

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;

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

61 **Monies Appropriated in this Bill:**

62 None

63 **Other Special Clauses:**

64 This bill takes effect on January 1, 2009.

65 **Utah Code Sections Affected:**

66 AMENDS:

- 67 **10-1-307**, as last amended by Laws of Utah 2006, Chapters 253 and 352
68 **10-1-402**, as enacted by Laws of Utah 2003, Chapter 253
69 **10-1-405**, as last amended by Laws of Utah 2007, Chapters 9 and 250
70 **10-1-407**, as last amended by Laws of Utah 2004, Chapter 255
71 **11-41-102**, as last amended by Laws of Utah 2007, Chapter 9
72 **53-10-605**, as last amended by Laws of Utah 2007, Chapters 241 and 329
73 **59-1-403**, as last amended by Laws of Utah 2007, Chapter 250
74 **59-12-102**, as last amended by Laws of Utah 2007, Chapters 9, 214, 224, and 288
75 **59-12-103**, as last amended by Laws of Utah 2007, Chapters 9, 101, 126, 206, and 288
76 **59-12-104**, as last amended by Laws of Utah 2007, Chapters 76, 195, 214, 224, 288,
77 295, and 329
78 **59-12-104.5**, as last amended by Laws of Utah 2006, Chapters 182 and 346
79 **59-12-105**, as last amended by Laws of Utah 2006, Chapters 181, 182, and 253
80 **59-12-106**, as last amended by Laws of Utah 2006, Chapter 322
81 **59-12-107**, as last amended by Laws of Utah 2006, Chapter 253
82 **59-12-107.1**, as last amended by Laws of Utah 2006, Chapter 253
83 **59-12-108**, as last amended by Laws of Utah 2007, Chapter 9
84 **59-12-110**, as last amended by Laws of Utah 2006, Chapter 253
85 **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

59-12-207, as last amended by Laws of Utah 2006, Chapter 253

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) An energy supplier shall pay the municipal energy sales and use tax revenues it

collects from its customers under this part directly to each municipality in which the energy supplier has sales of taxable energy if:

(a) the municipality is the energy supplier; or

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

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

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

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

(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:

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

247 (B) the 2006 base amount, plus:

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

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

252 (v) "Fiscal year 2005" means the period beginning July 1, 2004 and ending June 30,
253 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

(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.

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

~~[(i)]~~ (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 manages.

(c) "Telecommunications provider" does not include an aggregator as defined in

Section 54-8b-2.

(10) "Telecommunications service" means:

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

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

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

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

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

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

(i) a tax;

(ii) a license;

(iii) a fee;

(iv) a license fee;

(v) a license tax;

(vi) a franchise fee; or

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

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

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

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

(A) on telecommunications providers; and

(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).

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

(i) transmit monies collected under this part:

(A) monthly; and

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

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

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

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

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

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

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

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

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

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

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

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

449 (i) within the municipality;

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

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

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

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

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

459 (iii) a telecommunications provider is required to pay the municipal
460 telecommunications license tax on or after the day on which the ordinance described in
461 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.

- 493 (2) "Municipality" means a:
494 (a) city; or
495 (b) town.
496 (3) "Payment" includes:
497 (a) a payment;
498 (b) a rebate;
499 (c) a refund; or
500 (d) an amount similar to Subsections (3)(a) through (c).
501 (4) "Regional retail business" means a:
502 (a) retail business that occupies a floor area of more than 80,000 square feet;
503 (b) dealer as defined in Section 41-1a-102;
504 (c) retail shopping facility that has at least two anchor tenants if the total number of
505 anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square
506 feet; or
507 (d) grocery store that occupies a floor area of more than 30,000 square feet.
508 (5) (a) "Sales and use tax" means a tax:
509 (i) imposed on transactions within a:
510 (A) county; or
511 (B) municipality; and
512 (ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12,
513 Sales and Use Tax Act.
514 (b) Notwithstanding Subsection (5)(a)(ii), "sales and use tax" does not include a tax
515 authorized under:
516 (i) Subsection 59-12-103(2)(a)(i);
517 (ii) Subsection 59-12-103(2)(b)(i);
518 (iii) Subsection 59-12-103(2)(c)(i);
519 (iv) Subsection 59-12-103(2)(d)(i)(A);
520 [~~(v) Subsection 59-12-103(2)(c)(ii)(A);~~]
521 [~~(vi) Subsection 59-12-103(2)(c)(iii)(A);~~]
522 [~~(vii)~~ (v) Section 59-12-301;
523 [~~(viii)~~ (vi) Section 59-12-352;

524 [~~(ix)~~] (vii) Section 59-12-353;

525 [~~(x)~~] (viii) Section 59-12-603; or

526 [~~(xi)~~] (ix) Section 59-12-1201.

527 (6) (a) "Sales and use tax incentive payment" means a payment of revenues:

528 (i) to a person;

529 (ii) by a:

530 (A) county; or

531 (B) municipality;

532 (iii) to induce the person to locate or relocate a regional retail business within the:

533 (A) county; or

534 (B) municipality; and

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

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

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

539 **53-10-605. Use of money in fund -- Criteria -- Administration.**

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

541 (a) the committee, the committee shall:

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

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

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

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

553 (B) where needed, assist the counties, in cooperation with private industry, with the
554 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:

586 (i) in accordance with judicial order;
587 (ii) on behalf of the commission in any action or proceeding under:
588 (A) this title; or
589 (B) other law under which persons are required to file returns with the commission;
590 (iii) on behalf of the commission in any action or proceeding to which the commission
591 is a party; or
592 (iv) on behalf of any party to any action or proceeding under this title if the report or
593 facts shown by the return are directly involved in the action or proceeding.
594 (c) Notwithstanding Subsection (1)(b), a court may require the production of, and may
595 admit in evidence, any portion of a return or of the facts shown by the return, as are specifically
596 pertinent to the action or proceeding.
597 (2) This section does not prohibit:
598 (a) a person or that person's duly authorized representative from receiving a copy of
599 any return or report filed in connection with that person's own tax;
600 (b) the publication of statistics as long as the statistics are classified to prevent the
601 identification of particular reports or returns; and
602 (c) the inspection by the attorney general or other legal representative of the state of the
603 report or return of any taxpayer:
604 (i) who brings action to set aside or review a tax based on the report or return;
605 (ii) against whom an action or proceeding is contemplated or has been instituted under
606 this title; or
607 (iii) against whom the state has an unsatisfied money judgment.
608 (3) (a) Notwithstanding Subsection (1) and for purposes of administration, the
609 commission may by rule, made in accordance with Title 63, Chapter 46a, Utah Administrative
610 Rulemaking Act, provide for a reciprocal exchange of information with:
611 (i) the United States Internal Revenue Service; or
612 (ii) the revenue service of any other state.
613 (b) Notwithstanding Subsection (1) and for all taxes except individual income tax and
614 corporate franchise tax, the commission may by rule, made in accordance with Title 63,
615 Chapter 46a, Utah Administrative Rulemaking Act, share information gathered from returns
616 and other written statements with the federal government, any other state, any of the political

subdivisions of another state, or any political subdivision of this state, except as limited by Sections 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:

(i) provide to the Division of Consumer Protection within the Department of

648 Commerce and the attorney general data:

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

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

651 (ii) upon request provide to any person data reported to the commission under

652 Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

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

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

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

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

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

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

672 (n) (i) Notwithstanding Subsection (1), upon request from the state court administrator,
673 the commission shall provide to the state court administrator, the name, address, telephone
674 number, county of residence, and Social Security number on resident returns filed under
675 Chapter 10, Individual Income Tax Act.

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

678 (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:

- 741 (i) under the name 800 toll-free calling;
 742 (ii) under the name 855 toll-free calling;
 743 (iii) under the name 866 toll-free calling;
 744 (iv) under the name 877 toll-free calling;
 745 (v) under the name 888 toll-free calling; or
 746 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
 747 Federal Communications Commission.
 748 (2) (a) "900 service" means an inbound toll telecommunications service that:
 749 (i) a subscriber purchases;
 750 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
 751 the subscriber's:
 752 (A) prerecorded announcement; or
 753 (B) live service; and
 754 (iii) is typically marketed:
 755 (A) under the name 900 service; or
 756 (B) under a name similar to Subsection (2)(c)(iii)(A) as designated by the Federal
 757 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
 760 subscriber; 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

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

~~[(4)]~~ (6) "Agreement sales and use tax" means a tax imposed under:

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

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

~~[(d) Subsection 59-12-103(2)(d)(i);]~~

~~[(e)]~~ (d) Subsection 59-12-103(2)~~[(e)(ii)]~~ (d)(i)(A);

~~[(f) Subsection 59-12-103(2)(e)(iii)(A);]~~

~~[(g)]~~ (e) Section 59-12-204;

~~[(h)]~~ (f) Section 59-12-401;

~~[(i)]~~ (g) Section 59-12-402;

~~[(j)]~~ (h) Section 59-12-501;

~~[(k)]~~ (i) Section 59-12-502;

~~[(l)]~~ (j) Section 59-12-703;

~~[(m)]~~ (k) Section 59-12-802;

~~[(n)]~~ (l) Section 59-12-804;

~~[(o)]~~ (m) Section 59-12-1001;

~~[(p)]~~ (n) Section 59-12-1102;

~~[(q)]~~ (o) Section 59-12-1302;

~~[(r)]~~ (p) Section 59-12-1402;

~~[(s)]~~ (q) Section 59-12-1503; ~~[(or)]~~

~~[(t)]~~ (r) Section 59-12-1703[-]; or

(s) Section 59-12-1802.

~~[(5)]~~ (7) "Aircraft" is as defined in Section 72-10-102.

~~[(6)]~~ (8) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

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

(9) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

(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,
813 or 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
816 performed 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:

- (A) slash and brush from forests and woodlands;
- (B) animal waste;
- (C) methane produced:
 - (I) at landfills; or
 - (II) as a byproduct of the treatment of wastewater residuals;
- (D) aquatic plants; and
- (E) agricultural products.

(b) "Biomass energy" does not include:

- (i) black liquor;
- (ii) treated woods; or
- (iii) biomass from municipal solid waste other than methane produced:
 - (A) at landfills; or
 - (B) as a byproduct of the treatment of wastewater residuals.

~~[(12)]~~ (15) (a) "Bundled transaction" means the sale of two or more ~~[items of tangible personal property if: (i) one or more of the items of tangible personal property is food and food ingredients; and (ii) the items of tangible personal property]~~ items of tangible personal property, products, or services if the tangible personal property, products, or services are:

~~[(A)]~~ (i) distinct and identifiable; and

~~[(B)]~~ (ii) sold for one nonitemized price [that is not itemized].

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction[-];

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

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

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

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

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

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

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

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

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

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

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

and

~~[(B)]~~ (II) is incidental or immaterial to the sale of the tangible personal property,

896 product, or service;

897 ~~[(ii)]~~ (B) tangible personal property provided free of charge with the purchase of
898 another item of tangible personal property; or

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

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

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

908 (A) a binding sales document; or

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

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

912 (A) a bill of sale;

913 (B) a contract;

914 (C) an invoice;

915 (D) a lease agreement;

916 (E) a periodic notice of rates and services;

917 (F) a price list;

918 (G) a rate card;

919 (H) a receipt; or

920 (I) a service agreement.

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

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

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

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

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

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

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

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

940 ~~[(13)]~~ (16) "Certified automated system" means software certified by the governing
941 board of the agreement in accordance with Section 59-12-102.1 that:

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

944 (i) on a transaction; and

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

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

948 (c) maintains a record of the transaction described in Subsection ~~[(13)]~~ (16)(a)(i).

949 ~~[(14)]~~ (17) "Certified service provider" means an agent certified:

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

952 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
953 use tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's
954 own purchases.

955 ~~[(15)]~~ (18) (a) Subject to Subsection ~~[(15)]~~ (18)(b), "clothing" means all human
956 wearing apparel suitable for general use.

957 (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.

~~[(17)]~~ (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.

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

(a) (i) in digital form; or

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

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

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

(a) a computer to perform a task; or

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

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

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

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

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

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

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

(i) by a seller of:

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

(B) a product transferred electronically; or

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

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

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

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

~~[(25) (a) "Dental prosthesis" means the following if fabricated in a laboratory:]~~

~~[(i) a bridge;]~~

~~[(ii) a crown if that crown covers at least 75% of a tooth structure;]~~

~~[(iii) a denture;]~~

~~[(iv) an implant;]~~

1020 [~~(v) an orthodontic device designed to:~~
 1021 [~~(A) retain the position or spacing of teeth; and]~~
 1022 [~~(B) replace a missing tooth;~~
 1023 [~~(vi) a partial denture; or]~~
 1024 [~~(vii) a device similar to Subsections (25)(a)(i) through (vi):]~~
 1025 [~~(b) "Dental prosthesis" does not include an appliance or device, other than a device~~
 1026 ~~described in Subsection (25)(a), if that appliance or device is used in orthodontic therapy to~~
 1027 ~~apply force to the teeth and their supporting structures to:~~
 1028 [~~(i) produce changes in their relationship to each other; and]~~
 1029 [~~(ii) control their growth and development.]~~
 1030 (29) "Detailed telecommunications billing service" means an ancillary service of
 1031 separately stating information pertaining to individual calls on a customer's billing statement.
 1032 [~~(26)] (30) "Dietary supplement" means a product, other than tobacco, that:~~
 1033 (a) is intended to supplement the diet;
 1034 (b) contains one or more of the following dietary ingredients:
 1035 (i) a vitamin;
 1036 (ii) a mineral;
 1037 (iii) an herb or other botanical;
 1038 (iv) an amino acid;
 1039 (v) a dietary substance for use by humans to supplement the diet by increasing the total
 1040 dietary intake; or
 1041 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
 1042 described in Subsections [~~(26)] (30)(b)(i) through (v);~~
 1043 (c) (i) except as provided in Subsection [~~(26)] (30)(c)(ii), is intended for ingestion in:~~
 1044 (A) tablet form;
 1045 (B) capsule form;
 1046 (C) powder form;
 1047 (D) softgel form;
 1048 (E) gelcap form; or
 1049 (F) liquid form; or
 1050 (ii) notwithstanding Subsection [~~(26)] (30)(c)(i), if the product is not intended for~~

1051 ingestion in a form described in Subsections [~~(26)~~] (30)(c)(i)(A) through (F), is not
1052 represented:

1053 (A) as conventional food; and

1054 (B) for use as a sole item of:

1055 (I) a meal; or

1056 (II) the diet; and

1057 (d) is required to be labeled as a dietary supplement:

1058 (i) identifiable by the "Supplemental Facts" box found on the label; and

1059 (ii) as required by 21 C.F.R. Sec. 101.36.

1060 [~~(27)~~] (31) (a) "Direct mail" means printed material delivered or distributed by United
1061 States mail or other delivery service:

1062 (i) to:

1063 (A) a mass audience; or

1064 (B) addressees on a mailing list provided by a purchaser of the mailing list; and

1065 (ii) if the cost of the printed material is not billed directly to the recipients.

1066 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
1067 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

1068 (c) "Direct mail" does not include multiple items of printed material delivered to a
1069 single address.

1070 (32) "Directory assistance" means an ancillary service of providing:

1071 (a) address information; or

1072 (b) telephone number information.

1073 [~~(28)~~] (33) (a) "Disposable home medical equipment or supplies" means medical
1074 equipment or supplies that:

1075 (i) cannot withstand repeated use; and

1076 (ii) are purchased by, for, or on behalf of a person other than:

1077 (A) a health care facility as defined in Section 26-21-2;

1078 (B) a health care provider as defined in Section 78-14-3;

1079 (C) an office of a health care provider described in Subsection [~~(28)~~] (33)(a)(ii)(B); or

1080 (D) a person similar to a person described in Subsections [~~(28)~~] (33)(a)(ii)(A) through

1081 (C).

- 1082 (b) "Disposable home medical equipment or supplies" does not include:
- 1083 (i) a drug;
- 1084 (ii) durable medical equipment;
- 1085 (iii) a hearing aid;
- 1086 (iv) a hearing aid accessory;
- 1087 (v) mobility enhancing equipment; or
- 1088 (vi) tangible personal property used to correct impaired vision, including:
- 1089 (A) eyeglasses; or
- 1090 (B) contact lenses.
- 1091 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1092 commission may by rule define what constitutes medical equipment or supplies.
- 1093 ~~[(29)]~~ (34) (a) "Drug" means a compound, substance, or preparation, or a component of
- 1094 a compound, substance, or preparation that is:
- 1095 (i) recognized in:
- 1096 (A) the official United States Pharmacopoeia;
- 1097 (B) the official Homeopathic Pharmacopoeia of the United States;
- 1098 (C) the official National Formulary; or
- 1099 (D) a supplement to a publication listed in Subsections ~~[(29)]~~ (34)(a)(i)(A) through
- 1100 (C);
- 1101 (ii) intended for use in the:
- 1102 (A) diagnosis of disease;
- 1103 (B) cure of disease;
- 1104 (C) mitigation of disease;
- 1105 (D) treatment of disease; or
- 1106 (E) prevention of disease; or
- 1107 (iii) intended to affect:
- 1108 (A) the structure of the body; or
- 1109 (B) any function of the body.
- 1110 (b) "Drug" does not include:
- 1111 (i) food and food ingredients;
- 1112 (ii) a dietary supplement;

- 1113 (iii) an alcoholic beverage; or
1114 (iv) a prosthetic device.
- 1115 ~~[(30)]~~ (35) (a) Except as provided in Subsection ~~[(30)]~~ (35)(c), "durable medical
1116 equipment" means equipment that:
- 1117 (i) can withstand repeated use;
1118 (ii) is primarily and customarily used to serve a medical purpose;
1119 (iii) generally is not useful to a person in the absence of illness or injury; and
1120 (iv) is not worn in or on the body.
- 1121 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
1122 equipment described in Subsection ~~[(30)]~~ (35)(a).
- 1123 (c) Notwithstanding Subsection ~~[(30)]~~ (35)(a), "durable medical equipment" does not
1124 include mobility enhancing equipment.
- 1125 ~~[(31)]~~ (36) "Electronic" means:
1126 (a) relating to technology; and
1127 (b) having:
1128 (i) electrical capabilities;
1129 (ii) digital capabilities;
1130 (iii) magnetic capabilities;
1131 (iv) wireless capabilities;
1132 (v) optical capabilities;
1133 (vi) electromagnetic capabilities; or
1134 (vii) capabilities similar to Subsections ~~[(31)]~~ (36)(b)(i) through (vi).
- 1135 ~~[(32)]~~ (37) "Employee" is as defined in Section 59-10-401.
- 1136 ~~[(33)]~~ (38) "Fixed guideway" means a public transit facility that uses and occupies:
1137 (a) rail for the use of public transit; or
1138 (b) a separate right-of-way for the use of public transit.
- 1139 (39) "Fixed wireless service" means a telecommunications service that provides radio
1140 communication between fixed points.
- 1141 ~~[(34)]~~ (40) (a) "Food and food ingredients" means substances:
1142 (i) regardless of whether the substances are in:
1143 (A) liquid form;

- 1144 (B) concentrated form;
1145 (C) solid form;
1146 (D) frozen form;
1147 (E) dried form; or
1148 (F) dehydrated form; and
1149 (ii) that are:
1150 (A) sold for:
1151 (I) ingestion by humans; or
1152 (II) chewing by humans; and
1153 (B) consumed for the substance's:
1154 (I) taste; or
1155 (II) nutritional value.
1156 (b) "Food and food ingredients" includes an item described in Subsection [~~(66)~~]
1157 (75)(b)(iii).
1158 (c) "Food and food ingredients" does not include:
1159 (i) an alcoholic beverage;
1160 (ii) tobacco; or
1161 (iii) prepared food.
1162 [~~(35)~~] (41) (a) "Fundraising sales" means sales:
1163 (i) (A) made by a school; or
1164 (B) made by a school student;
1165 (ii) that are for the purpose of raising funds for the school to purchase equipment,
1166 materials, or provide transportation; and
1167 (iii) that are part of an officially sanctioned school activity.
1168 (b) For purposes of Subsection [~~(35)~~] (41)(a)(iii), "officially sanctioned school activity"
1169 means a school activity:
1170 (i) that is conducted in accordance with a formal policy adopted by the school or school
1171 district governing the authorization and supervision of fundraising activities;
1172 (ii) that does not directly or indirectly compensate an individual teacher or other
1173 educational personnel by direct payment, commissions, or payment in kind; and
1174 (iii) the net or gross revenues from which are deposited in a dedicated account

1175 controlled by the school or school district.

1176 ~~[(36)]~~ (42) "Geothermal energy" means energy contained in heat that continuously
1177 flows outward from the earth that is used as the sole source of energy to produce electricity.

1178 ~~[(37)]~~ (43) "Governing board of the agreement" means the governing board of the
1179 agreement that is:

1180 (a) authorized to administer the agreement; and

1181 (b) established in accordance with the agreement.

1182 ~~[(38)]~~ (44) (a) For purposes of Subsection 59-12-104(41), "governmental entity"

1183 means:

1184 (i) the executive branch of the state, including all departments, institutions, boards,
1185 divisions, bureaus, offices, commissions, and committees;

1186 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
1187 Office of the Court Administrator, and similar administrative units in the judicial branch;

1188 (iii) the legislative branch of the state, including the House of Representatives, the
1189 Senate, the Legislative Printing Office, the Office of Legislative Research and General
1190 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
1191 Analyst;

1192 (iv) the National Guard;

1193 (v) an independent entity as defined in Section 63E-1-102; or

1194 (vi) a political subdivision as defined in Section 17B-1-102.

1195 (b) "Governmental entity" does not include the state systems of public and higher
1196 education, including:

1197 (i) a college campus of the Utah College of Applied Technology;

1198 (ii) a school;

1199 (iii) the State Board of Education;

1200 (iv) the State Board of Regents; or

1201 (v) a state institution of higher education as defined in Section 53B-3-102.

1202 ~~[(39)]~~ (a) ~~"Hearing aid" means:~~

1203 ~~[(i) an instrument or device having an electronic component that is designed to:]~~

1204 ~~[(A) (I) improve impaired human hearing; or]~~

1205 ~~[(H) correct impaired human hearing; and]~~

1206 ~~[(B) (I) be worn in the human ear; or]~~
1207 ~~[(H) affixed behind the human ear;]~~
1208 ~~[(ii) an instrument or device that is surgically implanted into the cochlea; or]~~
1209 ~~[(iii) a telephone amplifying device;]~~
1210 ~~[(b) "Hearing aid" does not include:]~~
1211 ~~[(i) except as provided in Subsection (39)(a)(i)(B) or (39)(a)(ii), an instrument or~~
1212 ~~device having an electronic component that is designed to be worn on the body;]~~
1213 ~~[(ii) except as provided in Subsection (39)(a)(iii), an assistive listening device or~~
1214 ~~system designed to be used by one individual, including:]~~
1215 ~~[(A) a personal amplifying system;]~~
1216 ~~[(B) a personal FM system;]~~
1217 ~~[(C) a television listening system; or]~~
1218 ~~[(D) a device or system similar to a device or system described in Subsections~~
1219 ~~(39)(b)(ii)(A) through (C); or]~~
1220 ~~[(iii) an assistive listening device or system designed to be used by more than one~~
1221 ~~individual, including:]~~
1222 ~~[(A) a device or system installed in:]~~
1223 ~~[(I) an auditorium;]~~
1224 ~~[(H) a church;]~~
1225 ~~[(III) a conference room;]~~
1226 ~~[(IV) a synagogue; or]~~
1227 ~~[(V) a theater; or]~~
1228 ~~[(B) a device or system similar to a device or system described in Subsections~~
1229 ~~(39)(b)(iii)(A)(I) through (V).]~~
1230 ~~[(40) (a) "Hearing aid accessory" means a hearing aid:]~~
1231 ~~[(i) component;]~~
1232 ~~[(ii) attachment; or]~~
1233 ~~[(iii) accessory.]~~
1234 ~~[(b) "Hearing aid accessory" includes:]~~
1235 ~~[(i) a hearing aid neck loop;]~~
1236 ~~[(ii) a hearing aid cord;]~~

1237 ~~[(iii) a hearing aid ear mold;]~~
1238 ~~[(iv) hearing aid tubing;]~~
1239 ~~[(v) a hearing aid ear hook; or]~~
1240 ~~[(vi) a hearing aid remote control;]~~
1241 ~~[(c) "Hearing aid accessory" does not include:]~~
1242 ~~[(i) a component, attachment, or accessory designed to be used only with an:]~~
1243 ~~[(A) instrument or device described in Subsection (39)(b)(i); or]~~
1244 ~~[(B) assistive listening device or system described in Subsection (39)(b)(ii) or (iii); or]~~
1245 ~~[(ii) a hearing aid battery;]~~
1246 ~~[(41)]~~ (45) "Hydroelectric energy" means water used as the sole source of energy to
1247 produce electricity.
1248 ~~[(42)]~~ (46) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
1249 or other fuels:
1250 (a) in mining or extraction of minerals;
1251 (b) in agricultural operations to produce an agricultural product up to the time of
1252 harvest or placing the agricultural product into a storage facility, including:
1253 (i) commercial greenhouses;
1254 (ii) irrigation pumps;
1255 (iii) farm machinery;
1256 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
1257 registered under Title 41, Chapter 1a, Part 2, Registration; and
1258 (v) other farming activities;
1259 (c) in manufacturing tangible personal property at an establishment described in SIC
1260 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
1261 Executive Office of the President, Office of Management and Budget;
1262 (d) by a scrap recycler if:
1263 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
1264 one or more of the following items into prepared grades of processed materials for use in new
1265 products:
1266 (A) iron;
1267 (B) steel;

1268 (C) nonferrous metal;
1269 (D) paper;
1270 (E) glass;
1271 (F) plastic;
1272 (G) textile; or
1273 (H) rubber; and
1274 (ii) the new products under Subsection [~~(42)~~] (46)(d)(i) would otherwise be made with
1275 nonrecycled materials; or
1276 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
1277 cogeneration facility as defined in Section 54-2-1.
1278 [~~(43)~~] (47) (a) Except as provided in Subsection [~~(43)~~] (47)(b), "installation charge"
1279 means a charge for installing:
1280 (i) tangible personal property; or
1281 (ii) a product transferred electronically.
1282 (b) [~~Notwithstanding Subsection (43)(a), "installation"~~] "Installation charge" does not
1283 include a charge for repairs or renovations of:
1284 (i) tangible personal property; or
1285 (ii) a product transferred electronically.
1286 [~~(44)~~] (48) (a) "Lease" or "rental" means a transfer of possession or control of tangible
1287 personal property or a product transferred electronically for:
1288 (i) (A) a fixed term; or
1289 (B) an indeterminate term; and
1290 (ii) consideration.
1291 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
1292 amount of consideration may be increased or decreased by reference to the amount realized
1293 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
1294 Code.
1295 (c) "Lease" or "rental" does not include:
1296 (i) a transfer of possession or control of property under a security agreement or
1297 deferred payment plan that requires the transfer of title upon completion of the required
1298 payments;

1299 (ii) a transfer of possession or control of property under an agreement that requires the
1300 transfer of title:

1301 (A) upon completion of required payments; and

1302 (B) if the payment of an option price does not exceed the greater of:

1303 (I) \$100; or

1304 (II) 1% of the total required payments; or

1305 (iii) providing tangible personal property along with an operator for a fixed period of
1306 time or an indeterminate period of time if the operator is necessary for equipment to perform as
1307 designed.

1308 (d) For purposes of Subsection [~~(44)~~] (48)(c)(iii), an operator is necessary for
1309 equipment to perform as designed if the operator's duties exceed the:

1310 (i) set-up of tangible personal property;

1311 (ii) maintenance of tangible personal property; or

1312 (iii) inspection of tangible personal property.

1313 [~~(45)~~] (49) "Load and leave" means delivery to a purchaser by use of a tangible storage
1314 media if the tangible storage media is not physically transferred to the purchaser.

1315 [~~(46)~~] (50) "Local taxing jurisdiction" means a:

1316 (a) county that is authorized to impose an agreement sales and use tax;

1317 (b) city that is authorized to impose an agreement sales and use tax; or

1318 (c) town that is authorized to impose an agreement sales and use tax.

1319 [~~(47)~~] (51) "Manufactured home" is as defined in Section 58-56-3.

1320 [~~(48)~~] (52) For purposes of Section 59-12-104, "manufacturing facility" means:

1321 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard

1322 Industrial Classification Manual of the federal Executive Office of the President, Office of
1323 Management and Budget;

1324 (b) a scrap recycler if:

1325 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
1326 one or more of the following items into prepared grades of processed materials for use in new
1327 products:

1328 (A) iron;

1329 (B) steel;

1330 (C) nonferrous metal;
1331 (D) paper;
1332 (E) glass;
1333 (F) plastic;
1334 (G) textile; or
1335 (H) rubber; and
1336 (ii) the new products under Subsection [~~(48)~~] (52)(b)(i) would otherwise be made with
1337 nonrecycled materials; or
1338 (c) a cogeneration facility as defined in Section 54-2-1.
1339 [~~(49)~~] (53) "Member of the immediate family of the producer" means a person who is
1340 related to a producer described in Subsection 59-12-104(20)(a) as a:
1341 (a) child or stepchild, regardless of whether the child or stepchild is:
1342 (i) an adopted child or adopted stepchild; or
1343 (ii) a foster child or foster stepchild;
1344 (b) grandchild or stepgrandchild;
1345 (c) grandparent or stepgrandparent;
1346 (d) nephew or stepnephew;
1347 (e) niece or stepniece;
1348 (f) parent or stepparent;
1349 (g) sibling or stepsibling;
1350 (h) spouse;
1351 (i) person who is the spouse of a person described in Subsections [~~(49)~~] (53)(a) through
1352 (g); or
1353 (j) person similar to a person described in Subsections [~~(49)~~] (53)(a) through (i) as
1354 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah
1355 Administrative Rulemaking Act.
1356 [~~(50)~~] (54) "Mobile home" is as defined in Section 58-56-3.
1357 [~~(51)~~] (55) "Mobile telecommunications service" is as defined in the Mobile
1358 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
1359 (56) (a) "Mobile wireless service" means a telecommunications service, regardless of
1360 the technology used, if:

- 1361 (i) the origination point of the conveyance, routing, or transmission is fixed;
1362 (ii) the termination point of the conveyance, routing, or transmission is fixed; or
1363 (iii) the origination point described in Subsection (56)(a)(i) and the termination point
1364 described in Subsection (56)(a)(ii) are fixed.
- 1365 (b) "Mobile wireless service" includes a telecommunications service that is provided
1366 by a commercial mobile radio service provider.
- 1367 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1368 commission may by rule define "commercial mobile radio service provider."
- 1369 ~~[(52)]~~ (57) (a) Except as provided in Subsection ~~[(52)]~~ (57)(c), "mobility enhancing
1370 equipment" means equipment that is:
- 1371 (i) primarily and customarily used to provide or increase the ability to move from one
1372 place to another;
- 1373 (ii) appropriate for use in a:
- 1374 (A) home; or
- 1375 (B) motor vehicle; and
- 1376 (iii) not generally used by persons with normal mobility.
- 1377 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
1378 the equipment described in Subsection ~~[(52)]~~ (57)(a).
- 1379 (c) Notwithstanding Subsection ~~[(52)]~~ (57)(a), "mobility enhancing equipment" does
1380 not include:
- 1381 (i) a motor vehicle;
- 1382 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
1383 vehicle manufacturer;
- 1384 (iii) durable medical equipment; or
- 1385 (iv) a prosthetic device.
- 1386 ~~[(53)]~~ (58) "Model 1 seller" means a seller that has selected a certified service provider
1387 as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales
1388 and use taxes other than the seller's obligation under Section 59-12-107.4 to remit a tax on the
1389 seller's own purchases.
- 1390 ~~[(54)]~~ (59) "Model 2 seller" means a seller that:
- 1391 (a) except as provided in Subsection ~~[(54)]~~ (59)(b), has selected a certified automated

1392 system to perform the seller's sales tax functions for agreement sales and use taxes; and
1393 (b) notwithstanding Subsection [~~(54)~~] (59)(a), retains responsibility for remitting all of
1394 the sales tax:

1395 (i) collected by the seller; and

1396 (ii) to the appropriate local taxing jurisdiction.

1397 [~~(55)~~] (60) (a) Subject to Subsection [~~(55)~~] (60)(b), "model 3 seller" means a seller that
1398 has:

1399 (i) sales in at least five states that are members of the agreement;

1400 (ii) total annual sales revenues of at least \$500,000,000;

1401 (iii) a proprietary system that calculates the amount of tax:

1402 (A) for an agreement sales and use tax; and

1403 (B) due to each local taxing jurisdiction; and

1404 (iv) entered into a performance agreement with the governing board of the agreement.

1405 (b) For purposes of Subsection [~~(55)~~] (60)(a), "model 3 seller" includes an affiliated
1406 group of sellers using the same proprietary system.

1407 [~~(56)~~] (61) "Modular home" means a modular unit as defined in Section 58-56-3.

1408 [~~(57)~~] (62) "Motor vehicle" is as defined in Section 41-1a-102.

1409 [~~(58)~~] (63) "Oil shale" means a group of fine black to dark brown shales containing
1410 bituminous material that yields petroleum upon distillation.

1411 [~~(59)~~] (64) (a) "Other fuels" means products that burn independently to produce heat or
1412 energy.

1413 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
1414 personal property.

1415 (65) (a) "Paging service" means a telecommunications service that provides
1416 transmission of a coded radio signal for the purpose of activating a specific pager.

1417 (b) For purposes of Subsection (65)(a), the transmission of a coded radio signal
1418 includes a transmission by message or sound.

1419 [~~(60)~~] (66) "Pawnbroker" is as defined in Section 13-32a-102.

1420 [~~(61)~~] (67) "Pawn transaction" is as defined in Section 13-32a-102.

1421 [~~(62)~~] (68) (a) "Permanently attached to real property" means that for tangible personal
1422 property attached to real property:

- 1423 (i) the attachment of the tangible personal property to the real property:
1424 (A) is essential to the use of the tangible personal property; and
1425 (B) suggests that the tangible personal property will remain attached to the real
1426 property in the same place over the useful life of the tangible personal property; or
1427 (ii) if the tangible personal property is detached from the real property, the detachment
1428 would:
1429 (A) cause substantial damage to the tangible personal property; or
1430 (B) require substantial alteration or repair of the real property to which the tangible
1431 personal property is attached.
- 1432 (b) "Permanently attached to real property" includes:
1433 (i) the attachment of an accessory to the tangible personal property if the accessory is:
1434 (A) essential to the operation of the tangible personal property; and
1435 (B) attached only to facilitate the operation of the tangible personal property;
1436 (ii) a temporary detachment of tangible personal property from real property for a
1437 repair or renovation if the repair or renovation is performed where the tangible personal
1438 property and real property are located; or
1439 (iii) an attachment of the following tangible personal property to real property,
1440 regardless of whether the attachment to real property is only through a line that supplies water,
1441 electricity, gas, [~~telephone~~] telecommunications service, cable, or supplies a similar item as
1442 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah
1443 Administrative Rulemaking Act:
1444 (A) property attached to oil, gas, or water pipelines, other than the property listed in
1445 Subsection [~~(62)~~] (68)(c)(iii);
1446 (B) a hot water heater;
1447 (C) a water softener system; or
1448 (D) a water filtration system, other than a water filtration system manufactured as part
1449 of a refrigerator.
- 1450 (c) "Permanently attached to real property" does not include:
1451 (i) the attachment of portable or movable tangible personal property to real property if
1452 that portable or movable tangible personal property is attached to real property only for:
1453 (A) convenience;

1454 (B) stability; or
1455 (C) for an obvious temporary purpose;
1456 (ii) the detachment of tangible personal property from real property other than the
1457 detachment described in Subsection ~~[(62)]~~ (68)(b)(ii); or
1458 (iii) an attachment of the following tangible personal property to real property if the
1459 attachment to real property is only through a line that supplies water, electricity, gas,
1460 ~~[telephone]~~ telecommunications, cable, or supplies a similar item as determined by the
1461 commission by rule made in accordance with Title 63, Chapter 46a, Utah Administrative
1462 Rulemaking Act:
1463 (A) a refrigerator;
1464 (B) a washer;
1465 (C) a dryer;
1466 (D) a stove;
1467 (E) a television;
1468 (F) a computer;
1469 (G) a telephone; or
1470 (H) tangible personal property similar to Subsections ~~[(62)]~~ (68)(c)(iii)(A) through (G)
1471 as determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah
1472 Administrative Rulemaking Act.
1473 ~~[(63)]~~ (69) "Person" includes any individual, firm, partnership, joint venture,
1474 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
1475 city, municipality, district, or other local governmental entity of the state, or any group or
1476 combination acting as a unit.
1477 ~~[(64)]~~ (70) "Place of primary use":
1478 (a) for ~~[telephone]~~ telecommunications service other than mobile telecommunications
1479 service, means the street address representative of where the purchaser's use of the ~~[telephone]~~
1480 telecommunications service primarily occurs, which shall be:
1481 (i) the residential street address of the purchaser; or
1482 (ii) the primary business street address of the purchaser; or
1483 (b) for mobile telecommunications service, is as defined in the Mobile
1484 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1485 (71) (a) "Postpaid calling service" means a telecommunications service a person
1486 obtains by making a payment on a call-by-call basis:
1487 (i) through the use of a:
1488 (A) bank card;
1489 (B) credit card;
1490 (C) debit card; or
1491 (D) travel card; or
1492 (ii) by a charge made to a telephone number that is not associated with the origination
1493 or termination of the telecommunications service.
1494 (b) "Postpaid calling service" includes a service that would be a prepaid wireless
1495 calling service if the service were exclusively a telecommunications service.
1496 ~~[(65)]~~ (72) "Postproduction" means an activity related to the finishing or duplication of
1497 a medium described in Subsection 59-12-104[~~(56)~~] (55)(a).
1498 (73) "Prepaid calling service" means a telecommunications service:
1499 (a) that allows a purchaser access to telecommunications service that is exclusively
1500 telecommunications service;
1501 (b) that:
1502 (i) is paid for in advance; and
1503 (ii) enables the origination of a call using an:
1504 (A) access number; or
1505 (B) authorization code;
1506 (c) that is dialed:
1507 (i) manually; or
1508 (ii) electronically; and
1509 (d) sold in predetermined units or dollars that decline:
1510 (i) by a known amount; and
1511 (ii) with use.
1512 (74) "Prepaid wireless calling service" means a telecommunications service:
1513 (a) that provides the right to utilize:
1514 (i) mobile wireless service; and
1515 (ii) other service that is not a telecommunications service, including:

- 1516 (A) the download of a product transferred electronically;
1517 (B) a content service; or
1518 (C) an ancillary service;
1519 (b) that:
1520 (i) is paid for in advance; and
1521 (ii) enables the origination of a call using an:
1522 (A) access number; or
1523 (B) authorization code;
1524 (c) that is dialed:
1525 (i) manually; or
1526 (ii) electronically; and
1527 (d) sold in predetermined units or dollars that decline:
1528 (i) by a known amount; and
1529 (ii) with use.
1530 [~~66~~] (75) (a) "Prepared food" means:
1531 (i) food:
1532 (A) sold in a heated state; or
1533 (B) heated by a seller;
1534 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
1535 item; or
1536 (iii) except as provided in Subsection [~~66~~] (75)(c), food sold with an eating utensil
1537 provided by the seller, including a:
1538 (A) plate;
1539 (B) knife;
1540 (C) fork;
1541 (D) spoon;
1542 (E) glass;
1543 (F) cup;
1544 (G) napkin; or
1545 (H) straw.
1546 (b) "Prepared food" does not include:

- 1547 (i) food that a seller only:
1548 (A) cuts;
1549 (B) repackages; or
1550 (C) pasteurizes; or
1551 (ii) (A) the following:
1552 (I) raw egg;
1553 (II) raw fish;
1554 (III) raw meat;
1555 (IV) raw poultry; or
1556 (V) a food containing an item described in Subsections [~~(66)~~] (75)(b)(ii)(A)(I) through
1557 (IV); and
1558 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
1559 Food and Drug Administration's Food Code that a consumer cook the items described in
1560 Subsection [~~(66)~~] (75)(b)(ii)(A) to prevent food borne illness; or
1561 (iii) the following if sold without eating utensils provided by the seller:
1562 (A) food and food ingredients sold by a seller if the seller's proper primary
1563 classification under the 2002 North American Industry Classification System of the federal
1564 Executive Office of the President, Office of Management and Budget, is manufacturing in
1565 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
1566 Manufacturing;
1567 (B) food and food ingredients sold in an unheated state:
1568 (I) by weight or volume; and
1569 (II) as a single item; or
1570 (C) a bakery item, including:
1571 (I) a bagel;
1572 (II) a bar;
1573 (III) a biscuit;
1574 (IV) bread;
1575 (V) a bun;
1576 (VI) a cake;
1577 (VII) a cookie;

- 1578 (VIII) a croissant;
- 1579 (IX) a danish;
- 1580 (X) a donut;
- 1581 (XI) a muffin;
- 1582 (XII) a pastry;
- 1583 (XIII) a pie;
- 1584 (XIV) a roll;
- 1585 (XV) a tart;
- 1586 (XVI) a torte; or
- 1587 (XVII) a tortilla.

1588 (c) Notwithstanding Subsection [~~66~~] (75)(a)(iii), an eating utensil provided by the
1589 seller does not include the following used to transport the food:

- 1590 (i) a container; or
- 1591 (ii) packaging.

1592 [~~67~~] (76) "Prescription" means an order, formula, or recipe that is issued:

- 1593 (a) (i) orally;
- 1594 (ii) in writing;
- 1595 (iii) electronically; or

1596 (iv) by any other manner of transmission; and

1597 (b) by a licensed practitioner authorized by the laws of a state.

1598 [~~68~~] (77) (a) Except as provided in Subsection [~~68~~] (77)(b)(ii) or (iii), "prewritten
1599 computer software" means computer software that is not designed and developed:

- 1600 (i) by the author or other creator of the computer software; and
- 1601 (ii) to the specifications of a specific purchaser.

1602 (b) "Prewritten computer software" includes:

1603 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
1604 software is not designed and developed:

1605 (A) by the author or other creator of the computer software; and

1606 (B) to the specifications of a specific purchaser;

1607 (ii) notwithstanding Subsection [~~68~~] (77)(a), computer software designed and
1608 developed by the author or other creator of the computer software to the specifications of a

1609 specific purchaser if the computer software is sold to a person other than the purchaser; or

1610 (iii) notwithstanding Subsection [(68)] (77)(a) and except as provided in Subsection
1611 [(68)] (77)(c), prewritten computer software or a prewritten portion of prewritten computer
1612 software:

1613 (A) that is modified or enhanced to any degree; and

1614 (B) if the modification or enhancement described in Subsection [(68)] (77)(b)(iii)(A) is
1615 designed and developed to the specifications of a specific purchaser.

1616 (c) Notwithstanding Subsection [(68)] (77)(b)(iii), "prewritten computer software"
1617 does not include a modification or enhancement described in Subsection [(68)] (77)(b)(iii) if
1618 the charges for the modification or enhancement are:

1619 (i) reasonable; and

1620 (ii) separately stated on the invoice or other statement of price provided to the
1621 purchaser.

1622 (78) (a) "Private communication service" means a telecommunications service:

1623 (i) that entitles a customer to exclusive or priority use of one or more communications
1624 channels between or among termination points; and

1625 (ii) regardless of the manner in which the one or more communications channels are
1626 connected.

1627 (b) "Private communications service" includes the following provided in connection
1628 with the use of one or more communications channels:

1629 (i) an extension line;

1630 (ii) a station; or

1631 (iii) switching capacity.

1632 [(69)] (79) (a) "Prosthetic device" means a device that is worn on or in the body to:

1633 (i) artificially replace a missing portion of the body;

1634 (ii) prevent or correct a physical deformity or physical malfunction; or

1635 (iii) support a weak or deformed portion of the body.

1636 (b) "Prosthetic device" includes:

1637 (i) parts used in the repairs or renovation of a prosthetic device;

1638 (ii) replacement parts for a prosthetic device; [or]

1639 (iii) a dental prosthesis[-]; or

1640 (iv) a hearing aid.
1641 (c) "Prosthetic device" does not include:
1642 (i) corrective eyeglasses; or
1643 (ii) contact lenses[~~;~~~~or~~].
1644 [~~(iii) hearing aids.~~]
1645 [~~(70)~~] (80) (a) "Protective equipment" means an item:
1646 (i) for human wear; and
1647 (ii) that is:
1648 (A) designed as protection:
1649 (I) to the wearer against injury or disease; or
1650 (II) against damage or injury of other persons or property; and
1651 (B) not suitable for general use.
1652 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1653 commission shall make rules:
1654 (i) listing the items that constitute "protective equipment"; and
1655 (ii) that are consistent with the list of items that constitute "protective equipment"
1656 under the agreement.
1657 [~~(71)~~] (81) (a) For purposes of Subsection 59-12-104(41), "publication" means any
1658 written or printed matter, other than a photocopy:
1659 (i) regardless of:
1660 (A) characteristics;
1661 (B) copyright;
1662 (C) form;
1663 (D) format;
1664 (E) method of reproduction; or
1665 (F) source; and
1666 (ii) made available in printed or electronic format.
1667 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1668 commission may by rule define the term "photocopy."
1669 [~~(72)~~] (82) (a) "Purchase price" and "sales price" mean the total amount of
1670 consideration:

1671 (i) valued in money; and
1672 (ii) for which tangible personal property, a product transferred electronically, or
1673 services are:
1674 (A) sold;
1675 (B) leased; or
1676 (C) rented.
1677 (b) "Purchase price" and "sales price" include:
1678 (i) the seller's cost of the tangible personal property, a product transferred
1679 electronically, or services sold;
1680 (ii) expenses of the seller, including:
1681 (A) the cost of materials used;
1682 (B) a labor cost;
1683 (C) a service cost;
1684 (D) interest;
1685 (E) a loss;
1686 (F) the cost of transportation to the seller; or
1687 (G) a tax imposed on the seller; ~~[or]~~
1688 (iii) a charge by the seller for any service necessary to complete the sale[-]; or
1689 (iv) consideration a seller receives from a person other than the purchaser if:
1690 (A) (I) the seller actually receives consideration from a person other than the purchaser;
1691 and
1692 (II) the consideration described in Subsection (82)(b)(iv)(A)(I) is directly related to a
1693 price reduction or discount on the sale;
1694 (B) the seller has an obligation to pass the price reduction or discount through to the
1695 purchaser;
1696 (C) the amount of the consideration attributable to the sale is fixed and determinable by
1697 the seller at the time of the sale to the purchaser; and
1698 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
1699 seller to claim a price reduction or discount; and
1700 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
1701 coupon, or other documentation with the understanding that the person other than the seller

1702 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1703 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1704 organization allowed a price reduction or discount, except that a preferred customer card that is
1705 available to any patron of a seller does not constitute membership in a group or organization
1706 allowed a price reduction or discount; or

1707 (III) the price reduction or discount is identified as a third party price reduction or
1708 discount on the:

1709 (Aa) invoice the purchaser receives; or

1710 (Bb) certificate, coupon, or other documentation the purchaser presents.

