(iii), if]~~ If the billing period for
8571 ~~[the]~~ a transaction begins before the effective date of the enactment of the tax or tax rate
8572 increase under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on
8573 the first day of the first billing period that begins after the effective date of the enactment of the
8574 tax or the tax rate increase.

8575 (ii) ~~[For a transaction described in Subsection (9)(b)(iii), if]~~ If the billing period for ~~[the]~~
8576 a transaction begins before the effective date of the repeal of the tax or the tax rate decrease
8577 imposed under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the
8578 first day of the last billing period that began before the effective date of the repeal of the tax or
8579 the tax rate decrease.

8580 ~~[(iii) Subsections (9)(b)(i) and (ii) apply to transactions subject to a tax under:]~~

8581 ~~[(A) Subsection 59-12-103(1)(b);]~~

8582 ~~[(B) Subsection 59-12-103(1)(c);]~~

8583 ~~[(C) Subsection 59-12-103(1)(d);]~~

8584 ~~[(D) Subsection 59-12-103(1)(e);]~~

8585 ~~[(E) Subsection 59-12-103(1)(f);]~~

8586 ~~[(F) Subsection 59-12-103(1)(g);]~~

8587 ~~[(G) Subsection 59-12-103(1)(h);]~~

8588 ~~[(H) Subsection 59-12-103(1)(i);]~~

8589 ~~[(I) Subsection 59-12-103(1)(j); or]~~

8590 ~~[(J) Subsection 59-12-103(1)(k);]~~

8591 (c) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
8592 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
8593 a tax described in Subsection (9)(a)(i) takes effect:

8594 (A) on the first day of a calendar quarter; and

8595 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
8596 rate of the tax under Subsection (9)(a)(i).

8597 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

8598 commission may by rule define the term "catalogue sale."

8599 (d) (i) Except as provided in Subsection (9)(e) or (f), if, for an annexation that occurs
8600 on or after April 1, 2007, the annexation will result in the enactment, repeal, or change in the
8601 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
8602 effect:

8603 (A) on the first day of a calendar quarter; and

8604 (B) after a 90-day period beginning on the date the commission receives notice meeting
8605 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

8606 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

8607 (A) that the annexation described in Subsection (9)(d)(i)(B) will result in an enactment,
8608 repeal, or change in the rate of a tax under this part for the annexing area;

8609 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

8610 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

8611 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
8612 (9)(d)(ii)(A), the rate of the tax.

8613 (e) (i) ~~[For a transaction described in Subsection (9)(c)(iii), if]~~ If the billing period for
8614 ~~[the]~~ a transaction begins before the effective date of the enactment of the tax or a tax rate
8615 increase under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on
8616 the first day of the first billing period that begins after the effective date of the enactment of the
8617 tax or the tax rate increase.

8618 (ii) ~~[For a transaction described in Subsection (9)(c)(iii), if]~~ If the billing period for ~~[the]~~
8619 a transaction begins before the effective date of the repeal of the tax or the tax rate decrease
8620 imposed under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the
8621 first day of the last billing period that began before the effective date of the repeal of the tax or
8622 the tax rate decrease.

8623 ~~[(iii) Subsections (9)(c)(i) and (ii) apply to transactions subject to a tax under:]~~

8624 ~~[(A) Subsection 59-12-103(1)(b);]~~

8625 ~~[(B) Subsection 59-12-103(1)(c);]~~

8626 [~~(C) Subsection 59-12-103(1)(d);~~]

8627 [~~(D) Subsection 59-12-103(1)(e);~~]

8628 [~~(E) Subsection 59-12-103(1)(f);~~]

8629 [~~(F) Subsection 59-12-103(1)(g);~~]

8630 [~~(G) Subsection 59-12-103(1)(h);~~]

8631 [~~(H) Subsection 59-12-103(1)(i);~~]

8632 [~~(I) Subsection 59-12-103(1)(j); or~~]

8633 [~~(J) Subsection 59-12-103(1)(k);~~]

8634 (f) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
8635 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
8636 a tax described in Subsection (9)(d)(i) takes effect:

8637 (A) on the first day of a calendar quarter; and

8638 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
8639 rate under Subsection (9)(d)(i).

8640 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
8641 commission may by rule define the term "catalogue sale."

8642 Section 98. Section **59-12-1706** is enacted to read:

8643 **59-12-1706. Seller or certified service provider reliance on commission**
8644 **information or certain systems.**

8645 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
8646 imposed under this part if:

8647 (1) the tax rate at which the seller or certified service provider collects the tax is derived
8648 from a database created by the commission containing tax rates; and

8649 (2) the seller's or certified service provider's failure to collect the tax is as a result of the
8650 seller's or certified service provider's reliance on incorrect data provided by the commission in
8651 the database created by the commission containing tax rates.

8652 Section 99. Section **59-12-1707** is enacted to read:

8653 **59-12-1707. Certified service provider or model 2 seller reliance on commission**

8654 **certified software.**

8655 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified
8656 service provider or model 2 seller is not liable for failing to collect a tax required under this part
8657 if:

8658 (a) the certified service provider or model 2 seller relies on software the commission
8659 certifies; and

8660 (b) the certified service provider's or model 2 seller's failure to collect a tax required
8661 under this part is as a result of the seller's or certified service provider's reliance on incorrect
8662 data:

8663 (i) provided by the commission; or

8664 (ii) in the software the commission certifies.