1711 (c) "Purchase price" and "sales price" do not include:

1712 (i) a discount:

1713 (A) in a form including:

1714 (I) cash;

1715 (II) term; or

1716 (III) coupon;

1717 (B) that is allowed by a seller;

1718 (C) taken by a purchaser on a sale; and

1719 (D) that is not reimbursed by a third party; or

1720 (ii) the following if separately stated on an invoice, bill of sale, or similar document
1721 provided to the purchaser:

1722 [~~(A)~~ the amount of a trade-in;]

1723 [~~(B)~~ (A) the following from credit extended on the sale of tangible personal property
1724 or services:

1725 (I) [~~interest charges~~] a carrying charge;

1726 (II) a financing [~~charges~~] charge; or

1727 (III) [~~carrying charges~~] an interest charge;

1728 [~~(C)~~ a tax or fee legally imposed directly on the consumer;]

1729 [~~(D)~~ (B) a delivery charge; ~~or~~]

1730 [~~(E)~~ (C) an installation charge[-];

1731 (D) a manufacturer rebate on a motor vehicle; or

1732 (E) a tax or fee legally imposed directly on the consumer.

1733 ~~[(73)]~~ (83) "Purchaser" means a person to whom:
1734 (a) a sale of tangible personal property is made; ~~[or]~~
1735 **(b) a product is transferred electronically; or**
1736 ~~[(b)]~~ (c) a service is furnished.
1737 ~~[(74)]~~ (84) "Regularly rented" means:
1738 (a) rented to a guest for value three or more times during a calendar year; or
1739 (b) advertised or held out to the public as a place that is regularly rented to guests for
1740 value.
1741 ~~[(75)]~~ (85) "Renewable energy" means:
1742 (a) biomass energy;
1743 (b) hydroelectric energy;
1744 (c) geothermal energy;
1745 (d) solar energy; or
1746 (e) wind energy.
1747 ~~[(76)]~~ (86) (a) "Renewable energy production facility" means a facility that:
1748 (i) uses renewable energy to produce electricity; and
1749 (ii) has a production capacity of 20 kilowatts or greater.
1750 (b) A facility is a renewable energy production facility regardless of whether the
1751 facility is:
1752 (i) connected to an electric grid; or
1753 (ii) located on the premises of an electricity consumer.
1754 ~~[(77)]~~ (87) "Rental" is as defined in Subsection ~~[(44)]~~ (48).
1755 ~~[(78)]~~ (88) "Repairs or renovations of tangible personal property" means:
1756 (a) a repair or renovation of tangible personal property that is not permanently attached
1757 to real property; or
1758 (b) attaching tangible personal property or a product that is transferred electronically to
1759 other tangible personal property if the other tangible personal property to which the tangible
1760 personal property or product that is transferred electronically is attached is not permanently
1761 attached to real property.
1762 ~~[(79)]~~ (89) "Research and development" means the process of inquiry or
1763 experimentation aimed at the discovery of facts, devices, technologies, or applications and the

1764 process of preparing those devices, technologies, or applications for marketing.

1765 (90) (a) "Residential telecommunications services" means a telecommunications
1766 service or an ancillary service that is provided to an individual for personal use:

1767 (i) at a residential address; or

1768 (ii) at an institution, including a nursing home or a school, if the telecommunications
1769 service or ancillary service is provided to and paid for by the individual residing at the
1770 institution rather than the institution.

1771 (b) For purposes of Subsection (90)(a), a residential address includes an:

1772 (i) apartment; or

1773 (ii) other individual dwelling unit.

1774 ~~[(80)]~~ (91) "Residential use" means the use in or around a home, apartment building,
1775 sleeping quarters, and similar facilities or accommodations.

1776 ~~[(81)]~~ (92) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
1777 other than:

1778 (a) resale;

1779 (b) sublease; or

1780 (c) subrent.

1781 ~~[(82)]~~ (93) (a) "Retailer" means any person engaged in a regularly organized business
1782 in tangible personal property or any other taxable transaction under Subsection 59-12-103(1),
1783 and who is selling to the user or consumer and not for resale.

1784 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1785 engaged in the business of selling to users or consumers within the state.

1786 ~~[(83)]~~ (94) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1787 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1788 Subsection 59-12-103(1), for consideration.

1789 (b) "Sale" includes:

1790 (i) installment and credit sales;

1791 (ii) any closed transaction constituting a sale;

1792 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1793 chapter;

1794 (iv) any transaction if the possession of property is transferred but the seller retains the

1795 title as security for the payment of the price; and

1796 (v) any transaction under which right to possession, operation, or use of any article of
1797 tangible personal property is granted under a lease or contract and the transfer of possession
1798 would be taxable if an outright sale were made.

1799 [~~(84)~~] (95) "Sale at retail" is as defined in Subsection [~~(81)~~] (92).

1800 [~~(85)~~] (96) "Sale-leaseback transaction" means a transaction by which title to tangible
1801 personal property or a product transferred electronically that is subject to a tax under this
1802 chapter is transferred:

1803 (a) by a purchaser-lessee;

1804 (b) to a lessor;

1805 (c) for consideration; and

1806 (d) if:

1807 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1808 of the tangible personal property or product transferred electronically;

1809 (ii) the sale of the tangible personal property or product transferred electronically to the
1810 lessor is intended as a form of financing:

1811 (A) for the tangible personal property or product transferred electronically; and

1812 (B) to the purchaser-lessee; and

1813 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1814 is required to:

1815 (A) capitalize the tangible personal property or product transferred electronically for
1816 financial reporting purposes; and

1817 (B) account for the lease payments as payments made under a financing arrangement.

1818 [~~(86)~~] (97) "Sales price" is as defined in Subsection [~~(72)~~] (82).

1819 [~~(87)~~] (98) (a) "Sales relating to schools" means the following sales by, amounts paid
1820 to, or amounts charged by a school:

1821 (i) sales that are directly related to the school's educational functions or activities
1822 including:

1823 (A) the sale of:

1824 (I) textbooks;

1825 (II) textbook fees;

1826 (III) laboratory fees;
1827 (IV) laboratory supplies; or
1828 (V) safety equipment;
1829 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
1830 that:
1831 (I) a student is specifically required to wear as a condition of participation in a
1832 school-related event or school-related activity; and
1833 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1834 place of ordinary clothing;
1835 (C) sales of the following if the net or gross revenues generated by the sales are
1836 deposited into a school district fund or school fund dedicated to school meals:
1837 (I) food and food ingredients; or
1838 (II) prepared food; or
1839 (D) transportation charges for official school activities; or
1840 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1841 event or school-related activity.
1842 (b) "Sales relating to schools" does not include:
1843 (i) bookstore sales of items that are not educational materials or supplies;
1844 (ii) except as provided in Subsection [~~(87)~~] (98)(a)(i)(B):
1845 (A) clothing;
1846 (B) clothing accessories or equipment;
1847 (C) protective equipment; or
1848 (D) sports or recreational equipment; or
1849 (iii) amounts paid to or amounts charged by a school for admission to a school-related
1850 event or school-related activity if the amounts paid or charged are passed through to a person:
1851 (A) other than a:
1852 (I) school;
1853 (II) nonprofit organization authorized by a school board or a governing body of a
1854 private school to organize and direct a competitive secondary school activity; or
1855 (III) nonprofit association authorized by a school board or a governing body of a
1856 private school to organize and direct a competitive secondary school activity; and

1857 (B) that is required to collect sales and use taxes under this chapter.

1858 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1859 commission may make rules defining the term "passed through."

1860 ~~[(88)]~~ (99) For purposes of this section and Section 59-12-104, "school":

1861 (a) means:

1862 (i) an elementary school or a secondary school that:

1863 (A) is a:

1864 (I) public school; or

1865 (II) private school; and

1866 (B) provides instruction for one or more grades kindergarten through 12; or

1867 (ii) a public school district; and

1868 (b) includes the Electronic High School as defined in Section 53A-15-1002.

1869 ~~[(89)]~~ (100) "Seller" means a person that makes a sale, lease, or rental of:

1870 (a) tangible personal property; ~~[or]~~

1871 (b) a product transferred electronically; or

1872 ~~[(b)]~~ (c) a service.

1873 ~~[(90)]~~ (101) (a) "Semiconductor fabricating, processing, research, or development

1874 materials" means tangible personal property or a product transferred electronically if the

1875 tangible personal property or product transferred electronically is:

1876 (i) used primarily in the process of:

1877 (A) (I) manufacturing a semiconductor;

1878 (II) fabricating a semiconductor; or

1879 (III) research or development of a:

1880 (Aa) semiconductor; or

1881 (Bb) semiconductor manufacturing process; or

1882 (B) maintaining an environment suitable for a semiconductor; or

1883 (ii) consumed primarily in the process of:

1884 (A) (I) manufacturing a semiconductor;

1885 (II) fabricating a semiconductor; or

1886 (III) research or development of a:

1887 (Aa) semiconductor; or

1888 (Bb) semiconductor manufacturing process; or
1889 (B) maintaining an environment suitable for a semiconductor.
1890 (b) "Semiconductor fabricating, processing, research, or development materials"
1891 includes:
1892 (i) parts used in the repairs or renovations of tangible personal property or a product
1893 transferred electronically described in Subsection [~~(90)~~] (101)(a); or
1894 (ii) a chemical, catalyst, or other material used to:
1895 (A) produce or induce in a semiconductor a:
1896 (I) chemical change; or
1897 (II) physical change;
1898 (B) remove impurities from a semiconductor; or
1899 (C) improve the marketable condition of a semiconductor.
1900 [~~(91)~~] (102) "Senior citizen center" means a facility having the primary purpose of
1901 providing services to the aged as defined in Section 62A-3-101.
1902 [~~(92)~~] (103) "Simplified electronic return" means the electronic return:
1903 (a) described in Section 318(C) of the agreement; and
1904 (b) approved by the governing board of the agreement.
1905 [~~(93)~~] (104) "Solar energy" means the sun used as the sole source of energy for
1906 producing electricity.
1907 [~~(94)~~] (105) (a) "Sports or recreational equipment" means an item:
1908 (i) designed for human use; and
1909 (ii) that is:
1910 (A) worn in conjunction with:
1911 (I) an athletic activity; or
1912 (II) a recreational activity; and
1913 (B) not suitable for general use.
1914 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1915 commission shall make rules:
1916 (i) listing the items that constitute "sports or recreational equipment"; and
1917 (ii) that are consistent with the list of items that constitute "sports or recreational
1918 equipment" under the agreement.

1919 ~~[(95)]~~ (106) "State" means the state of Utah, its departments, and agencies.
1920 ~~[(96)]~~ (107) "Storage" means any keeping or retention of tangible personal property or
1921 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
1922 except sale in the regular course of business.

1923 ~~[(97)]~~ (108) (a) Except as provided in Subsection (108)(c), "[Tangible] tangible
1924 personal property" means personal property that:

- 1925 (i) may be:
1926 (A) seen;
1927 (B) weighed;
1928 (C) measured;
1929 (D) felt; or
1930 (E) touched; or
1931 (ii) is in any manner perceptible to the senses.

1932 (b) "Tangible personal property" includes:

- 1933 (i) electricity;
1934 (ii) water;
1935 (iii) gas;
1936 (iv) steam; or
1937 (v) prewritten computer software.

1938 (c) "Tangible personal property" does not include a product that is transferred
1939 electronically.

1940 ~~[(98)]~~ (109) "Tar sands" means impregnated sands that yield mixtures of liquid
1941 hydrocarbon and require further processing other than mechanical blending before becoming
1942 finished petroleum products.

1943 ~~[(99)]~~ (110) (a) "Telecommunications enabling or facilitating equipment, machinery, or
1944 software" means an item listed in Subsection ~~[(99)]~~ (110)(b) if that item is purchased or leased
1945 primarily to enable or facilitate one or more of the following to function:

- 1946 (i) telecommunications switching or routing equipment, machinery, or software; or
1947 (ii) telecommunications transmission equipment, machinery, or software.
1948 (b) The following apply to Subsection ~~[(99)]~~ (110)(a):
1949 (i) a pole;

1950 (ii) software;
1951 (iii) a supplementary power supply;
1952 (iv) temperature or environmental equipment or machinery;
1953 (v) test equipment;
1954 (vi) a tower; or
1955 (vii) equipment, machinery, or software that functions similarly to an item listed in
1956 Subsections ~~[(99)]~~ (110)(b)(i) through (vi) as determined by the commission by rule made in
1957 accordance with Subsection ~~[(99)]~~ (110)(c).

1958 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1959 commission may by rule define what constitutes equipment, machinery, or software that
1960 functions similarly to an item listed in Subsections ~~[(99)]~~ (110)(b)(i) through (vi).

1961 ~~[(100)]~~ (111) "Telecommunications equipment, machinery, or software required for
1962 911 service" means equipment, machinery, or software that is required to comply with 47
1963 C.F.R. Sec. 20.18.

1964 ~~[(101)]~~ (112) "Telecommunications maintenance or repair equipment, machinery, or
1965 software" means equipment, machinery, or software purchased or leased primarily to maintain
1966 or repair one or more of the following, regardless of whether the equipment, machinery, or
1967 software is purchased or leased as a spare part or as an upgrade or modification to one or more
1968 of the following:

1969 (a) telecommunications enabling or facilitating equipment, machinery, or software;
1970 (b) telecommunications switching or routing equipment, machinery, or software; or
1971 (c) telecommunications transmission equipment, machinery, or software.

1972 (113) (a) "Telecommunications service" means the electronic conveyance, routing, or
1973 transmission of audio, data, video, voice, or any other information or signal to a point, or
1974 among or between points.

1975 (b) "Telecommunications service" includes:

1976 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1977 processing application is used to act:

1978 (A) on the code, form, or protocol of the content;

1979 (B) for the purpose of electronic conveyance, routing, or transmission; and

1980 (C) regardless of whether the service;

1981 (I) is referred to as voice over Internet protocol service; or
1982 (II) is classified by the Federal Communications Commission as enhanced or value
1983 added;
1984 (ii) an 800 service;
1985 (iii) a 900 service;
1986 (iv) a fixed wireless service;
1987 (v) a mobile wireless service;
1988 (vi) a postpaid calling service;
1989 (vii) a prepaid calling service;
1990 (viii) a prepaid wireless calling service; or
1991 (ix) a private communications service.
1992 (c) "Telecommunications service" does not include:
1993 (i) advertising, including directory advertising;
1994 (ii) an ancillary service;
1995 (iii) a billing and collection service provided to a third party;
1996 (iv) a data processing and information service if:
1997 (A) the data processing and information service allows data to be:
1998 (I) (Aa) acquired;
1999 (Bb) generated;
2000 (Cc) processed;
2001 (Dd) retrieved; or
2002 (Ee) stored; and
2003 (II) delivered by an electronic transmission to a purchaser; and
2004 (B) the purchaser's primary purpose for the underlying transaction is the processed data
2005 or information;
2006 (v) installation or maintenance of the following on a customer's premises:
2007 (A) equipment; or
2008 (B) wiring;
2009 (vi) Internet access service;
2010 (vii) a paging service;
2011 (viii) a product transferred electronically, including:

2012 (A) music;
2013 (B) reading material;
2014 (C) a ring tone;
2015 (D) software; or
2016 (E) video;
2017 (ix) a radio and television audio and video programming service;
2018 (A) regardless of the medium; and
2019 (B) including:
2020 (I) furnishing conveyance, routing, or transmission of a television audio and video
2021 programming service by a programming service provider;
2022 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
2023 (III) audio and video programming services delivered by a commercial mobile radio
2024 service provider as defined in 47 C.F.R. Sec. 20.3;
2025 (x) a value-added nonvoice data service; or
2026 (xi) tangible personal property.
2027 ~~[(+06)]~~ (114) (a) "~~Telephone~~ Telecommunications service provider" means a person
2028 that:
2029 (i) owns, controls, operates, or manages a ~~[telephone]~~ telecommunications service; and
2030 (ii) engages in an activity described in Subsection ~~[(+06)]~~ (114)(a)(i) for the shared use
2031 with or resale to any person of the ~~[telephone]~~ telecommunications service.
2032 (b) A person described in Subsection ~~[(+06)]~~ (114)(a) is a ~~[telephone]~~
2033 telecommunications service provider whether or not the Public Service Commission of Utah
2034 regulates:
2035 (i) that person; or
2036 (ii) the ~~[telephone]~~ telecommunications service that the person owns, controls,
2037 operates, or manages.
2038 ~~[(+02)]~~ (115) (a) "Telecommunications switching or routing equipment, machinery, or
2039 software" means an item listed in Subsection ~~[(+02)]~~ (115)(b) if that item is purchased or
2040 leased primarily for switching or routing:
2041 (i) an ancillary service;
2042 ~~[(i) voice]~~ (ii) data communications;

2043 [~~(ii) data~~] (iii) voice communications; or

2044 [~~(iii) telephone~~] (iv) telecommunications service.

2045 (b) The following apply to Subsection [~~(102)~~] (115)(a):

2046 (i) a bridge;

2047 (ii) a computer;

2048 (iii) a cross connect;

2049 (iv) a modem;

2050 (v) a multiplexer;

2051 (vi) plug in circuitry;

2052 (vii) a router;

2053 (viii) software;

2054 (ix) a switch; or

2055 (x) equipment, machinery, or software that functions similarly to an item listed in

2056 Subsections [~~(102)~~] (115)(b)(i) through (ix) as determined by the commission by rule made in

2057 accordance with Subsection [~~(102)~~] (115)(c).

2058 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

2059 commission may by rule define what constitutes equipment, machinery, or software that

2060 functions similarly to an item listed in Subsections [~~(102)~~] (115)(b)(i) through (ix).

2061 [~~(103)~~] (116) (a) "Telecommunications transmission equipment, machinery, or

2062 software" means an item listed in Subsection [~~(103)~~] (116)(b) if that item is purchased or

2063 leased primarily for sending, receiving, or transporting:

2064 (i) an ancillary service;

2065 [~~(i) voice~~] (ii) data communications;

2066 [~~(ii) data~~] (iii) voice communications; or

2067 [~~(iii) telephone~~] (iv) telecommunications service.

2068 (b) The following apply to Subsection [~~(103)~~] (116)(a):

2069 (i) an amplifier;

2070 (ii) a cable;

2071 (iii) a closure;

2072 (iv) a conduit;

2073 (v) a controller;

2074 (vi) a duplexer;
 2075 (vii) a filter;
 2076 (viii) an input device;
 2077 (ix) an input/output device;
 2078 (x) an insulator;
 2079 (xi) microwave machinery or equipment;
 2080 (xii) an oscillator;
 2081 (xiii) an output device;
 2082 (xiv) a pedestal;
 2083 (xv) a power converter;
 2084 (xvi) a power supply;
 2085 (xvii) a radio channel;
 2086 (xviii) a radio receiver;
 2087 (xix) a radio transmitter;
 2088 (xx) a repeater;
 2089 (xxi) software;
 2090 (xxii) a terminal;
 2091 (xxiii) a timing unit;
 2092 (xxiv) a transformer;
 2093 (xxv) a wire; or
 2094 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
 2095 Subsections ~~[(103)]~~ (116)(b)(i) through (xxv) as determined by the commission by rule made in
 2096 accordance with Subsection ~~[(103)]~~ (116)(c).
 2097 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
 2098 commission may by rule define what constitutes equipment, machinery, or software that
 2099 functions similarly to an item listed in Subsections ~~[(103)]~~ (116)(b)(i) through (xxv).
 2100 ~~[(104) (a) "Telephone service" means a two-way transmission:]~~
 2101 ~~[(i) by:]~~
 2102 ~~[(A) wire;]~~
 2103 ~~[(B) radio;]~~
 2104 ~~[(C) lightwave; or]~~

2105 ~~[(D) other electromagnetic means; and]~~
2106 ~~[(ii) of one or more of the following:]~~
2107 ~~[(A) a sign;]~~
2108 ~~[(B) a signal;]~~
2109 ~~[(C) writing;]~~
2110 ~~[(D) an image;]~~
2111 ~~[(E) sound;]~~
2112 ~~[(F) a message;]~~
2113 ~~[(G) data; or]~~
2114 ~~[(H) other information of any nature.]~~
2115 ~~[(b) "Telephone service" includes:]~~
2116 ~~[(i) mobile telecommunications service;]~~
2117 ~~[(ii) private communications service; or]~~
2118 ~~[(iii) automated digital telephone answering service.]~~
2119 ~~[(c) "Telephone service" does not include a service or a transaction that a state or a~~
2120 ~~political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet~~
2121 ~~Tax Freedom Act, Pub. L. No. 105-277.]~~
2122 ~~[(105) Notwithstanding where a call is billed or paid, "telephone service address"~~
2123 ~~means:]~~
2124 ~~[(a) if the location described in this Subsection (105)(a) is known, the location of the~~
2125 ~~telephone service equipment:]~~
2126 ~~[(i) to which a call is charged; and]~~
2127 ~~[(ii) from which the call originates or terminates;]~~
2128 ~~[(b) if the location described in Subsection (105)(a) is not known but the location~~
2129 ~~described in this Subsection (105)(b) is known, the location of the origination point of the~~
2130 ~~signal of the telephone service first identified by:]~~
2131 ~~[(i) the telecommunications system of the seller; or]~~
2132 ~~[(ii) if the system used to transport the signal is not that of the seller, information~~
2133 ~~received by the seller from its service provider; or]~~
2134 ~~[(c) if the locations described in Subsection (105)(a) or (b) are not known, the location~~
2135 ~~of a purchaser's primary place of use.]~~

2136 ~~[(107)]~~ (117) "Tobacco" means:

2137 (a) a cigarette;

2138 (b) a cigar;

2139 (c) chewing tobacco;

2140 (d) pipe tobacco; or

2141 (e) any other item that contains tobacco.

2142 ~~[(108)]~~ (118) "Unassisted amusement device" means an amusement device, skill

2143 device, or ride device that is started and stopped by the purchaser or renter of the right to use or

2144 operate the amusement device, skill device, or ride device.

2145 ~~[(109)]~~ (119) (a) "Use" means the exercise of any right or power over tangible personal

2146 property, a product transferred electronically, or a service under Subsection 59-12-103(1),

2147 incident to the ownership or the leasing of that tangible personal property, ~~[item]~~ product

2148 transferred electronically, or service.

2149 (b) "Use" does not include the sale, display, demonstration, or trial of ~~[that property]~~

2150 tangible personal property, a product transferred electronically, or a service in the regular

2151 course of business and held for resale.

2152 (120) "Value-added nonvoice data service" means a service:

2153 (a) that otherwise meets the definition of a telecommunications service except that a

2154 computer processing application is used to act primarily for a purpose other than conveyance,

2155 routing, or transmission; and

2156 (b) with respect to which a computer processing application is used to act on data or

2157 information:

2158 (i) code;

2159 (ii) content;

2160 (iii) form; or

2161 (iv) protocol.

2162 ~~[(110)]~~ (121) (a) Subject to Subsection ~~[(110)]~~ (121)(b), "vehicle" means the following

2163 that are required to be titled, registered, or titled and registered:

2164 (i) an aircraft as defined in Section 72-10-102;

2165 (ii) a vehicle as defined in Section 41-1a-102;

2166 (iii) an off-highway vehicle as defined in Section 41-22-2; or

- 2167 (iv) a vessel as defined in Section 41-1a-102.
- 2168 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 2169 (i) a vehicle described in Subsection [~~(110)~~] (121)(a); or
- 2170 (ii) (A) a locomotive;
- 2171 (B) a freight car;
- 2172 (C) railroad work equipment; or
- 2173 (D) other railroad rolling stock.
- 2174 [~~(11)~~] (122) "Vehicle dealer" means a person engaged in the business of buying,
- 2175 selling, or exchanging a vehicle as defined in Subsection [~~(110)~~] (121).
- 2176 (123) (a) "Vertical service" means an ancillary service that:
- 2177 (i) is offered in connection with one or more telecommunications services; and
- 2178 (ii) offers an advanced calling feature that allows a customer to:
- 2179 (A) identify a caller; and
- 2180 (B) manage multiple calls and call connections.
- 2181 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 2182 conference bridging service.
- 2183 (124) (a) "Voice mail service" means an ancillary service that enables a customer to
- 2184 receive, send, or store a recorded message.
- 2185 (b) "Voice mail service" does not include a vertical service that a customer is required
- 2186 to have in order to utilize a voice mail service.
- 2187 [~~(112)~~] (125) (a) Except as provided in Subsection [~~(112)~~] (125)(b), "waste energy
- 2188 facility" means a facility that generates electricity:
- 2189 (i) using as the primary source of energy waste materials that would be placed in a
- 2190 landfill or refuse pit if it were not used to generate electricity, including:
- 2191 (A) tires;
- 2192 (B) waste coal; or
- 2193 (C) oil shale; and
- 2194 (ii) in amounts greater than actually required for the operation of the facility.
- 2195 (b) "Waste energy facility" does not include a facility that incinerates:
- 2196 (i) municipal solid waste;
- 2197 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or

2198 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
2199 [~~(H3)~~] (126) "Watercraft" means a vessel as defined in Section 73-18-2.
2200 [~~(H4)~~] (127) "Wind energy" means wind used as the sole source of energy to produce
2201 electricity.
2202 [~~(H5)~~] (128) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
2203 geographic location by the United States Postal Service.
2204 Section 9. Section **59-12-102.3** is enacted to read:
2205 **59-12-102.3. Authority to enter into agreement -- Delegates.**
2206 (1) The commission may apply to the governing board for the state to become a party
2207 to the agreement.
2208 (2) If the state becomes a party to the agreement, the commission may:
2209 (a) establish standards for certification of a:
2210 (i) certified automated system; and
2211 (ii) certified service provider; and
2212 (b) act jointly with other states that are parties to the agreement to establish
2213 performance standards for multistate sellers; and
2214 (c) take other actions reasonably required to implement provisions of the agreement:
2215 (i) if those actions are not in conflict with statute; and
2216 (ii) subject to Subsection (1)(c)(i), including:
2217 (A) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
2218 adopting administrative rules; and
2219 (B) in furtherance of the agreement, jointly procuring goods or services with other
2220 states that are parties to the agreement.
2221 (3) Subject to Subsection (4), delegates shall be appointed to the governing board of
2222 the agreement to:
2223 (a) assist in implementing the provisions of the agreement; and
2224 (b) address other matters as determined by the governing board.
2225 (4) Delegates shall be appointed as follows:
2226 (a) one delegate shall be a member of the House of Representatives appointed by the
2227 speaker of the House of Representatives;
2228 (b) one delegate shall be a member of the Senate appointed by the president of the

2229 Senate; and

2230 (c) two delegates shall be appointed by the governor, at least one of whom shall be
 2231 from the commission.

2232 Section 10. Section **59-12-103** is amended to read:

2233 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
 2234 **tax revenues.**

2235 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
 2236 charged for the following transactions:

2237 (a) retail sales of tangible personal property made within the state;

2238 (b) amounts paid for:

2239 ~~[(i) to a:]~~

2240 ~~[(A) telephone service provider regardless of whether the telephone service provider is~~
 2241 ~~municipally or privately owned; or]~~

2242 ~~[(B) telegraph corporation:]~~

2243 ~~[(F) as defined in Section 54-2-1; and]~~

2244 ~~[(H) regardless of whether the telegraph corporation is municipally or privately owned;~~
 2245 ~~and]~~

2246 ~~[(ii) for:]~~

2247 ~~[(A)]~~ (i) ~~[telephone]~~ telecommunications service, other than mobile

2248 telecommunications service, that originates and terminates within the boundaries of this state;

2249 ~~[(B)]~~ (ii) mobile telecommunications service that originates and terminates within the
 2250 boundaries of one state only to the extent permitted by the Mobile Telecommunications

2251 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

2252 ~~[(C) telegraph service;]~~

2253 (iii) an ancillary service associated with a:

2254 (A) telecommunications service described in Subsection (1)(b)(i); or

2255 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

2256 (c) sales of the following for commercial use:

2257 (i) gas;

2258 (ii) electricity;

2259 (iii) heat;

2260 (iv) coal;
2261 (v) fuel oil; or
2262 (vi) other fuels;
2263 (d) sales of the following for residential use:
2264 (i) gas;
2265 (ii) electricity;
2266 (iii) heat;
2267 (iv) coal;
2268 (v) fuel oil; or
2269 (vi) other fuels;
2270 (e) sales of prepared food;
2271 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
2272 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
2273 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
2274 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
2275 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
2276 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
2277 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
2278 horseback rides, sports activities, or any other amusement, entertainment, recreation,
2279 exhibition, cultural, or athletic activity;
2280 (g) amounts paid or charged for services for repairs or renovations of tangible personal
2281 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
2282 (i) the tangible personal property; and
2283 (ii) parts used in the repairs or renovations of the tangible personal property described
2284 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
2285 of that tangible personal property;
2286 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
2287 assisted cleaning or washing of tangible personal property;
2288 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
2289 accommodations and services that are regularly rented for less than 30 consecutive days;
2290 (j) amounts paid or charged for laundry or dry cleaning services;

2291 (k) amounts paid or charged for leases or rentals of tangible personal property if within
2292 this state the tangible personal property is:

- 2293 (i) stored;
2294 (ii) used; or
2295 (iii) otherwise consumed;

2296 (l) amounts paid or charged for tangible personal property if within this state the
2297 tangible personal property is:

- 2298 (i) stored;
2299 (ii) used; or
2300 (iii) consumed; ~~and~~

2301 (m) amounts paid or charged for prepaid telephone calling cards[-]; and

2302 (n) amounts paid or charged for a sale:

2303 (i) (A) of a product that:

2304 (I) is transferred electronically; and

2305 (II) would be subject to a tax under this chapter if the product was transferred in a
2306 manner other than electronically; or

2307 (B) of a repair or renovation of a product that:

2308 (I) is transferred electronically; and

2309 (II) would be subject to a tax under this chapter if the product was transferred in a
2310 manner other than electronically; and

2311 (ii) regardless of whether the sale provides:

2312 (A) a right of permanent use of the product; or

2313 (B) a right to use the product that is less than a permanent use, including a right:

2314 (I) for a definite or specified length of time; and

2315 (II) that terminates upon the occurrence of a condition.

2316 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
2317 is imposed on a transaction described in Subsection (1) equal to the sum of:

2318 (i) a state tax imposed on the transaction at a tax rate of 4.65%; 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

on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

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

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

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

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

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

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

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

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

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

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

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

~~[(e)]~~ (d) (i) ~~[A state tax and a local tax is imposed on an entire]~~ For a bundled transaction ~~[as provided in this Subsection (2)(e) if the bundled transaction]~~ that is attributable to food and food ingredients and tangible personal property other than food and food ingredients~~[- (ii) If the tax on a bundled transaction described in Subsection (2)(e)(i) is 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 the tax rate described in
2356 Subsection (2)(a)(i); and

2357 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
2358 described in Subsection (2)(a)(ii).

2359 ~~[(iii) If the tax on a bundled transaction described in Subsection (2)(c)(i) is collected by~~
2360 ~~a seller in accordance with Subsection 59-12-107(1)(b), beginning on January 1, 2007, a state~~
2361 ~~tax and a local tax is imposed on the entire bundled transaction equal to the sum of:]~~

2362 ~~[(A) a state tax imposed on the entire bundled transaction at the tax rate described in~~
2363 ~~Subsection (2)(d)(i)(A); and]~~

2364 ~~[(B) a local tax imposed on the entire bundled transaction at a tax rate equal to the sum~~
2365 ~~of the following tax rates:]~~

2366 ~~[(I) the tax rate authorized by Section 59-12-204, but only if all of the counties, cities,~~
2367 ~~and towns in the state impose the tax authorized by Section 59-12-204; and]~~

2368 ~~[(H) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the~~
2369 ~~state impose the tax authorized by Section 59-12-1102.]~~

2370 (ii) Subject to Subsection (2)(d)(iii), for a bundled transaction other than a bundled
2371 transaction described in Subsection (2)(d)(i):

2372 (A) if the sales price of the bundled transaction is attributable to tangible personal
2373 property, a product, or a service that is subject to taxation under this chapter and tangible
2374 personal property, a product, or service that is not subject to taxation under this chapter, the
2375 entire bundled transaction is subject to taxation under this chapter unless:

2376 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2377 personal property, product, or service that is not subject to taxation under this chapter from the
2378 books and records the seller keeps in the seller's regular course of business; or

2379 (II) state or federal law provides otherwise; or

2380 (B) if the sales price of a bundled transaction is attributable to two or more items of
2381 tangible personal property, products, or services that are subject to taxation under this chapter
2382 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
2383 higher tax rate unless:

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

(II) state or federal law provides otherwise.

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

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

(i) Subsection (2)(a)(i);

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

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

(iv) Subsection (2)(d)(i)~~(A)~~;.

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

~~[(vi) Subsection (2)(c)(iii)(A);]~~

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

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

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

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

(D) Subsection (2)(d)(i)~~(A)~~;.

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

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

(ii) ~~[For a transaction described in Subsection (2)(g)(iii), the]~~ The repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease 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:

2415 (A) Subsection (2)(a)(i);
 2416 (B) Subsection (2)(b)(i);
 2417 (C) Subsection (2)(c)(i); or
 2418 (D) Subsection (2)(d)(i)(A)[;].
 2419 [~~(E) Subsection (2)(c)(ii)(A); or~~]
 2420 [~~(F) Subsection (2)(c)(iii)(A);~~]
 2421 [~~(iii) Subsections (2)(g)(i) and (ii) apply to transactions subject to a tax under;~~]
 2422 [~~(A) Subsection (1)(b);~~]
 2423 [~~(B) Subsection (1)(c);~~]
 2424 [~~(C) Subsection (1)(d);~~]
 2425 [~~(D) Subsection (1)(e);~~]
 2426 [~~(E) Subsection (1)(f);~~]
 2427 [~~(F) Subsection (1)(g);~~]
 2428 [~~(G) Subsection (1)(h);~~]
 2429 [~~(H) Subsection (1)(i);~~]
 2430 [~~(I) Subsection (1)(j); or~~]
 2431 [~~(J) Subsection (1)(k);~~]
 2432 [~~(h)~~] (g) (i) For a tax rate described in Subsection (2)[~~(h)~~] (g)(ii), if a tax due on a
 2433 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a
 2434 tax rate repeal or change in a tax rate takes effect:
 2435 (A) on the first day of a calendar quarter; and
 2436 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
 2437 (ii) Subsection (2)[~~(h)~~] (g)(i) applies to the tax rates described in the following:
 2438 (A) Subsection (2)(a)(i);
 2439 (B) Subsection (2)(b)(i);
 2440 (C) Subsection (2)(c)(i); or
 2441 (D) Subsection (2)(d)(i)(A)[;].
 2442 [~~(E) Subsection (2)(c)(ii)(A); or~~]
 2443 [~~(F) Subsection (2)(c)(iii)(A);~~]
 2444 (iii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
 2445 the commission may by rule define the term "catalogue sale."

2446 (3) (a) Except as provided in Subsections (4) through ~~[(10)]~~ (9), the following state
2447 taxes shall be deposited into the General Fund:

2448 (i) the tax imposed by Subsection (2)(a)(i);
2449 (ii) the tax imposed by Subsection (2)(b)(i);
2450 (iii) the tax imposed by Subsection (2)(c)(i); or
2451 (iv) the tax imposed by Subsection (2)(d)(i)(A);].
2452 ~~[(v) the tax imposed by Subsection (2)(c)(ii)(A); and]~~
2453 ~~[(vi) the tax imposed by Subsection (2)(c)(iii)(A);]~~

2454 (b) The following local taxes shall be distributed to a county, city, or town as provided
2455 in this chapter:

2456 (i) the tax imposed by Subsection (2)(a)(ii);
2457 (ii) the tax imposed by Subsection (2)(b)(ii);
2458 (iii) the tax imposed by Subsection (2)(c)(ii); and
2459 (iv) the tax imposed by Subsection ~~[(2)(c)(ii)(B)]~~ (2)(d)(i)(B).
2460 ~~[(c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the~~
2461 ~~state shall receive the county's, city's, or town's proportionate share of the revenues generated~~
2462 ~~by the following local taxes as provided in Subsection (3)(c)(ii):]~~
2463 ~~[(A) the local tax described in Subsection (2)(d)(ii); and]~~
2464 ~~[(B) the local tax described in Subsection (2)(c)(iii)(B).]~~
2465 ~~[(ii) For revenues generated by a tax described in Subsection (3)(c)(i), the commission~~
2466 ~~shall determine a county's, city's, or town's proportionate share of the revenues by:]~~
2467 ~~[(A) calculating an amount equal to the population of the unincorporated area of the~~
2468 ~~county, city, or town divided by the total population of the state; and]~~
2469 ~~[(B) multiplying the amount determined under Subsection (3)(c)(ii)(A) by the total~~
2470 ~~amount of revenues generated by the taxes described in Subsection (3)(c)(i) for all counties,~~
2471 ~~cities, and towns.]~~
2472 ~~[(iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for~~
2473 ~~purposes of this section shall be derived from the most recent official census or census estimate~~
2474 ~~of the United States Census Bureau.]~~
2475 ~~[(B) If a needed population estimate is not available from the United States Census~~
2476 ~~Bureau, population figures shall be derived from the estimate from the Utah Population~~

2477 ~~Estimates Committee created by executive order of the governor.]~~

2478 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2479 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
2480 through (g):

2481 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

2482 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

2483 (B) for the fiscal year; or

2484 (ii) \$17,500,000.

2485 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
2486 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
2487 Department of Natural Resources to:

2488 (A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to
2489 protect sensitive plant and animal species; or

2490 (B) award grants, up to the amount authorized by the Legislature in an appropriations
2491 act, to political subdivisions of the state to implement the measures described in Subsections
2492 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

2493 (ii) Money transferred to the Department of Natural Resources under Subsection
2494 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
2495 person to list or attempt to have listed a species as threatened or endangered under the
2496 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

2497 (iii) At the end of each fiscal year:

2498 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2499 Conservation and Development Fund created in Section 73-10-24;

2500 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
2501 Program Subaccount created in Section 73-10c-5; and

2502 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
2503 Program Subaccount created in Section 73-10c-5.

2504 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
2505 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
2506 created in Section 4-18-6.

2507 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described

2508 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
2509 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
2510 water rights.

2511 (ii) At the end of each fiscal year:

2512 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2513 Conservation and Development Fund created in Section 73-10-24;

2514 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
2515 Program Subaccount created in Section 73-10c-5; and

2516 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
2517 Program Subaccount created in Section 73-10c-5.

2518 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
2519 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
2520 Fund created in Section 73-10-24 for use by the Division of Water Resources.

2521 (ii) In addition to the uses allowed of the Water Resources Conservation and
2522 Development Fund under Section 73-10-24, the Water Resources Conservation and
2523 Development Fund may also be used to:

2524 (A) conduct hydrologic and geotechnical investigations by the Division of Water
2525 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
2526 quantifying surface and ground water resources and describing the hydrologic systems of an
2527 area in sufficient detail so as to enable local and state resource managers to plan for and
2528 accommodate growth in water use without jeopardizing the resource;

2529 (B) fund state required dam safety improvements; and

2530 (C) protect the state's interest in interstate water compact allocations, including the
2531 hiring of technical and legal staff.

2532 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2533 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
2534 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

2535 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2536 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
2537 created in Section 73-10c-5 for use by the Division of Drinking Water to:

2538 (i) provide for the installation and repair of collection, treatment, storage, and

2539 distribution facilities for any public water system, as defined in Section 19-4-102;
2540 (ii) develop underground sources of water, including springs and wells; and
2541 (iii) develop surface water sources.

2542 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2543 2006, the difference between the following amounts shall be expended as provided in this
2544 Subsection (5), if that difference is greater than \$1:

2545 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
2546 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and
2547 (ii) \$17,500,000.

2548 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:
2549 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
2550 credits; and
2551 (B) expended by the Department of Natural Resources for watershed rehabilitation or
2552 restoration.

2553 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
2554 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
2555 created in Section 73-10-24.

2556 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
2557 remaining difference described in Subsection (5)(a) shall be:
2558 (A) transferred each fiscal year to the Division of Water Resources as dedicated
2559 credits; and
2560 (B) expended by the Division of Water Resources for cloud-seeding projects
2561 authorized by Title 73, Chapter 15, Modification of Weather.

2562 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
2563 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
2564 created in Section 73-10-24.

2565 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
2566 remaining difference described in Subsection (5)(a) shall be deposited into the Water
2567 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
2568 Division of Water Resources for:
2569 (i) preconstruction costs:

2570 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
2571 26, Bear River Development Act; and

2572 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
2573 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

2574 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
2575 Chapter 26, Bear River Development Act;

2576 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
2577 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

2578 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
2579 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

2580 (e) Any unexpended monies described in Subsection (5)(d) that remain in the Water
2581 Resources Conservation and Development Fund at the end of the fiscal year are nonlapsing.

2582 (f) After making the transfers required by Subsections (5)(b) and (c) and subject to
2583 Subsection (5)(g), 6% of the remaining difference described in Subsection (5)(a) shall be
2584 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
2585 incurred for employing additional technical staff for the administration of water rights.

2586 (g) At the end of each fiscal year, any unexpended dedicated credits described in
2587 Subsection (5)(f) over \$150,000 lapse to the Water Resources Conservation and Development
2588 Fund created in Section 73-10-24.

2589 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2590 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
2591 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
2592 the Transportation Fund created by Section 72-2-102.

2593 (7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies,
2594 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial
2595 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed
2596 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable
2597 transactions under Subsection (1).

2598 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds
2599 have been paid off and the highway projects completed that are intended to be paid from
2600 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the

2601 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of
2602 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section
2603 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
2604 by a 1/64% tax rate on the taxable transactions under Subsection (1).

2605 ~~[(8)(a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal~~
2606 ~~year 2004-05, the commission shall each year on or before the September 30 immediately~~
2607 ~~following the last day of the fiscal year deposit the difference described in Subsection (8)(b)~~
2608 ~~into the Remote Sales Restricted Account created in Section 59-12-103.2 if that difference is~~
2609 ~~greater than \$0.]~~

2610 ~~[(b) The difference described in Subsection (8)(a) is equal to the difference between:]~~

2611 ~~[(i) the total amount of the revenues the commission received from sellers collecting~~
2612 ~~the taxes described in Subsections (2)(d)(i) and (2)(e)(iii)(A) for the fiscal year immediately~~
2613 ~~preceding the September 30 described in Subsection (8)(a); and]~~

2614 ~~[(ii) \$7,279,673.]~~

2615 ~~[(9)]~~ (8) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in
2616 Subsection (7)(a), and until Subsection ~~[(9)]~~ (8)(b) applies, for a fiscal year beginning on or
2617 after July 1, 2007, the Division of Finance shall deposit into the Centennial Highway Fund
2618 Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection
2619 (3)(a) equal to 8.3% of the revenues collected from the following taxes, which represents a
2620 portion of the approximately 17% of sales and use tax revenues generated annually by the sales
2621 and use tax on vehicles and vehicle-related products:

2622 (i) the tax imposed by Subsection (2)(a)(i);

2623 (ii) the tax imposed by Subsection (2)(b)(i);

2624 (iii) the tax imposed by Subsection (2)(c)(i); and

2625 (iv) the tax imposed by Subsection ~~[(2)(e)(ii)(A)]~~ (2)(d)(i)(A).

2626 (b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under
2627 Subsection (7)(b), when the highway general obligation bonds have been paid off and the
2628 highway projects completed that are intended to be paid from revenues deposited in the
2629 Centennial Highway Fund Restricted Account as determined by the Executive Appropriations
2630 Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the
2631 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);
- (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).

~~[(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:

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

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

2663 subdivisions which are installed or converted to real property by employees of the state, its
2664 institutions, or its political subdivisions; or

2665 (b) tangible personal property in connection with the construction, operation,
2666 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
2667 providing additional project capacity, as defined in Section 11-13-103;

2668 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
2669 (i) the proceeds of each sale do not exceed \$1; and
2670 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
2671 the cost of the item described in Subsection (3)(b) as goods consumed; and

2672 (b) Subsection (3)(a) applies to:
2673 (i) food and food ingredients; or
2674 (ii) prepared food;

2675 (4) sales of the following to a commercial airline carrier for in-flight consumption:
2676 (a) food and food ingredients;
2677 (b) prepared food; or
2678 (c) services related to Subsection (4)(a) or (b);

2679 (5) sales of parts and equipment for installation in aircraft operated by common carriers
2680 in interstate or foreign commerce;

2681 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
2682 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
2683 exhibitor, distributor, or commercial television or radio broadcaster;

2684 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
2685 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
2686 washing of tangible personal property;

2687 (b) if a seller that sells at the same business location assisted cleaning or washing of
2688 tangible personal property and cleaning or washing of tangible personal property that is not
2689 assisted cleaning or washing of tangible personal property, the exemption described in
2690 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
2691 or washing of the tangible personal property; and

2692 (c) for purposes of Subsection (7)(b) and in accordance with Title 63, Chapter 46a,
2693 Utah Administrative Rulemaking Act, the commission may make rules:

2694 (i) governing the circumstances under which sales are at the same business location;
2695 and
2696 (ii) establishing the procedures and requirements for a seller to separately account for
2697 sales of assisted cleaning or washing of tangible personal property;
2698 (8) sales made to or by religious or charitable institutions in the conduct of their regular
2699 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
2700 fulfilled;
2701 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
2702 this state if the vehicle is:
2703 (a) not registered in this state; and
2704 (b) (i) not used in this state; or
2705 (ii) used in this state:
2706 (A) if the vehicle is not used to conduct business, for a time period that does not
2707 exceed the longer of:
2708 (I) 30 days in any calendar year; or
2709 (II) the time period necessary to transport the vehicle to the borders of this state; or
2710 (B) if the vehicle is used to conduct business, for the time period necessary to transport
2711 the vehicle to the borders of this state;
2712 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
2713 (i) the item is intended for human use; and
2714 (ii) (A) a prescription was issued for the item; or
2715 (B) the item was purchased by a hospital or other medical facility; and
2716 (b) (i) Subsection (10)(a) applies to:
2717 (A) a drug;
2718 (B) a syringe; or
2719 (C) a stoma supply; and
2720 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2721 commission may by rule define the terms:
2722 (A) "syringe"; or
2723 (B) "stoma supply";
2724 (11) sales or use of property, materials, or services used in the construction of or

2725 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
2726 (12) (a) sales of an item described in Subsection (12)(c) served by:
2727 (i) the following if the item described in Subsection (12)(c) is not available to the
2728 general public:
2729 (A) a church; or
2730 (B) a charitable institution;
2731 (ii) an institution of higher education if:
2732 (A) the item described in Subsection (12)(c) is not available to the general public; or
2733 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
2734 offered by the institution of higher education; or
2735 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
2736 (i) a medical facility; or
2737 (ii) a nursing facility; and
2738 (c) Subsections (12)(a) and (b) apply to:
2739 (i) food and food ingredients;
2740 (ii) prepared food; or
2741 (iii) alcoholic beverages;
2742 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
2743 or a product transferred electronically by a person:
2744 (i) regardless of the number of transactions involving the sale of that tangible personal
2745 property or product transferred electronically by that person; and
2746 (ii) not regularly engaged in the business of selling that type of tangible personal
2747 property or product transferred electronically;
2748 (b) this Subsection (13) does not apply if:
2749 (i) the sale is one of a series of sales of a character to indicate that the person is
2750 regularly engaged in the business of selling that type of tangible personal property or product
2751 transferred electronically;
2752 (ii) the person holds that person out as regularly engaged in the business of selling that
2753 type of tangible personal property or product transferred electronically;
2754 (iii) the person sells an item of tangible personal property or product transferred
2755 electronically that the person purchased as a sale that is exempt under Subsection (25); or

2756 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
2757 this state in which case the tax is based upon:

2758 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
2759 sold; or

2760 (B) in the absence of a bill of sale or other written evidence of value, the fair market
2761 value of the vehicle or vessel being sold at the time of the sale as determined by the
2762 commission; and

2763 (c) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2764 commission shall make rules establishing the circumstances under which:

2765 (i) a person is regularly engaged in the business of selling a type of tangible personal
2766 property or product transferred electronically;

2767 (ii) a sale of tangible personal property or a product transferred electronically is one of
2768 a series of sales of a character to indicate that a person is regularly engaged in the business of
2769 selling that type of tangible personal property or product transferred electronically; or

2770 (iii) a person holds that person out as regularly engaged in the business of selling a type
2771 of tangible personal property or product transferred electronically;

2772 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
2773 July 1, 2006, for a purchase or lease by a manufacturing facility other than a cogeneration
2774 facility, for the following:

2775 (i) machinery and equipment that:

2776 (A) is used:

2777 (I) for a manufacturing facility other than a manufacturing facility that is a scrap
2778 recycler described in Subsection 59-12-102[~~(48)~~] (52)(b):

2779 (Aa) in the manufacturing process; and

2780 (Bb) to manufacture an item sold as tangible personal property; or

2781 (II) for a manufacturing facility that is a scrap recycler described in Subsection
2782 59-12-102[~~(48)~~] (52)(b), to process an item sold as tangible personal property; and

2783 (B) has an economic life of three or more years; and

2784 (ii) normal operating repair or replacement parts that:

2785 (A) have an economic life of three or more years; and

2786 (B) are used:

2787 (I) for a manufacturing facility in the state other than a manufacturing facility that is a
2788 scrap recycler described in Subsection 59-12-102[(48)] (52)(b), in the manufacturing process;
2789 or

2790 (II) for a manufacturing facility in the state that is a scrap recycler described in
2791 Subsection 59-12-102[(48)] (52)(b), to process an item sold as tangible personal property;

2792 (b) (i) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
2793 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
2794 for the following:

2795 (A) machinery and equipment that:

2796 (I) is used:

2797 (Aa) in the manufacturing process; and

2798 (Bb) to manufacture an item sold as tangible personal property; and

2799 (II) has an economic life of three or more years; and

2800 (B) normal operating repair or replacement parts that:

2801 (I) are used in the manufacturing process in a manufacturing facility in the state; and

2802 (II) have an economic life of three or more years; and

2803 (ii) for amounts paid or charged on or after July 1, 2005, but on or before June 30,
2804 2006, for a purchase or lease described in Subsection (14)(b)(i), a cogeneration facility may
2805 claim the exemption allowed by Subsection (14)(b)(i) by filing for a refund:

2806 (A) for sales and use taxes paid under this chapter on the purchase or lease payment;
2807 and

2808 (B) in accordance with Section 59-12-110;

2809 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
2810 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
2811 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
2812 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
2813 of the 2002 North American Industry Classification System of the federal Executive Office of
2814 the President, Office of Management and Budget:

2815 (i) machinery and equipment that:

2816 (A) are used in:

2817 (I) the production process, other than the production of real property; or

2818 (II) research and development; and
2819 (B) have an economic life of three or more years; and
2820 (ii) normal operating repair or replacement parts that:
2821 (A) have an economic life of three or more years; and
2822 (B) are used in:
2823 (I) the production process, other than the production of real property, in an
2824 establishment described in this Subsection (14)(c) in the state; or
2825 (II) research and development in an establishment described in this Subsection (14)(c)
2826 in the state;
2827 (d) for purposes of this Subsection (14) and in accordance with Title 63, Chapter 46a,
2828 Utah Administrative Rulemaking Act, the commission:
2829 (i) shall by rule define the term "establishment"; and
2830 (ii) may by rule define what constitutes:
2831 (A) processing an item sold as tangible personal property;
2832 (B) the production process, other than the production of real property; or
2833 (C) research and development; and
2834 (e) on or before October 1, 2011, and every five years after October 1, 2011, the
2835 commission shall:
2836 (i) review the exemptions described in this Subsection (14) and make
2837 recommendations to the Revenue and Taxation Interim Committee concerning whether the
2838 exemptions should be continued, modified, or repealed; and
2839 (ii) include in its report:
2840 (A) the cost of the exemptions;
2841 (B) the purpose and effectiveness of the exemptions; and
2842 (C) the benefits of the exemptions to the state;
2843 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
2844 (i) tooling;
2845 (ii) special tooling;
2846 (iii) support equipment;
2847 (iv) special test equipment; or
2848 (v) parts used in the repairs or renovations of tooling or equipment described in

2849 Subsections (15)(a)(i) through (iv); and
2850 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
2851 (i) the tooling, equipment, or parts are used or consumed exclusively in the
2852 performance of any aerospace or electronics industry contract with the United States
2853 government or any subcontract under that contract; and
2854 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
2855 title to the tooling, equipment, or parts is vested in the United States government as evidenced
2856 by:
2857 (A) a government identification tag placed on the tooling, equipment, or parts; or
2858 (B) listing on a government-approved property record if placing a government
2859 identification tag on the tooling, equipment, or parts is impractical;
2860 (16) sales of newspapers or newspaper subscriptions;
2861 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
2862 product transferred electronically traded in as full or part payment of the purchase price, except
2863 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
2864 trade-ins are limited to other vehicles only, and the tax is based upon:
2865 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
2866 vehicle being traded in; or
2867 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
2868 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
2869 commission; and
2870 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the
2871 following items of tangible personal property or products transferred electronically traded in as
2872 full or part payment of the purchase price:
2873 (i) money;
2874 (ii) electricity;
2875 (iii) water;
2876 (iv) gas; or
2877 (v) steam;
2878 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
2879 or a product transferred electronically used or consumed primarily and directly in farming

2880 operations, regardless of whether the tangible personal property or product transferred
2881 electronically:

2882 (A) becomes part of real estate; or
2883 (B) is installed by a:
2884 (I) farmer;
2885 (II) contractor; or
2886 (III) subcontractor; or
2887 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
2888 product transferred electronically if the tangible personal property or product transferred
2889 electronically is exempt under Subsection (18)(a)(i); and

2890 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following
2891 tangible personal property or products transferred electronically are subject to the taxes
2892 imposed by this chapter:

2893 (i) (A) subject to Subsection (18)(b)(i)(B), the following tangible personal property if
2894 the tangible personal property is used in a manner that is incidental to farming:
2895 (I) machinery;
2896 (II) equipment;
2897 (III) materials; or
2898 (IV) supplies; and
2899 (B) tangible personal property that is considered to be used in a manner that is
2900 incidental to farming includes:
2901 (I) hand tools; or
2902 (II) maintenance and janitorial equipment and supplies;

2903 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
2904 transferred electronically if the tangible personal property or product transferred electronically
2905 is used in an activity other than farming; and
2906 (B) tangible personal property or a product transferred electronically that is considered
2907 to be used in an activity other than farming includes:
2908 (I) office equipment and supplies; or
2909 (II) equipment and supplies used in:
2910 (Aa) the sale or distribution of farm products;

2911 (Bb) research; or
2912 (Cc) transportation; or
2913 (iii) a vehicle required to be registered by the laws of this state during the period
2914 ending two years after the date of the vehicle's purchase;
2915 (19) sales of hay;
2916 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
2917 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
2918 garden, farm, or other agricultural produce is sold by:
2919 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
2920 agricultural produce;
2921 (b) an employee of the producer described in Subsection (20)(a); or
2922 (c) a member of the immediate family of the producer described in Subsection (20)(a);
2923 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
2924 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
2925 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
2926 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
2927 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
2928 manufacturer, processor, wholesaler, or retailer;
2929 (23) [~~property~~] a product stored in the state for resale;
2930 (24) (a) purchases of [~~property~~] a product if:
2931 (i) the [~~property~~] product is:
2932 (A) purchased outside of this state;
2933 (B) brought into this state:
2934 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
2935 (II) by a nonresident person who is not living or working in this state at the time of the
2936 purchase;
2937 (C) used for the personal use or enjoyment of the nonresident person described in
2938 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
2939 (D) not used in conducting business in this state; and
2940 (ii) for:
2941 (A) [~~property~~] a product other than [~~the property~~] a boat described in Subsection

2942 (24)(a)(ii)(B), the first use of the ~~[property]~~ product for a purpose for which the ~~[property]~~
2943 product is designed occurs outside of this state;

2944 (B) a boat, the boat is registered outside of this state; or

2945 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
2946 outside of this state;

2947 (b) the exemption provided for in Subsection (24)(a) does not apply to:

2948 (i) a lease or rental of ~~[property]~~ a product; or

2949 (ii) a sale of a vehicle exempt under Subsection (33); and

2950 (c) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for
2951 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
2952 following:

2953 (i) conducting business in this state if that phrase has the same meaning in this
2954 Subsection (24) as in Subsection (66);

2955 (ii) the first use of ~~[property]~~ a product if that phrase has the same meaning in this
2956 Subsection (24) as in Subsection (66); or

2957 (iii) a purpose for which ~~[property]~~ a product is designed if that phrase has the same
2958 meaning in this Subsection (24) as in Subsection (66);

2959 (25) ~~[property]~~ a product purchased for resale in this state, in the regular course of
2960 business, either in its original form or as an ingredient or component part of a manufactured or
2961 compounded product;

2962 (26) ~~[property]~~ a product upon which a sales or use tax was paid to some other state, or
2963 one of its subdivisions, except that the state shall be paid any difference between the tax paid
2964 and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is
2965 allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and
2966 Use Tax Act;

2967 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
2968 person for use in compounding a service taxable under the subsections;

2969 (28) purchases made in accordance with the special supplemental nutrition program for
2970 women, infants, and children established in 42 U.S.C. Sec. 1786;

2971 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
2972 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens

2973 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
2974 Manual of the federal Executive Office of the President, Office of Management and Budget;
2975 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
2976 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
2977 (a) not registered in this state; and
2978 (b) (i) not used in this state; or
2979 (ii) used in this state:
2980 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
2981 time period that does not exceed the longer of:
2982 (I) 30 days in any calendar year; or
2983 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
2984 the borders of this state; or
2985 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
2986 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
2987 state;
2988 (31) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah
2989 where a sales or use tax is not imposed, even if the title is passed in Utah;
2990 (32) amounts paid for the purchase of [~~telephone~~] telecommunications service for
2991 purposes of providing [~~telephone~~] telecommunications service;
2992 (33) sales, leases, or uses of the following:
2993 (a) a vehicle by an authorized carrier; or
2994 (b) tangible personal property that is installed on a vehicle:
2995 (i) sold or leased to or used by an authorized carrier; and
2996 (ii) before the vehicle is placed in service for the first time;
2997 (34) (a) 45% of the sales price of any new manufactured home; and
2998 (b) 100% of the sales price of any used manufactured home;
2999 (35) sales relating to schools and fundraising sales;
3000 (36) sales or rentals of durable medical equipment if:
3001 (a) a person presents a prescription for the durable medical equipment; and
3002 (b) the durable medical equipment is used for home use only;
3003 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in

3004 Section 72-11-102; and

3005 (b) the commission shall by rule determine the method for calculating sales exempt
3006 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

3007 (38) sales to a ski resort of:

3008 (a) snowmaking equipment;

3009 (b) ski slope grooming equipment;

3010 (c) passenger ropeways as defined in Section 72-11-102; or

3011 (d) parts used in the repairs or renovations of equipment or passenger ropeways

3012 described in Subsections (38)(a) through (c);

3013 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

3014 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
3015 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
3016 59-12-102;

3017 (b) if a seller that sells or rents at the same business location the right to use or operate
3018 for amusement, entertainment, or recreation one or more unassisted amusement devices and
3019 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
3020 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
3021 amusement, entertainment, or recreation for the assisted amusement devices; and

3022 (c) for purposes of Subsection (40)(b) and in accordance with Title 63, Chapter 46a,
3023 Utah Administrative Rulemaking Act, the commission may make rules:

3024 (i) governing the circumstances under which sales are at the same business location;
3025 and

3026 (ii) establishing the procedures and requirements for a seller to separately account for
3027 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
3028 assisted amusement devices;

3029 (41) (a) sales of photocopies by:

3030 (i) a governmental entity; or

3031 (ii) an entity within the state system of public education, including:

3032 (A) a school; or

3033 (B) the State Board of Education; or

3034 (b) sales of publications by a governmental entity;

3035 (42) amounts paid for admission to an athletic event at an institution of higher
3036 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
3037 20 U.S.C. Sec. 1681 et seq.;

3038 (43) sales of ~~[telephone]~~ telecommunications service charged to a prepaid telephone
3039 calling card;

3040 ~~[(44)(a) sales of:]~~

3041 ~~[(i) hearing aids;]~~

3042 ~~[(ii) hearing aid accessories; or]~~

3043 ~~[(iii) except as provided in Subsection (44)(b), parts used in the repairs or renovations~~
3044 ~~of hearing aids or hearing aid accessories; and]~~

3045 ~~[(b) for purposes of this Subsection (44), notwithstanding Subsection (44)(a)(iii),~~
3046 ~~"parts" does not include batteries;]~~

3047 ~~[(45)]~~ (44) (a) sales made to or by:

3048 (i) an area agency on aging; or

3049 (ii) a senior citizen center owned by a county, city, or town; or

3050 (b) sales made by a senior citizen center that contracts with an area agency on aging;

3051 ~~[(46)]~~ (45) sales or leases of semiconductor fabricating, processing, research, or
3052 development materials regardless of whether the semiconductor fabricating, processing,
3053 research, or development materials:

3054 (a) actually come into contact with a semiconductor; or

3055 (b) ultimately become incorporated into real property;

3056 ~~[(47)]~~ (46) an amount paid by or charged to a purchaser for accommodations and
3057 services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under
3058 Section 59-12-104.2;

3059 ~~[(48)]~~ (47) beginning on September 1, 2001, the lease or use of a vehicle issued a
3060 temporary sports event registration certificate in accordance with Section 41-3-306 for the
3061 event period specified on the temporary sports event registration certificate;

3062 ~~[(49)]~~ (48) sales or uses of electricity, if the sales or uses are:

3063 (a) made under a tariff adopted by the Public Service Commission of Utah only for
3064 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
3065 source, as designated in the tariff by the Public Service Commission of Utah; and

3066 (b) for an amount of electricity that is:
3067 (i) unrelated to the amount of electricity used by the person purchasing the electricity
3068 under the tariff described in Subsection [~~(49)~~] (48)(a); and
3069 (ii) equivalent to the number of kilowatthours specified in the tariff described in
3070 Subsection [~~(49)~~] (48)(a) that may be purchased under the tariff described in Subsection [~~(49)~~]
3071 (48)(a);
3072 [~~(50)~~] (49) sales or rentals of mobility enhancing equipment if a person presents a
3073 prescription for the mobility enhancing equipment;
3074 [~~(51)~~] (50) sales of water in a:
3075 (a) pipe;
3076 (b) conduit;
3077 (c) ditch; or
3078 (d) reservoir;
3079 [~~(52)~~] (51) sales of currency or coinage that constitute legal tender of the United States
3080 or of a foreign nation;
3081 [~~(53)~~] (52) (a) sales of an item described in Subsection [~~(53)~~] (52)(b) if the item:
3082 (i) does not constitute legal tender of any nation; and
3083 (ii) has a gold, silver, or platinum content of 80% or more; and
3084 (b) Subsection [~~(53)~~] (52)(a) applies to a gold, silver, or platinum:
3085 (i) ingot;
3086 (ii) bar;
3087 (iii) medallion; or
3088 (iv) decorative coin;
3089 [~~(54)~~] (53) amounts paid on a sale-leaseback transaction;
3090 [~~(55)~~] (54) sales of a prosthetic device:
3091 (a) for use on or in a human;
3092 (b) for which a prescription is issued; and
3093 (c) to a person that presents a prescription for the prosthetic device;
3094 [~~(56)~~] (55) (a) except as provided in Subsection [~~(56)~~] (55)(b), purchases, leases, or
3095 rentals of machinery or equipment by an establishment described in Subsection [~~(56)~~] (55)(c) if
3096 the machinery or equipment is primarily used in the production or postproduction of the

3097 following media for commercial distribution:

3098 (i) a motion picture;

3099 (ii) a television program;

3100 (iii) a movie made for television;

3101 (iv) a music video;

3102 (v) a commercial;

3103 (vi) a documentary; or

3104 (vii) a medium similar to Subsections [~~(56)~~] (55)(a)(i) through (vi) as determined by

3105 the commission by administrative rule made in accordance with Subsection [~~(56)~~] (55)(d); or

3106 (b) notwithstanding Subsection [~~(56)~~] (55)(a), purchases, leases, or rentals of

3107 machinery or equipment by an establishment described in Subsection [~~(56)~~] (55)(c) that is used

3108 for the production or postproduction of the following are subject to the taxes imposed by this

3109 chapter:

3110 (i) a live musical performance;

3111 (ii) a live news program; or

3112 (iii) a live sporting event;

3113 (c) the following establishments listed in the 1997 North American Industry

3114 Classification System of the federal Executive Office of the President, Office of Management

3115 and Budget, apply to Subsections [~~(56)~~] (55)(a) and (b):

3116 (i) NAICS Code 512110; or

3117 (ii) NAICS Code 51219; and

3118 (d) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

3119 commission may by rule:

3120 (i) prescribe what constitutes a medium similar to Subsections [~~(56)~~] (55)(a)(i) through

3121 (vi); or

3122 (ii) define:

3123 (A) "commercial distribution";

3124 (B) "live musical performance";

3125 (C) "live news program"; or

3126 (D) "live sporting event";

3127 [~~(57)~~] (56) (a) leases of seven or more years or purchases made on or after July 1, 2004

3128 but on or before June 30, 2009, of machinery or equipment that:

3129 (i) is leased or purchased for or by a facility that:

3130 (A) is a renewable energy production facility;

3131 (B) is located in the state; and

3132 (C) (I) becomes operational on or after July 1, 2004; or

3133 (II) has its generation capacity increased by one or more megawatts on or after July 1,

3134 2004 as a result of the use of the machinery or equipment;

3135 (ii) has an economic life of five or more years; and

3136 (iii) is used to make the facility or the increase in capacity of the facility described in

3137 Subsection [~~(57)~~] (56)(a)(i) operational up to the point of interconnection with an existing

3138 transmission grid including:

3139 (A) a wind turbine;

3140 (B) generating equipment;

3141 (C) a control and monitoring system;

3142 (D) a power line;

3143 (E) substation equipment;

3144 (F) lighting;

3145 (G) fencing;

3146 (H) pipes; or

3147 (I) other equipment used for locating a power line or pole; and

3148 (b) this Subsection [~~(57)~~] (56) does not apply to:

3149 (i) machinery or equipment used in construction of:

3150 (A) a new renewable energy production facility; or

3151 (B) the increase in the capacity of a renewable energy production facility;

3152 (ii) contracted services required for construction and routine maintenance activities;

3153 and

3154 (iii) unless the machinery or equipment is used or acquired for an increase in capacity

3155 of 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;

3186 and

3187 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
3188 described in Subsection [~~(58)~~] (57)(a)(i)(C)(II), machinery or equipment used or acquired after:

3189 (A) the waste energy facility described in Subsection [~~(58)~~] (57)(a)(i) is operational as

3190 described in Subsection ~~[(58)]~~ (57)(a)(iii); or
3191 (B) the increased capacity described in Subsection ~~[(58)]~~ (57)(a)(i) is operational as
3192 described in Subsection ~~[(58)]~~ (57)(a)(iii);
3193 ~~[(59)]~~ (58) (a) leases of five or more years or purchases made on or after July 1, 2004
3194 but on or before June 30, 2009, of machinery or equipment that:
3195 (i) is leased or purchased for or by a facility that:
3196 (A) is located in the state;
3197 (B) produces fuel from biomass energy including:
3198 (I) methanol; or
3199 (II) ethanol; and
3200 (C) (I) becomes operational on or after July 1, 2004; or
3201 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as
3202 a result of the installation of the machinery or equipment;
3203 (ii) has an economic life of five or more years; and
3204 (iii) is installed on the facility described in Subsection ~~[(59)]~~ (58)(a)(i);
3205 (b) this Subsection ~~[(59)]~~ (58) does not apply to:
3206 (i) machinery or equipment used in construction of:
3207 (A) a new facility described in Subsection ~~[(59)]~~ (58)(a)(i); or
3208 (B) the increase in capacity of the facility described in Subsection ~~[(59)]~~ (58)(a)(i); or
3209 (ii) contracted services required for construction and routine maintenance activities;
3210 and
3211 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
3212 described in Subsection ~~[(59)]~~ (58)(a)(i)(C)(II), machinery or equipment used or acquired after:
3213 (A) the facility described in Subsection ~~[(59)]~~ (58)(a)(i) is operational; or
3214 (B) the increased capacity described in Subsection ~~[(59)]~~ (58)(a)(i) is operational;
3215 ~~[(60) amounts paid to a purchaser as a rebate from the manufacturer of a new vehicle~~
3216 ~~for purchasing the new vehicle;]~~
3217 ~~[(61)]~~ (59) (a) subject to Subsection ~~[(61)]~~ (59)(b), sales of tangible personal property
3218 or a product transferred electronically to [persons] a person within this state ~~[that] if that~~
3219 tangible personal property or product transferred electronically is subsequently shipped outside
3220 the state and incorporated pursuant to contract into and becomes a part of real property located

3221 outside of this state, except to the extent that the other state or political entity imposes a sales,
3222 use, gross receipts, or other similar transaction excise tax on it against which the other state or
3223 political entity allows a credit for taxes imposed by this chapter; and
3224 (b) the exemption provided for in Subsection [~~(61)~~] (59)(a):
3225 (i) is allowed only if the exemption is applied:
3226 (A) in calculating the purchase price of the tangible personal property or product
3227 transferred electronically; and
3228 (B) to a written contract that is in effect on July 1, 2004; and
3229 (ii) (A) does not apply beginning on the day on which the contract described in
3230 Subsection [~~(61)~~] (59)(b)(i):
3231 (I) is substantially modified; or
3232 (II) terminates; and
3233 (B) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
3234 the commission may by rule prescribe the circumstances under which a contract is substantially
3235 modified;
3236 [~~(62)~~] (60) purchases:
3237 (a) of one or more of the following items in printed or electronic format:
3238 (i) a list containing information that includes one or more:
3239 (A) names; or
3240 (B) addresses; or
3241 (ii) a database containing information that includes one or more:
3242 (A) names; or
3243 (B) addresses; and
3244 (b) used to send direct mail;
3245 [~~(63)~~] (61) redemptions or repurchases of [~~property~~] a product by a person if that
3246 [~~property~~] product was:
3247 (a) delivered to a pawnbroker as part of a pawn transaction; and
3248 (b) redeemed or repurchased within the time period established in a written agreement
3249 between the person and the pawnbroker for redeeming or repurchasing the [~~property~~] product;
3250 [~~(64)~~] (62) (a) purchases or leases of an item described in Subsection [~~(64)~~] (62)(b) if
3251 the item:

3252 (i) is purchased or leased by, or on behalf of, a ~~[telephone]~~ telecommunications service
3253 provider; and

3254 (ii) has a useful economic life of one or more years; and

3255 (b) the following apply to Subsection ~~[(64)]~~ (62)(a):

3256 (i) telecommunications enabling or facilitating equipment, machinery, or software;

3257 (ii) telecommunications equipment, machinery, or software required for 911 service;

3258 (iii) telecommunications maintenance or repair equipment, machinery, or software;

3259 (iv) telecommunications switching or routing equipment, machinery, or software; or

3260 (v) telecommunications transmission equipment, machinery, or software;

3261 ~~[(65)]~~ (63) (a) beginning on July 1, 2006, and ending on June 30, 2016, purchases of
3262 tangible personal property or a product transferred electronically that are used in the research
3263 and development of coal-to-liquids, oil shale, or tar sands technology; and

3264 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
3265 commission may, for purposes of Subsection ~~[(65)]~~ (63)(a), make rules defining what
3266 constitutes purchases of tangible personal property or a product transferred electronically that
3267 are used in the research and development of coal-to-liquids, oil shale, and tar sands technology;

3268 ~~[(66)]~~ (64) (a) purchases of tangible personal property or a product transferred
3269 electronically if:

3270 (i) the tangible personal property or product transferred electronically is:

3271 (A) purchased outside of this state;

3272 (B) brought into this state at any time after the purchase described in Subsection ~~[(66)]~~
3273 (64)(a)(i)(A); and

3274 (C) used in conducting business in this state; and

3275 (ii) for:

3276 (A) tangible personal property or a product transferred electronically other than the
3277 tangible personal property described in Subsection ~~[(66)]~~ (64)(a)(ii)(B), the first use of the
3278 property for a purpose for which the property is designed occurs outside of this state; or

3279 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
3280 outside of this state;

3281 (b) the exemption provided for in Subsection ~~[(66)]~~ (64)(a) does not apply to:

3282 (i) a lease or rental of tangible personal property or a product transferred electronically;

3283 or

3284 (ii) a sale of a vehicle exempt under Subsection (33); and

3285 (c) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for
3286 purposes of Subsection ~~[(66)]~~ (64)(a), the commission may by rule define what constitutes the
3287 following:

3288 (i) conducting business in this state if that phrase has the same meaning in this
3289 Subsection ~~[(66)]~~ (64) as in Subsection (24);

3290 (ii) the first use of tangible personal property or a product transferred electronically if
3291 that phrase has the same meaning in this Subsection ~~[(66)]~~ (64) as in Subsection (24); or

3292 (iii) a purpose for which tangible personal property or a product transferred
3293 electronically is designed if that phrase has the same meaning in this Subsection ~~[(66)]~~ (64) as
3294 in Subsection (24);

3295 ~~[(67)]~~ (65) sales of disposable home medical equipment or supplies if:

3296 (a) a person presents a prescription for the disposable home medical equipment or
3297 supplies;

3298 (b) the disposable home medical equipment or supplies are used exclusively by the
3299 person to whom the prescription described in Subsection ~~[(67)]~~ (65)(a) is issued; and

3300 (c) the disposable home medical equipment and supplies are listed as eligible for
3301 payment under:

3302 (i) Title XVIII, federal Social Security Act; or

3303 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
3304 and

3305 ~~[(68)]~~ (66) sales to a public transit district under Title 17B, Chapter 2a, Part 8, Public
3306 Transit District Act, or to a subcontractor of a public transit district, including sales of
3307 construction materials that are to be installed or converted to real property owned by the public
3308 transit district.

3309 Section 12. Section **59-12-104.5** is amended to read:

3310 **59-12-104.5. Utah Tax Review Commission review of sales and use tax system.**

3311 (1) ~~[Beginning with the 2001 interim, the]~~ The Utah Tax Review Commission, in
3312 cooperation with the governor's office and the ~~[tax]~~ commission, shall ~~[conduct a]~~ review ~~[of]~~
3313 the sales and use tax ~~[exemptions created by Section 59-12-104]~~ system of the state as provided

3314 in this section.

3315 (2) ~~(a) [The]~~ Beginning with the 2009 interim, and one or more times every ten years
3316 after the 2009 interim, the Utah Tax Review Commission shall make findings and
3317 recommendations as to whether:

- 3318 (i) the sales and use tax is broadly based;
3319 (ii) the sales and use tax base reflects the overall economy;
3320 (iii) the sales and use tax mitigates regressive impacts;
3321 (iv) the sales and use tax is administratively simple; and
3322 (v) the sales and use tax promotes compliance.

3323 (b) On or before the November interim meeting of the year in which the Utah Tax
3324 Review Commission makes the findings and recommendations required by Subsection (2)(a),
3325 the Utah Tax Review Commission shall report its findings and recommendations made in
3326 accordance with Subsection (2)(a) to:

- 3327 (i) the governor; and
3328 (ii) the Revenue and Taxation Interim Committee.

3329 ~~[(a) review each of the sales and use tax exemptions created by Section 59-12-104 one~~
3330 ~~or more times every eight years; and]~~

3331 ~~[(b) subject to Subsection (2)(a) and except as provided in Subsection (3), for each year~~
3332 ~~select the exemptions that the Utah Tax Review Commission will review for that year.]~~

3333 (3) Notwithstanding Subsection (2):

3334 (a) the Utah Tax Review Commission shall review Subsection 59-12-104(28) before
3335 October 1 of the year after the year in which Congress permits a state to participate in the
3336 special supplemental nutrition program under 42 U.S.C. Sec. 1786 even if state or local sales
3337 taxes are collected within the state on purchases of food under that program;

3338 (b) the Utah Tax Review Commission shall review Subsection 59-12-104(21) before
3339 October 1 of the year after the year in which Congress permits a state to participate in the food
3340 stamp program under the Food Stamp Act, 7 U.S.C. Sec. 2011 et seq., even if state or local
3341 sales taxes are collected within the state on purchases of food under that program; and

3342 (c) the Utah Tax Review Commission shall review Subsection 59-12-104~~[(65)]~~ (63)
3343 before the October 2011 interim meeting.

3344 ~~[(4) The Utah Tax Review Commission shall for each sales and use tax exemption the~~

3345 ~~Utah Tax Review Commission reviews make a report to the governor and the Revenue and~~
3346 ~~Taxation Interim Committee;]~~

3347 ~~[(a) on or before the November interim meeting in the year in which the Utah Tax~~
3348 ~~Review Commission reviews the sales and use tax exemption;]~~

3349 ~~[(b) including;]~~

3350 ~~[(i) a review of the cost of the sales and use tax exemption;]~~

3351 ~~[(ii) a review of the following criteria for granting or extending incentives for~~
3352 ~~businesses;]~~

3353 ~~[(A) whether the business is willing to make a substantial capital investment in the~~
3354 ~~state indicating that it will be a long-term member of the community in which the business is or~~
3355 ~~will be located;]~~

3356 ~~[(B) whether the business brings new dollars into the state, which generally means the~~
3357 ~~business must export goods or services outside of the state, not just recirculate existing~~
3358 ~~dollars;]~~

3359 ~~[(C) subject to Subsection (5), whether the business pays higher than average wages in~~
3360 ~~the area in which the business is or will be located, increasing the state's overall household~~
3361 ~~income;]~~

3362 ~~[(D) whether the same incentives offered to a new business locating in the state from~~
3363 ~~another state are available to existing in-state businesses so as not to discriminate against the~~
3364 ~~in-state businesses; and]~~

3365 ~~[(E) whether the incentives clearly produce a positive return on investment as~~
3366 ~~determined by state economic modeling formulas;]~~

3367 ~~[(iii) a determination of whether the sales and use tax exemption is consistent with the~~
3368 ~~Legislature's sales and use tax policy positions adopted in 1990 General Session H.J.R. 32;]~~

3369 ~~[(iv) a review of the purpose of the sales and use tax exemption;]~~

3370 ~~[(v) a review of the effectiveness of the sales and use tax exemption; and]~~

3371 ~~[(vi) a review of the benefits of the sales and use tax exemption to the state;]~~

3372 ~~[(c) recommending whether the sales and use tax exemption should be;]~~

3373 ~~[(i) continued;]~~

3374 ~~[(ii) modified; or]~~

3375 ~~[(iii) repealed; and]~~

3376 [~~(d) reviewing any other issue the Utah Tax Review Commission determines to study.~~]

3377 [~~(5) For purposes of Subsection (4)(b)(ii)(C), in determining whether a business pays~~
3378 ~~higher than average wages in the area in which the business is or will be located, the Utah Tax~~
3379 ~~Review Commission may not include wages of the following in making average wage~~
3380 ~~calculations:]~~

3381 [~~(a) wages of school district employees;]~~

3382 [~~(b) wages of county, city, or town employees;]~~

3383 [~~(c) wages of state employees; or]~~

3384 [~~(d) wages of federal government employees.]~~

3385 Section 13. Section **59-12-105** is amended to read:

3386 **59-12-105. Certain exempt sales to be reported -- Penalties.**

3387 (1) An owner or purchaser shall report to the commission the amount of sales or uses
3388 exempt under Subsection 59-12-104(14) or [~~(46)~~] (45).

3389 (2) A report required by Subsection (1) shall be filed:

3390 (a) with the commission; and

3391 (b) on a form prescribed by the commission.

3392 (3) (a) Notwithstanding Section 59-1-401, and except as provided in Subsections (3)(b)
3393 and (4), if the owner or purchaser fails to report the full amount of the exemptions granted
3394 under Subsection 59-12-104(14) or [~~(46)~~] (45) on the report required by Subsection (1), the
3395 commission shall impose a penalty equal to the lesser of:

3396 (i) 10% of the sales and use tax that would have been imposed if the exemption had not
3397 applied; or

3398 (ii) \$1,000.

3399 (b) Notwithstanding Subsection (3)(a)(i), the commission may not impose a penalty
3400 under Subsection (3)(a)(i) if the owner or purchaser files an amended report:

3401 (i) containing the amount of the exemption; and

3402 (ii) before the owner or purchaser receives a notice of audit from the commission.

3403 (4) (a) The commission may waive, reduce, or compromise a penalty imposed under
3404 this section if the commission finds there are reasonable grounds for the waiver, reduction, or
3405 compromise.

3406 (b) If the commission waives, reduces, or compromises a penalty under Subsection

3407 (4)(a), the commission shall make a record of the grounds for waiving, reducing, or
3408 compromising the penalty.

3409 Section 14. Section **59-12-106** is amended to read:

3410 **59-12-106. Definitions -- Sales and use tax license requirements -- Penalty --**
3411 **Application process and requirements -- No fee -- Bonds -- Presumption of taxability --**
3412 **Exemption certificates -- Exemption certificate license number to accompany contract**
3413 **bids.**

3414 (1) As used in this section:

3415 (a) "applicant" means a person that:

3416 (i) is required by this section to obtain a license; and

3417 (ii) submits an application:

3418 (A) to the commission; and

3419 (B) for a license under this section;

3420 (b) "application" means an application for a license under this section;

3421 (c) "fiduciary of the applicant" means a person that:

3422 (i) is required to collect, truthfully account for, and pay over a tax under this chapter
3423 for an applicant; and

3424 (ii) (A) is a corporate officer of the applicant described in Subsection (1)(c)(i);

3425 (B) is a director of the applicant described in Subsection (1)(c)(i);

3426 (C) is an employee of the applicant described in Subsection (1)(c)(i);

3427 (D) is a partner of the applicant described in Subsection (1)(c)(i);

3428 (E) is a trustee of the applicant described in Subsection (1)(c)(i); or

3429 (F) has a relationship to the applicant described in Subsection (1)(c)(i) that is similar to

3430 a relationship described in Subsections (1)(c)(ii)(A) through (E) as determined by the

3431 commission by rule made in accordance with Title 63, Chapter 46a, Utah Administrative

3432 Rulemaking Act;

3433 (d) "fiduciary of the licensee" means a person that:

3434 (i) is required to collect, truthfully account for, and pay over a tax under this chapter
3435 for a licensee; and

3436 (ii) (A) is a corporate officer of the licensee described in Subsection (1)(d)(i);

3437 (B) is a director of the licensee described in Subsection (1)(d)(i);

3438 (C) is an employee of the licensee described in Subsection (1)(d)(i);
3439 (D) is a partner of the licensee described in Subsection (1)(d)(i);
3440 (E) is a trustee of the licensee described in Subsection (1)(d)(i); or
3441 (F) has a relationship to the licensee described in Subsection (1)(d)(i) that is similar to
3442 a relationship described in Subsections (1)(d)(ii)(A) through (E) as determined by the
3443 commission by rule made in accordance with Title 63, Chapter 46a, Utah Administrative
3444 Rulemaking Act;

3445 (e) "license" means a license under this section; and
3446 (f) "licensee" means a person that is licensed under this section by the commission.

3447 (2) (a) It is unlawful for any person required to collect a tax under this chapter to
3448 engage in business within the state without first having obtained a license to do so.

3449 (b) The license described in Subsection (2)(a):
3450 (i) shall be granted and issued by the commission;
3451 (ii) is not assignable;
3452 (iii) is valid only for the person in whose name the license is issued;
3453 (iv) is valid until:
3454 (A) the person described in Subsection (2)(b)(iii):
3455 (I) ceases to do business; or
3456 (II) changes that person's business address; or
3457 (B) the license is revoked by the commission; and
3458 (v) subject to Subsection (2)(d), shall be granted by the commission only upon an
3459 application that:
3460 (A) states the name and address of the applicant; and
3461 (B) provides other information the commission may require.

3462 (c) At the time an applicant makes an application under Subsection (2)(b)(v), the
3463 commission shall notify the applicant of the responsibilities and liability of a business owner
3464 successor under Section 59-12-112.

3465 (d) The commission shall review an application and determine whether the applicant:
3466 (i) meets the requirements of this section to be issued a license; and
3467 (ii) is required to post a bond with the commission in accordance with Subsections
3468 (2)(e) and (f) before the applicant may be issued a license.

3469 (e) (i) An applicant shall post a bond with the commission before the commission may
3470 issue the applicant a license if:

3471 (A) a license under this section was revoked for a delinquency under this chapter for:

3472 (I) the applicant;

3473 (II) a fiduciary of the applicant; or

3474 (III) a person for which the applicant or the fiduciary of the applicant is required to
3475 collect, truthfully account for, and pay over a tax under this chapter; or

3476 (B) there is a delinquency in paying a tax under this chapter for:

3477 (I) the applicant;

3478 (II) a fiduciary of the applicant; or

3479 (III) a person for which the applicant or the fiduciary of the applicant is required to
3480 collect, truthfully account for, and pay over a tax under this chapter.

3481 (ii) If the commission determines it is necessary to ensure compliance with this
3482 chapter, the commission may require a licensee to:

3483 (A) for a licensee that has not posted a bond under this section with the commission,
3484 post a bond with the commission in accordance with Subsection (2)(f); or

3485 (B) for a licensee that has posted a bond under this section with the commission,
3486 increase the amount of the bond posted with the commission.

3487 (f) (i) A bond required by Subsection (2)(e) shall be:

3488 (A) executed by:

3489 (I) for an applicant, the applicant as principal, with a corporate surety; or

3490 (II) for a licensee, the licensee as principal, with a corporate surety; and

3491 (B) payable to the commission conditioned upon the faithful performance of all of the
3492 requirements of this chapter including:

3493 (I) the payment of any tax under this chapter;

3494 (II) the payment of any:

3495 (Aa) penalty as provided in Section 59-1-401; or

3496 (Bb) interest as provided in Section 59-1-402; or

3497 (III) any other obligation of the:

3498 (Aa) applicant under this chapter; or

3499 (Bb) licensee under this chapter.

3500 (ii) Except as provided in Subsection (2)(f)(iv), the commission shall calculate the
3501 amount of a bond required by Subsection (2)(e) on the basis of:

3502 (A) commission estimates of:

3503 (I) an applicant's tax liability under this chapter; or

3504 (II) a licensee's tax liability under this chapter; and

3505 (B) any amount of a delinquency described in Subsection (2)(f)(iii).

3506 (iii) Except as provided in Subsection (2)(f)(iv), for purposes of Subsection
3507 (2)(f)(ii)(B):

3508 (A) for an applicant, the amount of the delinquency is the sum of:

3509 (I) the amount of any delinquency that served as a basis for revoking the license under
3510 this section of:

3511 (Aa) the applicant;

3512 (Bb) a fiduciary of the applicant; or

3513 (Cc) a person for which the applicant or the fiduciary of the applicant is required to
3514 collect, truthfully account for, and pay over a tax under this chapter; or

3515 (II) the amount of tax that any of the following owe under this chapter:

3516 (Aa) the applicant;

3517 (Bb) a fiduciary of the applicant; and

3518 (Cc) a person for which the applicant or the fiduciary of the applicant is required to
3519 collect, truthfully account for, and pay over a tax under this chapter; or

3520 (B) for a licensee, the amount of the delinquency is the sum of:

3521 (I) the amount of any delinquency that served as a basis for revoking the license under
3522 this section of:

3523 (Aa) the licensee;

3524 (Bb) a fiduciary of the licensee; or

3525 (Cc) a person for which the licensee or the fiduciary of the licensee is required to
3526 collect, truthfully account for, and pay over a tax under this chapter; or

3527 (II) the amount of tax that any of the following owe under this chapter:

3528 (Aa) the licensee;

3529 (Bb) a fiduciary of the licensee; and

3530 (Cc) a person for which the licensee or the fiduciary of the licensee is required to

3531 collect, truthfully account for, and pay over a tax under this chapter.

3532 (iv) Notwithstanding Subsection (2)(f)(ii) or (2)(f)(iii), a bond required by Subsection

3533 (2)(e) may not:

3534 (A) be less than \$25,000; or

3535 (B) exceed \$500,000.

3536 (g) If business is transacted at two or more separate places by one person, a separate

3537 license for each place of business is required.

3538 (h) (i) The commission shall, on a reasonable notice and after a hearing, revoke the

3539 license of any licensee violating any provisions of this chapter.

3540 (ii) A license may not be issued to a licensee described in Subsection (2)(h)(i) until the

3541 licensee has complied with the requirements of this chapter, including:

3542 (A) paying any:

3543 (I) tax due under this chapter;

3544 (II) penalty as provided in Section 59-1-401; or

3545 (III) interest as provided in Section 59-1-402; and

3546 (B) posting a bond in accordance with Subsections (2)(e) and (f).

3547 (i) Any person required to collect a tax under this chapter within this state without

3548 having secured a license to do so is guilty of a criminal violation as provided in Section

3549 59-1-401.

3550 (j) A license:

3551 (i) is not required for any person engaged exclusively in the business of selling

3552 commodities that are exempt from taxation under this chapter; and

3553 (ii) shall be issued to the person by the commission without a license fee.

3554 (3) (a) For the purpose of the proper administration of this chapter and to prevent

3555 evasion of the tax and the duty to collect the tax, it shall be presumed that tangible personal

3556 property or any other taxable transaction under Subsection 59-12-103(1) sold by any person for

3557 delivery in this state is sold for storage, use, or other consumption in this state unless the

3558 person selling the property, item, or service has taken from the purchaser an exemption

3559 certificate:

3560 (i) bearing the name and address of the purchaser; and

3561 (ii) providing that the property, item, or service was exempted under Section

3562 59-12-104.

3563 (b) An exemption certificate described in Subsection (3)(a):

3564 (i) shall contain information as prescribed by the commission; and

3565 (ii) if a paper exemption certificate is used, shall be signed by the purchaser.

3566 (c) (i) Subject to Subsection (3)(c)(ii), a seller or certified service provider is not liable
 3567 to collect a tax under this chapter if the seller or certified service provider obtains within 90
 3568 days after a transaction is complete:

3569 (A) an exemption certificate containing the information required by Subsections (3)(a)
 3570 and (b); or

3571 (B) the information required by Subsections (3)(a) and (b).

3572 (ii) A seller or certified service provider that does not obtain the exemption certificate
 3573 or information described in Subsection (3)(c)(i) with respect to a transaction may, within 120
 3574 days after the commission requests the seller or certified service provider to substantiate the
 3575 exemption:

3576 (A) establish that the transaction is not subject to taxation under this chapter by a
 3577 means other than providing an exemption certificate containing the information required by
 3578 Subsections (3)(a) and (b); or

3579 (B) obtain an exemption certificate containing the information required by Subsections
 3580 (3)(a) and (b), taken in good faith.

3581 ~~[(c)]~~ (d) Except as provided in Subsection (3)(d) (e), a seller or certified service
 3582 provider that [has taken] takes an exemption certificate from a purchaser in accordance with
 3583 this Subsection (3) with respect to a transaction is not liable to collect a tax under this chapter:

3584 (i) on that transaction; and

3585 (ii) if the commission or a court of competent jurisdiction subsequently determines that
 3586 the purchaser improperly claimed the exemption.

3587 ~~[(d)]~~ (e) ~~[Notwithstanding Subsection (3)(c),]~~ Subsection (3)~~[(c)]~~ (d) does not apply to
 3588 a seller or certified service provider that:

3589 (i) fraudulently fails to collect a tax under this chapter; ~~[or]~~

3590 (ii) solicits a purchaser to participate in improperly claiming an exemption from a tax
 3591 under this chapter~~[-]; or~~

3592 (iii) accepts an exemption certificate for an exemption that is allowed on the basis of

3593 the entity claiming the exemption if:

3594 (A) the purchaser receives the tangible personal property, product, or service that is the
3595 subject of the exemption certificate at a location operated by the seller; and

3596 (B) the exemption certificate states that the tangible personal property, product, or
3597 service is not exempt from taxation under this chapter.

3598 (4) A person filing a contract bid with the state or a political subdivision of the state for
3599 the sale of tangible personal property or any other taxable transaction under Subsection
3600 59-12-103(1) shall include with the bid the number of the license issued to that person under
3601 Subsection (2).

3602 Section 15. Section **59-12-107** is amended to read:

3603 **59-12-107. Collection, remittance, and payment of tax by sellers or other persons**

3604 **-- Returns -- Direct payment by purchaser of vehicle -- Other liability for collection --**

3605 **Rulemaking authority -- Credits -- Treatment of bad debt -- Penalties.**

3606 (1) (a) Except as provided in Subsection (1)(d) or Section 59-12-107.1 or 59-12-123
3607 and subject to Subsection (1)(e), each seller shall pay or collect and remit the sales and use
3608 taxes imposed by this chapter if within this state the seller:

3609 (i) has or utilizes:

3610 (A) an office;

3611 (B) a distribution house;

3612 (C) a sales house;

3613 (D) a warehouse;

3614 (E) a service enterprise; or

3615 (F) a place of business similar to Subsections (1)(a)(i)(A) through (E);

3616 (ii) maintains a stock of goods;

3617 (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the
3618 state, unless the seller's only activity in the state is:

3619 (A) advertising; or

3620 (B) solicitation by:

3621 (I) direct mail;

3622 (II) electronic mail;

3623 (III) the Internet;

- 3624 (IV) [~~telephone~~] telecommunications service; or
- 3625 (V) a means similar to Subsection (1)(a)(iii)(A) or (B);
- 3626 (iv) regularly engages in the delivery of property in the state other than by:
- 3627 (A) common carrier; or
- 3628 (B) United States mail; or
- 3629 (v) regularly engages in an activity directly related to the leasing or servicing of
- 3630 property located within the state.
- 3631 (b) A seller that does not meet one or more of the criteria provided for in Subsection
- 3632 (1)(a):
- 3633 (i) except as provided in Subsection (1)(b)(ii), may voluntarily:
- 3634 (A) collect a tax on a transaction described in Subsection 59-12-103(1); and
- 3635 (B) remit the tax to the commission as provided in this part; or
- 3636 (ii) notwithstanding Subsection (1)(b)(i), shall collect a tax on a transaction described
- 3637 in Subsection 59-12-103(1) if Section 59-12-103.1 requires the seller to collect the tax.
- 3638 (c) The collection and remittance of a tax under this chapter by a seller that is
- 3639 registered under the agreement may not be used as a factor in determining whether that seller is
- 3640 required by Subsection (1)(a) to:
- 3641 (i) pay a tax, fee, or charge under:
- 3642 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 3643 (B) Section 19-6-716;
- 3644 (C) Section 19-6-805;
- 3645 (D) Section 69-2-5;
- 3646 (E) Section 69-2-5.5;
- 3647 (F) Section 69-2-5.6; or
- 3648 (G) this title; or
- 3649 (ii) collect and remit a tax, fee, or charge under:
- 3650 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 3651 (B) Section 19-6-716;
- 3652 (C) Section 19-6-805;
- 3653 (D) Section 69-2-5;
- 3654 (E) Section 69-2-5.5;

3655 (F) Section 69-2-5.6; or

3656 (G) this title.