8665 (2) The relief from liability described in Subsection (1) does not apply if a certified
8666 service provider or model 2 seller incorrectly classifies an item or transaction into a product
8667 category the commission certifies.

8668 (3) If the taxability of a product category is incorrectly classified in software the
8669 commission certifies, the commission shall:

8670 (a) notify a certified service provider or model 2 seller of the incorrect classification of
8671 the taxability of a product category in software the commission certifies; and

8672 (b) state in the notice required by Subsection (3)(a) that the certified service provider or
8673 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
8674 incorrectly classified product category if the certified service provider or model 2 seller fails to
8675 correct the taxability of the item or transaction within ten days after the day on which the
8676 certified service provider or model 2 seller receives the notice.

8677 (4) If a certified service provider or model 2 seller fails to correct the taxability of an
8678 item or transaction within ten days after the day on which the certified service provider or
8679 model 2 seller receives the notice described in Subsection (3), the certified service provider or
8680 model 2 seller is liable for failing to collect the correct amount of tax under this part on the item
8681 or transaction.

8682 Section 100. Section **59-12-1708** is enacted to read:

8683 **59-12-1708. Purchaser relief from liability.**

8684 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
8685 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

8686 (i) the purchaser's seller or certified service provider relies on incorrect data provided
8687 by the commission:

8688 (A) on a tax rate;

8689 (B) on a boundary;

8690 (C) on a taxing jurisdiction; or

8691 (D) in the taxability matrix the commission provides in accordance with the agreement;

8692 or

8693 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
8694 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

8695 (A) on a tax rate;

8696 (B) on a boundary;

8697 (C) on a taxing jurisdiction; or

8698 (D) in the taxability matrix the commission provides in accordance with the agreement.

8699 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
8700 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
8701 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
8702 incorrect data provided by the commission is as a result of conduct that is:

8703 (i) fraudulent;

8704 (ii) intentional; or

8705 (iii) willful.

8706 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
8707 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
8708 or an underpayment if:

8709 (a) the purchaser's seller or certified service provider relies on:

8710 (i) incorrect data provided by the commission:
8711 (A) on a tax rate;
8712 (B) on a boundary; or
8713 (C) on a taxing jurisdiction; or
8714 (ii) an erroneous classification by the commission:
8715 (A) in the taxability matrix the commission provides in accordance with the agreement;
8716 and
8717 (B) with respect to a term:
8718 (I) in the library of definitions; and
8719 (II) that is:
8720 (Aa) listed as taxable or exempt;
8721 (Bb) included in or excluded from "sales price"; or
8722 (Cc) included in or excluded from a definition; or
8723 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
8724 accordance with Section 59-12-107.1, relies on:
8725 (i) incorrect data provided by the commission:
8726 (A) on a tax rate;
8727 (B) on a boundary; or
8728 (C) on a taxing jurisdiction; or
8729 (ii) an erroneous classification by the commission:
8730 (A) in the taxability matrix the commission provides in accordance with the agreement;
8731 and
8732 (B) with respect to a term:
8733 (I) in the library of definitions; and
8734 (II) that is:
8735 (Aa) listed as taxable or exempt;
8736 (Bb) included in or excluded from "sales price"; or
8737 (Cc) included in or excluded from a definition.

8738 Section 101. Section **59-12-1802** is amended to read:

8739 **59-12-1802. State sales and use tax -- Base -- Rate -- Revenues deposited into**
8740 **General Fund.**

8741 (1) If a county does not impose a tax under Part 11, County Option Sales and Use Tax,
8742 a tax shall be imposed within the county under this section by the state:

8743 (a) on the transactions described in Subsection 59-12-103(1);

8744 (b) at a rate of .25%; and

8745 (c) beginning on January 1, 2008, and ending on the day on which the county imposes a
8746 tax under Part 11, County Option Sales and Use Tax.

8747 (2) Notwithstanding Subsection (1), a tax under this section may not be imposed on the
8748 sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from
8749 taxation under Section 59-12-104.

8750 (3) For purposes of Subsection (1), the location of a transaction shall be determined in
8751 accordance with ~~[Section 59-12-207]~~ Sections 59-12-211 through 59-12-215.

8752 (4) Revenues collected from the sales and use tax imposed by this section, after
8753 subtracting amounts a seller retains in accordance with Section 59-12-108, shall be deposited
8754 into the General Fund.

8755 Section 102. Section **59-12-1803** is amended to read:

8756 **59-12-1803. Enactment or repeal of tax -- Effective date -- Administration,**
8757 **collection, and enforcement of tax.**

8758 (1) Subject to Subsections (2) and (3), a tax rate repeal or a tax rate change for a tax
8759 imposed under this part shall take effect on the first day of a calendar quarter.

8760 (2) (a) ~~[For a transaction described in Subsection (2)(c), the]~~ The enactment of a tax
8761 shall take effect on the first day of the first billing period that begins after the effective date of
8762 the enactment of the tax if the billing period for the transaction begins before the effective date
8763 of the tax under this part.

8764 (b) ~~[For a transaction described in Subsection (2)(c), the]~~ The repeal of a tax shall take
8765 effect on the first day of the last billing period that began before the effective date of the repeal

8766 of the tax if the billing period for the transaction begins before the effective date of the repeal of
8767 the tax imposed under this part.