3657 ~~[(e)]~~ (d) A person shall pay a use tax imposed by this chapter on a transaction
3658 described in Subsection 59-12-103(1) if:

3659 (i) the seller did not collect a tax imposed by this chapter on the transaction; and

3660 (ii) the person:

3661 (A) stores the tangible personal property or product transferred electronically in the
3662 state;

3663 (B) uses the tangible personal property or product transferred electronically in the state;

3664 or

3665 (C) consumes the tangible personal property or product transferred electronically in the
3666 state.

3667 ~~[(d)]~~ (e) The ownership of property that is located at the premises of a printer's facility
3668 with which the retailer has contracted for printing and that consists of the final printed product,
3669 property that becomes a part of the final printed product, or copy from which the printed
3670 product is produced, shall not result in the retailer being considered to have or maintain an
3671 office, distribution house, sales house, warehouse, service enterprise, or other place of
3672 business, or to maintain a stock of goods, within this state.

3673 ~~[(e)]~~ (f) (i) As used in this Subsection (1)~~[(e)]~~ (f):

3674 (A) "affiliated group" is as defined in Section 59-7-101, except that "affiliated group"
3675 includes a corporation that is qualified to do business but is not otherwise doing business in
3676 this state;

3677 (B) "common ownership" is as defined in Section 59-7-101;

3678 (C) "related seller" means a seller that:

3679 (I) is not required to pay or collect and remit sales and use taxes under Subsection
3680 (1)(a) or Section 59-12-103.1;

3681 (II) is:

3682 (Aa) related to a seller that is required to pay or collect and remit sales and use taxes
3683 under Subsection (1)(a) as part of an affiliated group or because of common ownership; or

3684 (Bb) a limited liability company owned by the parent corporation of an affiliated group
3685 if that parent corporation of the affiliated group is required to pay or collect and remit sales and

3686 use taxes under Subsection (1)(a); and
3687 (III) does not voluntarily collect and remit a tax under Subsection (1)(b)(i).
3688 (ii) A seller is not required to pay or collect and remit sales and use taxes under
3689 Subsection (1)(a):
3690 (A) if the seller is a related seller;
3691 (B) if the seller to which the related seller is related does not engage in any of the
3692 following activities on behalf of the related seller:
3693 (I) advertising;
3694 (II) marketing;
3695 (III) sales; or
3696 (IV) other services; and
3697 (C) if the seller to which the related seller is related accepts the return of an item sold
3698 by the related seller, the seller to which the related seller is related accepts the return of that
3699 item:
3700 (I) sold by a seller that is not a related seller; and
3701 (II) on the same terms as the return of an item sold by that seller to which the related
3702 seller is related.
3703 (2) (a) Except as provided in Section 59-12-107.1, a tax under this chapter shall be
3704 collected from a purchaser.
3705 (b) A seller may not collect as tax an amount, without regard to fractional parts of one
3706 cent, in excess of the tax computed at the rates prescribed by this chapter.
3707 (c) (i) Each seller shall:
3708 (A) give the purchaser a receipt for the tax collected; or
3709 (B) bill the tax as a separate item and declare the name of this state and the seller's
3710 sales and use tax license number on the invoice for the sale.
3711 (ii) The receipt or invoice is prima facie evidence that the seller has collected the tax
3712 and relieves the purchaser of the liability for reporting the tax to the commission as a
3713 consumer.
3714 (d) A seller is not required to maintain a separate account for the tax collected, but is
3715 considered to be a person charged with receipt, safekeeping, and transfer of public moneys.
3716 (e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the

benefit of the state and for payment to the commission in the manner and at the time provided for in this chapter.

(f) If any seller, during any reporting period, collects as a tax an amount in excess of the lawful state and local percentage of total taxable sales allowed under this chapter, the seller shall remit to the commission the full amount of the tax imposed under this chapter, plus any excess.

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

(3) (a) Except as provided in ~~[Subsection]~~ Subsections (4) through (6) and Section 59-12-108, the sales or use tax imposed by this chapter is due and payable to the commission quarterly on or before the last day of the month next succeeding each calendar quarterly period.

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

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

(c) ~~[Each]~~ Except as provided in Subsection (4)(c), a return shall contain information and be in a form the commission prescribes by rule.

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

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

(f) (i) Subject to Subsection (3)(f)(ii) and in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule extend the time for making returns and paying the taxes.

(ii) An extension under Subsection (3)(f)(i) may not be for more than 90 days.

(g) The commission may require returns and payment of the tax to be made for other than quarterly periods if the commission considers it necessary in order to ensure the payment

3748 of the tax imposed by this chapter.

3749 (h) (i) The commission may require a seller that files a simplified electronic return with
3750 the commission to file an additional electronic report with the commission.

3751 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
3752 the commission may make rules providing:

3753 (A) the information required to be included in the additional electronic report described
3754 in Subsection (3)(h)(i); and

3755 (B) one or more due dates for filing the additional electronic report described in
3756 Subsection (3)(h)(i).

3757 (4) (a) As used in this Subsection (4) and Subsection (5)(b), "remote seller" means a
3758 seller that is:

3759 (i) registered under the agreement;

3760 (ii) described in Subsection (1)(b); and

3761 (iii) not a:

3762 (A) model 1 seller;

3763 (B) model 2 seller; or

3764 (C) model 3 seller.

3765 (b) (i) Except as provided in Subsection (4)(b)(ii), a tax a remote seller collects in
3766 accordance with Subsection (1)(b) is due and payable:

3767 (A) to the commission;

3768 (B) annually; and

3769 (C) on or before the last day of the month immediately following the last day of each
3770 calendar year.

3771 (ii) The commission may require that a tax a remote seller collects in accordance with
3772 Subsection (1)(b) be due and payable:

3773 (A) to the commission; and

3774 (B) on the last day of the month immediately following any month in which the seller
3775 accumulates a total of at least \$1,000 in agreement sales and use tax.

3776 (c) (i) If a remote seller remits a tax to the commission in accordance with Subsection
3777 (4)(b), the remote seller shall file a return:

3778 (A) with the commission;

3779 (B) with respect to the tax;
3780 (C) containing information prescribed by the commission; and
3781 (D) on a form prescribed by the commission.
3782 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
3783 the commission shall make rules prescribing:
3784 (A) the information required to be contained in a return described in Subsection
3785 (4)(a)(i); and
3786 (B) the form described in Subsection (4)(c)(i)(D).
3787 (d) A tax a remote seller collects in accordance with this Subsection (4) shall be
3788 calculated on the basis of the total amount of taxable transactions under Subsection
3789 59-12-103(1) the remote seller completes, including:
3790 (i) a cash transaction; and
3791 (ii) a charge transaction.
3792 (5) (a) Except as provided in Subsection (5)(b), a tax a seller that files a simplified
3793 electronic return collects in accordance with this chapter is due and payable:
3794 (i) monthly on or before the last day of the month immediately following the month for
3795 which the seller collects a tax under this chapter; and
3796 (ii) for the month for which the seller collects a tax under this chapter.
3797 (b) A tax a remote seller that files a simplified electronic return collects in accordance
3798 with this chapter is due and payable as provided in Subsection (4).
3799 ~~[(4)]~~ (6) (a) On each vehicle sale made by other than a regular licensed vehicle dealer,
3800 the purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject
3801 to titling or registration under the laws of this state.
3802 (b) The commission shall collect the tax described in Subsection ~~[(4)]~~ (6)(a) when the
3803 vehicle is titled or registered.
3804 ~~[(5)]~~ (7) If any sale of tangible personal property or any other taxable transaction under
3805 Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not
3806 responsible for the collection or payment of the tax imposed on the sale and the retailer is
3807 responsible for the collection or payment of the tax imposed on the sale if:
3808 (a) the retailer represents that the personal property is purchased by the retailer for
3809 resale; and

(b) the personal property is not subsequently resold.

~~[(6)]~~ (8) If any sale of property or service subject to the tax is made to a person prepaying sales or use tax in accordance with Title 63, Chapter 51, Resource Development, or to a contractor or subcontractor of that person, the person to whom such payment or consideration is payable is not responsible for the collection or payment of the sales or use tax and the person prepaying the sales or use tax is responsible for the collection or payment of the sales or use tax if the person prepaying the sales or use tax represents that the amount prepaid as sales or use tax has not been fully credited against sales or use tax due and payable under the rules promulgated by the commission.

~~[(7)]~~ (9) (a) For purposes of this Subsection ~~[(7)]~~ (9):

(i) Except as provided in Subsection ~~[(7)]~~ (9)(a)(ii), "bad debt" is as defined in Section 166, Internal Revenue Code.

(ii) Notwithstanding Subsection ~~[(7)]~~ (9)(a)(i), "bad debt" does not include:

(A) an amount included in the purchase price of tangible personal property, a product transferred electronically, or a service that is:

(I) not a transaction described in Subsection 59-12-103(1); or

(II) exempt under Section 59-12-104;

(B) a financing charge;

(C) interest;

(D) a tax imposed under this chapter on the purchase price of tangible personal property, a product transferred electronically, or a service;

(E) an uncollectible amount on tangible personal property or a product transferred electronically, that:

(I) is subject to a tax under this chapter; and

(II) remains in the possession of a seller until the full purchase price is paid;

(F) an expense incurred in attempting to collect any debt; or

(G) an amount that a seller does not collect on repossessed property.

(b) A seller may deduct bad debt from the total amount from which a tax under this chapter is calculated on a return.

(c) A seller may file a refund claim with the commission if:

(i) the amount of bad debt for the time period described in Subsection ~~[(7)]~~ (9)(e)

3841 exceeds the amount of the seller's sales that are subject to a tax under this chapter for that same
3842 time period; and

3843 (ii) as provided in Section 59-12-110.

3844 (d) A bad debt deduction under this section may not include interest.

3845 (e) A bad debt may be deducted under this Subsection [~~(7)~~] (9) on a return for the time
3846 period during which the bad debt:

3847 (i) is written off as uncollectible in the seller's books and records; and

3848 (ii) would be eligible for a bad debt deduction:

3849 (A) for federal income tax purposes; and

3850 (B) if the seller were required to file a federal income tax return.

3851 (f) If a seller recovers any portion of bad debt for which the seller makes a deduction or
3852 claims a refund under this Subsection [~~(7)~~] (9), the seller shall report and remit a tax under this
3853 chapter:

3854 (i) on the portion of the bad debt the seller recovers; and

3855 (ii) on a return filed for the time period for which the portion of the bad debt is
3856 recovered.

3857 (g) For purposes of reporting a recovery of a portion of bad debt under Subsection [~~(7)~~]
3858 (9)(f), a seller shall apply amounts received on the bad debt in the following order:

3859 (i) in a proportional amount:

3860 (A) to the purchase price of the tangible personal property, product transferred
3861 electronically, or service; and

3862 (B) to the tax due under this chapter on the tangible personal property, product
3863 transferred electronically, or service; and

3864 (ii) to:

3865 (A) interest charges;

3866 (B) service charges; and

3867 (C) other charges.

3868 (h) A seller's certified service provider may make a deduction or claim a refund for bad
3869 debt on behalf of the seller:

3870 (i) in accordance with this Subsection (9); and

3871 (ii) if the certified service provider credits or refunds the entire amount of the bad debt

3872 deduction or refund to the seller.

3873 (i) A seller may allocate bad debt among the states that are members of the agreement
3874 if the seller's books and records support that allocation.

3875 ~~[(8)]~~ (10) (a) A seller may not, with intent to evade any tax, fail to timely remit the full
3876 amount of tax required by this chapter.

3877 (b) A violation of this section is punishable as provided in Section 59-1-401.

3878 (c) Each person who fails to pay any tax to the state or any amount of tax required to be
3879 paid to the state, except amounts determined to be due by the commission under Sections
3880 59-12-110 and 59-12-111, within the time required by this chapter, or who fails to file any
3881 return as required by this chapter, shall pay, in addition to the tax, penalties and interest as
3882 provided in Section 59-12-110.

3883 (d) For purposes of prosecution under this section, each quarterly tax period in which a
3884 seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the
3885 tax required to be remitted, constitutes a separate offense.

3886 Section 16. Section **59-12-107.1** is amended to read:

3887 **59-12-107.1. Direct payment permit.**

3888 (1) The commission may issue a direct payment permit to a seller that:

3889 (a) obtains a license under Section 59-12-106;

3890 (b) ~~[is required to remit taxes under this chapter by electronic funds transfer in~~
3891 ~~accordance with Subsection 59-12-108(1)]~~ makes aggregate purchases of at least \$1,500,000
3892 for each of the three years prior to the year in which the commission issues the direct payment
3893 permit to the seller;

3894 (c) has a record of timely payment of taxes under this chapter as determined by the
3895 commission; and

3896 (d) demonstrates to the commission that the seller has the ability to determine the
3897 appropriate location of a transaction;

3898 (i) under [Section 59-12-207];

3899 (A) Section 59-12-211;

3900 (B) Section 59-12-212; or

3901 (C) Section 59-12-213; and

3902 (ii) for each transaction for which the seller makes a purchase using the direct payment

3903 permit.

3904 (2) The commission shall within 120 days after the date a seller applies for a direct
3905 payment permit notify the seller of the commission's decision to issue or deny the issuance of
3906 the direct payment permit.

3907 ~~[(2)]~~ (3) A direct payment permit may not be used in connection with the following
3908 transactions:

3909 (a) a purchase of the following purchased in the same transaction:

3910 (i) prepared food; and

3911 (ii) food and food ingredients;

3912 (b) amounts paid or charged for accommodations and services described in Subsection
3913 59-12-103(1)(i);

3914 (c) amounts paid or charged for admission or user fees under Subsection
3915 59-12-103(1)(f);

3916 (d) a purchase of:

3917 (i) a motor vehicle;

3918 (ii) an aircraft;

3919 (iii) a watercraft;

3920 (iv) a modular home;

3921 (v) a manufactured home; or

3922 (vi) a mobile home;

3923 (e) amounts paid under Subsection 59-12-103(1)(b); or

3924 (f) sales under Subsection 59-12-103(1)(c).

3925 ~~[(3)]~~ (4) The holder of a direct payment permit shall:

3926 (a) present evidence of the direct payment permit to a seller at the time the holder of
3927 the direct payment permit makes a purchase using the direct payment permit;

3928 (b) determine the appropriate location of a transaction under:

3929 (i) (A) Section ~~[59-12-207]~~ 59-12-211;

3930 (B) Section 59-12-212; or

3931 (C) Section 59-12-213; and

3932 (ii) for each transaction for which the holder of the direct payment permit makes a
3933 purchase using the direct payment permit;

3934 (c) notwithstanding Section 59-12-107, determine the amount of any sales and use tax
3935 due on each transaction for which the holder of the direct payment permit uses the direct
3936 payment permit;

3937 (d) report and remit to the commission the sales and use tax described in Subsection
3938 ~~[(3)]~~ (4)(c) at the same time and in the same manner as the holder of the direct payment permit
3939 reports and remits a tax under this chapter; and

3940 (e) maintain records:

3941 (i) that indicate the appropriate location of a transaction under:

3942 (A) (I) Section ~~[59-12-207]~~ 59-12-211;

3943 (II) Section 59-12-212; or

3944 (III) Section 59-12-213; and

3945 (B) for each transaction for which a purchase is made using the direct payment permit;

3946 and

3947 (ii) necessary to determine the amount described in Subsection ~~[(3)]~~ (4)(c) for each
3948 transaction for which the holder of the direct payment permit uses the direct payment permit.

3949 ~~[(4)]~~ (5) A seller that is presented evidence of a direct payment permit at the time of a
3950 transaction:

3951 (a) notwithstanding Section 59-12-107, may not collect sales and use tax on the
3952 transaction;

3953 (b) shall, for a period of three years from the date the seller files a return with the
3954 commission reporting the transaction, retain records to verify that the transaction was made
3955 using a direct payment permit; and

3956 (c) notwithstanding Section 59-12-107, is not liable for sales and use tax on the
3957 transaction.

3958 ~~[(5)]~~ (6) The holder of a direct payment permit may calculate the amount the holder of
3959 the direct payment permit may retain under Section 59-12-108 on the amount described in
3960 Subsection ~~[(3)]~~ (4)(c):

3961 (a) for each transaction for which the holder of the direct payment permit uses the
3962 direct payment permit; and

3963 (b) that the holder of the direct payment permit remits to the commission under this
3964 section.

3965 ~~[(6)]~~ (7) The commission may revoke a direct payment permit issued under this section
3966 at any time if the holder of the direct payment permit fails to comply with any provision of this
3967 chapter.

3968 ~~[(7)]~~ (8) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
3969 Act, the commission may make rules to administer this section.

3970 Section 17. Section **59-12-108** is amended to read:

3971 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**
3972 **Certain amounts allocated to local taxing jurisdictions.**

3973 (1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this
3974 chapter of \$50,000 or more for the previous calendar year shall:

3975 (i) file a return with the commission:

3976 (A) monthly on or before the last day of the month immediately following the month
3977 for which the seller collects a tax under this chapter; and

3978 (B) for the month for which the seller collects a tax under this chapter; and

3979 (ii) except as provided in Subsection (1)(b), remit with the return required by
3980 Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax,
3981 fee, or charge described in Subsection (1)(b):

3982 (A) if that seller's tax liability under this chapter for the previous calendar year is less
3983 than \$96,000, by any method permitted by the commission; or

3984 (B) if that seller's tax liability under this chapter for the previous calendar year is
3985 \$96,000 or more, by electronic funds transfer.

3986 **(b) A seller shall remit electronically with the return required by Subsection (1)(a)(i)**
3987 **the amount the seller is required to remit to the commission for each tax, fee, or charge**
3988 **described in Subsection (1)(c) if that seller:**

3989 (i) is required by Section 59-12-107 to file the return electronically; or

3990 (ii) (A) is required to collect and remit a tax under Subsection 59-12-107(1)(a); and

3991 (B) files a simplified electronic return.

3992 ~~[(b)]~~ (c) Subsections (1)(a)~~[(i) and (ii)]~~ and (b) apply to the following taxes, fees, or
3993 charges:

3994 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

3995 (ii) a fee under Section 19-6-716;

3996 (iii) a fee under Section 19-6-805;
3997 (iv) a charge under Section 69-2-5;
3998 ~~[(iv)]~~ (v) a charge under Section 69-2-5.5; ~~[or]~~
3999 (vi) a charge under Section 69-2-5.6; or
4000 ~~[(v)]~~ (vii) a tax under this chapter.
4001 ~~[(e)]~~ (d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63,
4002 Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules providing
4003 for a method for making same-day payments other than by electronic funds transfer if making
4004 payments by electronic funds transfer fails.
4005 ~~[(d)]~~ (e) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
4006 Act, the commission shall establish by rule procedures and requirements for determining the
4007 amount a seller is required to remit to the commission under this Subsection (1).
4008 (2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a
4009 seller described in Subsection (4) may retain each month the amount allowed by this
4010 Subsection (2).
4011 (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
4012 each month 1.31% of any amounts the seller is required to remit to the commission:
4013 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax
4014 and a local tax imposed in accordance with the following, for the month for which the seller is
4015 filing a return in accordance with Subsection (1):
4016 (A) Subsection 59-12-103(2)(a);
4017 (B) Subsection 59-12-103(2)(b); and
4018 ~~[(C) Subsection 59-12-103(2)(d), except for the state tax and the local tax imposed on~~
4019 ~~the amounts paid or charged for food and food ingredients in accordance with Subsections~~
4020 ~~59-12-103(2)(d)(i)(C) and (2)(d)(ii); and]~~
4021 ~~[(D)]~~ (C) Subsection 59-12-103(2)~~[(e)]~~ (d); and
4022 (ii) for an agreement sales and use tax.
4023 (c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may
4024 retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described
4025 in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in
4026 accordance with Subsection 59-12-103(2)(c).

4027 (ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount
4028 equal to the sum of:

4029 (A) 1.31% of any amounts the seller is required to remit to the commission for:

4030 (I) the state tax and the local tax imposed in accordance with Subsection

4031 59-12-103(2)(c);

4032 (II) the month for which the seller is filing a return in accordance with Subsection (1);

4033 and

4034 (III) an agreement sales and use tax; and

4035 (B) 1.31% of the difference between:

4036 (I) the amounts the seller would have been required to remit to the commission:

4037 (Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject
4038 to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(a);

4039 (Bb) for the month for which the seller is filing a return in accordance with Subsection
4040 (1); and

4041 (Cc) for an agreement sales and use tax; and

4042 (II) the amounts the seller is required to remit to the commission for:

4043 (Aa) the state tax and the local tax imposed in accordance with Subsection

4044 59-12-103(2)(c);

4045 (Bb) the month for which the seller is filing a return in accordance with Subsection (1);

4046 and

4047 (Cc) an agreement sales and use tax.

4048 ~~[(d)(i) A seller subject to Subsection (1) or a seller described in Subsection (4) may~~
4049 ~~retain each month the amount calculated under Subsection (2)(d)(ii) for a transaction described~~
4050 ~~in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed on the~~
4051 ~~amounts paid or charged for food and food ingredients in accordance with Subsections~~
4052 ~~59-12-103(2)(d)(i)(C) and (2)(d)(ii).]~~

4053 ~~[(ii) For purposes of Subsection (2)(d)(i), the amount a seller may retain is an amount~~
4054 ~~equal to the sum of:]~~

4055 ~~[(A) 1.31% of any amounts the seller is required to remit to the commission for:]~~

4056 ~~[(I) the state tax and the local tax imposed on the amounts paid or charged for food and~~
4057 ~~food ingredients in accordance with Subsections 59-12-103(2)(d)(i)(C) and (2)(d)(ii);]~~

4058 ~~[(H) the month for which the seller is filing a return in accordance with Subsection (1);~~
4059 ~~and]~~

4060 ~~[(HH) an agreement sales and use tax; and]~~

4061 ~~[(B) 1.31% of the difference between:]~~

4062 ~~[(I) the amounts the seller would have been required to remit to the commission:]~~

4063 ~~[(Aa) in accordance with Subsections 59-12-103(2)(d)(i)(A) and (2)(d)(ii) if the~~
4064 ~~transaction had been subject to the state tax and the local tax imposed in accordance with~~
4065 ~~Subsections 59-12-103(2)(d)(i)(A) and (2)(d)(ii);]~~

4066 ~~[(Bb) for the month for which the seller is filing a return in accordance with Subsection~~
4067 ~~(1); and]~~

4068 ~~[(Cc) for an agreement sales and use tax; and]~~

4069 ~~[(H) the amounts the seller is required to remit to the commission for:]~~

4070 ~~[(Aa) the state tax and the local tax imposed in accordance with Subsections~~
4071 ~~59-12-103(2)(d)(i)(C) and (2)(d)(ii);]~~

4072 ~~[(Bb) the month for which the seller is filing a return in accordance with Subsection~~
4073 ~~(1); and]~~

4074 ~~[(Cc) an agreement sales and use tax:]~~

4075 ~~[(e)]~~ (d) A seller subject to Subsection (1) or a seller described in Subsection (4) may
4076 retain each month 1% of any amounts the seller is required to remit to the commission:

4077 (i) for the month for which the seller is filing a return in accordance with Subsection
4078 (1); and

4079 (ii) under:

4080 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

4081 (B) Subsection 59-12-603(1)(a)(i)(A); or

4082 (C) Subsection 59-12-603(1)(a)(i)(B).

4083 (3) A state government entity that is required to remit taxes monthly in accordance
4084 with Subsection (1) may not retain any amount under Subsection (2).

4085 (4) A seller that has a tax liability under this chapter for the previous calendar year of
4086 less than \$50,000 may:

4087 (a) voluntarily meet the requirements of Subsection (1); and

4088 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the

4089 amounts allowed by Subsection (2).

4090 (5) Penalties for late payment shall be as provided in Section 59-1-401.

4091 (6) (a) For any amounts required to be remitted to the commission under this part, the
4092 commission shall each month calculate an amount equal to the difference between:

4093 (i) the total amount retained for that month by all sellers had the percentages listed
4094 under Subsections (2)(b)[;] and (2)(c)(ii)[, ~~and (2)(d)(ii)~~] been 1.5%; and

4095 (ii) the total amount retained for that month by all sellers at the percentages listed
4096 under Subsections (2)(b)[;] and (2)(c)(ii)[, ~~and (2)(d)(ii)~~].

4097 (b) The commission shall each month allocate the amount calculated under Subsection
4098 (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and use
4099 tax that the commission distributes to each county, city, and town for that month compared to
4100 the total agreement sales and use tax that the commission distributes for that month to all
4101 counties, cities, and towns.

4102 Section 18. Section **59-12-110** is amended to read:

4103 **59-12-110. Overpayments, deficiencies, and refunds procedures.**

4104 (1) (a) As soon as practicable after a return is filed, the commission shall examine the
4105 return.

4106 (b) If the commission determines that the correct amount of tax to be remitted is
4107 greater or less than the amount shown to be due on the return, the commission shall recompute
4108 the tax.

4109 (c) If the amount paid exceeds the amount due, the excess, plus interest as provided in
4110 Section 59-1-402, shall be credited or refunded to the taxpayer as provided in Subsection (2).

4111 (d) The commission may not credit or refund to the taxpayer interest on an
4112 overpayment under Subsection (1)(c) if the commission determines that the overpayment was
4113 made for the purpose of investment.

4114 (2) (a) If a taxpayer pays a tax, penalty, or interest more than once or the commission
4115 erroneously receives, collects, or computes any tax, penalty, or interest, including an
4116 overpayment described in Subsection (1)(c), the commission shall:

4117 (i) credit the amount of tax, penalty, or interest paid by the taxpayer against any
4118 amounts of tax, penalties, or interest the taxpayer owes; and

4119 (ii) refund any balance to the taxpayer or the taxpayer's successors, administrators,

4120 executors, or assigns.

4121 (b) Except as provided in Subsections (2)(c) and (d) or Section 19-2-124, a taxpayer
4122 shall file a claim with the commission to obtain a refund or credit under this Subsection (2)
4123 within three years from the day on which the taxpayer overpaid the tax, penalty, or interest.

4124 (c) Notwithstanding Subsection (2)(b), beginning on July 1, 1998, the commission
4125 shall extend the period for a taxpayer to file a claim under Subsection (2)(b) if:

4126 (i) the three-year period under Subsection (2)(b) has not expired; and

4127 (ii) the commission and the taxpayer sign a written agreement:

4128 (A) authorizing the extension; and

4129 (B) providing for the length of the extension.

4130 (d) Notwithstanding Subsection (2)(b), a seller that files a claim for a refund under
4131 Subsection 59-12-107 [~~(7)~~] (9)(c) for bad debt shall file the claim with the commission within
4132 three years from the date on which the seller could first claim the refund for the bad debt.

4133 (e) A taxpayer may file a claim to obtain a refund or credit under this Subsection (2)
4134 regardless of whether the taxpayer received or objected to a notice of deficiency or a notice of
4135 assessment as provided in Subsection 59-12-114(1).

4136 (f) A taxpayer may obtain a refund under this Subsection (2) of a tax paid under this
4137 chapter on a transaction that is taxable under Section 59-12-103 if:

4138 (i) the sale or use was exempt from sales and use taxes under Section 59-12-104 on the
4139 date of purchase; and

4140 (ii) except as provided in Subsection (2)(c), the taxpayer files a claim for a refund with
4141 the commission as provided in Subsections (2)(b) through (e).

4142 (g) If the commission denies a claim for a refund or credit under this Subsection (2),
4143 the taxpayer may request a redetermination of the denial by filing a petition or request for
4144 agency action with the commission as provided in Title 63, Chapter 46b, Administrative
4145 Procedures Act.

4146 (3) If the commission erroneously determines an amount to be due from a taxpayer, the
4147 commission shall authorize the amounts to be cancelled upon its records.

4148 (4) (a) Subject to the provisions of Subsection (4)(b), the commission may impose on a
4149 deficiency under this section:

4150 (i) a penalty as provided in Section 59-1-401; and

4151 (ii) interest as provided in Section 59-1-402.

4152 (b) The commission may impose a penalty and interest on the entire deficiency if any
4153 part of the deficiency is due to:

4154 (i) negligence;

4155 (ii) intentional disregard of law or rule; or

4156 (iii) fraud with intent to evade the tax.

4157 (5) (a) Except as provided in Subsection (5)(b), a taxpayer shall pay a tax deficiency,
4158 including penalties or interest under this section, within ten days after the commission provides
4159 the taxpayer notice and demand of the deficiency, penalty, or interest.

4160 (b) Notwithstanding Subsection (5)(a), a taxpayer may pay a tax deficiency, penalty, or
4161 interest within 30 days after the commission provides the taxpayer notice and demand of the
4162 deficiency, penalty, or interest if the commission determines:

4163 (i) that a greater amount was due than was shown on the return; and

4164 (ii) the tax is not in jeopardy.

4165 (6) (a) Except as provided in Subsections (6)(c) through (f), the commission shall
4166 assess the amount of taxes imposed by this chapter, and any penalties and interest, within three
4167 years after a taxpayer files a return.

4168 (b) Except as provided in Subsections (6)(c) through (f), if the commission does not
4169 make an assessment under Subsection (6)(a) within three years, the commission may not
4170 commence a proceeding for the collection of the taxes after the expiration of the three-year
4171 period.

4172 (c) Notwithstanding Subsections (6)(a) and (b), the commission may make an
4173 assessment or commence a proceeding to collect a tax at any time if a deficiency is due to:

4174 (i) fraud; or

4175 (ii) failure to file a return.

4176 (d) Notwithstanding Subsections (6)(a) and (b), beginning on July 1, 1998, the
4177 commission may extend the period to make an assessment or to commence a proceeding to
4178 collect the tax under this chapter if:

4179 (i) the three-year period under this Subsection (6) has not expired; and

4180 (ii) the commission and the taxpayer sign a written agreement:

4181 (A) authorizing the extension; and

4182 (B) providing for the length of the extension.

4183 (e) If the commission delays an audit at the request of a taxpayer, the commission may
4184 make an assessment as provided in Subsection (6)(f) if:

4185 (i) the taxpayer subsequently refuses to agree to an extension request by the
4186 commission; and

4187 (ii) the three-year period under this Subsection (6) expires before the commission
4188 completes the audit.

4189 (f) An assessment under Subsection (6)(e) shall be:

4190 (i) for the time period for which the commission could not make an assessment
4191 because of the expiration of the three-year period; and

4192 (ii) in an amount equal to the difference between:

4193 (A) the commission's estimate of the amount of taxes the taxpayer would have been
4194 assessed for the time period described in Subsection (6)(f)(i); and

4195 (B) the amount of taxes the taxpayer actually paid for the time period described in
4196 Subsection (6)(f)(i).

4197 Section 19. Section **59-12-110.1** is amended to read:

4198 **59-12-110.1. Refund or credit for taxes overpaid by a purchaser.**

4199 (1) Subject to the other provisions of this section, a purchaser may request from a seller
4200 a refund or credit of any amount that:

4201 (a) the purchaser overpaid in taxes under this chapter; and

4202 (b) was collected by the seller.

4203 (2) (a) Except as provided in Subsection (2)(b), the procedure described in Subsection
4204 (1) is in addition to the process for a taxpayer to file a claim for a refund or credit with the
4205 commission under Section 59-12-110.

4206 (b) Notwithstanding Subsection (2)(a):

4207 (i) the commission is not required to make a refund or credit of an amount for which as
4208 of the date the refund or credit is to be given the purchaser has requested or received a refund
4209 or credit from the seller; and

4210 (ii) a seller is not required to refund or credit an amount for which as of the date the
4211 refund is to be given the purchaser has requested or received a refund or credit from the
4212 commission.

4213 (3) A purchaser may not bring a cause of action against a seller for a refund or credit
4214 described in Subsection (1):

4215 (a) unless the purchaser provided the seller written notice that:

4216 (i) the purchaser requests the refund or credit described in Subsection (1); and

4217 (ii) contains the information necessary for the seller to determine the validity of the
4218 request; and

4219 (b) sooner than 60 days after the day on which the seller receives the written notice
4220 described in Subsection (3)(a).

4221 (4) A seller that collects a tax under this chapter that exceeds the amount the seller is
4222 required to collect under this chapter is presumed to have a reasonable business practice if the
4223 seller:

4224 (a) collects the tax under this chapter that exceeds the amount the seller is required to
4225 collect under this chapter through the use of:

4226 (i) a certified service provider; or

4227 (ii) a system certified by the state, including a proprietary system certified by the state;
4228 and

4229 (b) remits to the commission all taxes the seller is required to remit to the commission
4230 under this chapter.

4231 Section 20. Section **59-12-123** is enacted to read:

4232 **59-12-123. Collection, remittance, and payment of a tax on direct mail.**

4233 (1) Notwithstanding Section 59-12-107 and except as provided in Subsection (6), a
4234 purchaser of direct mail that is not a holder of a direct payment permit under Section
4235 59-12-107.1 shall provide to a seller at the time of a transaction:

4236 (a) a form:

4237 (i) prescribed by the commission; and

4238 (ii) indicating that the transaction is a direct mail transaction; or

4239 (b) information that indicates the locations of the recipients to which the direct mail is
4240 delivered.

4241 (2) If a seller receives a form described in Subsection (1)(a), the seller:

4242 (a) is not liable to collect or remit an agreement sales and use tax for that transaction;

4243 and

4244 (b) shall keep a record of the form described in Subsection (1)(a) for three years from
4245 the date the seller files a return with the commission reporting that transaction.

4246 (3) The purchaser described in Subsection (1) shall:

4247 (a) determine the amount of an agreement sales and use tax due on the transaction in
4248 accordance with Sections 59-12-211 and 59-12-212; and

4249 (b) report and remit to the commission the agreement sales and use tax due on the
4250 transaction.

4251 (4) The form described in Subsection (1)(a) is in effect for all transactions between the
4252 seller described in Subsection (2)(a) and the purchaser described in Subsection (1):

4253 (a) beginning when the seller receives the form in accordance with Subsection (2); and

4254 (b) ending when the purchaser revokes the form in writing.

4255 (5) (a) If a seller receives the information described in Subsection (1)(b) from a
4256 purchaser that indicates the locations of the recipients to which direct mail is delivered, the
4257 seller shall collect and remit agreement sales and use tax in accordance with the information
4258 the purchaser provides.

4259 (b) If a seller collects and remits an agreement sales and use tax to the commission in
4260 accordance with Subsection (5)(a), the seller is not liable for any further obligation to collect or
4261 remit an agreement sales and use tax to the commission on the transaction unless the seller acts
4262 in bad faith.

4263 (6) If a purchaser of direct mail provides a seller with a direct payment permit in
4264 accordance with Section 59-12-107.1, the purchaser may not be required to provide to the
4265 seller:

4266 (a) the form required by Subsection (1)(a); or

4267 (b) the information required by Subsection (1)(b).

4268 (7) A seller shall collect and remit an agreement sales and use tax in accordance with
4269 Section 59-12-107 if a purchaser of direct mail does not provide the seller with:

4270 (a) a direct payment permit in accordance with Section 59-12-107.1; or

4271 (b) the:

4272 (i) form required by Subsection (1)(a); or

4273 (ii) information required by Subsection (1)(b).

4274 Section 21. Section **59-12-124** is enacted to read:

59-12-124. Certified service provider liability.

(1) Notwithstanding Section 59-12-107 and except as provided in Subsection (2), if a model 1 seller selects a certified service provider as the model 1 seller's agent:

(a) the certified service provider shall collect and remit an agreement sales and use tax to the commission:

(i) that the model 1 seller would otherwise be required to remit to the commission under this chapter; and

(ii) as provided in this chapter; and

(b) the model 1 seller is not liable for the certified service provider's failure to collect and remit an agreement sales and use tax to the commission that the model 1 seller would otherwise be required to remit to the commission under this chapter.

(2) The model 1 seller described in Subsection (1):

(a) shall remit to the commission a sales and use tax imposed by this chapter:

(i) on the model 1 seller's purchases; and

(ii) as provided in this chapter; and

(b) is liable for a sales and use tax liability arising from fraud by the model 1 seller.

Section 22. Section **59-12-125** is enacted to read:

59-12-125. 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 23. Section **59-12-126** is enacted to read:

59-12-126. 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

4306 part if:

4307 (a) the certified service provider or model 2 seller relies on software the commission
4308 certifies; and

4309 (b) the certified service provider's or model 2 seller's failure to collect a tax required
4310 under this part is as a result of the seller's or certified service provider's reliance on incorrect
4311 data:

4312 (i) provided by the commission; or

4313 (ii) in the software the commission certifies.

4314 (2) The relief from liability described in Subsection (1) does not apply if a certified
4315 service provider or model 2 seller incorrectly classifies an item or transaction into a product
4316 category the commission certifies.

4317 (3) If the taxability of a product category is incorrectly classified in software the
4318 commission certifies, the commission shall:

4319 (a) notify a certified service provider or model 2 seller of the incorrect classification of
4320 the taxability of a product category in software the commission certifies; and

4321 (b) state in the notice required by Subsection (3)(a) that the certified service provider or
4322 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
4323 incorrectly classified product category if the certified service provider or model 2 seller fails to
4324 correct the taxability of the item or transaction within ten days after the day on which the
4325 certified service provider or model 2 seller receives the notice.

4326 (4) If a certified service provider or model 2 seller fails to correct the taxability of an
4327 item or transaction within ten days after the day on which the certified service provider or
4328 model 2 seller receives the notice described in Subsection (3), the certified service provider or
4329 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
4330 item or transaction.

4331 Section 24. Section **59-12-127** is enacted to read:

4332 **59-12-127. Purchaser relief from liability.**

4333 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
4334 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

4335 (i) the purchaser's seller or certified service provider relies on incorrect data provided
4336 by the commission;

4337 (A) on a tax rate;
4338 (B) on a boundary;
4339 (C) on a taxing jurisdiction; or
4340 (D) in the taxability matrix the commission provides in accordance with the agreement;
4341 or
4342 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
4343 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:
4344 (A) on a tax rate;
4345 (B) on a boundary;
4346 (C) on a taxing jurisdiction; or
4347 (D) in the taxability matrix the commission provides in accordance with the agreement.
4348 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
4349 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
4350 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
4351 incorrect data provided by the commission is as a result of conduct that is:
4352 (i) fraudulent;
4353 (ii) intentional; or
4354 (iii) willful.
4355 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
4356 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
4357 or an underpayment if:
4358 (a) the purchaser's seller or certified service provider relies on:
4359 (i) incorrect data provided by the commission:
4360 (A) on a tax rate;
4361 (B) on a boundary; or
4362 (C) on a taxing jurisdiction; or
4363 (ii) an erroneous classification by the commission:
4364 (A) in the taxability matrix the commission provides in accordance with the agreement;
4365 and
4366 (B) with respect to a term;
4367 (I) in the library of definitions; and

4368 (II) that is:
4369 (Aa) listed as taxable or exempt;
4370 (Bb) included or excluded from "sales price"; or
4371 (Cc) included in or excluded from a definition; or
4372 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
4373 accordance with Section 59-12-107.1, relies on:
4374 (i) incorrect data provided by the commission:
4375 (A) on a tax rate;
4376 (B) on a boundary; or
4377 (C) on a taxing jurisdiction; or
4378 (ii) an erroneous classification by the commission:
4379 (A) in the taxability matrix the commission provides in accordance with the agreement;
4380 and
4381 (B) with respect to a term:
4382 (I) in the library of definitions; and
4383 (II) that is:
4384 (Aa) listed as taxable or exempt;
4385 (Bb) included or excluded from "sales price"; or
4386 (Cc) included in or excluded from a definition.
4387 Section 25. Section **59-12-128** is enacted to read:
4388 **59-12-128. Amnesty.**
4389 (1) As used in this section, "amnesty" means that a seller is not required to pay the
4390 following amounts that the seller would otherwise be required to pay:
4391 (a) a tax, fee, or charge under:
4392 (i) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
4393 (ii) Section 19-6-714;
4394 (iii) Section 19-6-805;
4395 (iv) Section 69-2-5;
4396 (v) Section 69-2-5.5;
4397 (vi) Section 69-2-5.6; or
4398 (vii) this chapter;

4399 (b) a penalty on a tax, fee, or charge described in Subsection (1)(a); or
4400 (c) interest on a tax, fee, or charge described in Subsection (1)(a).
4401 (2) The commission shall grant a seller amnesty under this section if the seller:
4402 (a) was not licensed under Section 59-12-106 at any time during the 12-month period
4403 prior to the effective date of the state's participation in the agreement;
4404 (b) obtains a license under Section 59-12-106 within a 12-month period after the
4405 effective date of the state's participation in the agreement; and
4406 (c) is registered under the agreement.
4407 (3) A seller may not receive amnesty under this section for a tax, fee, or charge:
4408 (a) the seller collects;
4409 (b) the seller remits to the commission;
4410 (c) that the seller is required to remit to the commission on the seller's purchase; or
4411 (d) arising from a transaction that occurs within a time period that is under audit by the
4412 commission if:
4413 (i) the seller receives notice of the commencement of the audit prior to obtaining a
4414 license under Section 59-12-106; and
4415 (ii) (A) the audit described in Subsection (3)(d)(i) is not complete; or
4416 (B) the seller has not exhausted all administrative and judicial remedies in connection
4417 with the audit described in Subsection (3)(d)(i).
4418 (4) (a) Except as provided in Subsection (4)(b), amnesty the commission grants to a
4419 seller under this section:
4420 (i) applies to the time period during which the seller is not licensed under Section
4421 59-12-106; and
4422 (ii) remains in effect if, for a period of three years, the seller:
4423 (A) remains registered under the agreement;
4424 (B) collects a tax, fee, or charge on a transaction subject to a tax, fee, or charge
4425 described in Subsection (1)(a); and
4426 (C) remits to the commission the taxes, fees, and charges the seller collects in
4427 accordance with Subsection (4)(a)(ii)(B).
4428 (b) The commission may not grant a seller amnesty under this section if, with respect
4429 to a tax, fee, or charge for which the seller would otherwise be granted amnesty under this

4430 section, the seller commits:

4431 (i) fraud; or

4432 (ii) an intentional misrepresentation of a material fact.

4433 (5) (a) If a seller does not meet a requirement of Subsection (4)(a)(ii), the commission
4434 shall require the seller to pay the amounts described in Subsection (1) that the seller would
4435 have otherwise been required to pay.

4436 (b) Notwithstanding Section 59-12-110, for purposes of requiring a seller to pay an
4437 amount in accordance with Subsection (5)(a), the time period for the commission to make an
4438 assessment under Section 59-12-110 is extended for a time period beginning on the date the
4439 seller does not meet a requirement of Subsection (4)(a)(ii) and ends three years after that date.

4440 Section 26. Section **59-12-129** is enacted to read:

4441 **59-12-129. Monetary allowance under the agreement.**

4442 The commission shall provide a monetary allowance to a seller or certified service
4443 provider as determined:

4444 (1) by the governing board of the agreement; and

4445 (2) in accordance with the agreement.

4446 Section 27. Section **59-12-205** is amended to read:

4447 **59-12-205. Ordinances to conform with statutory amendments -- Distribution of**
4448 **tax revenues -- Determination of population.**

4449 (1) Each county, city, and town, in order to maintain in effect sales and use tax
4450 ordinances adopted pursuant to Section 59-12-204, shall, within 30 days of any amendment of
4451 any applicable provisions of Part 1, Tax Collection, adopt amendments of their respective sales
4452 and use tax ordinances to conform with the amendments to Part 1, Tax Collection, insofar as
4453 they relate to sales and use taxes.

4454 (2) Except as provided in Subsections (3) through (5):

4455 (a) 50% of each dollar collected from the sales and use tax authorized by this part shall
4456 be paid to each county, city, and town on the basis of the percentage that the population of the
4457 county, city, or town bears to the total population of all counties, cities, and towns in the state;
4458 and

4459 (b) 50% of each dollar collected from the sales and use tax authorized by this part shall
4460 be paid to each county, city, and town on the basis of the location where the transaction is

consummated as determined under ~~[Section 59-12-207]~~ Sections 59-12-211 through 59-12-214.

(3) (a) For fiscal years beginning with fiscal year 1983-84 and ending with fiscal year 2005-06, a county, city, or town may not receive a tax revenue distribution less than .75% of the taxable sales within the boundaries of the county, city, or town.

(b) The commission shall proportionally reduce monthly distributions to any county, city, or town that, but for the reduction, would receive a distribution in excess of 1% of the sales and use tax revenue collected within the boundaries of the county, city, or town.

(4) (a) As used in this Subsection (4):

(i) "Eligible county, city, or town" means a county, city, or town that receives \$2,000 or more in tax revenue distributions in accordance with Subsection (3) for each of the following fiscal years:

(A) fiscal year 2002-03;

(B) fiscal year 2003-04; and

(C) fiscal year 2004-05.

(ii) "Minimum tax revenue distribution" means the greater of:

(A) the total amount of tax revenue distributions an eligible county, city, or town receives from a tax imposed in accordance with this part for fiscal year 2000-01; or

(B) the total amount of tax revenue distributions an eligible county, city, or town receives from a tax imposed in accordance with this part for fiscal year 2004-05.

(b) (i) Notwithstanding Subsection (2) and except as provided in Subsection (4)(b)(ii), beginning with fiscal year 2006-07 and ending with fiscal year 2012-13, an eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

(A) the payment required by Subsection (2); or

(B) the minimum tax revenue distribution.

(ii) If the tax revenue distribution required by Subsection (4)(b)(i) for an eligible county, city, or town is equal to the amount described in Subsection (4)(b)(i)(A) for three consecutive 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 effect:

- (i) on the first day of a calendar quarter; and
- (ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the county, city, or town.

(b) The notice described in Subsection (2)(a)(ii) shall state:

4523 (i) that the county, city, or town will enact or repeal a tax under this part;
 4524 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);
 4525 (iii) the effective date of the tax described in Subsection (2)(b)(i); and
 4526 (iv) if the county, city, or town enacts the tax described in Subsection (2)(b)(i), the rate
 4527 of the tax.

4528 (c) (i) ~~[Notwithstanding Subsection (2)(a), for a transaction described in Subsection~~
 4529 ~~(2)(c)(iii), the]~~ The enactment of a tax shall take effect on the first day of the first billing
 4530 period:

4531 (A) that begins after the effective date of the enactment of the tax; and
 4532 (B) if the billing period for the transaction begins before the effective date of the
 4533 enactment of the tax under Section 59-12-204.

4534 (ii) ~~[Notwithstanding Subsection (2)(a), for a transaction described in Subsection~~
 4535 ~~(2)(c)(iii), the]~~ The repeal of a tax shall take effect on the first day of the last billing period:

4536 (A) that began before the effective date of the repeal of the tax; and
 4537 (B) if the billing period for the transaction begins before the effective date of the repeal
 4538 of the tax imposed under Section 59-12-204.