8768 [~~(c) Subsections (2)(a) and (b) apply to transactions subject to a tax under:~~]

8769 [~~(i) Subsection 59-12-103(1)(b);~~]

8770 [~~(ii) Subsection 59-12-103(1)(c);~~]

8771 [~~(iii) Subsection 59-12-103(1)(d);~~]

8772 [~~(iv) Subsection 59-12-103(1)(e);~~]

8773 [~~(v) Subsection 59-12-103(1)(f);~~]

8774 [~~(vi) Subsection 59-12-103(1)(g);~~]

8775 [~~(vii) Subsection 59-12-103(1)(h);~~]

8776 [~~(viii) Subsection 59-12-103(1)(i);~~]

8777 [~~(ix) Subsection 59-12-103(1)(j); or~~]

8778 [~~(x) Subsection 59-12-103(1)(k);~~]

8779 (3) (a) If a tax due under this part on a catalogue sale is computed on the basis of sales
8780 and use tax rates published in the catalogue, an enactment or repeal of a tax under this part
8781 takes effect:

8782 (i) on the first day of a calendar quarter; and

8783 (ii) beginning 60 days after the effective date of the enactment or repeal of the tax under
8784 this part.

8785 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
8786 commission may by rule define the term "catalogue sale."

8787 (4) A tax imposed by this part shall be administered, collected, and enforced in
8788 accordance with:

8789 (a) the same procedures used to administer, collect, and enforce the tax under Part 1,
8790 Tax Collection; and

8791 (b) Chapter 1, General Taxation Policies.

8792 Section 103. Section **59-12-1804** is enacted to read:

8793 **59-12-1804. Seller or certified service provider reliance on commission**

8794 **information or certain systems.**

8795 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
8796 imposed under this part if:

8797 (1) the tax rate at which the seller or certified service provider collects the tax is derived
8798 from a database created by the commission containing tax rates; and

8799 (2) the seller's or certified service provider's failure to collect the tax is as a result of the
8800 seller's or certified service provider's reliance on incorrect data provided by the commission in
8801 the database created by the commission containing tax rates.

8802 Section 104. Section **59-12-1805** is enacted to read:

8803 **59-12-1805. Certified service provider or model 2 seller reliance on commission**
8804 **certified software.**

8805 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified
8806 service provider or model 2 seller is not liable for failing to collect a tax required under this part
8807 if:

8808 (a) the certified service provider or model 2 seller relies on software the commission
8809 certifies; and

8810 (b) the certified service provider's or model 2 seller's failure to collect a tax required
8811 under this part is as a result of the seller's or certified service provider's reliance on incorrect
8812 data:

8813 (i) provided by the commission; or

8814 (ii) in the software the commission certifies.

8815 (2) The relief from liability described in Subsection (1) does not apply if a certified
8816 service provider or model 2 seller incorrectly classifies an item or transaction into a product
8817 category the commission certifies.

8818 (3) If the taxability of a product category is incorrectly classified in software the
8819 commission certifies, the commission shall:

8820 (a) notify a certified service provider or model 2 seller of the incorrect classification of
8821 the taxability of a product category in software the commission certifies; and

(b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within ten days after the day on which the certified service provider or model 2 seller receives the notice.

(4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within ten days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Section 105. Section **59-12-1806** is enacted to read:

59-12-1806. Purchaser relief from liability.

(1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

(i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement;

or

(ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement.

(b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under

8850 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
8851 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
8852 incorrect data provided by the commission is as a result of conduct that is:

- 8853 (i) fraudulent;
8854 (ii) intentional; or
8855 (iii) willful.

8856 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
8857 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
8858 or an underpayment if:

8859 (a) the purchaser's seller or certified service provider relies on:

8860 (i) incorrect data provided by the commission:

8861 (A) on a tax rate;

8862 (B) on a boundary; or

8863 (C) on a taxing jurisdiction; or

8864 (ii) an erroneous classification by the commission:

8865 (A) in the taxability matrix the commission provides in accordance with the agreement;

8866 and

8867 (B) with respect to a term:

8868 (I) in the library of definitions; and

8869 (II) that is:

8870 (Aa) listed as taxable or exempt;

8871 (Bb) included in or excluded from "sales price"; or

8872 (Cc) included in or excluded from a definition; or

8873 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
8874 accordance with Section 59-12-107.1, relies on:

8875 (i) incorrect data provided by the commission:

8876 (A) on a tax rate;

8877 (B) on a boundary; or

8878 (C) on a taxing jurisdiction; or
8879 (ii) an erroneous classification by the commission:
8880 (A) in the taxability matrix the commission provides in accordance with the agreement;
8881 and
8882 (B) with respect to a term:
8883 (I) in the library of definitions; and
8884 (II) that is:
8885 (Aa) listed as taxable or exempt;
8886 (Bb) included in or excluded from "sales price"; or
8887 (Cc) included in or excluded from a definition.
8888 Section 106. Section **63-55-269** is amended to read:
8889 **63-55-269. Repeal dates, Title 69.**
8890 Section 69-2-5.6, Emergency services [~~telephone~~] telecommunications charge to fund
8891 statewide unified E-911 emergency service, is repealed July 1, 2011.
8892 Section 107. Section **69-2-5** is amended to read:
8893 **69-2-5. Funding for 911 emergency telecommunications service.**
8894 (1) In providing funding of 911 emergency [~~telephone~~] telecommunications service, any
8895 public agency establishing a 911 emergency [~~telephone~~] telecommunications service may:
8896 (a) seek assistance from the federal or state government, to the extent constitutionally
8897 permissible, in the form of loans, advances, grants, subsidies, and otherwise, directly or
8898 indirectly;
8899 (b) seek funds appropriated by local governmental taxing authorities for the funding of
8900 public safety agencies; and
8901 (c) seek gifts, donations, or grants from individuals, corporations, or other private
8902 entities.
8903 (2) For purposes of providing funding of 911 emergency [~~telephone~~]
8904 telecommunications service, special service districts may raise funds as provided in Section
8905 17A-2-1322 and may borrow money and incur indebtedness as provided in Section

8906 17A-2-1316.

8907 (3) (a) Except as provided in Subsection (3)(b) and subject to the other provisions of
8908 this Subsection (3) a county, city, or town within which 911 emergency [~~telephone~~]
8909 telecommunications service is provided may levy monthly an emergency services [~~telephone~~]
8910 telecommunications charge on:

8911 (i) each local exchange service switched access line within the boundaries of the county,
8912 city, or town;

8913 (ii) each revenue producing radio communications access line with a billing address
8914 within the boundaries of the county, city, or town; and

8915 (iii) any other service, including voice over Internet protocol, provided to a user within
8916 the boundaries of the county, city, or town that allows the user to make calls to and receive calls
8917 from the public switched [~~telephone~~] telecommunications network, including commercial mobile
8918 radio service networks.

8919 (b) Notwithstanding Subsection (3)(a), an access line provided for public coin
8920 [~~telephone~~] telecommunications service is exempt from emergency [~~telephone~~]
8921 telecommunications charges.

8922 (c) The amount of the charge levied under this section may not exceed:

8923 (i) 61 cents per month for each local exchange service switched access line;

8924 (ii) 61 cents per month for each radio communications access line; and

8925 (iii) 61 cents per month for each service under Subsection (3)(a)(iii).

8926 (d) (i) For purposes of this Subsection (3)(d) the following terms shall be defined as
8927 provided in Section 59-12-102 or 59-12-215:

8928 (A) "mobile telecommunications service";

8929 (B) "primary place of use";

8930 (C) "service address"; and

8931 (D) "[~~telephone~~] telecommunications service."

8932 (ii) An access line described in Subsection (3)(a) is considered to be within the
8933 boundaries of a county, city, or town if the [~~telephone~~] telecommunications services provided

8934 over the access line are located within the county, city, or town:

8935 (A) for purposes of sales and use taxes under Title 59, Chapter 12, Sales and Use Tax
8936 Act; and

8937 (B) determined in accordance with Section ~~[59-12-207.4]~~ 59-12-215.

8938 (iii) The rate imposed on an access line under this section shall be determined in
8939 accordance with Subsection (3)(d)(iv) if the location of an access line described in Subsection
8940 (3)(a) is determined under Subsection (3)(d)(ii) to be a county, city, or town other than county,
8941 city, or town in which is located:

8942 (A) for ~~[telephone]~~ a telecommunications service ~~[other than mobile~~
8943 ~~telecommunications service]~~, the purchaser's service address; or

8944 (B) for mobile telecommunications service, the purchaser's primary place of use.

8945 (iv) The rate imposed on an access line under this section shall be the lower of:

8946 (A) the rate imposed by the county, city, or town in which the access line is located
8947 under Subsection (3)(d)(ii); or

8948 (B) the rate imposed by the county, city, or town in which it is located:

8949 (I) for ~~[telephone]~~ telecommunications service ~~[other than mobile telecommunications~~
8950 ~~service]~~, the purchaser's service address; or

8951 (II) for mobile telecommunications service, the purchaser's primary place of use.

8952 (e) (i) A county, city, or town shall notify the Public Service Commission of the intent
8953 to levy the charge under this Subsection (3) at least 30 days before the effective date of the
8954 charge being levied.

8955 (ii) For purposes of this Subsection (3)(e):

8956 (A) "Annexation" means an annexation to:

8957 (I) a city or town under Title 10, Chapter 2, Part 4, Annexation; or

8958 (II) a county under Title 17, Chapter 2, Annexation to County.

8959 (B) "Annexing area" means an area that is annexed into a county, city, or town.

8960 (iii) (A) Except as provided in Subsection (3)(e)(iii)(C) or (D), if on or after July 1,
8961 2003, a county, city, or town enacts or repeals a charge or changes the amount of the charge

8962 under this section, the enactment, repeal, or change shall take effect:

8963 (I) on the first day of a calendar quarter; and

8964 (II) after a 90-day period beginning on the date the State Tax Commission receives
8965 notice meeting the requirements of Subsection (3)(e)(iii)(B) from the county, city, or town.