4539 ~~[(iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:]~~

4540 ~~[(A) Subsection 59-12-103(1)(b);]~~

4541 ~~[(B) Subsection 59-12-103(1)(c);]~~

4542 ~~[(C) Subsection 59-12-103(1)(d);]~~

4543 ~~[(D) Subsection 59-12-103(1)(e);]~~

4544 ~~[(E) Subsection 59-12-103(1)(f);]~~

4545 ~~[(F) Subsection 59-12-103(1)(g);]~~

4546 ~~[(G) Subsection 59-12-103(1)(h);]~~

4547 ~~[(H) Subsection 59-12-103(1)(i);]~~

4548 ~~[(I) Subsection 59-12-103(1)(j); or]~~

4549 ~~[(J) Subsection 59-12-103(1)(k).]~~

4550 (d) (i) ~~[Notwithstanding Subsection (2)(a), if]~~ If a tax due under this chapter on a
 4551 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
 4552 enactment or repeal of a tax described in Subsection (2)(a) takes effect:

4553 (A) on the first day of a calendar quarter; and

4554 (B) beginning 60 days after the effective date of the enactment or repeal under
4555 Subsection (2)(a).

4556 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4557 the commission may by rule define the term "catalogue sale."

4558 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs
4559 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
4560 part for an annexing area, the enactment or repeal shall take effect:

4561 (i) on the first day of a calendar quarter; and

4562 (ii) after a 90-day period beginning on the date the commission receives notice meeting
4563 the requirements of Subsection (3)(b) from the county, city, or town that annexes the annexing
4564 area.

4565 (b) The notice described in Subsection (3)(a)(ii) shall state:

4566 (i) that the annexation described in Subsection (3)(a) will result in an enactment or
4567 repeal of a tax under this part for the annexing area;

4568 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);

4569 (iii) the effective date of the tax described in Subsection (3)(b)(i); and

4570 (iv) the rate of the tax described in Subsection (3)(b)(i).

4571 (c) (i) ~~[Notwithstanding Subsection (3)(a), for a transaction described in Subsection~~
4572 ~~(3)(c)(iii), the]~~ The enactment of a tax shall take effect on the first day of the first billing
4573 period:

4574 (A) that begins after the effective date of the enactment of the tax; and

4575 (B) if the billing period for the transaction begins before the effective date of the
4576 enactment of the tax under Section 59-12-204.

4577 (ii) ~~[Notwithstanding Subsection (3)(a), for a transaction described in Subsection~~
4578 ~~(3)(c)(iii), the]~~ The repeal of a tax shall take effect on the first day of the last billing period:

4579 (A) that began before the effective date of the repeal of the tax; and

4580 (B) if the billing period for the transaction begins before the effective date of the repeal
4581 of the tax imposed under Section 59-12-204.

4582 ~~[(iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:]~~

4583 ~~[(A) Subsection 59-12-103(1)(b);]~~

4584 ~~[(B) Subsection 59-12-103(1)(c);]~~

4585 ~~[(C) Subsection 59-12-103(1)(d);]~~
4586 ~~[(D) Subsection 59-12-103(1)(e);]~~
4587 ~~[(E) Subsection 59-12-103(1)(f);]~~
4588 ~~[(F) Subsection 59-12-103(1)(g);]~~
4589 ~~[(G) Subsection 59-12-103(1)(h);]~~
4590 ~~[(H) Subsection 59-12-103(1)(i);]~~
4591 ~~[(I) Subsection 59-12-103(1)(j); or]~~
4592 ~~[(J) Subsection 59-12-103(1)(k).]~~

4593 (d) (i) ~~[Notwithstanding Subsection (3)(a), if]~~ If a tax due under this chapter on a
4594 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
4595 enactment or repeal of a tax described in Subsection (3)(a) takes effect:

4596 (A) on the first day of a calendar quarter; and

4597 (B) beginning 60 days after the effective date of the enactment or repeal under
4598 Subsection (3)(a).

4599 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4600 the commission may by rule define the term "catalogue sale."

4601 Section 29. Section **59-12-210** is amended to read:

4602 **59-12-210. Commission to provide data to counties.**

4603 (1) (a) The commission shall provide to each county the sales and use tax collection
4604 data necessary to verify that the local sales and use tax revenues collected by the commission
4605 are distributed to each county, city, and town in accordance with Sections ~~[59-12-205,~~
4606 ~~59-12-206, 59-12-207, and 59-12-207.4]~~ 59-12-211 through 59-12-215.

4607 (b) The data described in Subsection (1)(a) shall include the commission's reports of
4608 seller sales, sales and use tax distribution reports, and a breakdown of local revenues.

4609 (2) (a) In addition to the access to information provided in Subsection (1) and Section
4610 59-12-109, the commission shall provide a county, city, or town with copies of returns and
4611 other information required by this chapter relating to a tax under this chapter.

4612 (b) The information described in Subsection (2)(a) is available only in official matters
4613 and must be requested in writing by the chief executive officer or the chief executive officer's
4614 designee.

4615 (c) The request described in Subsection (2)(b) shall specifically indicate the

4616 information being sought and how the information will be used.

4617 (d) Information received pursuant to the request described in Subsection (2)(b) shall
4618 be:

4619 (i) classified as private or protected under Section 63-2-302 or 63-2-304; and

4620 (ii) subject to the confidentiality provisions of Section 59-1-403.

4621 Section 30. Section **59-12-211** is enacted to read:

4622 **59-12-211. Definitions -- Location of certain transactions -- Reports to commission**

4623 **-- Direct payment provision for a seller making certain purchases -- Exceptions.**

4624 (1) As used in this section:

4625 (a) (i) "Receipt" and "receive" mean:

4626 (A) taking possession of tangible personal property;

4627 (B) making first use of a service; or

4628 (C) for a product transferred electronically, the earlier of:

4629 (I) taking possession of the product transferred electronically; or

4630 (II) making first use of the product transferred electronically.

4631 (ii) "Receipt" and "receive" do not include possession by a shipping company on behalf
4632 of a purchaser.

4633 (b) "Transportation equipment" means:

4634 (i) a locomotive or rail car that is used to carry a person or property in interstate
4635 commerce;

4636 (ii) a truck or truck-tractor:

4637 (A) with a gross vehicle weight rating of 10,001 pounds or more;

4638 (B) registered under Section 41-1a-301; and

4639 (C) operated under the authority of a carrier authorized and certificated:

4640 (I) by the United States Department of Transportation or another federal authority; and

4641 (II) to engage in carrying a person or property in interstate commerce;

4642 (iii) a trailer, semitrailer, or passenger bus that is:

4643 (A) registered under Section 41-1a-301; and

4644 (B) operated under the authority of a carrier authorized and certificated:

4645 (I) by the United States Department of Transportation or another federal authority; and

4646 (II) to engage in carrying a person or property in interstate commerce;

4647 (iv) an aircraft that is operated by an air carrier authorized and certificated:
4648 (A) by the United States Department of Transportation or another federal or foreign
4649 authority; and
4650 (B) to engage in carrying a person or property in interstate commerce; or
4651 (v) a container designed for use on, or a component part attached or secured on an item
4652 of equipment listed in, Subsections (1)(b)(i) through (iv).
4653 (2) Except as provided in Subsections (8) and (13), if tangible personal property, a
4654 product transferred electronically, or a service that is subject to taxation under this chapter is
4655 received by a purchaser at a business location of a seller, the location of the transaction is the
4656 business location of the seller.
4657 (3) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),
4658 and (13), if tangible personal property, a product transferred electronically, or a service that is
4659 subject to taxation under this chapter is not received by a purchaser at a business location of a
4660 seller, the location of the transaction is the location where the purchaser takes receipt of the
4661 tangible personal property or service.
4662 (4) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),
4663 and (13), if Subsection (2) or (3) does not apply, the location of the transaction is the location
4664 indicated by an address for or other information on the purchaser if:
4665 (a) the address or other information is available from the seller's business records; and
4666 (b) use of the address or other information from the seller's records does not constitute
4667 bad faith.
4668 (5) (a) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9),
4669 (11), and (13), if Subsection (2), (3), or (4) does not apply, the location of the transaction is the
4670 location indicated by an address for the purchaser if:
4671 (i) the address is obtained during the consummation of the transaction; and
4672 (ii) use of the address described in Subsection (5)(a)(i) does not constitute bad faith.
4673 (b) An address used under Subsection (5)(a) includes the address of a purchaser's
4674 payment instrument if no other address is available.
4675 (6) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),
4676 and (13), if Subsection (2), (3), (4), or (5) does not apply or if a seller does not have sufficient
4677 information to apply Subsection (2), (3), (4), or (5), the location of the transaction is the

4678 location indicated by the address from which:

4679 (a) except as provided in Subsection (6)(b), for tangible personal property that is
4680 subject to taxation under this chapter, the tangible personal property is shipped;

4681 (b) for computer software delivered electronically or for a product transferred
4682 electronically that is subject to taxation under this chapter, the computer software or product
4683 transferred electronically is first available for transmission by the seller; or

4684 (c) for a service that is subject to taxation under this chapter, the service is provided.

4685 (7) (a) For purposes of this Subsection (7), "shared ZIP Code" means a nine-digit ZIP
4686 Code that is located within two or more local taxing jurisdictions.

4687 (b) If the location of a transaction determined under Subsections (3) through (6) is in a
4688 shared ZIP Code, the location of the transaction is:

4689 (i) if there is only one local taxing jurisdiction that imposes the lowest agreement
4690 combined tax rate for the shared ZIP Code, the local taxing jurisdiction that imposes the lowest
4691 agreement combined tax rate; or

4692 (ii) if two or more local taxing jurisdictions impose the lowest agreement combined tax
4693 rate for the shared ZIP Code, the local taxing jurisdiction that:

4694 (A) imposes the lowest agreement combined tax rate for the shared ZIP Code; and

4695 (B) has located within the local taxing jurisdiction the largest number of street
4696 addresses within the shared ZIP Code.

4697 (c) For purposes of Subsection (7)(b), a seller shall collect a tax imposed under this
4698 chapter at the lowest agreement combined tax rate imposed within the local taxing jurisdiction
4699 in which the transaction is located under Subsection (7)(b) notwithstanding:

4700 (i) Section 59-12-204;

4701 (ii) Section 59-12-401;

4702 (iii) Section 59-12-402;

4703 (iv) Section 59-12-501;

4704 (v) Section 59-12-502;

4705 (vi) Section 59-12-703;

4706 (vii) Section 59-12-802;

4707 (viii) Section 59-12-804;

4708 (ix) Section 59-12-1001;

4709 (x) Section 59-12-1102;
4710 (xi) Section 59-12-1302;
4711 (xii) Section 59-12-1402;
4712 (xiii) Section 59-12-1503;
4713 (xiv) Section 59-12-1703; or
4714 (xv) Section 59-12-1802.
4715 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4716 commission may make rules:
4717 (i) providing for the circumstances under which a seller has exercised due diligence in
4718 determining the nine-digit ZIP Code for an address; or
4719 (ii) notwithstanding Subsection (7)(b), for determining the local taxing jurisdiction
4720 within which a transaction is located if a seller is unable to determine the local taxing
4721 jurisdiction within which the transaction is located under Subsection (7)(b).
4722 (8) The location of a transaction made with a direct payment permit described in
4723 Section 59-12-107.1 is the location where receipt of the tangible personal property, product, or
4724 service by the purchaser occurs.
4725 (9) The location of a purchase of direct mail is the location described in Subsection (6),
4726 if the purchaser of the direct mail:
4727 (a) has not been issued a direct payment permit under Section 59-12-107.1; and
4728 (b) does not provide the seller the form or information described in Subsection
4729 59-12-123(1).
4730 (10) (a) Except as provided in Subsection (10)(b), the location of a transaction
4731 determined under Subsections (3) through (6), (8), or (9), is the local taxing jurisdiction within
4732 which:
4733 (i) the nine-digit ZIP Code assigned to the location determined under Subsections (3)
4734 through (6), (8), or (9) is located; or
4735 (ii) the five-digit ZIP Code assigned to the location determined under Subsections (3)
4736 through (6), (8), or (9) is located if:
4737 (A) a nine-digit ZIP Code is not available for the location determined under
4738 Subsections (3) through (6), (8), or (9); or
4739 (B) after exercising due diligence, a seller or certified service provider is unable to

4740 determine a nine-digit ZIP Code for the location determined under Subsections (3) through (6),
4741 (8), or (9).

4742 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4743 commission may make rules for determining the local taxing jurisdiction within which a
4744 transaction is located if a seller or certified service provider is unable to determine the local
4745 taxing jurisdiction within which the transaction is located under Subsection (10)(a).

4746 (11) (a) As used in this Subsection (11), "florist delivery transaction" means a
4747 transaction commenced by a florist that transmits an order:

4748 (i) by:

4749 (A) telegraph;

4750 (B) telephone; or

4751 (C) a means of communication similar to Subsection (11)(a)(i)(A) or (B); and

4752 (ii) for delivery to another place:

4753 (A) in this state; or

4754 (B) outside this state.

4755 (b) Notwithstanding Subsections (3) through (6), beginning on January 1, 2009, and
4756 ending on December 31, 2009, the location of a florist delivery transaction is the business
4757 location of the florist that commences the florist delivery transaction.

4758 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4759 commission may by rule:

4760 (i) define:

4761 (A) "business location"; and

4762 (B) "florist";

4763 (ii) define what constitutes a means of communication similar to Subsection
4764 (11)(a)(i)(A) or (B); and

4765 (iii) provide procedures for determining when a transaction is commenced.

4766 (12) (a) A tax collected under this chapter shall be reported to the commission on a
4767 form that identifies the location of each transaction that occurs during the return filing period.

4768 (b) The form described in Subsection (12)(a) shall be filed with the commission as
4769 required under this chapter.

4770 (13) This section does not apply to:

- 4771 (a) amounts charged by a seller for:
4772 (i) telecommunications service; or
4773 (ii) the retail sale or transfer of:
4774 (A) a motor vehicle other than a motor vehicle that is transportation equipment;
4775 (B) an aircraft other than an aircraft that is transportation equipment;
4776 (C) a watercraft;
4777 (D) a modular home;
4778 (E) a manufactured home; or
4779 (F) a mobile home; or
4780 (iii) except as provided in Section 59-12-214, the lease or rental of tangible personal
4781 property other than tangible personal property that is transportation equipment;
4782 (b) a tax paid under this chapter:
4783 (i) by a seller; and
4784 (ii) for the seller's purchases; or
4785 (c) a retail sale of tangible personal property or a product transferred electronically if:
4786 (i) the seller receives the order for the tangible personal property or product transferred
4787 electronically in this state;
4788 (ii) receipt of the tangible personal property or product transferred electronically by the
4789 purchaser or the purchaser's donee occurs in this state;
4790 (iii) the location where receipt of the tangible personal property or product transferred
4791 electronically by the purchaser occurs is determined in accordance with Subsections (3)
4792 through (5); and
4793 (iv) at the time the seller receives the order, the record keeping system that the seller
4794 uses to calculate the proper amount of tax imposed under this chapter captures the location
4795 where the order is received.
4796 Section 31. Section **59-12-212** is enacted to read:
4797 **59-12-212. Location of certain transactions if receipt of order and receipt of**
4798 **product take place in this state.**
4799 (1) The location of the sale of tangible personal property or a product transferred
4800 electronically is the location where the seller receives the order if:
4801 (a) the seller receives the order for the tangible personal property or product transferred

4802 electronically in this state;

4803 (b) receipt of the tangible personal property or product transferred electronically by the
4804 purchaser or the purchaser's donee occurs in this state;

4805 (c) the location where receipt of the tangible personal property or product transferred
4806 electronically by the purchaser occurs is determined in accordance with Subsections (3)
4807 through (5); and

4808 (d) at the time the seller receives the order, the record keeping system that the seller
4809 uses to calculate the proper amount of tax imposed under this chapter captures the location
4810 where the order is received.

4811 (2) (a) Subject to Subsections (2)(b) through (d), for purposes of this section, the
4812 location where a seller receives an order is:

4813 (i) a physical location of the seller or a third party; and

4814 (ii) where an order is initially received by or on behalf of the seller.

4815 (b) A physical location of a seller or third party includes the following if operated by or
4816 on behalf of the seller:

4817 (i) an automated order receipt system;

4818 (ii) an office; or

4819 (iii) an outlet.

4820 (c) The location where a seller receives an order does not include the location:

4821 (i) where an order is accepted, completed, or fulfilled; or

4822 (ii) from which tangible personal property or a product transferred electronically is
4823 shipped.

4824 (d) For purposes of this Subsection (2), an order is considered to be received when all
4825 of the information necessary to the determination of whether the order can be accepted has
4826 been received by or on behalf of the seller.

4827 (3) (a) A purchaser is not liable for a tax, penalty, or interest on a sale for which the
4828 purchaser remits a tax under this chapter to the seller in the amount the seller invoices if the
4829 amount is calculated at the total tax rate applicable to the location where:

4830 (i) receipt by the purchaser occurs; or

4831 (ii) the seller receives the order.

4832 (b) A purchaser may rely on a written representation by the seller as to the location

4833 where the seller receives the order for the sale.

4834 (c) If a purchaser does not have a written representation by the seller as to the location
4835 where the seller receives the order for the sale, the purchaser may determine the total tax rate
4836 applicable to the location where the order is received by using a location indicated by a
4837 business address for the seller that is available from the business records:

4838 (i) of the purchaser; and

4839 (ii) that are maintained in the ordinary course of the purchaser's business.

4840 (4) If an item of tangible personal property or an item that is a product transferred
4841 electronically is sold with an item that is subject to Section 59-12-211, all of the items are
4842 subject to this section if the items are:

4843 (a) sold under a single contract;

4844 (b) sold in the same transaction; and

4845 (c) billed on the same billing statement.

4846 (5) This section does not apply to the lease or rental of:

4847 (a) tangible personal property; or

4848 (b) a product transferred electronically.

4849 Section 32. Section **59-12-213** is enacted to read:

4850 **59-12-213. Location of a transaction involving a sale of aircraft, a manufactured**
4851 **home, a mobile home, a modular home, a motor vehicle, or watercraft.**

4852 (1) (a) Except as provided in Subsection (1)(b) or (4), the location of a sale of the
4853 following tangible personal property is determined as provided in this section:

4854 (i) aircraft;

4855 (ii) a manufactured home;

4856 (iii) a mobile home;

4857 (iv) a modular home;

4858 (v) a motor vehicle; or

4859 (vi) watercraft.

4860 (b) The location of the sale of tangible personal property described in Subsection (1)(a)
4861 is determined in accordance with Sections 59-12-211 and 59-12-212 if the tangible personal
4862 property described in Subsection (1)(a) is transportation equipment as defined in Section
4863 59-12-211.

(2) If an item of tangible personal property described in Subsection (1)(a) is sold by a dealer of that tangible personal property, the location of the sale of that tangible personal property is the business location of the dealer.

(3) If an item of tangible personal property described in Subsection (1)(a) is sold by a person other than a dealer of that tangible personal property, the location of the sale of that tangible personal property is:

(a) if the tangible personal property is required to be registered with the state before the tangible personal property is used on a public highway, on a public waterway, on public land, or in the air, the location of the street address at which the tangible personal property is registered; or

(b) if the tangible personal property is not required to be registered as provided in Subsection (3)(a), the location of the street address at which the purchaser of the tangible personal property resides.

(4) This section does not apply to the lease or rental of tangible personal property described in Subsection (1)(a).

Section 33. Section **59-12-214** is enacted to read:

59-12-214. Location of a transaction involving the lease or rental of certain tangible personal property or a product transferred electronically.

(1) As used in this section:

(a) "Primary property location" means an address for tangible personal property or a product transferred electronically:

(i) a lessee provides to a lessor; and

(ii) that is available to the lessor from the lessor's records maintained in the ordinary course of business.

(b) "Primary property location" does not include an address described in Subsection (1)(a) if use of that address constitutes bad faith.

(2) (a) Except as provided in Subsection (2)(b) and notwithstanding Section 59-12-211, if a lease or rental of tangible personal property or a product transferred electronically that is subject to taxation under this part requires recurring periodic payments:

(i) the location of the transaction for any down payment and for the first recurring periodic payment is as provided in Section 59-12-211; and

(ii) the location of the transaction for the second recurring periodic payment and subsequent recurring periodic payments is the primary property or product location for each time period covered by the recurring periodic payment.

(b) If a transaction subject to taxation under this chapter involving a lease or rental of an aircraft or a motor vehicle, semitrailer, or trailer that is not transportation equipment as defined in Section 59-12-211 requires recurring periodic payments, the location of the transaction for a down payment and for each recurring periodic payment is the primary property location for each time period covered by the recurring periodic payment.

(3) Notwithstanding Section 59-12-211, if a transaction involving a lease or rental of the following does not require recurring periodic payments, the location of the transaction is as provided in Section 59-12-211 for each lease or rental payment for:

(a) tangible personal property or a product transferred electronically that is subject to taxation under this chapter; or

(b) an aircraft or a motor vehicle, semitrailer, or trailer that is:

(i) not transportation equipment under Section 59-12-211; and

(ii) subject to taxation under this chapter.

(4) This section does not affect the imposition or computation of a tax under this chapter on:

(a) a lease or rental of tangible personal property or a product transferred electronically that is subject to taxation under this chapter on:

(i) the basis of a lump sum; or

(ii) an accelerated basis; or

(b) the acquisition of tangible personal property or a product transferred electronically if that tangible personal property or product transferred electronically is:

(i) subject to taxation under this chapter; and

(ii) for lease.

Section 34. Section **59-12-215**, which is renumbered from Section 59-12-207.4 is renumbered and amended to read:

[59-12-207.4]. 59-12-215. Location of transaction involving telecommunications service or other related service.

(1) As used in this section:

- 4926 (a) "Air-to-ground radiotelephone service" means a radio service:
4927 (i) as defined in 47 C.F.R. Sec. 22.99; and
4928 (ii) for which a common carrier is authorized to offer and provide radio
4929 telecommunications service:
4930 (A) for hire; and
4931 (B) to a subscriber in an aircraft.
- 4932 (b) "Call-by-call basis" means a method of charging for [~~telephone~~]
4933 telecommunications service that is measured by individual calls.
- 4934 (c) "Communications channel" means a physical or virtual path of communications
4935 over which a signal is transmitted between or among customer channel termination points.
- 4936 (d) (i) Subject to Subsection (1)(d)(ii), "customer" means:
4937 (A) a person that is obligated under a contract with a [~~telephone~~] telecommunications
4938 service provider to pay for [~~telephone~~] telecommunications service received under the contract;
4939 or
4940 (B) if the end user is not the person described in Subsection (1)(d)(i)(A), the end user
4941 of [~~telephone~~] telecommunications service.
- 4942 (ii) "Customer" does not include a reseller:
4943 (A) of [~~telephone~~] telecommunications service; or
4944 (B) for mobile telecommunications service, of a serving carrier under an agreement to
4945 serve a customer outside the home service provider's licensed service area.
- 4946 (e) "Customer channel termination point" means the location where a customer:
4947 (i) inputs communications; or
4948 (ii) receives communications.
- 4949 (f) "End user" means:
4950 (i) an individual who uses a [~~telephone~~] telecommunications service; or
4951 (ii) for [~~telephone~~] a telecommunications service provided to a person who is not an
4952 individual, an individual who uses a [~~telephone~~] telecommunications service on behalf of the
4953 person who is provided the [~~telephone~~] telecommunications service.
- 4954 (g) "Home service provider" is as defined in the Mobile Telecommunications Sourcing
4955 Act, 4 U.S.C. Sec. 124.
- 4956 (h) "Mobile telecommunications service" is as defined in the Mobile

4957 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

4958 ~~[(h)]~~ (i) "Place of primary use":

4959 (i) for ~~[telephone]~~ telecommunications service other than mobile telecommunications

4960 service, means the street address representative of where a customer's use of the ~~[telephone]~~

4961 telecommunications service primarily occurs, which shall be:

4962 (A) the residential street address of the customer; or

4963 (B) the primary business street address of the customer; or

4964 (ii) for mobile telecommunications service, is as defined in the Mobile

4965 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

4966 ~~[(i) (i) "Postpaid calling service" means a telephone service obtained by making a~~
4967 ~~payment on a call-by-call basis:]~~

4968 ~~[(A) through the use of a:]~~

4969 ~~[(F) credit card;]~~

4970 ~~[(H) bank card;]~~

4971 ~~[(III) travel card; or]~~

4972 ~~[(IV) debit card; or]~~

4973 ~~[(B) by a charge made to a telephone number that is not associated with the origination~~
4974 ~~or termination of the telephone service:]~~

4975 ~~[(ii) "Postpaid calling service" includes a telephone service that would be a prepaid~~
4976 ~~calling service if the service were exclusively a telephone service:]~~

4977 ~~[(j) "Prepaid calling service" means a telephone service:]~~

4978 ~~[(i) that allows a purchaser access to exclusively telephone service;]~~

4979 ~~[(ii) that:]~~

4980 ~~[(A) must be paid for in advance; and]~~

4981 ~~[(B) enables the origination of calls using an:]~~

4982 ~~[(F) access number; or]~~

4983 ~~[(H) authorization code;]~~

4984 ~~[(iii) dialed:]~~

4985 ~~[(A) manually; or]~~

4986 ~~[(B) electronically; and]~~

4987 ~~[(iv) sold in predetermined units or dollars that decline:]~~

4988 ~~[(A) by a known amount; and]~~
4989 ~~[(B) with use.]~~
4990 ~~[(k) (i) (A) Subject to Subsection (1)(k)(i)(B), "private communication service" means~~
4991 ~~a telephone service that entitles a customer to exclusive or priority use of a communications~~
4992 ~~channel or group of communications channels between or among termination points.]~~
4993 ~~[(B) The determination of whether a telephone service is a private communication~~
4994 ~~service may not be based on the manner in which the communications channels or group of~~
4995 ~~communications channels are connected.]~~
4996 ~~[(ii) "Private communication service" includes the following services provided in~~
4997 ~~connection with the use of a communications channel or group of communications channels:]~~
4998 ~~[(A) switching capacity;]~~
4999 ~~[(B) an extension line; or]~~
5000 ~~[(C) a station.]~~
5001 ~~[(H)]~~ (j) Notwithstanding where a call is billed or paid, "service address" means:
5002 (i) if the location of where a call is billed or paid is known, the location of the
5003 telecommunications equipment:
5004 (A) to which a customer's call is charged; and
5005 (B) from which the call:
5006 (I) originates; or
5007 (II) terminates;
5008 (ii) if the location of where a call is billed or paid is not known but the location of the
5009 origination point of the signal of the [telephone] telecommunications service is known, the
5010 location of the origination point of the signal of the [telephone] telecommunications service
5011 first identified by:
5012 (A) the telecommunications system of the [telephone] telecommunications service
5013 provider; or
5014 (B) if the system used to transport the signal of the [telephone] telecommunications
5015 service is not a system of the [telephone] telecommunications service provider, information
5016 received by the [telephone] telecommunications service provider from the [telephone]
5017 telecommunications service provider's [telephone] telecommunications service provider; or
5018 (iii) if the following are not known, the location of a customer's place of primary use:

- 5019 (A) the location of where a call is billed or paid; and
5020 (B) the location of the origination point of the signal of the [telephone]
5021 telecommunications service.
- 5022 (2) Except as provided in Subsection (4), the location of a sale of a [telephone]
5023 telecommunications service sold on a call-by-call basis is:
- 5024 (a) the location at which the call originates and terminates; or
5025 (b) the location at which:
5026 (i) the call:
5027 (A) originates; or
5028 (B) terminates; and
5029 (ii) the service address is located.
- 5030 (3) Except as provided in Subsection (4), the location of a sale of a [telephone]
5031 telecommunications service sold on a basis other than a call-by-call basis is the customer's
5032 place of primary use.
- 5033 (4) Notwithstanding Subsection (2) or (3):
5034 (a) the location of a sale of a mobile telecommunications service, other than an
5035 air-to-ground radiotelephone service or a prepaid calling service, is the location required by the
5036 Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; and
5037 (b) the location of a sale of a postpaid calling service is the origination point of the
5038 telecommunications signal as first identified by:
5039 (i) the seller's telecommunications system; or
5040 (ii) if the system used to transport the telecommunications signal is not that of the
5041 seller, information received by the seller from the seller's telephone service provider[-];
5042 (c) the location of a sale of a prepaid calling service is the location determined under
5043 Section 59-12-211; and
5044 (d) (i) subject to Subsection (4)(d)(ii), the location of a sale of a prepaid wireless
5045 calling service is the location determined under Section 59-12-211; and
5046 (ii) for purposes of Subsection (4)(d)(i) the location of a transaction determined under
5047 Section 59-12-211(6) is considered to include the location associated with the mobile
5048 telephone number.
- 5049 (5) The location of a sale of a private communication service is:

(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 the database created by the commission containing tax rates.

Section 36. Section **59-12-217** is enacted to read:

59-12-217. 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 37. Section **59-12-218** is enacted to read:

59-12-218. Purchaser relief from liability.

5112 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
5113 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

5114 (i) the purchaser's seller or certified service provider relies on incorrect data provided
5115 by the commission:

5116 (A) on a tax rate;

5117 (B) on a boundary;

5118 (C) on a taxing jurisdiction; or

5119 (D) in the taxability matrix the commission provides in accordance with the agreement;

5120 or

5121 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
5122 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

5123 (A) on a tax rate;

5124 (B) on a boundary;

5125 (C) on a taxing jurisdiction; or

5126 (D) in the taxability matrix the commission provides in accordance with the agreement.

5127 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
5128 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
5129 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
5130 incorrect data provided by the commission is as a result of conduct that is:

5131 (i) fraudulent;

5132 (ii) intentional; or

5133 (iii) willful.

5134 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
5135 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
5136 or an underpayment if:

5137 (a) the purchaser's seller or certified service provider relies on:

5138 (i) incorrect data provided by the commission:

5139 (A) on a tax rate;

5140 (B) on a boundary; or

5141 (C) on a taxing jurisdiction; or

5142 (ii) an erroneous classification by the commission:

5143 (A) in the taxability matrix the commission provides in accordance with the agreement;
 5144 and
 5145 (B) with respect to a term;
 5146 (I) in the library of definitions; and
 5147 (II) that is:
 5148 (Aa) listed as taxable or exempt;
 5149 (Bb) included or excluded from "sales price"; or
 5150 (Cc) included in or excluded from a definition; or
 5151 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
 5152 accordance with Section 59-12-107.1, relies on:
 5153 (i) incorrect data provided by the commission:
 5154 (A) on a tax rate;
 5155 (B) on a boundary; or
 5156 (C) on a taxing jurisdiction; or
 5157 (ii) an erroneous classification by the commission:
 5158 (A) in the taxability matrix the commission provides in accordance with the agreement;
 5159 and
 5160 (B) with respect to a term;
 5161 (I) in the library of definitions; and
 5162 (II) that is:
 5163 (Aa) listed as taxable or exempt;
 5164 (Bb) included or excluded from "sales price"; or
 5165 (Cc) included in or excluded from a definition.
 5166 Section 38. Section **59-12-302** is amended to read:
 5167 **59-12-302. Collection of tax -- Administrative fee -- Penalties -- Commission to**
 5168 **interpret, audit, and adjudicate transient room tax.**
 5169 (1) (a) Except as provided in Subsection (1)(b) or (c), the tax authorized under this part
 5170 shall be administered, collected, and enforced in accordance with:
 5171 (i) the same procedures used to administer, collect, and enforce the tax under:
 5172 (A) Part 1, Tax Collection; or
 5173 (B) Part 2, Local Sales and Use Tax Act; and

5174 (ii) Chapter 1, General Taxation Policies.

5175 (b) (i) Notwithstanding Section 59-12-206, each county may collect the tax imposed by
5176 the county and need not transmit the tax to the commission or contract with the commission to
5177 collect the tax.

5178 (ii) The amount of tax collected shall be reported to the commission as provided in
5179 ~~[Section 59-12-207]~~ Sections 59-12-211 through 59-12-215.

5180 (c) A tax under this part is not subject to Section 59-12-107.1 or Section 59-12-123 or
5181 Subsections 59-12-205(2) through ~~(7)~~ (6).

5182 (d) (i) If the commission collects a tax under this part, the commission:

5183 (A) except as provided in Subsection (1)(d)(i)(B), shall distribute the revenues
5184 generated by the tax to the county within which the revenues were generated; and

5185 (B) notwithstanding Subsection (1)(d)(i)(A), may retain an amount of tax collected
5186 under this part of not to exceed the lesser of:

5187 (I) 1.5%; or

5188 (II) an amount equal to the cost to the commission of administering this part.

5189 (ii) Any amount the commission retains under Subsection (1)(d)(i)(B) shall be:

5190 (A) placed in the Sales and Use Tax Administrative Fees Account; and

5191 (B) used as provided in Subsection 59-12-206(2).

5192 (2) (a) The tax ordinance adopted by a county pursuant to Section 59-12-301 may
5193 include provisions for the imposition of penalties and interest if a person or entity required to
5194 pay a tax under this part fails to timely remit the tax to the collecting agent.

5195 (b) A county legislative body may not establish penalties and interest by ordinance that
5196 exceed the penalties and interest rates authorized for the commission in Sections 59-1-401 and
5197 59-1-402.

5198 (3) A county may adopt an ordinance imposing penalties and interest under Subsection
5199 (2) only if the county does not contract with the commission to collect the tax.

5200 (4) If a county elects to collect the tax as provided in Subsection (1), the commission
5201 shall interpret, audit, and adjudicate the tax imposed under this part.

5202 Section 39. Section **59-12-304** is enacted to read:

5203 **59-12-304. Seller or certified service provider reliance on commission information**
5204 **or certain systems.**

5205 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
5206 imposed under this part if:

5207 (1) the tax rate at which the seller or certified service provider collects the tax is
5208 derived from a database created by the commission containing tax rates; and

5209 (2) the seller's or certified service provider's failure to collect the tax is as a result of the
5210 seller's or certified service provider's reliance on incorrect data provided by the commission in
5211 the database created by the commission containing tax rates.

5212 Section 40. Section **59-12-305** is enacted to read:

5213 **59-12-305. Certified service provider or model 2 seller reliance on commission**
5214 **certified software.**

5215 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified
5216 service provider or model 2 seller is not liable for failing to collect a tax required under this
5217 part if:

5218 (a) the certified service provider or model 2 seller relies on software the commission
5219 certifies; and

5220 (b) the certified service provider's or model 2 seller's failure to collect a tax required
5221 under this part is as a result of the seller's or certified service provider's reliance on incorrect
5222 data:

5223 (i) provided by the commission; or

5224 (ii) in the software the commission certifies.

5225 (2) The relief from liability described in Subsection (1) does not apply if a certified
5226 service provider or model 2 seller incorrectly classifies an item or transaction into a product
5227 category the commission certifies.

5228 (3) If the taxability of a product category is incorrectly classified in software the
5229 commission certifies, the commission shall:

5230 (a) notify a certified service provider or model 2 seller of the incorrect classification of
5231 the taxability of a product category in software the commission certifies; and

5232 (b) state in the notice required by Subsection (3)(a) that the certified service provider or
5233 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
5234 incorrectly classified product category if the certified service provider or model 2 seller fails to
5235 correct the taxability of the item or transaction within ten days after the day on which the

5236 certified service provider or model 2 seller receives the notice.

5237 (4) If a certified service provider or model 2 seller fails to correct the taxability of an
5238 item or transaction within ten days after the day on which the certified service provider or
5239 model 2 seller receives the notice described in Subsection (3), the certified service provider or
5240 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
5241 item or transaction.

5242 Section 41. Section **59-12-306** is enacted to read:

5243 **59-12-306. Purchaser relief from liability.**

5244 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
5245 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

5246 (i) the purchaser's seller or certified service provider relies on incorrect data provided
5247 by the commission:

5248 (A) on a tax rate;

5249 (B) on a boundary;

5250 (C) on a taxing jurisdiction; or

5251 (D) in the taxability matrix the commission provides in accordance with the agreement;

5252 or

5253 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
5254 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

5255 (A) on a tax rate;

5256 (B) on a boundary;

5257 (C) on a taxing jurisdiction; or

5258 (D) in the taxability matrix the commission provides in accordance with the agreement.

5259 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
5260 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
5261 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
5262 incorrect data provided by the commission is as a result of conduct that is:

5263 (i) fraudulent;

5264 (ii) intentional; or

5265 (iii) willful.

5266 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is

5267 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
5268 or an underpayment if:

5269 (a) the purchaser's seller or certified service provider relies on:

5270 (i) incorrect data provided by the commission:

5271 (A) on a tax rate;

5272 (B) on a boundary; or

5273 (C) on a taxing jurisdiction; or

5274 (ii) an erroneous classification by the commission:

5275 (A) in the taxability matrix the commission provides in accordance with the agreement;

5276 and

5277 (B) with respect to a term:

5278 (I) in the library of definitions; and

5279 (II) that is:

5280 (Aa) listed as taxable or exempt;

5281 (Bb) included or excluded from "sales price"; or

5282 (Cc) included in or excluded from a definition; or

5283 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
5284 accordance with Section 59-12-107.1, relies on:

5285 (i) incorrect data provided by the commission:

5286 (A) on a tax rate;

5287 (B) on a boundary; or

5288 (C) on a taxing jurisdiction; or

5289 (ii) an erroneous classification by the commission:

5290 (A) in the taxability matrix the commission provides in accordance with the agreement;

5291 and

5292 (B) with respect to a term:

5293 (I) in the library of definitions; and

5294 (II) that is:

5295 (Aa) listed as taxable or exempt;

5296 (Bb) included or excluded from "sales price"; or

5297 (Cc) included in or excluded from a definition.

5298 Section 42. Section **59-12-354** is amended to read:

5299 **59-12-354. Collection of tax -- Administrative fee -- Penalties -- Commission to**
5300 **interpret, audit, and adjudicate transient room tax.**

5301 (1) Except as provided in Subsections (2) and (3), the tax authorized under this part
5302 shall be administered, collected, and enforced in accordance with:

5303 (a) the same procedures used to administer, collect, and enforce the tax under:

5304 (i) Part 1, Tax Collection; or

5305 (ii) Part 2, Local Sales and Use Tax Act; and

5306 (b) Chapter 1, General Taxation Policies.

5307 (2) Notwithstanding Section 59-12-206, a municipality imposing a tax under this part:

5308 (a) may collect the tax and is not required to:

5309 (i) transmit revenues generated by the tax to the commission; or

5310 (ii) contract with the commission to collect the tax;

5311 (b) shall report the revenues it collects to the commission as provided in ~~[Section~~

5312 ~~59-12-207]~~ Sections 59-12-211 through 59-12-215; and

5313 (c) subject to the limitations of Subsections (4) and (5), may adopt an ordinance
5314 imposing penalties and interest on a person who:

5315 (i) is required to pay the tax under this part; and

5316 (ii) does not remit the tax to the collecting agent in a timely manner.

5317 (d) (i) If the commission collects a tax under this part, the commission:

5318 (A) except as provided in Subsection (2)(d)(i)(B), shall distribute the revenues
5319 generated by the tax to the municipality within which the revenues were generated; and

5320 (B) notwithstanding Subsection (2)(d)(i)(A), may retain an amount of tax collected
5321 under this part of not to exceed the lesser of:

5322 (I) 1.5%; or

5323 (II) an amount equal to the cost to the commission of administering this part.

5324 (ii) Any amount the commission retains under Subsection (2)(d)(i)(B) shall be:

5325 (A) placed in the Sales and Use Tax Administrative Fees Account; and

5326 (B) used as provided in Subsection 59-12-206(2).

5327 (3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or

5328 Subsections 59-12-205(2) through ~~[(7)]~~ (6).

(4) A governing body of a municipality adopting an ordinance imposing penalties and interest under Subsection (2)(c) may impose penalties and interest in amounts that are less than or equal to the penalties and interest rates authorized for the commission under Sections 59-1-401 and 59-1-402.

(5) A municipality may adopt an ordinance imposing penalties and interest under Subsection (2)(c) only if the municipality does not contract with the commission to collect the tax.

(6) If a municipality elects to collect the tax as provided in Subsection (2), the commission shall interpret, audit, and adjudicate the tax imposed under this part.

Section 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;

(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 45. Section **59-12-359** is enacted to read:

59-12-359. 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:

5391 (A) on a tax rate;
5392 (B) on a boundary;
5393 (C) on a taxing jurisdiction; or
5394 (D) in the taxability matrix the commission provides in accordance with the agreement.
5395 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
5396 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
5397 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
5398 incorrect data provided by the commission is as a result of conduct that is:
5399 (i) fraudulent;
5400 (ii) intentional; or
5401 (iii) willful.
5402 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
5403 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
5404 or an underpayment if:
5405 (a) the purchaser's seller or certified service provider relies on:
5406 (i) incorrect data provided by the commission:
5407 (A) on a tax rate;
5408 (B) on a boundary; or
5409 (C) on a taxing jurisdiction; or
5410 (ii) an erroneous classification by the commission:
5411 (A) in the taxability matrix the commission provides in accordance with the agreement;
5412 and
5413 (B) with respect to a term:
5414 (I) in the library of definitions; and
5415 (II) that is:
5416 (Aa) listed as taxable or exempt;
5417 (Bb) included or excluded from "sales price"; or
5418 (Cc) included in or excluded from a definition; or
5419 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
5420 accordance with Section 59-12-107.1, relies on:
5421 (i) incorrect data provided by the commission;

5422 (A) on a tax rate;
5423 (B) on a boundary; or
5424 (C) on a taxing jurisdiction; or
5425 (ii) an erroneous classification by the commission:
5426 (A) in the taxability matrix the commission provides in accordance with the agreement;
5427 and
5428 (B) with respect to a term:
5429 (I) in the library of definitions; and
5430 (II) that is:
5431 (Aa) listed as taxable or exempt;
5432 (Bb) included or excluded from "sales price"; or
5433 (Cc) included in or excluded from a definition.
5434 Section 46. Section **59-12-401** is amended to read:
5435 **59-12-401. Resort communities tax -- Base -- Rate -- Collection fees.**
5436 (1) (a) In addition to other sales and use taxes, a city or town in which the transient
5437 room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the
5438 municipality's permanent census population may impose a sales and use tax of up to 1.1% on
5439 the transactions described in Subsection 59-12-103(1) located within the city or town.
5440 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
5441 section on:
5442 (i) the sale of:
5443 (A) a motor vehicle;
5444 (B) an aircraft;
5445 (C) a watercraft;
5446 (D) a modular home;
5447 (E) a manufactured home; or
5448 (F) a mobile home;
5449 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
5450 are exempt from taxation under Section 59-12-104; and
5451 ~~[(iii) amounts paid or charged by a seller that collects a tax under Subsection~~
5452 ~~59-12-107(1)(b); and]~~

5453 ~~[(iv)]~~ (iii) except as provided in Subsection (1)(d), amounts paid or charged for food
5454 and food ingredients.

5455 (c) For purposes of this Subsection (1), the location of a transaction shall be
5456 determined in accordance with ~~[Section 59-12-207]~~ Sections 59-12-211 through 59-12-215.

5457 (d) A city or town imposing a tax under this section shall impose the tax on amounts
5458 paid or charged for food and food ingredients if~~[-(i)]~~ the food and food ingredients are sold as
5459 part of a bundled transaction attributable to food and food ingredients and tangible personal
5460 property other than food and food ingredients~~[-, and (ii) the seller collecting the tax is a seller~~
5461 ~~other than a seller that collects a tax in accordance with Subsection 59-12-107(1)(b)]~~.

5462 (2) (a) An amount equal to the total of any costs incurred by the state in connection
5463 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
5464 the state from its collection fees received in connection with the implementation of Subsection
5465 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
5466 provided for in Subsection (1).

5467 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
5468 those cities and towns according to the amount of revenue the respective cities and towns
5469 generate in that year through imposition of that tax.

5470 Section 47. Section **59-12-402** is amended to read:

5471 **59-12-402. Additional resort communities sales and use tax -- Base -- Rate --**
5472 **Collection fees -- Resolution and voter approval requirements -- Election requirements --**
5473 **Notice requirements -- Ordinance requirements.**

5474 (1) (a) Subject to Subsections (2) through (6), the governing body of a municipality in
5475 which the transient room capacity as defined in Section 59-12-405 is greater than or equal to
5476 66% of the municipality's permanent census population may, in addition to the sales tax
5477 authorized under Section 59-12-401, impose an additional resort communities sales tax in an
5478 amount that is less than or equal to .5% on the transactions described in Subsection
5479 59-12-103(1) located within the municipality.

5480 (b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not
5481 impose a tax under this section on:

5482 (i) the sale of:

5483 (A) a motor vehicle;

5484 (B) an aircraft;
5485 (C) a watercraft;
5486 (D) a modular home;
5487 (E) a manufactured home; or
5488 (F) a mobile home;
5489 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
5490 are exempt from taxation under Section 59-12-104; and
5491 ~~[(iii) amounts paid or charged by a seller that collects a tax under Subsection~~
5492 ~~59-12-107(1)(b); and]~~
5493 ~~[(iv)]~~ (iii) except as provided in Subsection (1)(d), amounts paid or charged for food
5494 and food ingredients.
5495 (c) For purposes of this Subsection (1), the location of a transaction shall be
5496 determined in accordance with ~~[Section 59-12-207]~~ Sections 59-12-211 through 59-12-215.
5497 (d) A municipality imposing a tax under this section shall impose the tax on amounts
5498 paid or charged for food and food ingredients if~~[-(i)]~~ the food and food ingredients are sold as
5499 part of a bundled transaction attributable to food and food ingredients and tangible personal
5500 property other than food and food ingredients~~[-; and (ii) the seller collecting the tax is a seller~~
5501 ~~other than a seller that collects a tax in accordance with Subsection 59-12-107(1)(b)]~~.
5502 (2) (a) An amount equal to the total of any costs incurred by the state in connection
5503 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
5504 the state from its collection fees received in connection with the implementation of Subsection
5505 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
5506 provided for in Subsection (1).
5507 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
5508 those cities and towns according to the amount of revenue the respective cities and towns
5509 generate in that year through imposition of that tax.
5510 (3) To impose an additional resort communities sales tax under this section, the
5511 governing body of the municipality shall:
5512 (a) pass a resolution approving the tax; and
5513 (b) except as provided in Subsection (6), obtain voter approval for the tax as provided
5514 in Subsection (4).

5515 (4) To obtain voter approval for an additional resort communities sales tax under
5516 Subsection (3)(b), a municipality shall:

5517 (a) hold the additional resort communities sales tax election during:

5518 (i) a regular general election; or

5519 (ii) a municipal general election; and

5520 (b) publish notice of the election:

5521 (i) 15 days or more before the day on which the election is held; and

5522 (ii) in a newspaper of general circulation in the municipality.

5523 (5) An ordinance approving an additional resort communities sales tax under this
5524 section shall provide an effective date for the tax as provided in Section 59-12-403.

5525 (6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the
5526 voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the
5527 municipality imposed a license fee or tax on businesses based on gross receipts pursuant to
5528 Section 10-1-203.

5529 (b) The exception from the voter approval requirements in Subsection (6)(a) does not
5530 apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only
5531 one class of businesses based on gross receipts pursuant to Section 10-1-203.