8966 (B) The notice described in Subsection (3)(e)(iii)(A) shall state:

8967 (I) that the county, city, or town will enact or repeal a charge or change the amount of
8968 the charge under this section;

8969 (II) the statutory authority for the charge described in Subsection (3)(e)(iii)(B)(I);

8970 (III) the effective date of the charge described in Subsection (3)(e)(iii)(B)(I); and

8971 (IV) if the county, city, or town enacts the charge or changes the amount of the charge
8972 described in Subsection (3)(e)(iii)(B)(I), the amount of the charge.

8973 (C) Notwithstanding Subsection (3)(e)(iii)(A), the enactment of a charge or a charge
8974 increase under this section shall take effect on the first day of the first billing period:

8975 (I) that begins after the effective date of the enactment of the charge or the charge
8976 increase; and

8977 (II) if the billing period for the charge begins before the effective date of the enactment
8978 of the charge or the charge increase imposed under this section.

8979 (D) Notwithstanding Subsection (3)(e)(iii)(A), the repeal of a charge or a charge
8980 decrease under this section shall take effect on the first day of the last billing period:

8981 (I) that began before the effective date of the repeal of the charge or the charge
8982 decrease; and

8983 (II) if the billing period for the charge begins before the effective date of the repeal of
8984 the charge or the charge decrease imposed under this section.

8985 (iv) (A) Except as provided in Subsection (3)(e)(iv)(C) or (D), if for an annexation that
8986 occurs on or after July 1, 2003, the annexation will result in the enactment, repeal, or a change
8987 in the amount of a charge imposed under this section for an annexing area, the enactment,
8988 repeal, or change shall take effect:

8989 (I) on the first day of a calendar quarter; and

8990 (II) after a 90-day period beginning on the date the State Tax Commission receives
8991 notice meeting the requirements of Subsection (3)(e)(iv)(B) from the county, city, or town that
8992 annexes the annexing area.

8993 (B) The notice described in Subsection (3)(e)(iv)(A) shall state:

8994 (I) that the annexation described in Subsection (3)(e)(iv)(A) will result in an enactment,
8995 repeal, or a change in the charge being imposed under this section for the annexing area;

8996 (II) the statutory authority for the charge described in Subsection (3)(e)(iv)(B)(I);

8997 (III) the effective date of the charge described in Subsection (3)(e)(iv)(B)(I); and

8998 (IV) if the county, city, or town enacts the charge or changes the amount of the charge
8999 described in Subsection (3)(e)(iv)(B)(I), the amount of the charge.

9000 (C) Notwithstanding Subsection (3)(e)(iv)(A), the enactment of a charge or a charge
9001 increase under this section shall take effect on the first day of the first billing period:

9002 (I) that begins after the effective date of the enactment of the charge or the charge
9003 increase; and

9004 (II) if the billing period for the charge begins before the effective date of the enactment
9005 of the charge or the charge increase imposed under this section.

9006 (D) Notwithstanding Subsection (3)(e)(iv)(A), the repeal of a charge or a charge
9007 decrease under this section shall take effect on the first day of the last billing period:

9008 (I) that began before the effective date of the repeal of the charge or the charge
9009 decrease; and

9010 (II) if the billing period for the charge begins before the effective date of the repeal of
9011 the charge or the charge decrease imposed under this section.

9012 (f) Subject to Subsection (3)(g), an emergency services [~~telephone~~] telecommunications
9013 charge levied under this section shall:

9014 (i) be billed and collected by the person that provides the:

9015 (A) local exchange service switched access line services; or

9016 (B) radio communications access line services; and

9017 (ii) except for costs retained under Subsection (3)(h), remitted to the State Tax

9018 Commission.

9019 (g) An emergency services [~~telephone~~] telecommunications charge on a mobile
9020 telecommunications service may be levied, billed, and collected only to the extent permitted by
9021 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

9022 (h) The person that bills and collects the charges levied under Subsection (3)(f) may:

9023 (i) bill the charge imposed by this section in combination with the charge levied under
9024 Section 69-2-5.6 as one line item charge; and

9025 (ii) retain an amount not to exceed 1.5% of the levy collected under this section as
9026 reimbursement for the cost of billing, collecting, and remitting the levy.

9027 (i) The State Tax Commission shall:

9028 (i) collect, enforce, and administer the charge imposed under this Subsection (3) using
9029 the same procedures used in the administration, collection, and enforcement of the state sales
9030 and use taxes under:

9031 (A) Title 59, Chapter 1, General Taxation Policies; and

9032 (B) Title 59, Chapter 12, Part 1, Tax Collection, except for:

9033 (I) Section 59-12-104;

9034 (II) Section 59-12-104.1;

9035 (III) Section 59-12-104.2; [~~and~~]

9036 (IV) Section 59-12-107.1; and

9037 (V) Section 59-12-107.3;

9038 (ii) transmit monies collected under this Subsection (3):

9039 (A) monthly; and

9040 (B) by electronic funds transfer by the commission to the county, city, or town that
9041 imposes the charge; and

9042 (iii) charge the county, city, or town for the State Tax Commission's services under this
9043 Subsection (3) in an amount:

9044 (A) sufficient to reimburse the State Tax Commission for the cost to the State Tax
9045 Commission in rendering the services; and

9046 (B) that may not exceed an amount equal to 1.5% of the charges imposed under this
9047 Subsection (3).

9048 (4) (a) Any money received by a public agency for the provision of 911 emergency
9049 [~~telephone~~] telecommunications service shall be deposited in a special emergency [~~telephone~~]
9050 telecommunications service fund.