5532 Section 48. Section **59-12-403** is amended to read:

5533 **59-12-403. Enactment or repeal of tax -- Tax rate change -- Effective date --**
5534 **Notice requirements -- Administration, collection, and enforcement of tax.**

5535 (1) For purposes of this section:

5536 (a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
5537 4, Annexation.

5538 (b) "Annexing area" means an area that is annexed into a city or town.

5539 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after April 1, 2008, a
5540 city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment,
5541 repeal, or change shall take effect:

5542 (i) on the first day of a calendar quarter; and

5543 (ii) after a 90-day period beginning on the date the commission receives notice meeting
5544 the requirements of Subsection (2)(b) from the city or town.

5545 (b) The notice described in Subsection (2)(a)(ii) shall state:

5546 (i) that the city or town will enact or repeal a tax or change the rate of a tax under this
5547 part;

5548 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

5549 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

5550 (iv) if the city or town enacts the tax or changes the rate of the tax described in
5551 Subsection (2)(b)(i), the rate of the tax.

5552 (c) (i) ~~[Notwithstanding Subsection (2)(a), for a transaction described in Subsection~~
5553 ~~(2)(c)(iii), the]~~ The enactment of a tax or a tax rate increase shall take effect on the first day of
5554 the first billing period:

5555 (A) that begins after the effective date of the enactment of the tax or the tax rate
5556 increase; and

5557 (B) if the billing period for the transaction begins before the effective date of the
5558 enactment of the tax or the tax rate increase imposed under:

5559 (I) Section 59-12-401; or

5560 (II) Section 59-12-402.

5561 (ii) ~~[Notwithstanding Subsection (2)(a), for a transaction described in Subsection~~
5562 ~~(2)(c)(iii), the]~~ The repeal of a tax or a tax rate decrease shall take effect on the first day of the
5563 last billing period:

5564 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
5565 and

5566 (B) if the billing period for the transaction begins before the effective date of the repeal
5567 of the tax or the tax rate decrease imposed under:

5568 (I) Section 59-12-401; or

5569 (II) Section 59-12-402.

5570 ~~[(iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:]~~

5571 ~~[(A) Subsection 59-12-103(1)(b);]~~

5572 ~~[(B) Subsection 59-12-103(1)(c);]~~

5573 ~~[(C) Subsection 59-12-103(1)(d);]~~

5574 ~~[(D) Subsection 59-12-103(1)(e);]~~

5575 ~~[(E) Subsection 59-12-103(1)(f);]~~

5576 ~~[(F) Subsection 59-12-103(1)(g);]~~

5577 ~~[(G) Subsection 59-12-103(1)(h);]~~

5578 ~~[(H) Subsection 59-12-103(1)(i);]~~

5579 ~~[(I) Subsection 59-12-103(1)(j); or]~~

5580 ~~[(J) Subsection 59-12-103(1)(k).]~~

5581 (d) (i) ~~[Notwithstanding Subsection (2)(a), if]~~ If a tax due under this chapter on a
5582 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
5583 enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:

5584 (A) on the first day of a calendar quarter; and

5585 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
5586 rate of the tax under Subsection (2)(a).

5587 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
5588 the commission may by rule define the term "catalogue sale."

5589 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs
5590 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
5591 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
5592 effect:

5593 (i) on the first day of a calendar quarter; and

5594 (ii) after a 90-day period beginning on the date the commission receives notice meeting
5595 the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.

5596 (b) The notice described in Subsection (3)(a)(ii) shall state:

5597 (i) that the annexation described in Subsection (3)(a) will result in an enactment,
5598 repeal, or change in the rate of a tax under this part for the annexing area;

5599 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);

5600 (iii) the effective date of the tax described in Subsection (3)(b)(i); and

5601 (iv) if the city or town enacts the tax or changes the rate of the tax described in
5602 Subsection (3)(b)(i), the rate of the tax.

5603 (c) (i) ~~[Notwithstanding Subsection (3)(a), for a transaction described in Subsection~~
5604 ~~(3)(c)(iii), the]~~ The enactment of a tax or a tax rate increase shall take effect on the first day of
5605 the first billing period:

5606 (A) that begins after the effective date of the enactment of the tax or the tax rate
5607 increase; and

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

(I) Section 59-12-401; or

(II) Section 59-12-402.

(ii) ~~[Notwithstanding Subsection (3)(a), for a transaction described in Subsection (3)(c)(iii), the]~~ The repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

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

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under:

(I) Section 59-12-401; or

(II) Section 59-12-402.

~~[(iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:]~~

~~[(A) Subsection 59-12-103(1)(b);]~~

~~[(B) Subsection 59-12-103(1)(c);]~~

~~[(C) Subsection 59-12-103(1)(d);]~~

~~[(D) Subsection 59-12-103(1)(e);]~~

~~[(E) Subsection 59-12-103(1)(f);]~~

~~[(F) Subsection 59-12-103(1)(g);]~~

~~[(G) Subsection 59-12-103(1)(h);]~~

~~[(H) Subsection 59-12-103(1)(i);]~~

~~[(I) Subsection 59-12-103(1)(j); or]~~

~~[(J) Subsection 59-12-103(1)(k).]~~

(d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:

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

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (3)(a).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

5639 the commission may by rule define the term "catalogue sale."

5640 (4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be
5641 administered, collected, and enforced in accordance with:

5642 (i) the same procedures used to administer, collect, and enforce the tax under:

5643 (A) Part 1, Tax Collection; or

5644 (B) Part 2, Local Sales and Use Tax Act; and

5645 (ii) Chapter 1, General Taxation Policies.

5646 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to

5647 Subsections 59-12-205(2) through [(7)] (6).

5648 Section 49. Section **59-12-406** is enacted to read:

5649 **59-12-406. Seller or certified service provider reliance on commission information**
5650 **or certain systems.**

5651 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
5652 imposed under this part if:

5653 (1) the tax rate at which the seller or certified service provider collects the tax is
5654 derived from a database created by the commission containing tax rates; and

5655 (2) the seller's or certified service provider's failure to collect the tax is as a result of the
5656 seller's or certified service provider's reliance on incorrect data provided by the commission in
5657 the database created by the commission containing tax rates.

5658 Section 50. Section **59-12-407** is enacted to read:

5659 **59-12-407. Certified service provider or model 2 seller reliance on commission**
5660 **certified software.**

5661 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified
5662 service provider or model 2 seller is not liable for failing to collect a tax required under this
5663 part if:

5664 (a) the certified service provider or model 2 seller relies on software the commission
5665 certifies; and

5666 (b) the certified service provider's or model 2 seller's failure to collect a tax required
5667 under this part is as a result of the seller's or certified service provider's reliance on incorrect
5668 data:

5669 (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 51. Section **59-12-408** is enacted to read:

59-12-408. 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:

5701 (A) on a tax rate;
5702 (B) on a boundary;
5703 (C) on a taxing jurisdiction; or
5704 (D) in the taxability matrix the commission provides in accordance with the agreement.
5705 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
5706 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
5707 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
5708 incorrect data provided by the commission is as a result of conduct that is:
5709 (i) fraudulent;
5710 (ii) intentional; or
5711 (iii) willful.
5712 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
5713 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
5714 or an underpayment if:
5715 (a) the purchaser's seller or certified service provider relies on:
5716 (i) incorrect data provided by the commission:
5717 (A) on a tax rate;
5718 (B) on a boundary; or
5719 (C) on a taxing jurisdiction; or
5720 (ii) an erroneous classification by the commission:
5721 (A) in the taxability matrix the commission provides in accordance with the agreement;
5722 and
5723 (B) with respect to a term:
5724 (I) in the library of definitions; and
5725 (II) that is:
5726 (Aa) listed as taxable or exempt;
5727 (Bb) included or excluded from "sales price"; or
5728 (Cc) included in or excluded from a definition; or
5729 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
5730 accordance with Section 59-12-107.1, relies on:
5731 (i) incorrect data provided by the commission;

5732 (A) on a tax rate;
5733 (B) on a boundary; or
5734 (C) on a taxing jurisdiction; or
5735 (ii) an erroneous classification by the commission:
5736 (A) in the taxability matrix the commission provides in accordance with the agreement;
5737 and
5738 (B) with respect to a term:
5739 (I) in the library of definitions; and
5740 (II) that is:
5741 (Aa) listed as taxable or exempt;
5742 (Bb) included or excluded from "sales price"; or
5743 (Cc) included in or excluded from a definition.
5744 Section 52. Section **59-12-501** is amended to read:
5745 **59-12-501. Public transit tax -- Base -- Rate -- Voter approval.**
5746 (1) (a) (i) In addition to other sales and use taxes, any county, city, or town may impose
5747 a sales and use tax of up to:
5748 (A) beginning on January 1, 1988, and ending on December 31, 2007, .25% on the
5749 transactions described in Subsection 59-12-103(1) located within the county, city, or town, to
5750 fund a public transportation system; or
5751 (B) beginning on January 1, 2008, if within the boundaries of the county, city, or town
5752 a tax is not imposed under Part 15, County Option Sales and Use Tax for Highways, Fixed
5753 Guideways, or Systems for Public Transit Act, .30% on the transactions described in
5754 Subsection 59-12-103(1) located within the county, city, or town, to fund a public
5755 transportation system.
5756 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax
5757 under this section on:
5758 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses
5759 are exempt from taxation under Section 59-12-104; and
5760 ~~[(B) amounts paid or charged by a seller that collects a tax under Subsection~~
5761 ~~59-12-107(1)(b); and]~~
5762 ~~[(C)]~~ (B) except as provided in Subsection (1)(c), amounts paid or charged for food

5763 and food ingredients.

5764 (b) For purposes of this Subsection (1), the location of a transaction shall be
5765 determined in accordance with ~~[Section 59-12-207]~~ Sections 59-12-211 through 59-12-215.

5766 (c) A county, city, or town imposing a tax under this section shall impose the tax on
5767 amounts paid or charged for food and food ingredients if ~~[(i)]~~ the food and food ingredients
5768 are sold as part of a bundled transaction attributable to food and food ingredients and tangible
5769 personal property other than food and food ingredients ~~[, and (ii) the seller collecting the tax is~~
5770 ~~a seller other than a seller that collects a tax in accordance with Subsection 59-12-107(1)(b)]~~.

5771 (d) Except as provided in Subsection (3) or (4), a county, city, or town may impose a
5772 tax under this section only if the governing body of the county, city, or town, by resolution,
5773 submits the proposal to all the qualified voters within the county, city, or town for approval at a
5774 general or special election conducted in the manner provided by statute.

5775 (2) (a) Notice of any such election shall be given by the county, city, or town governing
5776 body 15 days in advance in the manner prescribed by statute.

5777 (b) If a majority of the voters voting in such election approve the proposal, it shall
5778 become effective on the date provided by the county, city, or town governing body.

5779 (3) This section may not be construed to require an election in jurisdictions where
5780 voters have previously approved a public transit sales or use tax.

5781 (4) A county, city, or town is not subject to the voter approval requirements of this
5782 section if:

5783 (a) on December 31, 2007, the county, city, or town imposes a tax of .25% under this
5784 section; and

5785 (b) on or after January 1, 2008, subject to Subsection (1)(a)(i)(B), the county, city, or
5786 town increases the tax rate under this section to up to .30%.

5787 Section 53. Section **59-12-502** is amended to read:

5788 **59-12-502. Additional public transit tax for expanded system and fixed guideway**
5789 **and state highway improvements -- Base -- Rate -- Voter approval.**

5790 (1) (a) (i) In addition to other sales and use taxes, including the public transit district
5791 tax authorized by Section 59-12-501, a county, city, or town may impose a sales and use tax of
5792 .25% on the transactions described in Subsection 59-12-103(1) located within the county, city,
5793 or town, to fund a fixed guideway and expanded public transportation system.

5794 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax
5795 under this section on:

5796 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses
5797 are exempt from taxation under Section 59-12-104; and

5798 [~~(B) amounts paid or charged by a seller that collects a tax under Subsection~~
5799 ~~59-12-107(1)(b); and]~~

5800 [~~(C)~~] (B) except as provided in Subsection (1)(c), amounts paid or charged for food
5801 and food ingredients.

5802 (b) For purposes of this Subsection (1), the location of a transaction shall be
5803 determined in accordance with [~~Section 59-12-207~~] Sections 59-12-211 through 59-12-215.

5804 (c) A county, city, or town imposing a tax under this section shall impose the tax on
5805 amounts paid or charged for food and food ingredients if[~~:(i)~~] the food and food ingredients
5806 are sold as part of a bundled transaction attributable to food and food ingredients and tangible
5807 personal property other than food and food ingredients[~~; and (ii) the seller collecting the tax is~~
5808 ~~a seller other than a seller that collects a tax in accordance with Subsection 59-12-107(1)(b)]].~~

5809 (d) (i) A county, city, or town may impose the tax under this section only if the
5810 governing body of the county, city, or town submits, by resolution, the proposal to all the
5811 qualified voters within the county, city, or town for approval at a general or special election
5812 conducted in the manner provided by statute.

5813 (ii) Notice of the election under Subsection (1)(d)(i) shall be given by the county, city,
5814 or town governing body 15 days in advance in the manner prescribed by statute.

5815 (2) If the majority of the voters voting in this election approve the proposal, it shall
5816 become effective on the date provided by the county, city, or town governing body.

5817 (3) (a) This section may not be construed to require an election in jurisdictions where
5818 voters have previously approved a public transit sales or use tax.

5819 (b) This section shall be construed to require an election to impose the sales and use
5820 tax authorized by this section, including jurisdictions where the voters have previously
5821 approved the sales and use tax authorized by Section 59-12-501, but this section may not be
5822 construed to affect the sales and use tax authorized by Section 59-12-501.

5823 (4) No public funds shall be spent to promote the required election.

5824 (5) Notwithstanding the designated use of revenues in Subsection (1), of the revenues

5825 generated by the tax imposed under this section by any county of the first class:

5826 (a) 80% shall be allocated to fund a fixed guideway and expanded public transportation
5827 system; and

5828 (b) 20% shall be deposited into the County of the First Class State Highway Projects
5829 Fund created by Section 72-2-121.

5830 Section 54. Section **59-12-504** is amended to read:

5831 **59-12-504. Enactment or repeal of tax -- Effective date -- Notice requirements --**
5832 **Administration, collection, and enforcement of tax.**

5833 (1) For purposes of this section:

5834 (a) "Annexation" means an annexation to:

5835 (i) a county under Title 17, Chapter 2, Annexation to County; or

5836 (ii) a city or town under Title 10, Chapter 2, Part 4, Annexation.

5837 (b) "Annexing area" means an area that is annexed into a county, city, or town.

5838 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after April 1, 2008, a
5839 county, city, or town enacts or repeals a tax under this part, the enactment or repeal shall take
5840 effect:

5841 (i) on the first day of a calendar quarter; and

5842 (ii) after a 90-day period beginning on the date the commission receives notice meeting
5843 the requirements of Subsection (2)(b) from the county, city, or town.

5844 (b) The notice described in Subsection (2)(a)(ii) shall state:

5845 (i) that the county, city, or town will enact or repeal a tax under this part;

5846 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

5847 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

5848 (iv) if the county, city, or town enacts the tax described in Subsection (2)(b)(i), the rate
5849 of the tax.

5850 (c) (i) ~~[Notwithstanding Subsection (2)(a), for a transaction described in Subsection~~
5851 ~~(2)(c)(iii), the]~~ The enactment of a tax shall take effect on the first day of the first billing
5852 period:

5853 (A) that begins after the effective date of the enactment of the tax; and

5854 (B) if the billing period for the transaction begins before the effective date of the
5855 enactment of the tax under:

5856 (I) Section 59-12-501; or

5857 (II) Section 59-12-502.

5858 (ii) ~~[Notwithstanding Subsection (2)(a), for a transaction described in Subsection~~
5859 ~~(2)(c)(iii), the]~~ The repeal of a tax shall take effect on the first day of the last billing period:

5860 (A) that began before the effective date of the repeal of the tax; and

5861 (B) if the billing period for the transaction begins before the effective date of the repeal
5862 of the tax imposed under:

5863 (I) Section 59-12-501; or

5864 (II) Section 59-12-502.

5865 ~~[(iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:]~~

5866 ~~[(A) Subsection 59-12-103(1)(b);]~~

5867 ~~[(B) Subsection 59-12-103(1)(c);]~~

5868 ~~[(C) Subsection 59-12-103(1)(d);]~~

5869 ~~[(D) Subsection 59-12-103(1)(e);]~~

5870 ~~[(E) Subsection 59-12-103(1)(f);]~~

5871 ~~[(F) Subsection 59-12-103(1)(g);]~~

5872 ~~[(G) Subsection 59-12-103(1)(h);]~~

5873 ~~[(H) Subsection 59-12-103(1)(i);]~~

5874 ~~[(I) Subsection 59-12-103(1)(j); or]~~

5875 ~~[(J) Subsection 59-12-103(1)(k).]~~

5876 (d) (i) ~~[Notwithstanding Subsection (2)(a), if]~~ If a tax due under this chapter on a
5877 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
5878 enactment or repeal of a tax described in Subsection (2)(a) takes effect:

5879 (A) on the first day of a calendar quarter; and

5880 (B) beginning 60 days after the effective date of the enactment or repeal under
5881 Subsection (2)(a).

5882 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
5883 the commission may by rule define the term "catalogue sale."

5884 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs
5885 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
5886 part for an annexing area, the enactment or repeal shall take effect:

5887 (i) on the first day of a calendar quarter; and

5888 (ii) after a 90-day period beginning on the date the commission receives notice meeting

5889 the requirements of Subsection (3)(b) from the county, city, or town that annexes the annexing

5890 area.

5891 (b) The notice described in Subsection (3)(a)(ii) shall state:

5892 (i) that the annexation described in Subsection (3)(a) will result in an enactment or

5893 repeal of a tax under this part for the annexing area;

5894 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);

5895 (iii) the effective date of the tax described in Subsection (3)(b)(i); and

5896 (iv) the rate of the tax described in Subsection (3)(b)(i).

5897 (c) (i) ~~[Notwithstanding Subsection (3)(a), for a transaction described in Subsection~~

5898 ~~(3)(c)(iii), the]~~ The enactment of a tax shall take effect on the first day of the first billing

5899 period:

5900 (A) that begins after the effective date of the enactment of the tax; and

5901 (B) if the billing period for the transaction begins before the effective date of the

5902 enactment of the tax under:

5903 (I) Section 59-12-501; or

5904 (II) Section 59-12-502.

5905 (ii) ~~[Notwithstanding Subsection (3)(a), for a transaction described in Subsection~~

5906 ~~(3)(c)(iii), the]~~ The repeal of a tax shall take effect on the first day of the last billing period:

5907 (A) that began before the effective date of the repeal of the tax; and

5908 (B) if the billing period for the transaction begins before the effective date of the repeal

5909 of the tax imposed under:

5910 (I) Section 59-12-501; or

5911 (II) Section 59-12-502.

5912 ~~[(iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:]~~

5913 ~~[(A) Subsection 59-12-103(1)(b);]~~

5914 ~~[(B) Subsection 59-12-103(1)(c);]~~

5915 ~~[(C) Subsection 59-12-103(1)(d);]~~

5916 ~~[(D) Subsection 59-12-103(1)(e);]~~

5917 ~~[(E) Subsection 59-12-103(1)(f);]~~

5918 [~~(F) Subsection 59-12-103(1)(g);~~]

5919 [~~(G) Subsection 59-12-103(1)(h);~~]

5920 [~~(H) Subsection 59-12-103(1)(i);~~]

5921 [~~(I) Subsection 59-12-103(1)(j); or~~]

5922 [~~(J) Subsection 59-12-103(1)(k).~~]

5923 (d) (i) [~~Notwithstanding Subsection (3)(a), if~~] If a tax due under this chapter on a
5924 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
5925 enactment or repeal of a tax described in Subsection (3)(a) takes effect:

5926 (A) on the first day of a calendar quarter; and

5927 (B) beginning 60 days after the effective date of the enactment or repeal under
5928 Subsection (3)(a).

5929 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
5930 the commission may by rule define the term "catalogue sale."

5931 (4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be
5932 administered, collected, and enforced in accordance with:

5933 (i) the same procedures used to administer, collect, and enforce the tax under:

5934 (A) Part 1, Tax Collection; or

5935 (B) Part 2, Local Sales and Use Tax Act; and

5936 (ii) Chapter 1, General Taxation Policies.

5937 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to
5938 Subsections 59-12-205(2) through [~~(7)~~] (6).

5939 Section 55. Section **59-12-506** is enacted to read:

5940 **59-12-506. Seller or certified service provider reliance on commission information**
5941 **or certain systems.**

5942 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
5943 imposed under this part if:

5944 (1) the tax rate at which the seller or certified service provider collects the tax is
5945 derived from a database created by the commission containing tax rates; and

5946 (2) the seller's or certified service provider's failure to collect the tax is as a result of the
5947 seller's or certified service provider's reliance on incorrect data provided by the commission in
5948 the database created by the commission containing tax rates.

5949 Section 56. Section **59-12-507** is enacted to read:

5950 **59-12-507. Certified service provider or model 2 seller reliance on commission**
5951 **certified software.**

5952 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified
5953 service provider or model 2 seller is not liable for failing to collect a tax required under this
5954 part if:

5955 (a) the certified service provider or model 2 seller relies on software the commission
5956 certifies; and

5957 (b) the certified service provider's or model 2 seller's failure to collect a tax required
5958 under this part is as a result of the seller's or certified service provider's reliance on incorrect
5959 data:

5960 (i) provided by the commission; or

5961 (ii) in the software the commission certifies.

5962 (2) The relief from liability described in Subsection (1) does not apply if a certified
5963 service provider or model 2 seller incorrectly classifies an item or transaction into a product
5964 category the commission certifies.

5965 (3) If the taxability of a product category is incorrectly classified in software the
5966 commission certifies, the commission shall:

5967 (a) notify a certified service provider or model 2 seller of the incorrect classification of
5968 the taxability of a product category in software the commission certifies; and

5969 (b) state in the notice required by Subsection (3)(a) that the certified service provider or
5970 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
5971 incorrectly classified product category if the certified service provider or model 2 seller fails to
5972 correct the taxability of the item or transaction within ten days after the day on which the
5973 certified service provider or model 2 seller receives the notice.

5974 (4) If a certified service provider or model 2 seller fails to correct the taxability of an
5975 item or transaction within ten days after the day on which the certified service provider or
5976 model 2 seller receives the notice described in Subsection (3), the certified service provider or
5977 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
5978 item or transaction.

5979 Section 57. Section **59-12-508** is enacted to read:

5980 **59-12-508. Purchaser relief from liability.**

5981 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
5982 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

5983 (i) the purchaser's seller or certified service provider relies on incorrect data provided
5984 by the commission:

5985 (A) on a tax rate;

5986 (B) on a boundary;

5987 (C) on a taxing jurisdiction; or

5988 (D) in the taxability matrix the commission provides in accordance with the agreement;

5989 or

5990 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
5991 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

5992 (A) on a tax rate;

5993 (B) on a boundary;

5994 (C) on a taxing jurisdiction; or

5995 (D) in the taxability matrix the commission provides in accordance with the agreement.

5996 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
5997 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
5998 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
5999 incorrect data provided by the commission is as a result of conduct that is:

6000 (i) fraudulent;

6001 (ii) intentional; or

6002 (iii) willful.

6003 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
6004 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
6005 or an underpayment if:

6006 (a) the purchaser's seller or certified service provider relies on:

6007 (i) incorrect data provided by the commission:

6008 (A) on a tax rate;

6009 (B) on a boundary; or

6010 (C) on a taxing jurisdiction; or

6011 (ii) an erroneous classification by the commission:
6012 (A) in the taxability matrix the commission provides in accordance with the agreement;
6013 and
6014 (B) with respect to a term:
6015 (I) in the library of definitions; and
6016 (II) that is:
6017 (Aa) listed as taxable or exempt;
6018 (Bb) included or excluded from "sales price"; or
6019 (Cc) included in or excluded from a definition; or
6020 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
6021 accordance with Section 59-12-107.1, relies on:
6022 (i) incorrect data provided by the commission:
6023 (A) on a tax rate;
6024 (B) on a boundary; or
6025 (C) on a taxing jurisdiction; or
6026 (ii) an erroneous classification by the commission:
6027 (A) in the taxability matrix the commission provides in accordance with the agreement;
6028 and
6029 (B) with respect to a term:
6030 (I) in the library of definitions; and
6031 (II) that is:
6032 (Aa) listed as taxable or exempt;
6033 (Bb) included or excluded from "sales price"; or
6034 (Cc) included in or excluded from a definition.
6035 Section 58. Section **59-12-603** is amended to read:
6036 **59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Adoption of**
6037 **ordinance required -- Advisory board -- Administration -- Collection -- Distribution --**
6038 **Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.**
6039 (1) (a) In addition to any other taxes, a county legislative body may, as provided in this
6040 part, impose a tax as follows:
6041 (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).

(b) The tax advisory board shall be composed of nine members appointed as follows:

(i) four members shall be appointed by the county legislative body of the county of the first class as follows:

(A) one member shall be a resident of the unincorporated area of the county;

(B) two members shall be residents of the incorporated area of the county; and

(C) one member shall be a resident of the unincorporated or incorporated area of the county; and

(ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or towns within the county of the first class appointed by an organization representing all mayors of cities and towns within the county of the first class.

(c) Five members of the tax advisory board constitute a quorum.

(d) The county legislative body of the county of the first class shall determine:

(i) terms of the members of the tax advisory board;

6104 (ii) procedures and requirements for removing a member of the tax advisory board;
6105 (iii) voting requirements, except that action of the tax advisory board shall be by at
6106 least a majority vote of a quorum of the tax advisory board;

6107 (iv) chairs or other officers of the tax advisory board;
6108 (v) how meetings are to be called and the frequency of meetings; and
6109 (vi) the compensation, if any, of members of the tax advisory board.

6110 (e) The tax advisory board under this Subsection (6) shall advise the county legislative
6111 body of the county of the first class on the expenditure of revenues collected within the county
6112 of the first class from the taxes described in Subsection (1)(a).

6113 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part
6114 shall be administered, collected, and enforced in accordance with:

6115 (A) the same procedures used to administer, collect, and enforce the tax under:

6116 (I) Part 1, Tax Collection; or

6117 (II) Part 2, Local Sales and Use Tax Act; and

6118 (B) Chapter 1, General Taxation Policies.

6119 (ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or
6120 Subsections 59-12-205(2) through [~~7~~] (6).

6121 (b) Except as provided in Subsection (7)(c):

6122 (i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the
6123 commission shall distribute the revenues to the county imposing the tax; and

6124 (ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenues
6125 according to the distribution formula provided in Subsection (8).

6126 (c) The commission shall deduct from the distributions under Subsection (7)(b) an
6127 administrative charge for collecting the tax as provided in Section 59-12-206.

6128 (8) The commission shall distribute the revenues generated by the tax under Subsection
6129 (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the
6130 following formula:

6131 (a) the commission shall distribute 70% of the revenues based on the percentages
6132 generated by dividing the revenues collected by each county under Subsection (1)(a)(i)(B) by
6133 the total revenues collected by all counties under Subsection (1)(a)(i)(B); and

6134 (b) the commission shall distribute 30% of the revenues based on the percentages

6135 generated by dividing the population of each county collecting a tax under Subsection
6136 (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

6137 (9) (a) For purposes of this Subsection (9):

6138 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
6139 Annexation to County.

6140 (ii) "Annexing area" means an area that is annexed into a county.

6141 (b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county
6142 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or
6143 change shall take effect:

6144 (A) on the first day of a calendar quarter; and

6145 (B) after a 90-day period beginning on the date the commission receives notice meeting
6146 the requirements of Subsection (9)(b)(ii) from the county.

6147 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:

6148 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

6149 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

6150 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

6151 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
6152 (9)(b)(ii)(A), the rate of the tax.

6153 (c) (i) ~~[Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection~~
6154 ~~(9)(c)(iii), the]~~ The enactment of a tax or a tax rate increase shall take effect on the first day of
6155 the first billing period:

6156 (A) that begins after the effective date of the enactment of the tax or the tax rate
6157 increase; and

6158 (B) if the billing period for the transaction begins before the effective date of the
6159 enactment of the tax or the tax rate increase imposed under Subsection (1).

6160 (ii) ~~[Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection~~
6161 ~~(9)(c)(iii), the]~~ The repeal of a tax or a tax rate decrease shall take effect on the first day of the
6162 last billing period:

6163 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
6164 and

6165 (B) if the billing period for the transaction begins before the effective date of the repeal

6166 of the tax or the tax rate decrease imposed under Subsection (1).

6167 ~~[(iii) Subsections (9)(c)(i) and (ii) apply to transactions subject to a tax under:]~~

6168 ~~[(A) Subsection 59-12-103(1)(c);]~~

6169 ~~[(B) Subsection 59-12-103(1)(i); or]~~

6170 ~~[(C) Subsection 59-12-103(1)(k);]~~

6171 (d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or
6172 after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a
6173 tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

6174 (A) on the first day of a calendar quarter; and

6175 (B) after a 90-day period beginning on the date the commission receives notice meeting
6176 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

6177 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

6178 (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,
6179 repeal, or change in the rate of a tax under this part for the annexing area;

6180 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

6181 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

6182 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
6183 (9)(d)(ii)(A), the rate of the tax.

6184 (e) (i) ~~[Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection~~
6185 ~~(9)(c)(iii), the]~~ The enactment of a tax or a tax rate increase shall take effect on the first day of
6186 the first billing period:

6187 (A) that begins after the effective date of the enactment of the tax or the tax rate
6188 increase; and

6189 (B) if the billing period for the transaction begins before the effective date of the
6190 enactment of the tax or the tax rate increase imposed under Subsection (1).

6191 (ii) ~~[Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection~~
6192 ~~(9)(c)(iii), the]~~ The repeal of a tax or a tax rate decrease shall take effect on the first day of the
6193 last billing period:

6194 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
6195 and

6196 (B) if the billing period for the transaction begins before the effective date of the repeal

6197 of the tax or the tax rate decrease imposed under Subsection (1).

6198 ~~[(iii) Subsections (9)(c)(i) and (ii) apply to transactions subject to a tax under:]~~

6199 ~~[(A) Subsection 59-12-103(1)(c);]~~

6200 ~~[(B) Subsection 59-12-103(1)(i); or]~~

6201 ~~[(C) Subsection 59-12-103(1)(k);]~~

6202 Section 59. Section **59-12-605** is enacted to read:

6203 **59-12-605. Seller or certified service provider reliance on commission information**
6204 **or certain systems.**

6205 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
6206 imposed under this part if:

6207 (1) the tax rate at which the seller or certified service provider collects the tax is
6208 derived from a database created by the commission containing tax rates; and

6209 (2) the seller's or certified service provider's failure to collect the tax is as a result of the
6210 seller's or certified service provider's reliance on incorrect data provided by the commission in
6211 the database created by the commission containing tax rates.

6212 Section 60. Section **59-12-606** is enacted to read:

6213 **59-12-606. Certified service provider or model 2 seller reliance on commission**
6214 **certified software.**

6215 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified
6216 service provider or model 2 seller is not liable for failing to collect a tax required under this
6217 part if:

6218 (a) the certified service provider or model 2 seller relies on software the commission
6219 certifies; and

6220 (b) the certified service provider's or model 2 seller's failure to collect a tax required
6221 under this part is as a result of the seller's or certified service provider's reliance on incorrect
6222 data:

6223 (i) provided by the commission; or

6224 (ii) in the software the commission certifies.

6225 (2) The relief from liability described in Subsection (1) does not apply if a certified
6226 service provider or model 2 seller incorrectly classifies an item or transaction into a product
6227 category the commission certifies.

6228 (3) If the taxability of a product category is incorrectly classified in software the
6229 commission certifies, the commission shall:

6230 (a) notify a certified service provider or model 2 seller of the incorrect classification of
6231 the taxability of a product category in software the commission certifies; and

6232 (b) state in the notice required by Subsection (3)(a) that the certified service provider or
6233 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
6234 incorrectly classified product category if the certified service provider or model 2 seller fails to
6235 correct the taxability of the item or transaction within ten days after the day on which the
6236 certified service provider or model 2 seller receives the notice.

6237 (4) If a certified service provider or model 2 seller fails to correct the taxability of an
6238 item or transaction within ten days after the day on which the certified service provider or
6239 model 2 seller receives the notice described in Subsection (3), the certified service provider or
6240 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
6241 item or transaction.

6242 Section 61. Section **59-12-607** is enacted to read:

6243 **59-12-607. Purchaser relief from liability.**

6244 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
6245 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

6246 (i) the purchaser's seller or certified service provider relies on incorrect data provided
6247 by the commission:

6248 (A) on a tax rate;

6249 (B) on a boundary;

6250 (C) on a taxing jurisdiction; or

6251 (D) in the taxability matrix the commission provides in accordance with the agreement;

6252 or

6253 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
6254 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

6255 (A) on a tax rate;

6256 (B) on a boundary;

6257 (C) on a taxing jurisdiction; or

6258 (D) in the taxability matrix the commission provides in accordance with the agreement.

6259 **(b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under**
6260 **Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the**
6261 **purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on**
6262 **incorrect data provided by the commission is as a result of conduct that is:**

- 6263 **(i) fraudulent;**
6264 **(ii) intentional; or**
6265 **(iii) willful.**

6266 **(2) In addition to the relief from a penalty described in Subsection (1), a purchaser is**
6267 **not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part**
6268 **or an underpayment if:**

6269 **(a) the purchaser's seller or certified service provider relies on:**

6270 **(i) incorrect data provided by the commission:**

6271 **(A) on a tax rate;**

6272 **(B) on a boundary; or**

6273 **(C) on a taxing jurisdiction; or**

6274 **(ii) an erroneous classification by the commission:**

6275 **(A) in the taxability matrix the commission provides in accordance with the agreement;**

6276 **and**

6277 **(B) with respect to a term:**

6278 **(I) in the library of definitions; and**

6279 **(II) that is:**

6280 **(Aa) listed as taxable or exempt;**

6281 **(Bb) included or excluded from "sales price"; or**

6282 **(Cc) included in or excluded from a definition; or**

6283 **(b) the purchaser, regardless of whether the purchaser holds a direct payment permit in**
6284 **accordance with Section 59-12-107.1, relies on:**

6285 **(i) incorrect data provided by the commission:**

6286 **(A) on a tax rate;**

6287 **(B) on a boundary; or**

6288 **(C) on a taxing jurisdiction; or**

6289 **(ii) an erroneous classification by the commission:**

6290 (A) in the taxability matrix the commission provides in accordance with the agreement;
6291 and
6292 (B) with respect to a term;
6293 (I) in the library of definitions; and
6294 (II) that is:
6295 (Aa) listed as taxable or exempt;
6296 (Bb) included or excluded from "sales price"; or
6297 (Cc) included in or excluded from a definition.

6298 Section 62. Section **59-12-703** is amended to read:

6299 **59-12-703. Opinion question election -- Base -- Rate -- Imposition of tax -- Uses of**
6300 **tax monies -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

6301 (1) (a) (i) A county legislative body may submit an opinion question to the residents of
6302 that county, by majority vote of all members of the legislative body, so that each resident of the
6303 county, except residents in municipalities that have already imposed a sales and use tax under
6304 Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological
6305 Organizations or Facilities, has an opportunity to express the resident's opinion on the
6306 imposition of a local sales and use tax of .1% on the transactions described in Subsection
6307 59-12-103(1) located within the county, to fund recreational and zoological facilities, botanical,
6308 cultural, and zoological organizations, and rural radio stations, in that county.

6309 (ii) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
6310 tax under this section on:

6311 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses
6312 are exempt from taxation under Section 59-12-104;

6313 (B) sales and uses within municipalities that have already imposed a sales and use tax
6314 under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and
6315 Zoological Organizations or Facilities; and

6316 ~~[(C) amounts paid or charged by a seller that collects a tax under Subsection~~
6317 ~~59-12-107(1)(b); and]~~

6318 ~~[(D)]~~ (C) except as provided in Subsection (1)(c), amounts paid or charged for food
6319 and food ingredients.

6320 (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 legislative body 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) The election shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.

(2) (a) If the county legislative body determines that a majority of the county's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax as prescribed in Subsection (1)(a), the county legislative body may impose the tax by a majority vote of all members of the legislative body on the transactions:

(i) described in Subsection (1); and

(ii) within the county, including the cities and towns located in the county, except those cities and towns that have already imposed a sales and use tax under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or Facilities.

(b) A county legislative body may revise county ordinances to reflect statutory changes to the distribution formula or eligible recipients of revenues generated from a tax imposed under Subsection (2)(a):

(i) after the county legislative body submits an opinion question to residents of the county in accordance with Subsection (1) giving them the opportunity to express their opinion on the proposed revisions to county ordinances; and

(ii) if the county legislative body determines that a majority of those voting on the opinion question have voted in favor of the revisions.

(3) The monies generated from any tax imposed under Subsection (2) shall be used for funding:

(a) recreational and zoological facilities located within the county or a city or town located in the county, except a city or town that has already imposed a sales and use tax under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; and

6352 (b) ongoing operating expenses of:
6353 (i) recreational facilities described in Subsection (3)(a);
6354 (ii) botanical, cultural, and zoological organizations within the county; and
6355 (iii) rural radio stations within the county.
6356 (4) (a) A tax authorized under this part shall be:
6357 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
6358 accordance with:
6359 (A) the same procedures used to administer, collect, and enforce the tax under:
6360 (I) Part 1, Tax Collection; or
6361 (II) Part 2, Local Sales and Use Tax Act; and
6362 (B) Chapter 1, General Taxation Policies; and
6363 (ii) levied for a period of ten years and may be reauthorized at the end of the ten-year
6364 period in accordance with this section.
6365 (b) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to
6366 Subsections 59-12-205(2) through ~~[(7)]~~ (6).
6367 (5) (a) For purposes of this Subsection (5):
6368 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
6369 Annexation to County.
6370 (ii) "Annexing area" means an area that is annexed into a county.
6371 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
6372 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:
6373 (A) on the first day of a calendar quarter; and
6374 (B) after a 90-day period beginning on the date the commission receives notice meeting
6375 the requirements of Subsection (5)(b)(ii) from the county.
6376 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:
6377 (A) that the county will enact or repeal a tax under this part;
6378 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
6379 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
6380 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the
6381 tax.
6382 (c) (i) ~~[Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection~~

6383 ~~(5)(c)(iii), the]~~ The enactment of a tax shall take effect on the first day of the first billing
6384 period:

6385 (A) that begins after the effective date of the enactment of the tax; and

6386 (B) if the billing period for the transaction begins before the effective date of the
6387 enactment of the tax under this section.

6388 (ii) ~~[Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection~~
6389 ~~(5)(c)(iii), the]~~ The repeal of a tax shall take effect on the first day of the last billing period:

6390 (A) that began before the effective date of the repeal of the tax; and

6391 (B) if the billing period for the transaction begins before the effective date of the repeal
6392 of the tax imposed under this section.

6393 ~~[(iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:]~~

6394 ~~[(A) Subsection 59-12-103(1)(b);]~~

6395 ~~[(B) Subsection 59-12-103(1)(c);]~~

6396 ~~[(C) Subsection 59-12-103(1)(d);]~~

6397 ~~[(D) Subsection 59-12-103(1)(e);]~~

6398 ~~[(E) Subsection 59-12-103(1)(f);]~~

6399 ~~[(F) Subsection 59-12-103(1)(g);]~~

6400 ~~[(G) Subsection 59-12-103(1)(h);]~~

6401 ~~[(H) Subsection 59-12-103(1)(i);]~~

6402 ~~[(I) Subsection 59-12-103(1)(j); or]~~

6403 ~~[(J) Subsection 59-12-103(1)(k).]~~

6404 (d) (i) ~~[Notwithstanding Subsection (5)(b)(i), if]~~ If a tax due under this chapter on a
6405 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
6406 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

6407 (A) on the first day of a calendar quarter; and

6408 (B) beginning 60 days after the effective date of the enactment or repeal under
6409 Subsection (5)(b)(i).

6410 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
6411 the commission may by rule define the term "catalogue sale."

6412 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
6413 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this

6414 part for an annexing area, the enactment or repeal shall take effect:

6415 (A) on the first day of a calendar quarter; and

6416 (B) after a 90-day period beginning on the date the commission receives notice meeting
6417 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

6418 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

6419 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
6420 repeal of a tax under this part for the annexing area;

6421 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

6422 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

6423 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

6424 (f) (i) [~~Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection~~
6425 ~~(5)(f)(iii), the~~] The enactment of a tax shall take effect on the first day of the first billing
6426 period:

6427 (A) that begins after the effective date of the enactment of the tax; and

6428 (B) if the billing period for the transaction begins before the effective date of the
6429 enactment of the tax under this section.

6430 (ii) [~~Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection~~
6431 ~~(5)(f)(iii), the~~] The repeal of a tax shall take effect on the first day of the last billing period:

6432 (A) that began before the effective date of the repeal of the tax; and

6433 (B) if the billing period for the transaction begins before the effective date of the repeal
6434 of the tax imposed under this section.

6435 [~~(iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:~~]

6436 [~~(A) Subsection 59-12-103(1)(b);~~]

6437 [~~(B) Subsection 59-12-103(1)(c);~~]

6438 [~~(C) Subsection 59-12-103(1)(d);~~]

6439 [~~(D) Subsection 59-12-103(1)(e);~~]

6440 [~~(E) Subsection 59-12-103(1)(f);~~]

6441 [~~(F) Subsection 59-12-103(1)(g);~~]

6442 [~~(G) Subsection 59-12-103(1)(h);~~]

6443 [~~(H) Subsection 59-12-103(1)(i);~~]

6444 [~~(I) Subsection 59-12-103(1)(j); or~~]

6445 ~~[(J) Subsection 59-12-103(1)(k).]~~

6446 (g) (i) ~~[Notwithstanding Subsection (5)(e)(i), if]~~ If a tax due under this chapter on a
6447 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
6448 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

6449 (A) on the first day of a calendar quarter; and

6450 (B) beginning 60 days after the effective date of the enactment or repeal under
6451 Subsection (5)(e)(i).

6452 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
6453 the commission may by rule define the term "catalogue sale."

6454 Section 63. Section **59-12-707** is enacted to read:

6455 **59-12-707. Seller or certified service provider reliance on commission information**
6456 **or certain systems.**

6457 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
6458 imposed under this part if:

6459 (1) the tax rate at which the seller or certified service provider collects the tax is
6460 derived from a database created by the commission containing tax rates; and

6461 (2) the seller's or certified service provider's failure to collect the tax is as a result of the
6462 seller's or certified service provider's reliance on incorrect data provided by the commission in
6463 the database created by the commission containing tax rates.

6464 Section 64. Section **59-12-708** is enacted to read:

6465 **59-12-708. Certified service provider or model 2 seller reliance on commission**
6466 **certified software.**

6467 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified
6468 service provider or model 2 seller is not liable for failing to collect a tax required under this
6469 part if:

6470 (a) the certified service provider or model 2 seller relies on software the commission
6471 certifies; and

6472 (b) the certified service provider's or model 2 seller's failure to collect a tax required
6473 under this part is as a result of the seller's or certified service provider's reliance on incorrect
6474 data:

6475 (i) provided by the commission; or

6476 (ii) in the software the commission certifies.

6477 (2) The relief from liability described in Subsection (1) does not apply if a certified
6478 service provider or model 2 seller incorrectly classifies an item or transaction into a product
6479 category the commission certifies.

6480 (3) If the taxability of a product category is incorrectly classified in software the
6481 commission certifies, the commission shall:

6482 (a) notify a certified service provider or model 2 seller of the incorrect classification of
6483 the taxability of a product category in software the commission certifies; and

6484 (b) state in the notice required by Subsection (3)(a) that the certified service provider or
6485 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
6486 incorrectly classified product category if the certified service provider or model 2 seller fails to
6487 correct the taxability of the item or transaction within ten days after the day on which the
6488 certified service provider or model 2 seller receives the notice.

6489 (4) If a certified service provider or model 2 seller fails to correct the taxability of an
6490 item or transaction within ten days after the day on which the certified service provider or
6491 model 2 seller receives the notice described in Subsection (3), the certified service provider or
6492 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
6493 item or transaction.

6494 Section 65. Section **59-12-709** is enacted to read:

6495 **59-12-709. Purchaser relief from liability.**

6496 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
6497 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

6498 (i) the purchaser's seller or certified service provider relies on incorrect data provided
6499 by the commission;

6500 (A) on a tax rate;

6501 (B) on a boundary;

6502 (C) on a taxing jurisdiction; or

6503 (D) in the taxability matrix the commission provides in accordance with the agreement;

6504 or

6505 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
6506 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission;

6507 (A) on a tax rate;
6508 (B) on a boundary;
6509 (C) on a taxing jurisdiction; or
6510 (D) in the taxability matrix the commission provides in accordance with the agreement.
6511 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
6512 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
6513 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
6514 incorrect data provided by the commission is as a result of conduct that is:
6515 (i) fraudulent;
6516 (ii) intentional; or
6517 (iii) willful.
6518 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
6519 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
6520 or an underpayment if:
6521 (a) the purchaser's seller or certified service provider relies on:
6522 (i) incorrect data provided by the commission:
6523 (A) on a tax rate;
6524 (B) on a boundary; or
6525 (C) on a taxing jurisdiction; or
6526 (ii) an erroneous classification by the commission:
6527 (A) in the taxability matrix the commission provides in accordance with the agreement;
6528 and
6529 (B) with respect to a term:
6530 (I) in the library of definitions; and
6531 (II) that is:
6532 (Aa) listed as taxable or exempt;
6533 (Bb) included or excluded from "sales price"; or
6534 (Cc) included in or excluded from a definition; or
6535 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
6536 accordance with Section 59-12-107.1, relies on:
6537 (i) incorrect data provided by the commission;

6538 (A) on a tax rate;
6539 (B) on a boundary; or
6540 (C) on a taxing jurisdiction; or
6541 (ii) an erroneous classification by the commission:
6542 (A) in the taxability matrix the commission provides in accordance with the agreement;
6543 and
6544 (B) with respect to a term:
6545 (I) in the library of definitions; and
6546 (II) that is:
6547 (Aa) listed as taxable or exempt;
6548 (Bb) included or excluded from "sales price"; or
6549 (Cc) included in or excluded from a definition.
6550 Section 66. Section **59-12-802** is amended to read:
6551 **59-12-802. Imposition of rural county health care facilities tax -- Expenditure of**
6552 **tax revenues -- Base -- Rate -- Administration, collection, and enforcement of tax.**
6553 (1) (a) A county legislative body of a county of the third, fourth, fifth, or sixth class
6554 may impose a sales and use tax of up to 1%:
6555 (i) on the transactions described in Subsection 59-12-103(1) located within the county;
6556 and
6557 (ii) subject to Subsection (3), to fund:
6558 (A) for a county of the third, fourth, or fifth class, rural county health care facilities in
6559 that county; or
6560 (B) for a county of the sixth class:
6561 (I) emergency medical services in that county;
6562 (II) federally qualified health centers in that county;
6563 (III) freestanding urgent care centers in that county;
6564 (IV) rural county health care facilities in that county;
6565 (V) rural health clinics in that county; or
6566 (VI) a combination of Subsections (1)(a)(ii)(B)(I) through (V).
6567 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
6568 tax under this section on:

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

(ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in a city that imposes a tax under Section 59-12-804; 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 county legislative body 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) Before imposing a tax under Subsection (1)(a), a county legislative body shall obtain approval to impose the tax from a majority of the:

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

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

(b) The county legislative body shall conduct the election according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act.

(3) (a) The monies generated by a tax imposed under Subsection (1) by a county legislative body of a county of the third, fourth, or fifth class may only be used for the financing of:

(i) ongoing operating expenses of a rural county health care facility within that county;

(ii) the acquisition of land for a rural county health care facility within that county; or

(iii) the design, construction, equipping, or furnishing of a rural county health care facility within that county.

(b) The monies generated by a tax imposed under Subsection (1) by a county of the sixth class may only be used for the financing of:

(i) ongoing operating expenses of a center, clinic, or facility described in Subsection

6600 (1)(a)(ii)(B) within that county;

6601 (ii) the acquisition of land for a center, clinic, or facility described in Subsection

6602 (1)(a)(ii)(B) within that county;

6603 (iii) the design, construction, equipping, or furnishing of a center, clinic, or facility

6604 described in Subsection (1)(a)(ii)(B) within that county; or

6605 (iv) the provision of rural emergency medical services within that county.

6606 (4) (a) A tax under this section shall be:

6607 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in

6608 accordance with:

6609 (A) the same procedures used to administer, collect, and enforce the tax under:

6610 (I) Part 1, Tax Collection; or

6611 (II) Part 2, Local Sales and Use Tax Act; and

6612 (B) Chapter 1, General Taxation Policies; and

6613 (ii) levied for a period of ten years and may be reauthorized at the end of the ten-year

6614 period by the county legislative body as provided in Subsection (1).

6615 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to

6616 Subsections 59-12-205(2) through ~~[(7)]~~ (6).

6617 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected

6618 under this section for the cost of administering this tax.

6619 Section 67. Section **59-12-804** is amended to read:

6620 **59-12-804. Imposition of rural city hospital tax -- Base -- Rate -- Administration,**

6621 **collection, and enforcement of tax.**

6622 (1) (a) A city legislative body may impose a sales and use tax of up to 1%:

6623 (i) on the transactions described in Subsection 59-12-103(1) located within the city;

6624 and

6625 (ii) to fund rural city hospitals in that city.

6626 (b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax

6627 under this section on:

6628 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses

6629 are exempt from taxation under Section 59-12-104; and

6630 ~~[(ii) amounts paid or charged by a seller that collects a tax under Subsection~~

6631 ~~59-12-107(1)(b); and]~~

6632 ~~[(iii)]~~ (ii) except as provided in Subsection (1)(d), amounts paid or charged for food
6633 and food ingredients.

6634 (c) For purposes of this Subsection (1), the location of a transaction shall be
6635 determined in accordance with ~~[Section 59-12-207]~~ Sections 59-12-211 through 59-12-215.

6636 (d) A city legislative body imposing a tax under this section shall impose the tax on
6637 amounts paid or charged for food and food ingredients if~~[(i)]~~ the food and food ingredients
6638 are sold as part of a bundled transaction attributable to food and food ingredients and tangible
6639 personal property other than food and food ingredients~~[-, and (ii) the seller collecting the tax is a~~
6640 ~~seller other than a seller that collects a tax in accordance with Subsection 59-12-107(1)(b)].~~

6641 (2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall
6642 obtain approval to impose the tax from a majority of the:

6643 (i) members of the city legislative body; and

6644 (ii) city's registered voters voting on the imposition of the tax.

6645 (b) The city legislative body shall conduct the election according to the procedures and
6646 requirements of Title 11, Chapter 14, Local Government Bonding Act.

6647 (3) The monies generated by a tax imposed under Subsection (1) may only be used for
6648 the financing of:

6649 (a) ongoing operating expenses of a rural city hospital;

6650 (b) the acquisition of land for a rural city hospital; or

6651 (c) the design, construction, equipping, or furnishing of a rural city hospital.

6652 (4) (a) A tax under this section shall be:

6653 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
6654 accordance with:

6655 (A) the same procedures used to administer, collect, and enforce the tax under:

6656 (I) Part 1, Tax Collection; or

6657 (II) Part 2, Local Sales and Use Tax Act; and

6658 (B) Chapter 1, General Taxation Policies; and

6659 (ii) levied for a period of ten years and may be reauthorized at the end of the ten-year
6660 period by the city legislative body as provided in Subsection (1).

6661 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to

6662 Subsections 59-12-205(2) through [(7)] (6).

6663 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected
6664 under this section for the cost of administering the tax.

6665 Section 68. Section **59-12-806** is amended to read:

6666 **59-12-806. Enactment or repeal of tax -- Tax rate change -- Effective date --**
6667 **Notice requirements.**

6668 (1) For purposes of this section:

6669 (a) "Annexation" means an annexation to:

6670 (i) a county under Title 17, Chapter 2, Annexation to County; or

6671 (ii) a city under Title 10, Chapter 2, Part 4, Annexation.

6672 (b) "Annexing area" means an area that is annexed into a county or city.

6673 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after July 1, 2004, a
6674 county or city enacts or repeals a tax or changes the rate of a tax under this part, the enactment,
6675 repeal, or change shall take effect:

6676 (i) on the first day of a calendar quarter; and

6677 (ii) after a 90-day period beginning on the date the commission receives notice meeting
6678 the requirements of Subsection (2)(b) from the county or city.

6679 (b) The notice described in Subsection (2)(a)(ii) shall state:

6680 (i) that the county or city will enact or repeal a tax or change the rate of a tax under this
6681 part;

6682 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

6683 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

6684 (iv) if the county or city enacts the tax or changes the rate of the tax described in
6685 Subsection (2)(b)(i), the rate of the tax.

6686 (c) (i) [~~Notwithstanding Subsection (2)(a), for a transaction described in Subsection~~
6687 ~~(2)(c)(iii), the~~] The enactment of a tax or a tax rate increase shall take effect on the first day of
6688 the first billing period:

6689 (A) that begins after the effective date of the enactment of the tax or the tax rate
6690 increase; and

6691 (B) if the billing period for the transaction begins before the effective date of the
6692 enactment of the tax or the tax rate increase imposed under:

6693 (I) Section 59-12-802; or

6694 (II) Section 59-12-804.

6695 (ii) ~~[Notwithstanding Subsection (2)(a), for a transaction described in Subsection~~
6696 ~~(2)(c)(iii), the]~~ The repeal of a tax or a tax rate decrease shall take effect on the first day of the
6697 last billing period:

6698 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
6699 and

6700 (B) if the billing period for the transaction begins before the effective date of the repeal
6701 of the tax or the tax rate decrease imposed under:

6702 (I) Section 59-12-802; or

6703 (II) Section 59-12-804.

6704 ~~[(iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:]~~

6705 ~~[(A) Subsection 59-12-103(1)(b);]~~

6706 ~~[(B) Subsection 59-12-103(1)(c);]~~

6707 ~~[(C) Subsection 59-12-103(1)(d);]~~

6708 ~~[(D) Subsection 59-12-103(1)(e);]~~

6709 ~~[(E) Subsection 59-12-103(1)(f);]~~

6710 ~~[(F) Subsection 59-12-103(1)(g);]~~

6711 ~~[(G) Subsection 59-12-103(1)(h);]~~

6712 ~~[(H) Subsection 59-12-103(1)(i);]~~

6713 ~~[(I) Subsection 59-12-103(1)(j); or]~~

6714 ~~[(J) Subsection 59-12-103(1)(k).]~~

6715 (d) (i) ~~[Notwithstanding Subsection (2)(a), if]~~ If a tax due under this chapter on a
6716 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
6717 enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:

6718 (A) on the first day of a calendar quarter; and

6719 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
6720 rate of the tax under Subsection (2)(a).

6721 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
6722 the commission may by rule define the term "catalogue sale."

6723 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs

6724 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
6725 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
6726 effect:

6727 (i) on the first day of a calendar quarter; and

6728 (ii) after a 90-day period beginning on the date the commission receives notice meeting
6729 the requirements of Subsection (3)(b) from the county or city that annexes the annexing area.

6730 (b) The notice described in Subsection (3)(a)(ii) shall state:

6731 (i) that the annexation described in Subsection (3)(a) will result in an enactment,
6732 repeal, or change in the rate of a tax under this part for the annexing area;

6733 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);

6734 (iii) the effective date of the tax described in Subsection (3)(b)(i); and

6735 (iv) if the county or city enacts the tax or changes the rate of the tax described in
6736 Subsection (3)(b)(i), the rate of the tax.

6737 (c) (i) ~~[Notwithstanding Subsection (3)(a), for a transaction described in Subsection~~
6738 ~~(3)(c)(iii), the]~~ The enactment of a tax or a tax rate increase shall take effect on the first day of
6739 the first billing period:

6740 (A) that begins after the effective date of the enactment of the tax or the tax rate
6741 increase; and

6742 (B) if the billing period for the transaction begins before the effective date of the
6743 enactment of the tax or the tax rate increase imposed under:

6744 (I) Section 59-12-802; or

6745 (II) Section 59-12-804.

6746 (ii) ~~[Notwithstanding Subsection (3)(a), for a transaction described in Subsection~~
6747 ~~(3)(c)(iii), the]~~ The repeal of a tax or a tax rate decrease shall take effect on the first day of the
6748 last billing period:

6749 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
6750 and

6751 (B) if the billing period for the transaction begins before the effective date of the repeal
6752 of the tax or the tax rate decrease imposed under:

6753 (I) Section 59-12-802; or

6754 (II) Section 59-12-804.

6755 [~~(iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:~~]

6756 [~~(A) Subsection 59-12-103(1)(b);~~]

6757 [~~(B) Subsection 59-12-103(1)(c);~~]

6758 [~~(C) Subsection 59-12-103(1)(d);~~]

6759 [~~(D) Subsection 59-12-103(1)(e);~~]

6760 [~~(E) Subsection 59-12-103(1)(f);~~]

6761 [~~(F) Subsection 59-12-103(1)(g);~~]

6762 [~~(G) Subsection 59-12-103(1)(h);~~]

6763 [~~(H) Subsection 59-12-103(1)(i);~~]

6764 [~~(I) Subsection 59-12-103(1)(j); or~~]

6765 [~~(J) Subsection 59-12-103(1)(k).~~]

6766 (d) (i) [~~Notwithstanding Subsection (3)(a), if~~] If a tax due under this chapter on a
6767 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
6768 enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:

6769 (A) on the first day of a calendar quarter; and

6770 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
6771 rate of a tax under Subsection (3)(a).

6772 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
6773 the commission may by rule define the term "catalogue sale."

6774 Section 69. Section **59-12-808** is enacted to read:

6775 **59-12-808. Seller or certified service provider reliance on commission information**
6776 **or certain systems.**

6777 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
6778 imposed under this part if:

6779 (1) the tax rate at which the seller or certified service provider collects the tax is
6780 derived from a database created by the commission containing tax rates; and

6781 (2) the seller's or certified service provider's failure to collect the tax is as a result of the
6782 seller's or certified service provider's reliance on incorrect data provided by the commission in
6783 the database created by the commission containing tax rates.

6784 Section 70. Section **59-12-809** is enacted to read:

6785 **59-12-809. 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 71. Section **59-12-810** is enacted to read:

59-12-810. Purchaser relief from liability.

(1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty

6817 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:
6818 (i) the purchaser's seller or certified service provider relies on incorrect data provided
6819 by the commission:
6820 (A) on a tax rate;
6821 (B) on a boundary;
6822 (C) on a taxing jurisdiction; or
6823 (D) in the taxability matrix the commission provides in accordance with the agreement;
6824 or
6825 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
6826 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:
6827 (A) on a tax rate;
6828 (B) on a boundary;
6829 (C) on a taxing jurisdiction; or
6830 (D) in the taxability matrix the commission provides in accordance with the agreement.
6831 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
6832 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
6833 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
6834 incorrect data provided by the commission is as a result of conduct that is:
6835 (i) fraudulent;
6836 (ii) intentional; or
6837 (iii) willful.
6838 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
6839 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
6840 or an underpayment if:
6841 (a) the purchaser's seller or certified service provider relies on:
6842 (i) incorrect data provided by the commission:
6843 (A) on a tax rate;
6844 (B) on a boundary; or
6845 (C) on a taxing jurisdiction; or
6846 (ii) an erroneous classification by the commission:
6847 (A) in the taxability matrix the commission provides in accordance with the agreement;

6848 and
6849 (B) with respect to a term:
6850 (I) in the library of definitions; and
6851 (II) that is:
6852 (Aa) listed as taxable or exempt;
6853 (Bb) included or excluded from "sales price"; or
6854 (Cc) included in or excluded from a definition; or
6855 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
6856 accordance with Section 59-12-107.1, relies on:
6857 (i) incorrect data provided by the commission:
6858 (A) on a tax rate;
6859 (B) on a boundary; or
6860 (C) on a taxing jurisdiction; or
6861 (ii) an erroneous classification by the commission:
6862 (A) in the taxability matrix the commission provides in accordance with the agreement;
6863 and
6864 (B) with respect to a term:
6865 (I) in the library of definitions; and
6866 (II) that is:
6867 (Aa) listed as taxable or exempt;
6868 (Bb) included or excluded from "sales price"; or
6869 (Cc) included in or excluded from a definition.
6870 Section 72. Section **59-12-1001** is amended to read:
6871 **59-12-1001. Authority to impose tax for highways or to fund a system for public**
6872 **transit -- Base -- Rate -- Ordinance requirements -- Voter approval requirements --**
6873 **Election requirements -- Notice of election requirements -- Exceptions to voter approval**
6874 **requirements -- Enactment or repeal of tax -- Effective date -- Notice requirements.**
6875 (1) (a) A city or town in which the transactions described in Subsection 59-12-103(1)
6876 are not subject to a sales and use tax under Section 59-12-501 may as provided in this part
6877 impose a sales and use tax of:
6878 (i) beginning on January 1, 1998, and ending on December 31, 2007, .25% on the

6879 transactions described in Subsection 59-12-103(1) located within the city or town; or
6880 (ii) beginning on January 1, 2008, .30% on the transactions described in Subsection
6881 59-12-103(1) located within the city or town.

6882 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
6883 section on:

6884 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
6885 are exempt from taxation under Section 59-12-104; and
6886 ~~[(ii) amounts paid or charged by a seller that collects a tax under Subsection~~
6887 ~~59-12-107(1)(b); and]~~

6888 ~~[(iii)]~~ (ii) except as provided in Subsection (1)(d), amounts paid or charged for food
6889 and food ingredients.

6890 (c) For purposes of this Subsection (1), the location of a transaction shall be
6891 determined in accordance with ~~[Section 59-12-207]~~ Sections 59-12-211 through 59-12-215.

6892 (d) A city or town imposing a tax under this section shall impose the tax on amounts
6893 paid or charged for food and food ingredients if~~[-(i)]~~ the food and food ingredients are sold as
6894 part of a bundled transaction attributable to food and food ingredients and tangible personal
6895 property other than food and food ingredients~~[-; and (ii) the seller collecting the tax is a seller~~
6896 ~~other than a seller that collects a tax in accordance with Subsection 59-12-107(1)(b)].~~

6897 (2) (a) A city or town imposing a tax under this part may use the revenues generated by
6898 the tax:

6899 (i) for the construction and maintenance of highways under the jurisdiction of the city
6900 or town imposing the tax;

6901 (ii) subject to Subsection (2)(b), to fund a system for public transit; or
6902 (iii) for a combination of the purposes described in Subsections (2)(a)(i) and (ii).

6903 (b) (i) For purposes of Subsection (2)(a)(ii) and except as provided in Subsection
6904 (2)(b)(ii), "public transit" is as defined in Section 17B-2a-802.

6905 (ii) Notwithstanding Subsection (2)(b)(i), "public transit" does not include a fixed
6906 guideway system.

6907 (3) To impose a tax under this part, the governing body of the city or town shall:

6908 (a) pass an ordinance approving the tax; and
6909 (b) except as provided in Subsection (7) or (8), obtain voter approval for the tax as

6910 provided in Subsection (4).

6911 (4) To obtain voter approval for a tax under Subsection (3)(b), a city or town shall:

6912 (a) hold an election during:

6913 (i) a regular general election; or

6914 (ii) a municipal general election; and

6915 (b) publish notice of the election:

6916 (i) 15 days or more before the day on which the election is held; and

6917 (ii) in a newspaper of general circulation in the city or town.

6918 (5) An ordinance approving a tax under this part shall provide an effective date for the
6919 tax as provided in Subsection (6).

6920 (6) (a) For purposes of this Subsection (6):

6921 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
6922 4, Annexation.

6923 (ii) "Annexing area" means an area that is annexed into a city or town.

6924 (b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after April 1, 2008, a city
6925 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

6926 (A) on the first day of a calendar quarter; and

6927 (B) after a 90-day period beginning on the date the commission receives notice meeting
6928 the requirements of Subsection (6)(b)(ii) from the city or town.

6929 (ii) The notice described in Subsection (6)(b)(i)(B) shall state:

6930 (A) that the city or town will enact or repeal a tax under this part;

6931 (B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);

6932 (C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and

6933 (D) if the city or town enacts the tax described in Subsection (6)(b)(ii)(A), the rate of
6934 the tax.

6935 (c) (i) ~~[Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection~~
6936 ~~(6)(c)(iii), the]~~ The enactment of a tax shall take effect on the first day of the first billing
6937 period:

6938 (A) that begins after the effective date of the enactment of the tax; and

6939 (B) if the billing period for the transaction begins before the effective date of the
6940 enactment of the tax under Subsection (1).

6941 (ii) ~~[Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection~~
6942 ~~(6)(c)(iii), the]~~ The repeal of a tax shall take effect on the first day of the last billing period:

6943 (A) that began before the effective date of the repeal of the tax; and

6944 (B) if the billing period for the transaction begins before the effective date of the repeal
6945 of the tax imposed under Subsection (1).

6946 ~~[(iii) Subsections (6)(c)(i) and (ii) apply to transactions subject to a tax under:]~~

6947 ~~[(A) Subsection 59-12-103(1)(b);]~~

6948 ~~[(B) Subsection 59-12-103(1)(c);]~~

6949 ~~[(C) Subsection 59-12-103(1)(d);]~~

6950 ~~[(D) Subsection 59-12-103(1)(e);]~~

6951 ~~[(E) Subsection 59-12-103(1)(f);]~~

6952 ~~[(F) Subsection 59-12-103(1)(g);]~~

6953 ~~[(G) Subsection 59-12-103(1)(h);]~~

6954 ~~[(H) Subsection 59-12-103(1)(i);]~~

6955 ~~[(I) Subsection 59-12-103(1)(j); or]~~

6956 ~~[(J) Subsection 59-12-103(1)(k);]~~

6957 (d) (i) ~~[Notwithstanding Subsection (6)(b)(i), if]~~ If a tax due under this chapter on a
6958 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
6959 enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:

6960 (A) on the first day of a calendar quarter; and

6961 (B) beginning 60 days after the effective date of the enactment or repeal under
6962 Subsection (6)(b)(i).

6963 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
6964 the commission may by rule define the term "catalogue sale."

6965 (e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs
6966 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
6967 part for an annexing area, the enactment or repeal shall take effect:

6968 (A) on the first day of a calendar quarter; and

6969 (B) after a 90-day period beginning on the date the commission receives notice meeting
6970 the requirements of Subsection (6)(e)(ii) from the city or town that annexes the annexing area.

6971 (ii) The notice described in Subsection (6)(e)(i)(B) shall state:

6972 (A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or
 6973 repeal of a tax under this part for the annexing area;

6974 (B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);

6975 (C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and

6976 (D) the rate of the tax described in Subsection (6)(e)(ii)(A).

6977 (f) (i) [~~Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection~~
 6978 ~~(6)(f)(iii), the~~] The enactment of a tax shall take effect on the first day of the first billing
 6979 period:

6980 (A) that begins after the effective date of the enactment of the tax; and

6981 (B) if the billing period for the transaction begins before the effective date of the
 6982 enactment of the tax under Subsection (1).

6983 (ii) [~~Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection~~
 6984 ~~(6)(f)(iii), the~~] The repeal of a tax shall take effect on the first day of the last billing period:

6985 (A) that began before the effective date of the repeal of the tax; and

6986 (B) if the billing period for the transaction begins before the effective date of the repeal
 6987 of the tax imposed under Subsection (1).

6988 [~~(iii) Subsections (6)(f)(i) and (ii) apply to transactions subject to a tax under:~~]

6989 [~~(A) Subsection 59-12-103(1)(b);~~]

6990 [~~(B) Subsection 59-12-103(1)(c);~~]

6991 [~~(C) Subsection 59-12-103(1)(d);~~]

6992 [~~(D) Subsection 59-12-103(1)(e);~~]

6993 [~~(E) Subsection 59-12-103(1)(f);~~]

6994 [~~(F) Subsection 59-12-103(1)(g);~~]

6995 [~~(G) Subsection 59-12-103(1)(h);~~]

6996 [~~(H) Subsection 59-12-103(1)(i);~~]

6997 [~~(I) Subsection 59-12-103(1)(j); or~~]

6998 [~~(J) Subsection 59-12-103(1)(k);~~]

6999 (g) (i) [~~Notwithstanding Subsection (6)(e)(i), if~~] If a tax due under this chapter on a
 7000 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
 7001 enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:

7002 (A) on the first day of a calendar quarter; and

7003 (B) beginning 60 days after the effective date of the enactment or repeal under
7004 Subsection (6)(e)(i).

7005 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
7006 the commission may by rule define the term "catalogue sale."

7007 (7) (a) Except as provided in Subsection (7)(b), a city or town is not subject to the
7008 voter approval requirements of Subsection (3)(b) if:

7009 (i) on or before January 1, 1996, the city or town imposed a license fee or tax on
7010 businesses based on gross receipts pursuant to Section 10-1-203; or

7011 (ii) the city or town:

7012 (A) on or before June 30, 2002, obtained voter approval in accordance with Subsection
7013 (3)(b) to impose a tax under this part for a purpose described in Subsection (2)(a)(i); and

7014 (B) on or after July 1, 2002, uses the revenues generated by a tax under this part for a
7015 purpose described in Subsection (2)(a).

7016 (b) ~~[Notwithstanding Subsection (7)(a), the]~~ The exception from the voter approval
7017 requirements in Subsection (7)(a)(i) does not apply to a city or town that, on or before January
7018 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts
7019 pursuant to Section 10-1-203.

7020 (8) A city or town is not subject to the voter approval requirements of Subsection
7021 (3)(b) if:

7022 (a) on December 31, 2007, the city or town imposes a tax of .25% under this section;
7023 and

7024 (b) on or after January 1, 2008, the city or town increases the tax rate under this section
7025 to .30%.

7026 Section 73. Section **59-12-1002** is amended to read:

7027 **59-12-1002. Collection of taxes by commission -- Administration, collection, and**
7028 **enforcement of tax -- Charge for service.**

7029 (1) The commission shall:

7030 (a) collect the tax imposed by a city or town under this part; and

7031 (b) subject to Subsection (3), transmit to the city or town monthly by electronic funds
7032 transfer the revenues generated by the tax imposed by the city or town.

7033 (2) (a) Except as provided in Subsection (2)(b), a tax authorized under this part shall be

7034 administered, collected, and enforced in accordance with:

7035 (i) the same procedures used to administer, collect, and enforce the tax under:

7036 (A) Part 1, Tax Collection; or

7037 (B) Part 2, Local Sales and Use Tax Act; and

7038 (ii) Chapter 1, General Taxation Policies.

7039 (b) Notwithstanding Subsection (2)(a), a tax under this part is not subject to

7040 Subsections 59-12-205(2) through [~~7~~] (6).

7041 (3) (a) The commission shall charge a city or town imposing a tax under this part a fee

7042 for administering the tax as provided in Subsections (3)(b) and (c).

7043 (b) The fee shall be in an amount equal to the costs of administering the tax under this

7044 part, except that the fee may not exceed 1-1/2% of the revenues generated in the city or town

7045 by the tax under this part.

7046 (c) Fees under this Subsection (3) shall be:

7047 (i) placed in the Sales and Use Tax Administrative Fees Account; and

7048 (ii) used for sales tax administration as provided in Subsection 59-12-206(2).

7049 Section 74. Section **59-12-1004** is enacted to read:

7050 **59-12-1004. Seller or certified service provider reliance on commission**
7051 **information or certain systems.**

7052 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
7053 imposed under this part if:

7054 (1) the tax rate at which the seller or certified service provider collects the tax is
7055 derived from a database created by the commission containing tax rates; and

7056 (2) the seller's or certified service provider's failure to collect the tax is as a result of the
7057 seller's or certified service provider's reliance on incorrect data provided by the commission in
7058 the database created by the commission containing tax rates.

7059 Section 75. Section **59-12-1005** is enacted to read:

7060 **59-12-1005. Certified service provider or model 2 seller reliance on commission**
7061 **certified software.**

7062 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified
7063 service provider or model 2 seller is not liable for failing to collect a tax required under this
7064 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;

7096 (B) on a boundary;
7097 (C) on a taxing jurisdiction; or
7098 (D) in the taxability matrix the commission provides in accordance with the agreement;
7099 or
7100 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
7101 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:
7102 (A) on a tax rate;
7103 (B) on a boundary;
7104 (C) on a taxing jurisdiction; or
7105 (D) in the taxability matrix the commission provides in accordance with the agreement.
7106 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
7107 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
7108 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
7109 incorrect data provided by the commission is as a result of conduct that is:
7110 (i) fraudulent;
7111 (ii) intentional; or
7112 (iii) willful.
7113 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
7114 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
7115 or an underpayment if:
7116 (a) the purchaser's seller or certified service provider relies on:
7117 (i) incorrect data provided by the commission:
7118 (A) on a tax rate;
7119 (B) on a boundary; or
7120 (C) on a taxing jurisdiction; or
7121 (ii) an erroneous classification by the commission:
7122 (A) in the taxability matrix the commission provides in accordance with the agreement;
7123 and
7124 (B) with respect to a term:
7125 (I) in the library of definitions; and
7126 (II) that is:

7127 (Aa) listed as taxable or exempt;
 7128 (Bb) included or excluded from "sales price"; or
 7129 (Cc) included in or excluded from a definition; or
 7130 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
 7131 accordance with Section 59-12-107.1, relies on:
 7132 (i) incorrect data provided by the commission:
 7133 (A) on a tax rate;
 7134 (B) on a boundary; or
 7135 (C) on a taxing jurisdiction; or
 7136 (ii) an erroneous classification by the commission:
 7137 (A) in the taxability matrix the commission provides in accordance with the agreement;
 7138 and
 7139 (B) with respect to a term:
 7140 (I) in the library of definitions; and
 7141 (II) that is:
 7142 (Aa) listed as taxable or exempt;
 7143 (Bb) included or excluded from "sales price"; or
 7144 (Cc) included in or excluded from a definition.
 7145 Section 77. Section **59-12-1102** is amended to read:
 7146 **59-12-1102. Base -- Rate -- Imposition of tax -- Distribution of revenue --**
 7147 **Administration -- Enactment or repeal of tax -- Effective date -- Notice requirements.**
 7148 (1) (a) (i) Subject to Subsections (2) through (5), and in addition to any other tax
 7149 authorized by this chapter, a county may impose by ordinance a county option sales and use tax
 7150 of .25% upon the transactions described in Subsection 59-12-103(1).
 7151 (ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this
 7152 section on~~[-(A)]~~ the sales and uses described in Section 59-12-104 to the extent the sales and
 7153 uses are exempt from taxation under Section 59-12-104~~[-and (B) any amounts paid or charged~~
 7154 ~~by a seller that collects a tax under Subsection 59-12-107(1)(b) unless all of the counties in the~~
 7155 ~~state impose a tax under this section].~~
 7156 (b) For purposes of this Subsection (1), the location of a transaction shall be
 7157 determined in accordance with ~~[Section 59-12-207]~~ Sections 59-12-211 through 59-12-215.

7158 (c) The county option sales and use tax under this section shall be imposed:
7159 (i) upon transactions that are located within the county, including transactions that are
7160 located within municipalities in the county; and
7161 (ii) except as provided in Subsection (1)(d) or (5), beginning on the first day of
7162 January:
7163 (A) of the next calendar year after adoption of the ordinance imposing the tax if the
7164 ordinance is adopted on or before May 25; or
7165 (B) of the second calendar year after adoption of the ordinance imposing the tax if the
7166 ordinance is adopted after May 25.
7167 (d) Notwithstanding Subsection (1)(c)(ii), the county option sales and use tax under
7168 this section shall be imposed:
7169 (i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before
7170 September 4, 1997; or
7171 (ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997
7172 but after September 4, 1997.
7173 (2) (a) Before imposing a county option sales and use tax under Subsection (1), a
7174 county shall hold two public hearings on separate days in geographically diverse locations in
7175 the county.
7176 (b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting
7177 time of no earlier than 6 p.m.
7178 (ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven
7179 days after the day the first advertisement required by Subsection (2)(c) is published.
7180 (c) (i) Before holding the public hearings required by Subsection (2)(a), the county
7181 shall advertise in a newspaper of general circulation in the county:
7182 (A) its intent to adopt a county option sales and use tax;
7183 (B) the date, time, and location of each public hearing; and
7184 (C) a statement that the purpose of each public hearing is to obtain public comments
7185 regarding the proposed tax.
7186 (ii) The advertisement shall be published once each week for the two weeks preceding
7187 the earlier of the two public hearings.
7188 (iii) The advertisement shall be no less than 1/8 page in size, and the type used shall be

7189 no smaller than 18 point and surrounded by a 1/4-inch border.

7190 (iv) The advertisement may not be placed in that portion of the newspaper where legal
7191 notices and classified advertisements appear.

7192 (v) Whenever possible:

7193 (A) the advertisement shall appear in a newspaper that is published at least five days a
7194 week, unless the only newspaper in the county is published less than five days a week; and

7195 (B) the newspaper selected shall be one of general interest and readership in the
7196 community, and not one of limited subject matter.

7197 (d) The adoption of an ordinance imposing a county option sales and use tax is subject
7198 to a local referendum election as provided in Title 20A, Chapter 7, Part 6, Local Referenda -
7199 Procedures, except that:

7200 (i) notwithstanding Subsection 20A-7-609(2)(a), the county clerk shall hold a
7201 referendum election that qualifies for the ballot on the earlier of the next regular general
7202 election date or the next municipal general election date more than 155 days after adoption of
7203 an ordinance under this section;

7204 (ii) for 1997 only, the 120-day period in Subsection 20A-7-606(1) shall be 30 days; and

7205 (iii) the deadlines in Subsections 20A-7-606(2) and (3) do not apply, and the clerk shall
7206 take the actions required by those subsections before the referendum election.

7207 (3) (a) If the aggregate population of the counties imposing a county option sales and
7208 use tax under Subsection (1) is less than 75% of the state population, the tax levied under
7209 Subsection (1) shall be distributed to the county in which the tax was collected.

7210 (b) If the aggregate population of the counties imposing a county option sales and use
7211 tax under Subsection (1) is greater than or equal to 75% of the state population:

7212 (i) 50% of the tax collected under Subsection (1) in each county shall be distributed to
7213 the county in which the tax was collected; and

7214 (ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection
7215 (1) in each county shall be distributed proportionately among all counties imposing the tax,
7216 based on the total population of each county.

7217 (c) If the amount to be distributed annually to a county under Subsection (3)(b)(ii),
7218 when combined with the amount distributed to the county under Subsection (3)(b)(i), does not
7219 equal at least \$75,000, then:

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

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

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

~~[(e) Notwithstanding Subsections (3)(a) and (b), if a county imposes a tax under this section 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).]~~

(4) (a) Except as provided in Subsection (4)(b) or (c), 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).

(c) Notwithstanding Subsection (4)(a), the fee charged by the commission under Section 59-12-206 shall be based on the distribution amounts resulting after all the applicable distribution calculations under Subsection (3) have been made.

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Annexation to County.

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

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a county enacts or repeals a tax under this part:

(A) (I) the enactment shall take effect as provided in Subsection (1)(c); or

(II) the repeal shall take effect on the first day of a calendar quarter; and

7251 (B) after a 90-day period beginning on the date the commission receives notice meeting
 7252 the requirements of Subsection (5)(b)(ii) from the county.

7253 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

7254 (A) that the county will enact or repeal a tax under this part;

7255 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

7256 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

7257 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the
 7258 tax.

7259 (c) (i) [~~Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection~~
 7260 ~~(5)(c)(iii), the~~] The enactment of a tax shall take effect on the first day of the first billing
 7261 period:

7262 (A) that begins after the effective date of the enactment of the tax; and

7263 (B) if the billing period for the transaction begins before the effective date of the
 7264 enactment of the tax under Subsection (1).

7265 (ii) [~~Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection~~
 7266 ~~(5)(c)(iii), the~~] The repeal of a tax shall take effect on the first day of the last billing period:

7267 (A) that began before the effective date of the repeal of the tax; and

7268 (B) if the billing period for the transaction begins before the effective date of the repeal
 7269 of the tax imposed under Subsection (1).

7270 [~~(iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:]~~

7271 [~~(A) Subsection 59-12-103(1)(b);~~]

7272 [~~(B) Subsection 59-12-103(1)(c);~~]

7273 [~~(C) Subsection 59-12-103(1)(d);~~]

7274 [~~(D) Subsection 59-12-103(1)(e);~~]

7275 [~~(E) Subsection 59-12-103(1)(f);~~]

7276 [~~(F) Subsection 59-12-103(1)(g);~~]

7277 [~~(G) Subsection 59-12-103(1)(h);~~]

7278 [~~(H) Subsection 59-12-103(1)(i);~~]

7279 [~~(I) Subsection 59-12-103(1)(j); or~~]

7280 [~~(J) Subsection 59-12-103(1)(k);~~]

7281 (d) (i) [~~Notwithstanding Subsection (5)(b)(i), 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 (5)(b)(i) takes effect:

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

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).

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

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

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

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (5)(e)(ii)(A).

(f) (i) ~~[Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection (5)(f)(iii), the]~~ 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 (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 Subsection (1).

~~[(iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:]~~

7313 [~~(A) Subsection 59-12-103(1)(b);~~]
 7314 [~~(B) Subsection 59-12-103(1)(c);~~]
 7315 [~~(C) Subsection 59-12-103(1)(d);~~]
 7316 [~~(D) Subsection 59-12-103(1)(e);~~]
 7317 [~~(E) Subsection 59-12-103(1)(f);~~]
 7318 [~~(F) Subsection 59-12-103(1)(g);~~]
 7319 [~~(G) Subsection 59-12-103(1)(h);~~]
 7320 [~~(H) Subsection 59-12-103(1)(i);~~]
 7321 [~~(I) Subsection 59-12-103(1)(j); or~~]
 7322 [~~(J) Subsection 59-12-103(1)(k);~~]

7323 (g) (i) [~~Notwithstanding Subsection (5)(e)(i), if~~] If a tax due under this chapter on a
 7324 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
 7325 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

7326 (A) on the first day of a calendar quarter; and

7327 (B) beginning 60 days after the effective date of the enactment or repeal under
 7328 Subsection (5)(e)(i).

7329 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
 7330 the commission may by rule define the term "catalogue sale."

7331 Section 78. Section **59-12-1104** is enacted to read:

7332 **59-12-1104. Seller or certified service provider reliance on commission**
 7333 **information or certain systems.**

7334 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
 7335 imposed under this part if:

7336 (1) the tax rate at which the seller or certified service provider collects the tax is
 7337 derived from a database created by the commission containing tax rates; and

7338 (2) the seller's or certified service provider's failure to collect the tax is as a result of the
 7339 seller's or certified service provider's reliance on incorrect data provided by the commission in
 7340 the database created by the commission containing tax rates.

7341 Section 79. Section **59-12-1105** is enacted to read:

7342 **59-12-1105. Certified service provider or model 2 seller reliance on commission**
 7343 **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 80. Section **59-12-1106** is enacted to read:

59-12-1106. 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:

7375 (i) the purchaser's seller or certified service provider relies on incorrect data provided
7376 by the commission:
7377 (A) on a tax rate;
7378 (B) on a boundary;
7379 (C) on a taxing jurisdiction; or
7380 (D) in the taxability matrix the commission provides in accordance with the agreement;
7381 or
7382 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
7383 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:
7384 (A) on a tax rate;
7385 (B) on a boundary;
7386 (C) on a taxing jurisdiction; or
7387 (D) in the taxability matrix the commission provides in accordance with the agreement.
7388 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
7389 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
7390 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
7391 incorrect data provided by the commission is as a result of conduct that is:
7392 (i) fraudulent;
7393 (ii) intentional; or
7394 (iii) willful.
7395 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
7396 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
7397 or an underpayment if:
7398 (a) the purchaser's seller or certified service provider relies on:
7399 (i) incorrect data provided by the commission:
7400 (A) on a tax rate;
7401 (B) on a boundary; or
7402 (C) on a taxing jurisdiction; or
7403 (ii) an erroneous classification by the commission:
7404 (A) in the taxability matrix the commission provides in accordance with the agreement;
7405 and

7406 (B) with respect to a term:
7407 (I) in the library of definitions; and
7408 (II) that is:
7409 (Aa) listed as taxable or exempt;
7410 (Bb) included or excluded from "sales price"; or
7411 (Cc) included in or excluded from a definition; or
7412 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
7413 accordance with Section 59-12-107.1, relies on:
7414 (i) incorrect data provided by the commission:
7415 (A) on a tax rate;
7416 (B) on a boundary; or
7417 (C) on a taxing jurisdiction; or
7418 (ii) an erroneous classification by the commission:
7419 (A) in the taxability matrix the commission provides in accordance with the agreement;
7420 and
7421 (B) with respect to a term:
7422 (I) in the library of definitions; and
7423 (II) that is:
7424 (Aa) listed as taxable or exempt;
7425 (Bb) included or excluded from "sales price"; or
7426 (Cc) included in or excluded from a definition.
7427 Section 81. Section **59-12-1201** is amended to read:
7428 **59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration,**
7429 **collection, and enforcement of tax -- Administrative fee -- Deposits.**
7430 (1) (a) Except as provided in Subsection (3), there is imposed a tax of 2.5% on all
7431 short-term leases and rentals of motor vehicles not exceeding 30 days.
7432 (b) The tax imposed in this section is in addition to all other state, county, or municipal
7433 fees and taxes imposed on rentals of motor vehicles.
7434 (2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax
7435 imposed under Subsection (1) shall take effect on the first day of a calendar quarter.
7436 (b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall

7437 take effect on the first day of the first billing period:

7438 (A) that begins after the effective date of the tax rate increase; and

7439 (B) if the billing period for the transaction begins before the effective date of a tax rate
7440 increase imposed under Subsection (1).

7441 (ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax
7442 rate decrease shall take effect on the first day of the last billing period:

7443 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
7444 and

7445 (B) if the billing period for the transaction begins before the effective date of the repeal
7446 of the tax or the tax rate decrease imposed under Subsection (1).

7447 (3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

7448 (a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

7449 (b) the motor vehicle is rented as a personal household goods moving van; or

7450 (c) the lease or rental of the motor vehicle is made for the purpose of temporarily
7451 replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an
7452 insurance agreement.

7453 (4) (a) (i) The tax authorized under this section shall be administered, collected, and
7454 enforced in accordance with:

7455 (A) the same procedures used to administer, collect, and enforce the tax under Part 1,
7456 Tax Collection; and

7457 (B) Chapter 1, General Taxation Policies.

7458 (ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to
7459 Subsections 59-12-103(4) through (9) or Section 59-12-107.1 or 59-12-123.

7460 (b) The commission may retain a maximum of 1-1/2% of the tax collected under this
7461 section for the costs of rendering its services under this section.

7462 (c) Except as provided under Subsection (4)(b), all revenue received by the
7463 commission under this section shall be deposited daily with the state treasurer and credited
7464 monthly to the Transportation Corridor Preservation Revolving Loan Fund under Section
7465 72-2-117.

7466 Section 82. Section **59-12-1202** is enacted to read:

7467 **59-12-1202. 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 83. Section **59-12-1203** is enacted to read:

59-12-1203. 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

7499 correct the taxability of the item or transaction within ten days after the day on which the
7500 certified service provider or model 2 seller receives the notice.

7501 (4) If a certified service provider or model 2 seller fails to correct the taxability of an
7502 item or transaction within ten days after the day on which the certified service provider or
7503 model 2 seller receives the notice described in Subsection (3), the certified service provider or
7504 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
7505 item or transaction.

7506 Section 84. Section **59-12-1204** is enacted to read:

7507 **59-12-1204. Purchaser relief from liability.**

7508 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
7509 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

7510 (i) the purchaser's seller or certified service provider relies on incorrect data provided
7511 by the commission:

7512 (A) on a tax rate;

7513 (B) on a boundary;

7514 (C) on a taxing jurisdiction; or

7515 (D) in the taxability matrix the commission provides in accordance with the agreement;

7516 or

7517 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
7518 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

7519 (A) on a tax rate;

7520 (B) on a boundary;

7521 (C) on a taxing jurisdiction; or

7522 (D) in the taxability matrix the commission provides in accordance with the agreement.

7523 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
7524 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
7525 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
7526 incorrect data provided by the commission is as a result of conduct that is:

7527 (i) fraudulent;

7528 (ii) intentional; or

7529 (iii) willful.

7530 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
7531 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
7532 or an underpayment if:

7533 (a) the purchaser's seller or certified service provider relies on:

7534 (i) incorrect data provided by the commission:

7535 (A) on a tax rate;

7536 (B) on a boundary; or

7537 (C) on a taxing jurisdiction; or

7538 (ii) an erroneous classification by the commission:

7539 (A) in the taxability matrix the commission provides in accordance with the agreement;

7540 and

7541 (B) with respect to a term:

7542 (I) in the library of definitions; and

7543 (II) that is:

7544 (Aa) listed as taxable or exempt;

7545 (Bb) included or excluded from "sales price"; or

7546 (Cc) included in or excluded from a definition; or

7547 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in

7548 accordance with Section 59-12-107.1, relies on:

7549 (i) incorrect data provided by the commission:

7550 (A) on a tax rate;

7551 (B) on a boundary; or

7552 (C) on a taxing jurisdiction; or

7553 (ii) an erroneous classification by the commission:

7554 (A) in the taxability matrix the commission provides in accordance with the agreement;

7555 and

7556 (B) with respect to a term:

7557 (I) in the library of definitions; and

7558 (II) that is:

7559 (Aa) listed as taxable or exempt;

7560 (Bb) included or excluded from "sales price"; or

7561 (Cc) included in or excluded from a definition.

7562 Section 85. Section **59-12-1302** is amended to read:

7563 **59-12-1302. Imposition of tax -- Base -- Rate -- Enactment or repeal of tax -- Tax**
7564 **rate change -- Effective date -- Notice requirements.**

7565 (1) Beginning on or after January 1, 1998, the governing body of a town may impose a
7566 tax as provided in this part in an amount that does not exceed 1%.

7567 (2) A town may impose a tax as provided in this part if the town imposed a license fee
7568 or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1,
7569 1996.

7570 (3) A town imposing a tax under this section shall:

7571 (a) except as provided in Subsection (4), impose the tax on the transactions described
7572 in Subsection 59-12-103(1) located within the town; and

7573 (b) provide an effective date for the tax as provided in Subsection (5).

7574 (4) (a) Notwithstanding Subsection (3)(a), a town may not impose a tax under this
7575 section on:

7576 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
7577 are exempt from taxation under Section 59-12-104; and

7578 ~~[(ii) amounts paid or charged by a seller that collects a tax under Subsection~~
7579 ~~59-12-107(1)(b); and]~~

7580 ~~[(iii)]~~ (ii) except as provided in Subsection (4)(c), amounts paid or charged for food
7581 and food ingredients.

7582 (b) For purposes of this Subsection (4), the location of a transaction shall be
7583 determined in accordance with ~~[Section 59-12-207]~~ Sections 59-12-211 through 59-12-215.

7584 (c) A town imposing a tax under this section shall impose the tax on amounts paid or
7585 charged for food and food ingredients if~~[-(i)]~~ the food and food ingredients are sold as part of a
7586 bundled transaction attributable to food and food ingredients and tangible personal property
7587 other than food and food ingredients~~[-; and (ii) the seller collecting the tax is a seller other than~~
7588 ~~a seller that collects a tax in accordance with Subsection 59-12-107(1)(b)].~~

7589 (5) (a) For purposes of this Subsection (5):

7590 (i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4,
7591 Annexation.

7592 (ii) "Annexing area" means an area that is annexed into a town.

7593 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
7594 town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,
7595 or change shall take effect:

7596 (A) on the first day of a calendar quarter; and

7597 (B) after a 90-day period beginning on the date the commission receives notice meeting
7598 the requirements of Subsection (5)(b)(ii) from the town.

7599 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

7600 (A) that the town will enact or repeal a tax or change the rate of a tax under this part;

7601 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

7602 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

7603 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
7604 (5)(b)(ii)(A), the rate of the tax.

7605 (c) (i) ~~[Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection~~
7606 ~~(5)(c)(iii), the]~~ The enactment of a tax or a tax rate increase shall take effect on the first day of
7607 the first billing period:

7608 (A) that begins after the effective date of the enactment of the tax or the tax rate
7609 increase; and

7610 (B) if the billing period for the transaction begins before the effective date of the
7611 enactment of the tax or the tax rate increase imposed under Subsection (1).

7612 (ii) ~~[Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection~~
7613 ~~(5)(c)(iii), the]~~ The repeal of a tax or a tax rate decrease shall take effect on the first day of the
7614 last billing period:

7615 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
7616 and

7617 (B) if the billing period for the transaction begins before the effective date of the repeal
7618 of the tax or the tax rate decrease imposed under Subsection (1).

7619 ~~[(iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:]~~

7620 ~~[(A) Subsection 59-12-103(1)(b);]~~

7621 ~~[(B) Subsection 59-12-103(1)(c);]~~

7622 ~~[(C) Subsection 59-12-103(1)(d);]~~

7623 ~~[(D) Subsection 59-12-103(1)(e);]~~

7624 ~~[(E) Subsection 59-12-103(1)(f);]~~

7625 ~~[(F) Subsection 59-12-103(1)(g);]~~

7626 ~~[(G) Subsection 59-12-103(1)(h);]~~

7627 ~~[(H) Subsection 59-12-103(1)(i);]~~

7628 ~~[(I) Subsection 59-12-103(1)(j); or]~~

7629 ~~[(J) Subsection 59-12-103(1)(k).]~~

7630 (d) (i) ~~[Notwithstanding Subsection (5)(b)(i), if]~~ If a tax due under this chapter on a
7631 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
7632 enactment, repeal, or change in the rate of a tax described in Subsection (5)(b)(i) takes effect:

7633 (A) on the first day of a calendar quarter; and

7634 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
7635 rate of the tax under Subsection (5)(b)(i).

7636 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
7637 the commission may by rule define the term "catalogue sale."

7638 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
7639 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
7640 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
7641 effect:

7642 (A) on the first day of a calendar quarter; and

7643 (B) after a 90-day period beginning on the date the commission receives notice meeting
7644 the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

7645 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

7646 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment,
7647 repeal, or change in the rate of a tax under this part for the annexing area;

7648 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

7649 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

7650 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
7651 (5)(e)(ii)(A), the rate of the tax.