9051 (b) (i) Except as provided in Subsection (5), the money in the emergency [~~telephone~~]
9052 telecommunications service fund shall be expended by the public agency to pay the costs of
9053 establishing, installing, maintaining, and operating a 911 emergency [~~telephone~~]
9054 telecommunications system or integrating a 911 system into an established public safety
9055 dispatch center, including contracting with the providers of local exchange service, radio
9056 communications service, and vendors of appropriate terminal equipment as necessary to
9057 implement the 911 emergency [~~telephone~~] telecommunications service.

9058 (ii) Revenues derived for the funding of 911 emergency [~~telephone~~] telecommunications
9059 service may only be used for that portion of costs related to the operation of the 911 emergency
9060 [~~telephone~~] telecommunications system when such a system is integrated with any public safety
9061 dispatch system.

9062 (c) Any unexpended money in the emergency [~~telephone~~] telecommunications service
9063 fund at the end of a fiscal year does not lapse, and must be carried forward to be used for the
9064 purposes described in this section.

9065 (5) (a) Revenue received by a local entity from an increase in the levy imposed under
9066 Subsection (3) after the 2004 Annual General Session, or from grants from the Utah 911
9067 Committee pursuant to Section 53-10-605:

9068 (i) shall be deposited into the special emergency [~~telephone~~] telecommunications service
9069 fund described in Subsection (4)(a); and

9070 (ii) shall only be used for that portion of the costs related to the development and
9071 operation of wireless and land-based enhanced 911 emergency [~~telephone~~] telecommunications
9072 service and the implementation of wireless E-911 Phase I and Phase II services as provided in
9073 Subsection (5)(b).

9074 (b) The costs allowed under Subsection (5)(a)(ii) shall include the public service
9075 answering point's or local entity's costs for:

9076 (i) acquisition, upgrade, modification, maintenance, and operation of public service
9077 answering point equipment capable of receiving E-911 information;

9078 (ii) database development, operation, and maintenance; and

9079 (iii) personnel costs associated with establishing, installing, maintaining, and operating
9080 wireless E-911 Phase I and Phase II services, including training emergency service personnel
9081 regarding receipt and use of E-911 wireless service information and educating consumers
9082 regarding the appropriate and responsible use of E-911 wireless service.

9083 (6) A local entity that increases the levy it imposes under Subsection (3)(c) after the
9084 2004 Annual General Session shall increase the levy to the maximum amount permitted by
9085 Subsection (3)(c).

9086 Section 108. Section **69-2-5.5** is amended to read:

9087 **69-2-5.5. Emergency services telecommunications charge to fund the Poison**
9088 **Control Center.**

9089 (1) Subject to Subsection (13), there is imposed an emergency services [~~telephone~~]
9090 telecommunications charge of 7 cents per month on each local exchange service switched access
9091 line and each revenue producing radio communications access line that is subject to an
9092 emergency services [~~telephone~~] telecommunications charge levied by a county, city, or town
9093 under Section 69-2-5.

9094 (2) The emergency services [~~telephone~~] telecommunications charge imposed under this
9095 section shall be:

9096 (a) subject to Subsection (13), billed and collected by the person that provides:

9097 (i) local exchange service switched access line services; or

9098 (ii) radio communications access line services;

9099 (b) remitted to the State Tax Commission at the same time as the person remits to the
9100 State Tax Commission monies collected by the person under Title 59, Chapter 12, Sales and
9101 Use Tax Act; and

9102 (c) deposited into the General Fund as dedicated credits to pay for:
9103 (i) costs of establishing, installing, maintaining, and operating the University of Utah
9104 Poison Control Center; and
9105 (ii) expenses of the State Tax Commission to administer and enforce the collection of
9106 the emergency services [~~telephone~~] telecommunications charges.
9107 (3) Funds for the University of Utah Poison Control Center program are nonlapsing.
9108 (4) Emergency services [~~telephone~~] telecommunications charges remitted to the State
9109 Tax Commission pursuant to Subsection (2) shall be accompanied by the form prescribed by the
9110 commission.
9111 (5) The State Tax Commission may make rules to administer and enforce the collection
9112 of emergency services [~~telephone~~] telecommunications charges imposed under this section.
9113 (6) A provider of local exchange service switched access line services or radio
9114 communications access line services who fails to comply with this section is subject to penalties
9115 and interest as provided in Sections 59-1-401 and 59-1-402.
9116 (7) (a) Except as provided in Subsections (8) through (11), and subject to Subsection
9117 (13), the State Tax Commission shall assess a charge imposed under this section within three
9118 years after a provider of local exchange service switched access line services or radio
9119 communications access line services files a return.
9120 (b) Except as provided in Subsections (8) through (11), if the commission does not
9121 assess a charge imposed under this section within the three-year period provided in Subsection
9122 (7)(a), the commission may not commence a proceeding to collect the charge.
9123 (8) Notwithstanding Subsection (7), and subject to Subsection (13), the State Tax
9124 Commission may assess a charge at any time if a provider of local exchange service switched
9125 access line services or radio communications access line services:
9126 (a) files a false or fraudulent return with intent to evade; or
9127 (b) does not file a return.
9128 (9) Notwithstanding Subsection (7), beginning on July 1, 1998, the State Tax
9129 Commission may extend the period to make an assessment or commence a proceeding to collect

9130 the charge imposed under this section if:

9131 (a) the three-year period under Subsection (7) has not expired; and

9132 (b) the commission and the provider of local exchange service switched access line

9133 services or radio communications access line services sign a written agreement:

9134 (i) authorizing the extension; and

9135 (ii) providing for the length of the extension.

9136 (10) If the State Tax Commission delays an audit at the request of a provider of local

9137 exchange service switched access line services or radio communications access line services, the

9138 commission may make an assessment as provided in Subsection (11) if:

9139 (a) the provider of local exchange service switched access line services or radio

9140 communications access line services subsequently refuses to agree to an extension request by

9141 the commission; and

9142 (b) the three-year period under Subsection (7) expires before the commission completes

9143 the audit.

9144 (11) An assessment under Subsection (10) shall be:

9145 (a) for the time period for which the State Tax Commission could not make an

9146 assessment because of the expiration of the three-year period; and

9147 (b) in an amount equal to the difference between:

9148 (i) the commission's estimate of the amount of the charge the provider of local exchange

9149 service switched access line services or radio communications access line services would have

9150 been assessed for the time period described in Subsection (11)(a); and

9151 (ii) the amount of the charge the provider of local exchange service switched access line

9152 services or radio communications access line services actually paid for the time period described

9153 in Subsection (11)(a).

9154 (12) (a) Except as provided in Subsection (12)(b), the State Tax Commission may not

9155 make a credit or refund unless the provider of local exchange service switched access line

9156 services or radio communications access line services files a claim with the commission within

9157 three years of the date of overpayment.

9158 (b) Notwithstanding Subsection (12)(a), beginning on July 1, 1998, the commission
9159 shall extend the period for a provider of local exchange service switched access line services or
9160 radio communications access line services to file a claim under Subsection (12)(a) if:

9161 (i) the three-year period under Subsection (12)(a) has not expired; and

9162 (ii) the commission and the provider of local exchange service switched access line
9163 services or radio communications access line services sign a written agreement:

9164 (A) authorizing the extension; and

9165 (B) providing for the length of the extension.

9166 (13) An emergency services [~~telephone~~] telecommunications charge under this section
9167 on a mobile telecommunications service may be imposed, billed, and collected only to the extent
9168 permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

9169 (14) (a) (i) For purposes of this Subsection (14) and except as provided in Subsection
9170 (14)(a)(ii), "bad debt" is as defined in Section 166, Internal Revenue Code.

9171 (ii) "Bad debt" does not include:

9172 (A) amounts not subject to the charge imposed under this section that are included in
9173 the purchase price for:

9174 (I) local exchange service switched access line service; or

9175 (II) radio communications access line service;

9176 (B) financing charges or interest;

9177 (C) the charge imposed under this section on:

9178 (I) a local exchange service switched access line; or

9179 (II) a radio communications access line;

9180 (D) uncollectible amounts on tangible personal property that remains in the possession
9181 of the vendor until the full purchase price is paid;

9182 (E) expenses incurred in attempting to collect any debt; and

9183 (F) amounts uncollected on repossessed property.

9184 (b) The State Tax Commission shall allow a credit for amounts remitted to the State
9185 Tax Commission under this section that constitute bad debt.

9186 Section 109. Section **69-2-5.6** is amended to read:

9187 **69-2-5.6. Emergency services telecommunications charge to fund statewide**
9188 **unified E-911 emergency service.**

9189 (1) Subject to Subsection 69-2-5(3)(g), there is imposed a statewide unified E-911
9190 emergency service charge on each local exchange service switched access line and each revenue
9191 producing radio communications access line that is subject to an emergency services [~~telephone~~]
9192 telecommunications charge levied by a county, city, or town under Section 69-2-5 or 69-2-5.5
9193 at:

9194 (a) 13 cents per month until June 30, 2007; and

9195 (b) 8 cents per month on and after July 1, 2007.

9196 (2) The emergency services [~~telephone~~] telecommunications charge imposed under this
9197 section shall be:

9198 (a) subject to Subsection 69-2-5(3)(g);

9199 (b) billed and collected by the person that provides:

9200 (i) local exchange service switched access line services;

9201 (ii) radio communications access line services; or

9202 (iii) service described in Subsection 69-2-5(3)(a)(iii).

9203 (c) except for costs retained under Subsection (3), remitted to the State Tax
9204 Commission at the same time as the person remits to the State Tax Commission monies
9205 collected by the person under Title 59, Chapter 12, Sales and Use Tax Act; and
9206 (d) deposited into the Statewide Unified E-911 Emergency Service Fund restricted
9207 account in the General Fund created by Section 53-10-603.

9208 (3) The person that bills and collects the charges levied by this section pursuant to
9209 Subsections (2)(b) and (c) may:

9210 (a) bill the charge imposed by this section in combination with the charge levied under
9211 Section 69-2-5 as one line item charge; and

9212 (b) retain an amount not to exceed 1.5% of the charges collected under this section as
9213 reimbursement for the cost of billing, collecting, and remitting the levy.

9214 (4) The State Tax Commission shall collect, enforce, and administer the charges
9215 imposed under Subsection (1) using the same procedures used in the administration, collection,
9216 and enforcement of the emergency services [~~telephone~~] telecommunications charge to fund the
9217 Poison Control Center under Section 69-2-5.5.

9218 (5) This section sunsets in accordance with Section 63-55-269.

9219 Section 110. Section **72-2-125** is amended to read:

9220 **72-2-125. Critical Highway Needs Fund.**

9221 (1) There is created a restricted special revenue fund entitled the Critical Highway
9222 Needs Fund.

9223 (2) The fund consists of monies generated from the following sources:

9224 (a) any voluntary contributions received for the maintenance, construction,
9225 reconstruction, or renovation of state and federal highways;

9226 (b) appropriations made to the fund by the Legislature; and

9227 (c) the sales and use tax revenues deposited into the fund in accordance with Subsection
9228 59-12-103[~~(10)~~] (9).

9229 (3) (a) The fund shall earn interest.

9230 (b) All interest earned on fund monies shall be deposited into the fund.

9231 (4) (a) The executive director shall use monies deposited into the fund to pay:

9232 (i) the costs of right-of-way acquisition, maintenance, construction, reconstruction, or
9233 renovation to state and federal highways identified by the department and prioritized by the
9234 commission in accordance with this Subsection (4); and

9235 (ii) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101.

9236 (b) (i) The department shall:

9237 (A) establish a complete list of projects to be maintained, constructed, reconstructed, or
9238 renovated using the funding described in Subsection (4)(a) based on the following criteria:

9239 (I) the highway construction project is a high priority project due to high growth in the
9240 surrounding area;

9241 (II) the highway construction project addresses critical access needs that have a high

9242 impact due to commercial and energy development;
9243 (III) the highway construction project mitigates congestion;
9244 (IV) whether local matching funds are available for the highway construction project;
9245 and
9246 (V) the highway construction project is a critical alternative route for priority Interstate
9247 15 reconstruction projects; and
9248 (B) submit the list of projects to the commission for prioritization in accordance with
9249 Subsection (4)(c).
9250 (ii) A project that is included in the list under this Subsection (4):
9251 (A) is not required to be currently listed in the statewide long-range plan; and
9252 (B) is not required to be prioritized through the prioritization process for new
9253 transportation capacity projects adopted under Section 72-1-304.
9254 (c) The commission shall prioritize the project list submitted by the department in
9255 accordance with Subsection (4)(b).
9256 (d) (i) Expenditures by the department for the construction of highway projects
9257 prioritized under this Subsection (4) may not exceed \$1,000,000,000.
9258 (ii) Monies expended from the fund for principal, interest, and issuance costs of bonds
9259 issued under Section 63B-16-101 are not considered expenditures for purposes of the
9260 \$1,000,000,000 cap under Subsection (4)(d)(i).
9261 (e) (i) Before bonds authorized by Section 63B-16-101 may be issued in any fiscal year,
9262 the department and the commission shall appear before the Executive Appropriations
9263 Committee of the Legislature and present:
9264 (A) the commission's current list of projects established and prioritized in accordance
9265 with this Subsection (4); and
9266 (B) the amount of bond proceeds that the department needs to provide funding for
9267 projects on the project list prioritized in accordance with this Subsection (4) for the next fiscal
9268 year.
9269 (ii) The Executive Appropriations Committee of the Legislature shall review and

9270 comment on the prioritized project list and the amount of bond proceeds needed to fund the
9271 projects on the prioritized list.

9272 (f) The Division of Finance shall, from monies deposited into the fund, transfer the
9273 amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by
9274 Section 63B-16-101 in the current fiscal year to the appropriate debt service or sinking fund.

9275 (5) When the general obligation bonds authorized by Section 63B-16-101 have been
9276 paid off and the highway projects completed that are included in the prioritized project list
9277 under Subsection (4), the Division of Finance shall transfer any existing balance in the fund into
9278 the Transportation Investment Fund of 2005 created by Section 72-2-124.

9279 (6) (a) The Division of Finance shall monitor the general obligation bonds authorized by
9280 Section 63B-16-101.

9281 (b) The department shall monitor the highway construction or reconstruction projects
9282 that are included in the prioritized project list under Subsection (4).

9283 (c) Upon request by the Executive Appropriations Committee of the Legislature:

9284 (i) the Division of Finance shall report to the committee the status of all general
9285 obligation bonds issued under Section 63B-16-101; and

9286 (ii) the department shall report to the committee the status of all highway construction
9287 or reconstruction projects that are included in the prioritized project list under Subsection (4).

9288 (d) When the Division of Finance has reported that the general obligation bonds issued
9289 by Section 63B-16-101 have been paid off and the department has reported that projects
9290 included in the prioritized project list are complete to the Executive Appropriations Committee
9291 of the Legislature, the Division of Finance shall transfer any existing fund balance in accordance
9292 with Subsection (5).

9293 Section 111. **Repealer.**

9294 This bill repeals:

9295 Section **59-12-102.2, Participation in multistate discussions -- Report to Revenue**
9296 **and Taxation Interim Committee.**

9297 Section **59-12-207, Report of tax collections -- Point of sale when retailer has no**

9298 **permanent place of business or more than one place of business is determined by rule of**
9299 **commission -- Public utilities -- Telecommunications service.**
9300 Section 112. **Effective date.**
9301 This bill takes effect on January 1, 2009.