7652 (f) (i) ~~[Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection~~
7653 ~~(5)(f)(iii), the]~~ The enactment of a tax or a tax rate increase shall take effect on the first day of

7654 the first billing period:

7655 (A) that begins after the effective date of the enactment of the tax or the tax rate
7656 increase; and

7657 (B) if the billing period for the transaction begins before the effective date of the
7658 enactment of the tax or the tax rate increase imposed under Subsection (1).

7659 (ii) ~~[Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection~~
7660 ~~(5)(f)(iii), the]~~ The repeal of a tax or a tax rate decrease shall take effect on the first day of the
7661 last billing period:

7662 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
7663 and

7664 (B) if the billing period for the transaction begins before the effective date of the repeal
7665 of the tax or the tax rate decrease imposed under Subsection (1).

7666 ~~[(iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:]~~

7667 ~~[(A) Subsection 59-12-103(1)(b);]~~

7668 ~~[(B) Subsection 59-12-103(1)(c);]~~

7669 ~~[(C) Subsection 59-12-103(1)(d);]~~

7670 ~~[(D) Subsection 59-12-103(1)(e);]~~

7671 ~~[(E) Subsection 59-12-103(1)(f);]~~

7672 ~~[(F) Subsection 59-12-103(1)(g);]~~

7673 ~~[(G) Subsection 59-12-103(1)(h);]~~

7674 ~~[(H) Subsection 59-12-103(1)(i);]~~

7675 ~~[(I) Subsection 59-12-103(1)(j); or]~~

7676 ~~[(J) Subsection 59-12-103(1)(k).]~~

7677 (g) (i) ~~[Notwithstanding Subsection (5)(e)(i), if]~~ If a tax due under this chapter on a
7678 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
7679 enactment, repeal, or change in the rate of a tax described in Subsection (5)(e)(i) takes effect:

7680 (A) on the first day of a calendar quarter; and

7681 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
7682 rate of the tax under Subsection (5)(e)(i).

7683 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
7684 the commission may by rule define the term "catalogue sale."

7685 (6) The commission shall:

7686 (a) except as provided in Subsection (6)(c), distribute the revenues generated by the tax
7687 under this section to the town imposing the tax;

7688 (b) except as provided in Subsection (7), administer, collect, and enforce the tax
7689 authorized under this section in accordance with:

7690 (i) the same procedures used to administer, collect, and enforce the tax under:

7691 (A) Part 1, Tax Collection; or

7692 (B) Part 2, Local Sales and Use Tax Act; and

7693 (ii) Chapter 1, General Taxation Policies; and

7694 (c) deduct from the distribution under Subsection (6)(a) an administrative charge for
7695 collecting the tax as provided in Section 59-12-206.

7696 (7) Notwithstanding Subsection (6)(b), a tax under this section is not subject to
7697 Subsections 59-12-205(2) through ~~[(7)]~~ (6).

7698 Section 86. Section **59-12-1304** is enacted to read:

7699 **59-12-1304. Seller or certified service provider reliance on commission**
7700 **information or certain systems.**

7701 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
7702 imposed under this part if:

7703 (1) the tax rate at which the seller or certified service provider collects the tax is
7704 derived from a database created by the commission containing tax rates; and

7705 (2) the seller's or certified service provider's failure to collect the tax is as a result of the
7706 seller's or certified service provider's reliance on incorrect data provided by the commission in
7707 the database created by the commission containing tax rates.

7708 Section 87. Section **59-12-1305** is enacted to read:

7709 **59-12-1305. Certified service provider or model 2 seller reliance on commission**
7710 **certified software.**

7711 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified
7712 service provider or model 2 seller is not liable for failing to collect a tax required under this
7713 part if:

7714 (a) the certified service provider or model 2 seller relies on software the commission
7715 certifies; and

7716 (b) the certified service provider's or model 2 seller's failure to collect a tax required
7717 under this part is as a result of the seller's or certified service provider's reliance on incorrect
7718 data:

7719 (i) provided by the commission; or
7720 (ii) in the software the commission certifies.

7721 (2) The relief from liability described in Subsection (1) does not apply if a certified
7722 service provider or model 2 seller incorrectly classifies an item or transaction into a product
7723 category the commission certifies.

7724 (3) If the taxability of a product category is incorrectly classified in software the
7725 commission certifies, the commission shall:

7726 (a) notify a certified service provider or model 2 seller of the incorrect classification of
7727 the taxability of a product category in software the commission certifies; and

7728 (b) state in the notice required by Subsection (3)(a) that the certified service provider or
7729 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
7730 incorrectly classified product category if the certified service provider or model 2 seller fails to
7731 correct the taxability of the item or transaction within ten days after the day on which the
7732 certified service provider or model 2 seller receives the notice.

7733 (4) If a certified service provider or model 2 seller fails to correct the taxability of an
7734 item or transaction within ten days after the day on which the certified service provider or
7735 model 2 seller receives the notice described in Subsection (3), the certified service provider or
7736 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
7737 item or transaction.

7738 Section 88. Section **59-12-1306** is enacted to read:

7739 **59-12-1306. Purchaser relief from liability.**

7740 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
7741 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

7742 (i) the purchaser's seller or certified service provider relies on incorrect data provided
7743 by the commission:

7744 (A) on a tax rate;

7745 (B) on a boundary;

7746 (C) on a taxing jurisdiction; or

7747 (D) in the taxability matrix the commission provides in accordance with the agreement;
7748 or
7749 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
7750 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:
7751 (A) on a tax rate;
7752 (B) on a boundary;
7753 (C) on a taxing jurisdiction; or
7754 (D) in the taxability matrix the commission provides in accordance with the agreement.
7755 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
7756 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
7757 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
7758 incorrect data provided by the commission is as a result of conduct that is:
7759 (i) fraudulent;
7760 (ii) intentional; or
7761 (iii) willful.
7762 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
7763 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
7764 or an underpayment if:
7765 (a) the purchaser's seller or certified service provider relies on:
7766 (i) incorrect data provided by the commission:
7767 (A) on a tax rate;
7768 (B) on a boundary; or
7769 (C) on a taxing jurisdiction; or
7770 (ii) an erroneous classification by the commission:
7771 (A) in the taxability matrix the commission provides in accordance with the agreement;
7772 and
7773 (B) with respect to a term:
7774 (I) in the library of definitions; and
7775 (II) that is:
7776 (Aa) listed as taxable or exempt;
7777 (Bb) included or excluded from "sales price"; or

7778 (Cc) included in or excluded from a definition; or
7779 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
7780 accordance with Section 59-12-107.1, relies on:
7781 (i) incorrect data provided by the commission:
7782 (A) on a tax rate;
7783 (B) on a boundary; or
7784 (C) on a taxing jurisdiction; or
7785 (ii) an erroneous classification by the commission:
7786 (A) in the taxability matrix the commission provides in accordance with the agreement;
7787 and
7788 (B) with respect to a term:
7789 (I) in the library of definitions; and
7790 (II) that is:
7791 (Aa) listed as taxable or exempt;
7792 (Bb) included or excluded from "sales price"; or
7793 (Cc) included in or excluded from a definition.
7794 Section 89. Section **59-12-1402** is amended to read:
7795 **59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax -- Uses**
7796 **of tax monies -- Enactment or repeal of tax -- Effective date -- Notice requirements.**
7797 (1) (a) (i) Subject to Subsection (6), beginning on January 1, 2003, a city or town
7798 legislative body subject to this part may submit an opinion question to the residents of that city
7799 or town, by majority vote of all members of the legislative body, so that each resident of the
7800 city or town has an opportunity to express the resident's opinion on the imposition of a local
7801 sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located
7802 within the city or town, to fund recreational and zoological facilities and botanical, cultural,
7803 and zoological organizations in that city or town.
7804 (ii) Notwithstanding Subsection (1)(a)(i), a city or town legislative body may not
7805 impose a tax under this section:
7806 (A) if the county in which the city or town is located imposes a tax under Part 7,
7807 County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or
7808 Facilities;

7809 (B) on the sales and uses described in Section 59-12-104 to the extent the sales and
7810 uses are exempt from taxation under Section 59-12-104; and

7811 [~~(C) on amounts paid or charged by a seller that collects a tax under Subsection~~
7812 ~~59-12-107(1)(b); and]~~

7813 [~~(D)~~ (C) except as provided in Subsection (1)(c), on amounts paid or charged for food
7814 and food ingredients.

7815 (b) For purposes of this Subsection (1), the location of a transaction shall be
7816 determined in accordance with ~~[Section 59-12-207]~~ Sections 59-12-211 through 59-12-215.

7817 (c) A city or town legislative body imposing a tax under this section shall impose the
7818 tax on amounts paid or charged for food and food ingredients if~~[(i)]~~ the food and food
7819 ingredients are sold as part of a bundled transaction attributable to food and food ingredients
7820 and tangible personal property other than food and food ingredients~~[-; and (ii) the seller~~
7821 ~~collecting the tax is a seller other than a seller that collects a tax in accordance with Subsection~~
7822 ~~59-12-107(1)(b)].~~

7823 (d) The election shall be held at a regular general election or a municipal general
7824 election, as those terms are defined in Section 20A-1-102, and shall follow the procedures
7825 outlined in Title 11, Chapter 14, Local Government Bonding Act, except as provided in
7826 Subsection (6).

7827 (2) If the city or town legislative body determines that a majority of the city's or town's
7828 registered voters voting on the imposition of the tax have voted in favor of the imposition of
7829 the tax as prescribed in Subsection (1)(a), the city or town legislative body may impose the tax
7830 by a majority vote of all members of the legislative body.

7831 (3) The monies generated from any tax imposed under Subsection (2) shall be used for
7832 financing:

7833 (a) recreational and zoological facilities within the city or town or within the
7834 geographic area of entities that are parties to an interlocal agreement, to which the city or town
7835 is a party, providing for recreational or zoological facilities; and

7836 (b) ongoing operating expenses of botanical, cultural, and zoological organizations
7837 within the city or town or within the geographic area of entities that are parties to an interlocal
7838 agreement, to which the city or town is a party, providing for the support of botanical, cultural,
7839 or zoological organizations.

7840 (4) (a) A tax authorized under this part shall be:

7841 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
7842 accordance with:

7843 (A) the same procedures used to administer, collect, and enforce the tax under:

7844 (I) Part 1, Tax Collection; or

7845 (II) Part 2, Local Sales and Use Tax Act; and

7846 (B) Chapter 1, General Taxation Policies; and

7847 (ii) (A) levied for a period of eight years; and

7848 (B) may be reauthorized at the end of the eight-year period in accordance with this
7849 section.

7850 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
7851 Subsections 59-12-205(2) through [(7)] (6).

7852 (5) (a) For purposes of this Subsection (5):

7853 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
7854 4, Annexation.

7855 (ii) "Annexing area" means an area that is annexed into a city or town.

7856 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city
7857 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

7858 (A) on the first day of a calendar quarter; and

7859 (B) after a 90-day period beginning on the date the commission receives notice meeting
7860 the requirements of Subsection (5)(b)(ii) from the city or town.

7861 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

7862 (A) that the city or town will enact or repeal a tax under this part;

7863 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

7864 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

7865 (D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of
7866 the tax.

7867 (c) (i) [~~Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection~~
7868 ~~(5)(c)(iii), the~~] The enactment of a tax shall take effect on the first day of the first billing
7869 period:

7870 (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) ~~[(iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:]~~ ~~[(5)(c)(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)(c)(i) and (ii) apply to transactions subject to a tax under:]~~

~~[(A) Subsection 59-12-103(1)(b);]~~

~~[(B) Subsection 59-12-103(1)(c);]~~

~~[(C) Subsection 59-12-103(1)(d);]~~

~~[(D) Subsection 59-12-103(1)(e);]~~

~~[(E) Subsection 59-12-103(1)(f);]~~

~~[(F) Subsection 59-12-103(1)(g);]~~

~~[(G) Subsection 59-12-103(1)(h);]~~

~~[(H) Subsection 59-12-103(1)(i);]~~

~~[(I) Subsection 59-12-103(1)(j); or]~~

~~[(J) Subsection 59-12-103(1)(k).]~~

(d) (i) ~~[(Notwithstanding Subsection (5)(b)(i), if]~~ If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

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

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).

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

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

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

(B) after a 90-day period beginning on the date the commission receives notice meeting

the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal 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);]~~

~~[(G) Subsection 59-12-103(1)(h);]~~

~~[(H) Subsection 59-12-103(1)(i);]~~

~~[(I) Subsection 59-12-103(1)(j); or]~~

~~[(J) Subsection 59-12-103(1)(k).]~~

(g) (i) [~~Notwithstanding Subsection (5)(e)(i), if~~] 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

7933 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

7934 (A) on the first day of a calendar quarter; and

7935 (B) beginning 60 days after the effective date of the enactment or repeal under
7936 Subsection (5)(e)(i).

7937 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
7938 the commission may by rule define the term "catalogue sale."

7939 (6) (a) Before a city or town legislative body submits an opinion question to the
7940 residents of the city or town under Subsection (1)(a)(i), the city or town legislative body shall:

7941 (i) submit to the county legislative body in which the city or town is located a written
7942 notice of the intent to submit the opinion question to the residents of the city or town; and

7943 (ii) receive from the county legislative body:

7944 (A) a written resolution passed by the county legislative body stating that the county
7945 legislative body is not seeking to impose a tax under Part 7, County Option Funding for
7946 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

7947 (B) a written statement that in accordance with Subsection (6)(b) the results of a county
7948 opinion question submitted to the residents of the county under Part 7, County Option Funding
7949 for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city
7950 or town legislative body to submit the opinion question to the residents of the city or town in
7951 accordance with this part.

7952 (b) (i) Within 60 days after the day the county legislative body receives from a city or
7953 town legislative body described in Subsection (6)(a) the notice of the intent to submit an
7954 opinion question to the residents of the city or town, the county legislative body shall provide
7955 the city or town legislative body:

7956 (A) the written resolution described in Subsection (6)(a)(ii)(A); or

7957 (B) written notice that the county legislative body will submit an opinion question to
7958 the residents of the county under Part 7, County Option Funding for Botanical, Cultural,
7959 Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under
7960 that part.

7961 (ii) If the county legislative body provides the city or town legislative body the written
7962 notice that the county legislative body will submit an opinion question as provided in
7963 Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no

later than, from the date the county legislative body sends the written notice, the later of:

(A) a 12-month period;

(B) the next regular primary election; or

(C) the next regular general election.

(iii) Within 30 days of the date of the canvass of the election at which the opinion question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the city or town legislative body described in Subsection (6)(a) written results of the opinion question submitted by the county legislative body under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

(A) (I) the city or town legislative body may not impose a tax under this part because a majority of the county's registered voters voted in favor of the county imposing the tax and the county legislative body by a majority vote approved the imposition of the tax; or

(II) for at least 12 months from the date the written results are submitted to the city or town legislative body, the city or town legislative body may not submit to the county legislative body a written notice of the intent to submit an opinion question under this part because a majority of the county's registered voters voted against the county imposing the tax and the majority of the registered voters who are residents of the city or town described in Subsection (6)(a) voted against the imposition of the county tax; or

(B) the city or town legislative body may submit the opinion question to the residents of the city or town in accordance with this part because although a majority of the county's registered voters voted against the county imposing the tax, the majority of the registered voters who are residents of the city or town voted for the imposition of the county tax.

(c) Notwithstanding Subsection (6)(b), at any time a county legislative body may provide a city or town legislative body described in Subsection (6)(a) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, which permits the city or town legislative body to submit under Subsection (1)(a)(i) an opinion question to the city's or town's residents.

Section 90. Section **59-12-1405** is enacted to read:

59-12-1405. Seller or certified service provider reliance on commission information or certain systems.

7995 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
7996 imposed under this part if:

7997 (1) the tax rate at which the seller or certified service provider collects the tax is
7998 derived from a database created by the commission containing tax rates; and

7999 (2) the seller's or certified service provider's failure to collect the tax is as a result of the
8000 seller's or certified service provider's reliance on incorrect data provided by the commission in
8001 the database created by the commission containing tax rates.

8002 Section 91. Section **59-12-1406** is enacted to read:

8003 **59-12-1406. Certified service provider or model 2 seller reliance on commission**
8004 **certified software.**

8005 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified
8006 service provider or model 2 seller is not liable for failing to collect a tax required under this
8007 part if:

8008 (a) the certified service provider or model 2 seller relies on software the commission
8009 certifies; and

8010 (b) the certified service provider's or model 2 seller's failure to collect a tax required
8011 under this part is as a result of the seller's or certified service provider's reliance on incorrect
8012 data:

8013 (i) provided by the commission; or

8014 (ii) in the software the commission certifies.

8015 (2) The relief from liability described in Subsection (1) does not apply if a certified
8016 service provider or model 2 seller incorrectly classifies an item or transaction into a product
8017 category the commission certifies.

8018 (3) If the taxability of a product category is incorrectly classified in software the
8019 commission certifies, the commission shall:

8020 (a) notify a certified service provider or model 2 seller of the incorrect classification of
8021 the taxability of a product category in software the commission certifies; and

8022 (b) state in the notice required by Subsection (3)(a) that the certified service provider or
8023 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
8024 incorrectly classified product category if the certified service provider or model 2 seller fails to
8025 correct the taxability of the item or transaction within ten days after the day on which the

8026 certified service provider or model 2 seller receives the notice.

8027 (4) If a certified service provider or model 2 seller fails to correct the taxability of an
8028 item or transaction within ten days after the day on which the certified service provider or
8029 model 2 seller receives the notice described in Subsection (3), the certified service provider or
8030 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
8031 item or transaction.

8032 Section 92. Section **59-12-1407** is enacted to read:

8033 **59-12-1407. Purchaser relief from liability.**

8034 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
8035 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

8036 (i) the purchaser's seller or certified service provider relies on incorrect data provided
8037 by the commission:

8038 (A) on a tax rate;

8039 (B) on a boundary;

8040 (C) on a taxing jurisdiction; or

8041 (D) in the taxability matrix the commission provides in accordance with the agreement;

8042 or

8043 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
8044 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

8045 (A) on a tax rate;

8046 (B) on a boundary;

8047 (C) on a taxing jurisdiction; or

8048 (D) in the taxability matrix the commission provides in accordance with the agreement.

8049 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
8050 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
8051 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
8052 incorrect data provided by the commission is as a result of conduct that is:

8053 (i) fraudulent;

8054 (ii) intentional; or

8055 (iii) willful.

8056 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is

8057 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
8058 or an underpayment if:

8059 (a) the purchaser's seller or certified service provider relies on:

8060 (i) incorrect data provided by the commission:

8061 (A) on a tax rate;

8062 (B) on a boundary; or

8063 (C) on a taxing jurisdiction; or

8064 (ii) an erroneous classification by the commission:

8065 (A) in the taxability matrix the commission provides in accordance with the agreement;

8066 and

8067 (B) with respect to a term:

8068 (I) in the library of definitions; and

8069 (II) that is:

8070 (Aa) listed as taxable or exempt;

8071 (Bb) included or excluded from "sales price"; or

8072 (Cc) included in or excluded from a definition; or

8073 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
8074 accordance with Section 59-12-107.1, relies on:

8075 (i) incorrect data provided by the commission:

8076 (A) on a tax rate;

8077 (B) on a boundary; or

8078 (C) on a taxing jurisdiction; or

8079 (ii) an erroneous classification by the commission:

8080 (A) in the taxability matrix the commission provides in accordance with the agreement;

8081 and

8082 (B) with respect to a term:

8083 (I) in the library of definitions; and

8084 (II) that is:

8085 (Aa) listed as taxable or exempt;

8086 (Bb) included or excluded from "sales price"; or

8087 (Cc) included in or excluded from a definition.

8088 Section 93. Section **59-12-1503** is amended to read:

8089 **59-12-1503. Opinion question election -- Base -- Rate -- Imposition of tax -- Use of**
8090 **tax revenues -- Administration, collection, and enforcement of tax by commission --**
8091 **Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**

8092 (1) (a) Subject to the other provisions of this part, the county legislative body of a
8093 qualifying county may impose a sales and use tax of:

8094 (i) beginning on April 1, 2004, and ending on December 31, 2007, .25%:

8095 (A) on the transactions:

8096 (I) described in Subsection 59-12-103(1); and

8097 (II) within the county, including the cities and towns within the county;

8098 (B) for the purposes determined by the county legislative body in accordance with
8099 Subsection (2); and

8100 (C) in addition to any other sales and use tax authorized under this chapter; or

8101 (ii) beginning on January 1, 2008, up to .30%:

8102 (A) on the transactions:

8103 (I) described in Subsection 59-12-103(1); and

8104 (II) within the county, including the cities and towns within the county;

8105 (B) for the purposes determined by the county legislative body in accordance with
8106 Subsection (2); and

8107 (C) in addition to any other sales and use tax authorized under this chapter.

8108 (b) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax
8109 under this section on:

8110 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
8111 are exempt from taxation under Section 59-12-104; and

8112 ~~[(ii) amounts paid or charged by a seller that collects a tax under Subsection~~
8113 ~~59-12-107(1)(b); and]~~

8114 ~~[(iii)]~~ (ii) except as provided in Subsection (1)(d), amounts paid or charged for food
8115 and food ingredients.

8116 (c) For purposes of this Subsection (1), the location of a transaction shall be
8117 determined in accordance with ~~[Section 59-12-207]~~ Sections 59-12-211 through 59-12-215.

8118 (d) A county legislative body imposing a tax under this section shall impose the tax on

8119 amounts paid or charged for food and food ingredients if ~~[(i)]~~ the food and food ingredients
8120 are sold as part of a bundled transaction attributable to food and food ingredients and tangible
8121 personal property other than food and food ingredients ~~[-, and (ii) the seller collecting the tax is~~
8122 ~~a seller other than a seller that collects a tax in accordance with Subsection 59-12-107(1)(b)]~~.

8123 (2) (a) Subject to Subsection (2)(b), before obtaining the approval required by
8124 Subsection (3), a county legislative body shall adopt a resolution specifying the percentage of
8125 revenues the county will receive from the tax under this part that will be allocated to fund one
8126 or more of the following:

8127 (i) a project or service relating to a fixed guideway system for the portion of the project
8128 or service that is performed within the county;

8129 (ii) a project or service relating to a system for public transit for the portion of the
8130 project or service that is performed within the county; or

8131 (iii) the following relating to a state highway or a local highway of regional
8132 significance within the county:

8133 (A) a project beginning on or after the day on which a county legislative body imposes
8134 a tax under this part only within the county involving:

8135 (I) new construction;

8136 (II) a renovation;

8137 (III) an improvement; or

8138 (IV) an environmental study;

8139 (B) debt service on a project described in Subsections (2)(a)(iii)(A)(I) through (IV); or

8140 (C) bond issuance costs relating to a project described in Subsections (2)(a)(iii)(A)(I)
8141 through (IV).

8142 (b) (i) A county legislative body shall in the resolution required by Subsection (2)(a)
8143 allocate as required by Subsection (2)(a) 100% of the revenues the county will receive from the
8144 tax under this part.

8145 (ii) For purposes of this Subsection (2)(b), the revenues a county will receive from the
8146 tax under this part do not include amounts retained by the commission in accordance with
8147 Subsection (8).

8148 (3) (a) Except as provided in Subsection (3)(d), before imposing a tax under this part, a
8149 county legislative body shall:

8150 (i) obtain approval from a majority of the members of the county legislative body to:

8151 (A) impose the tax; and

8152 (B) allocate the revenues the county will receive from the tax in accordance with the
8153 resolution adopted in accordance with Subsection (2); and

8154 (ii) subject to Subsection (3)(b), submit an opinion question to the county's registered
8155 voters voting on the imposition of the tax so that each registered voter has the opportunity to
8156 express the registered voter's opinion on whether a tax should be imposed under this part.

8157 (b) The opinion question required by Subsection (3)(a)(ii) shall state the allocations
8158 specified in the resolution:

8159 (i) adopted in accordance with Subsection (2); and

8160 (ii) approved by the county legislative body in accordance with Subsection (3)(a).

8161 (c) The election required by this Subsection (3) shall be held:

8162 (i) (A) at a regular general election; and

8163 (B) in accordance with the procedures and requirements of Title 20A, Election Code,
8164 governing regular general elections; or

8165 (ii) (A) at a special election called by the county legislative body;

8166 (B) only on the date of a municipal general election provided in Subsection
8167 20A-1-202(1); and

8168 (C) in accordance with the procedures and requirements of Section 20A-1-203.

8169 (d) A county is not subject to the voter approval requirements of this section if:

8170 (i) on December 31, 2007, the county imposes a tax of .25% under this section; and

8171 (ii) on or after January 1, 2008, the county increases the tax rate under this section to
8172 up to .30%.

8173 (4) (a) Subject to Subsection (8), if a county legislative body determines that a majority
8174 of the county's registered voters voting on the imposition of the tax have voted in favor of the
8175 imposition of the tax in accordance with Subsection (3), the county legislative body may
8176 impose the tax by a majority vote of all of the members of the county legislative body.

8177 (b) If a county legislative body imposes a tax under Subsection (4)(a), the revenues
8178 generated by the tax shall be:

8179 (i) allocated in accordance with the allocations specified in the resolution under
8180 Subsection (2); and

8181 (ii) expended as provided in this part.

8182 (5) If a county legislative body allocates revenues generated by the tax for a project
8183 described in Subsection (2)(a)(iii)(A), before beginning the state highway project within the
8184 county, the county legislative body shall:

8185 (a) obtain approval from the Transportation Commission to complete the project; and

8186 (b) enter into an interlocal agreement:

8187 (i) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;

8188 (ii) with the Department of Transportation; and

8189 (iii) to complete the project.

8190 (6) (a) If after a county legislative body imposes a tax under Subsection (4) the county
8191 legislative body seeks to change the allocation of the tax specified in the resolution under
8192 Subsection (2), the county legislative body may change the allocation of the tax by:

8193 (i) adopting a resolution in accordance with Subsection (2) specifying the percentage of
8194 revenues the county will receive from the tax under this part that will be allocated to fund one
8195 or more of the systems or projects described in Subsection (2);

8196 (ii) obtaining approval to change the allocation of the tax from a majority of the
8197 members of the county legislative body; and

8198 (iii) (A) submitting an opinion question to the county's registered voters voting on
8199 changing the allocation of the tax so that each registered voter has the opportunity to express
8200 the registered voter's opinion on whether the allocation of the tax should be changed; and

8201 (B) obtaining approval to change the allocation of the tax from a majority of the
8202 county's registered voters voting on changing the allocation of the tax.

8203 (b) (i) The opinion question required by Subsection (6)(a)(iii) shall state the allocations
8204 specified in the resolution:

8205 (A) adopted in accordance with Subsection (6)(a)(i); and

8206 (B) approved by the county legislative body in accordance with Subsection (6)(a)(ii).

8207 (ii) The election required by Subsection (6)(a)(iii) shall follow the procedures and
8208 requirements of Title 11, Chapter 14, Local Government Bonding Act.

8209 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), revenues generated by a tax
8210 under this part that are allocated for a purpose described in Subsection (2)(a)(i) or (ii) shall be
8211 transmitted:

8212 (A) by the commission;
8213 (B) to the county;
8214 (C) monthly; and
8215 (D) by electronic funds transfer.
8216 (ii) Notwithstanding Subsection (7)(a)(i), a county may request that the commission
8217 transfer the revenues described in Subsection (7)(a)(i):
8218 (A) directly to a public transit district:
8219 (I) organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act; and
8220 (II) designated by the county; and
8221 (B) by providing written notice to the commission:
8222 (I) requesting the revenues to be transferred directly to a public transit district as
8223 provided in Subsection (7)(a)(ii)(A); and
8224 (II) designating the public transit district to which the revenues are requested to be
8225 transferred.
8226 (b) Revenues generated by a tax under this part that are allocated for a purpose
8227 described in Subsection (2)(a)(iii) shall be:
8228 (i) deposited into the State Highway Projects Within Counties Fund created by Section
8229 72-2-121.1; and
8230 (ii) expended as provided in Section 72-2-121.1.
8231 (8) (a) (i) Except as provided in Subsection (8)(a)(ii), the tax authorized under this part
8232 shall be administered, collected, and enforced in accordance with:
8233 (A) the same procedures used to administer, collect, and enforce the tax under:
8234 (I) Part 1, Tax Collection; or
8235 (II) Part 2, Local Sales and Use Tax Act; and
8236 (B) Chapter 1, General Taxation Policies.
8237 (ii) Notwithstanding Subsection (8)(a)(i), a tax under this part is not subject to
8238 Subsections 59-12-205(2) through [~~7~~] (6).
8239 (b) (i) The commission may retain an amount of tax collected under this part of not to
8240 exceed the lesser of:
8241 (A) 1.5%; or
8242 (B) an amount equal to the cost to the commission of administering this part.

8243 (ii) Any amount the commission retains under Subsection (8)(b)(i) shall be:

8244 (A) placed in the Sales and Use Tax Administrative Fees Account; and

8245 (B) used as provided in Subsection 59-12-206(2).

8246 (9) (a) (i) Except as provided in Subsection (9)(b) or (c), if, on or after April 1, 2008, a

8247 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

8248 (A) on the first day of a calendar quarter; and

8249 (B) after a 90-day period beginning on the date the commission receives notice meeting

8250 the requirements of Subsection (9)(a)(ii) from the county.

8251 (ii) The notice described in Subsection (9)(a)(i)(B) shall state:

8252 (A) that the county will enact or repeal a tax under this part;

8253 (B) the statutory authority for the tax described in Subsection (9)(a)(ii)(A);

8254 (C) the effective date of the tax described in Subsection (9)(a)(ii)(A); and

8255 (D) if the county enacts the tax described in Subsection (9)(a)(ii)(A), the rate of the tax.

8256 (b) (i) ~~[Notwithstanding Subsection (9)(a)(i), for a transaction described in Subsection~~

8257 ~~(9)(b)(iii), the]~~ The enactment of a tax shall take effect on the first day of the first billing

8258 period:

8259 (A) that begins after the effective date of the enactment of the tax; and

8260 (B) if the billing period for the transaction begins before the effective date of the

8261 enactment of the tax under Subsection (1).

8262 (ii) ~~[Notwithstanding Subsection (9)(a)(i), for a transaction described in Subsection~~

8263 ~~(9)(b)(iii), the]~~ The repeal of a tax shall take effect on the first day of the last billing period:

8264 (A) that began before the effective date of the repeal of the tax; and

8265 (B) if the billing period for the transaction begins before the effective date of the repeal

8266 of the tax imposed under Subsection (1).

8267 ~~[(iii) Subsections (9)(b)(i) and (ii) apply to transactions subject to a tax under:]~~

8268 ~~[(A) Subsection 59-12-103(1)(b);]~~

8269 ~~[(B) Subsection 59-12-103(1)(c);]~~

8270 ~~[(C) Subsection 59-12-103(1)(d);]~~

8271 ~~[(D) Subsection 59-12-103(1)(e);]~~

8272 ~~[(E) Subsection 59-12-103(1)(f);]~~

8273 ~~[(F) Subsection 59-12-103(1)(g);]~~

8274 ~~[(G) Subsection 59-12-103(1)(h);]~~

8275 ~~[(H) Subsection 59-12-103(1)(i);]~~

8276 ~~[(I) Subsection 59-12-103(1)(j); or]~~

8277 ~~[(J) Subsection 59-12-103(1)(k).]~~

8278 (c) (i) ~~[Notwithstanding Subsection (9)(a)(i), if]~~ If a tax due under this chapter on a
8279 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
8280 enactment or repeal of a tax described in Subsection (9)(a)(i) takes effect:

8281 (A) on the first day of a calendar quarter; and

8282 (B) beginning 60 days after the effective date of the enactment or repeal under
8283 Subsection (9)(a)(i).

8284 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
8285 the commission may by rule define the term "catalogue sale."

8286 (d) (i) Except as provided in Subsection (9)(e) or (f), if, for an annexation that occurs
8287 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
8288 part for an annexing area, the enactment or repeal shall take effect:

8289 (A) on the first day of a calendar quarter; and

8290 (B) after a 90-day period beginning on the date the commission receives notice meeting
8291 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

8292 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

8293 (A) that the annexation described in Subsection (9)(d)(i)(B) will result in an enactment
8294 or repeal of a tax under this part for the annexing area;

8295 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

8296 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

8297 (D) the rate of the tax described in Subsection (9)(d)(ii)(A).

8298 (e) (i) ~~[Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection~~
8299 ~~(9)(e)(iii), the]~~ The enactment of a tax shall take effect on the first day of the first billing
8300 period:

8301 (A) that begins after the effective date of the enactment of the tax; and

8302 (B) if the billing period for the transaction begins before the effective date of the
8303 enactment of the tax under Subsection (1).

8304 (ii) ~~[Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection~~

8305 ~~(9)(e)(iii), the]~~ The repeal of a tax shall take effect on the first day of the last billing period:

8306 (A) that began before the effective date of the repeal of the tax; and

8307 (B) if the billing period for the transaction begins before the effective date of the repeal
8308 of the tax imposed under Subsection (1).

8309 ~~[(iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:]~~

8310 ~~[(A) Subsection 59-12-103(1)(b);]~~

8311 ~~[(B) Subsection 59-12-103(1)(c);]~~

8312 ~~[(C) Subsection 59-12-103(1)(d);]~~

8313 ~~[(D) Subsection 59-12-103(1)(e);]~~

8314 ~~[(E) Subsection 59-12-103(1)(f);]~~

8315 ~~[(F) Subsection 59-12-103(1)(g);]~~

8316 ~~[(G) Subsection 59-12-103(1)(h);]~~

8317 ~~[(H) Subsection 59-12-103(1)(i);]~~

8318 ~~[(I) Subsection 59-12-103(1)(j); or]~~

8319 ~~[(J) Subsection 59-12-103(1)(k).]~~

8320 (f) (i) ~~[Notwithstanding Subsection (9)(d)(i), if]~~ If a tax due under this chapter on a
8321 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
8322 enactment or repeal of a tax described in Subsection (9)(d)(i) takes effect:

8323 (A) on the first day of a calendar quarter; and

8324 (B) beginning 60 days after the effective date of the enactment or repeal under
8325 Subsection (9)(d)(i).

8326 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
8327 the commission may by rule define the term "catalogue sale."

8328 (10) A county that imposed a sales and use tax under this section prior to July 1, 2007,
8329 may expend revenues allocated in the resolution for the purpose described in Subsection
8330 (2)(a)(iii) on local highway of regional significance projects in addition to or in substitution of
8331 state highway projects within the county.

8332 Section 94. Section **59-12-1505** is enacted to read:

8333 **59-12-1505. Seller or certified service provider reliance on commission**
8334 **information or certain systems.**

8335 A seller or certified service provider is not liable for failing to collect a tax at a tax rate

8336 imposed under this part if:

8337 (1) the tax rate at which the seller or certified service provider collects the tax is
8338 derived from a database created by the commission containing tax rates; and

8339 (2) the seller's or certified service provider's failure to collect the tax is as a result of the
8340 seller's or certified service provider's reliance on incorrect data provided by the commission in
8341 the database created by the commission containing tax rates.

8342 Section 95. Section **59-12-1506** is enacted to read:

8343 **59-12-1506. Certified service provider or model 2 seller reliance on commission**
8344 **certified software.**

8345 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified
8346 service provider or model 2 seller is not liable for failing to collect a tax required under this
8347 part if:

8348 (a) the certified service provider or model 2 seller relies on software the commission
8349 certifies; and

8350 (b) the certified service provider's or model 2 seller's failure to collect a tax required
8351 under this part is as a result of the seller's or certified service provider's reliance on incorrect
8352 data:

8353 (i) provided by the commission; or

8354 (ii) in the software the commission certifies.

8355 (2) The relief from liability described in Subsection (1) does not apply if a certified
8356 service provider or model 2 seller incorrectly classifies an item or transaction into a product
8357 category the commission certifies.

8358 (3) If the taxability of a product category is incorrectly classified in software the
8359 commission certifies, the commission shall:

8360 (a) notify a certified service provider or model 2 seller of the incorrect classification of
8361 the taxability of a product category in software the commission certifies; and

8362 (b) state in the notice required by Subsection (3)(a) that the certified service provider or
8363 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
8364 incorrectly classified product category if the certified service provider or model 2 seller fails to
8365 correct the taxability of the item or transaction within ten days after the day on which the
8366 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 96. Section **59-12-1507** is enacted to read:

59-12-1507. 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 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:

(i) fraudulent;

(ii) intentional; or

(iii) willful.

(2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part

8398 or an underpayment if:

8399 (a) the purchaser's seller or certified service provider relies on:

8400 (i) incorrect data provided by the commission:

8401 (A) on a tax rate;

8402 (B) on a boundary; or

8403 (C) on a taxing jurisdiction; or

8404 (ii) an erroneous classification by the commission:

8405 (A) in the taxability matrix the commission provides in accordance with the agreement;

8406 and

8407 (B) with respect to a term:

8408 (I) in the library of definitions; and

8409 (II) that is:

8410 (Aa) listed as taxable or exempt;

8411 (Bb) included or excluded from "sales price"; or

8412 (Cc) included in or excluded from a definition; or

8413 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in

8414 accordance with Section 59-12-107.1, relies on:

8415 (i) incorrect data provided by the commission:

8416 (A) on a tax rate;

8417 (B) on a boundary; or

8418 (C) on a taxing jurisdiction; or

8419 (ii) an erroneous classification by the commission:

8420 (A) in the taxability matrix the commission provides in accordance with the agreement;

8421 and

8422 (B) with respect to a term:

8423 (I) in the library of definitions; and

8424 (II) that is:

8425 (Aa) listed as taxable or exempt;

8426 (Bb) included or excluded from "sales price"; or

8427 (Cc) included in or excluded from a definition.

8428 Section 97. Section **59-12-1703** is amended to read:

59-12-1703. Opinion question election -- Base -- Rate -- Imposition of tax -- Use of tax revenues -- Administration, collection, and enforcement of tax by commission -- Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.

(1) (a) Subject to the other provisions of this part, a county legislative body may impose a sales and use tax of up to .25%:

(i) on the transactions:

(A) described in Subsection 59-12-103(1); and

(B) within the county, including the cities and towns within the county;

(ii) for the purposes described in Subsection (4); and

(iii) in addition to any other sales and use tax authorized under this chapter.

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

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

~~[(ii) amounts paid or charged by a seller that collects a tax under Subsection 59-12-107(1)(b); and]~~

~~[(iii)]~~ (ii) 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 county legislative body 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) Except as provided in Subsection (2)(d), before imposing a tax under this part, a county legislative body shall:

(i) obtain approval from a majority of the members of the county legislative body to impose the tax; and

(ii) submit an opinion question to the county's registered voters voting on the imposition of the tax so that each registered voter has the opportunity to express the registered

8460 voter's opinion on whether a tax should be imposed under this part.

8461 (b) (i) In a county of the first or second class, the opinion question required by

8462 Subsection (2)(a)(ii) shall state the following:

8463 "Shall (insert the name of the county), Utah, be authorized to impose a (insert the
8464 amount of the sales and use tax up to .25%) sales and use tax for corridor preservation,
8465 congestion mitigation, or to expand capacity for regionally significant transportation facilities?"

8466 (ii) In a county of the third, fourth, fifth, or sixth class, the opinion question required by
8467 Subsection (2)(a)(ii) shall state the following:

8468 "Shall (insert the name of the county), Utah, be authorized to impose a (insert the
8469 amount of the sales and use tax up to .25%) sales and use tax for transportation projects,
8470 corridor preservation, congestion mitigation, or to expand capacity for regionally significant
8471 transportation facilities?"

8472 (c) Except as provided in Subsection (2)(d), the election required by this Subsection (2)
8473 shall be held:

8474 (i) at a regular general election conducted in accordance with the procedures and
8475 requirements of Title 20A, Election Code, governing regular elections; or

8476 (ii) at a special election called by the county legislative body that is:

8477 (A) held only on the date of a municipal general election as provided in Subsection
8478 20A-1-202(1); and

8479 (B) authorized in accordance with the procedures and requirements of Section
8480 20A-1-203.

8481 (d) Notwithstanding Subsection (2)(a) or (c), if a county seeks to impose a tax under
8482 this part on or after April 1, 2007, but on or before December 31, 2007, the county legislative
8483 body shall:

8484 (i) obtain the approval required by Subsection (2)(a)(i) within five calendar days of
8485 September 20, 2006;

8486 (ii) direct the county clerk to submit the opinion question required by Subsection
8487 (2)(a)(ii) during the November 7, 2006 general election; and

8488 (iii) hold the election required by this section on November 7, 2006.

8489 (3) If a county legislative body determines that a majority of the county's registered
8490 voters voting on the imposition of the tax have voted in favor of the imposition of the tax in

8491 accordance with Subsection (2), the county legislative body shall impose the tax in accordance
8492 with this section.

8493 (4) (a) Subject to Subsections (5) and (6), the revenues generated by a tax under this
8494 part may only be expended for:

8495 (i) a project or service:

8496 (A) relating to a regionally significant transportation facility;

8497 (B) for the portion of the project or service that is performed within the county;

8498 (C) for new capacity or congestion mitigation if the project or service is performed

8499 within a county:

8500 (I) of the first class;

8501 (II) of the second class; or

8502 (III) that is part of an area metropolitan planning organization;

8503 (D) (I) if the project or service is a principal arterial highway or a minor arterial

8504 highway in a county of the first or second class, that is part of the county and municipal master

8505 plan and part of:

8506 (Aa) the statewide long-range plan; or

8507 (Bb) the regional transportation plan of the area metropolitan planning organization if a
8508 metropolitan planning organization exists for the area; or

8509 (II) if the project or service is for a fixed guideway or an airport, that is part of the
8510 regional transportation plan of the area metropolitan planning organization if a metropolitan
8511 planning organization exists for the area; and

8512 (E) that is on a priority list:

8513 (I) created by the county's council of governments in accordance with Subsection (5);

8514 and

8515 (II) approved by the county legislative body in accordance with Subsection (6);

8516 (ii) corridor preservation for a project described in Subsection (4)(a)(i) as provided in
8517 Subsection (7)(b); or

8518 (iii) any debt service and bond issuance costs related to a project described in

8519 Subsection (4)(a)(i) or (ii).

8520 (b) In a county of the first or second class, a regionally significant transportation

8521 facility project or service described in Subsection (4)(a)(i)(A) must have a funded year priority

8522 designation on a Statewide Transportation Improvement Program and Transportation
8523 Improvement Program if the project or service described in Subsection (4)(a)(i) is:

- 8524 (i) a principal arterial highway as defined in Section 72-4-102.5;
- 8525 (ii) a minor arterial highway as defined in Section 72-4-102.5; or
- 8526 (iii) a major collector highway:

- 8527 (A) as defined in Section 72-4-102.5; and
- 8528 (B) in a rural area.

8529 (c) Notwithstanding the designated use of revenues in Subsection (4)(a), of the
8530 revenues generated by the tax imposed under this section by any county of the first or second
8531 class, 25% or more shall be expended for the purpose described in Subsection (4)(a)(ii).

8532 (d) For purposes of this Subsection (4), the revenues a county will receive from a tax
8533 under this part do not include amounts retained by the commission in accordance with
8534 Subsection (8).

8535 (5) (a) The county's council of governments shall create a priority list of regionally
8536 significant transportation facility projects described in Subsection (4)(a) using the process
8537 described in Subsection (5)(b) and present the priority list to the county's legislative body for
8538 approval as described in Subsection (6).

8539 (b) Subject to Sections 59-12-1704 and 59-12-1705, a council of governments shall
8540 establish a council of governments' endorsement process which includes prioritization and
8541 application procedures for use of the revenues a county will receive from a tax under this part.

8542 (6) (a) The council of governments shall submit the priority list described in
8543 Subsection (5) to the county's legislative body and obtain approval of the list from a majority of
8544 the members of the county legislative body.

8545 (b) A county's council of governments may only submit one priority list per calendar
8546 year.

8547 (c) A county legislative body may only consider and approve one priority list per
8548 calendar year.

8549 (7) (a) (i) Except as provided in Subsections (7)(a)(ii) and (7)(b), revenues described in
8550 Subsection (4) shall be transmitted:

- 8551 (A) by the commission;
- 8552 (B) to the county;

8553 (C) monthly; and
8554 (D) by electronic funds transfer.
8555 (ii) A county may request that the commission transfer a portion of the revenues
8556 described in Subsection (4):
8557 (A) directly to a public transit district:
8558 (I) organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act; and
8559 (II) designated by the county; and
8560 (B) by providing written notice to the commission:
8561 (I) requesting the revenues to be transferred directly to a public transit district as
8562 provided in Subsection (7)(a)(ii)(A); and
8563 (II) designating the public transit district to which the revenues are requested to be
8564 transferred.
8565 (b) (i) Except as provided in Subsection (7)(b)(ii), revenues generated by a tax under
8566 this part that are allocated for a purpose described in Subsection (4)(a)(ii) shall be:
8567 (A) deposited in or transferred to the Local Transportation Corridor Preservation Fund
8568 created by Section 72-2-117.5; and
8569 (B) expended as provided in Section 72-2-117.5.
8570 (ii) In a county of the first class, revenues generated by a tax under this part that are
8571 allocated for a purpose described in Subsection (4)(a)(ii) shall be:
8572 (A) deposited in or transferred to the County of the First Class State Highway Projects
8573 Fund created by Section 72-2-121; and
8574 (B) expended as provided in Section 72-2-121.
8575 (8) (a) (i) Except as provided in Subsection (8)(b), the tax authorized under this part
8576 shall be administered, collected, and enforced in accordance with:
8577 (A) the same procedures used to administer, collect, and enforce the tax under:
8578 (I) Part 1, Tax Collection; or
8579 (II) Part 2, Local Sales and Use Tax Act; and
8580 (B) Chapter 1, General Taxation Policies.
8581 (ii) A tax under this part is not subject to Subsections 59-12-205(2) through ~~(7)~~ (6).
8582 (b) (i) The commission may retain an amount of tax collected under this part of not to
8583 exceed the lesser of:

8584 (A) 1.5%; or
8585 (B) an amount equal to the cost to the commission of administering this part.
8586 (ii) Any amount the commission retains under Subsection (8)(b)(i) shall be:
8587 (A) placed in the Sales and Use Tax Administrative Fees Account; and
8588 (B) used as provided in Subsection 59-12-206(2).
8589 (9) (a) (i) Except as provided in Subsection (9)(b) or (c), if, on or after April 1, 2007, a
8590 county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,
8591 or change shall take effect:
8592 (A) on the first day of a calendar quarter; and
8593 (B) after a 90-day period beginning on the date the commission receives notice meeting
8594 the requirements of Subsection (9)(a)(ii) from the county.
8595 (ii) The notice described in Subsection (9)(a)(i)(B) shall state:
8596 (A) that the county will enact, repeal, or change the rate of a tax under this part;
8597 (B) the statutory authority for the tax described in Subsection (9)(a)(ii)(A);
8598 (C) the effective date of the tax described in Subsection (9)(a)(ii)(A); and
8599 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
8600 (9)(a)(ii)(A), the rate of the tax.
8601 (b) (i) ~~[For a transaction described in Subsection (9)(b)(iii), if]~~ If the billing period for
8602 the transaction begins before the effective date of the enactment of the tax or tax rate increase
8603 under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on the first
8604 day of the first billing period that begins after the effective date of the enactment of the tax or
8605 the tax rate increase.
8606 (ii) ~~[For a transaction described in Subsection (9)(b)(iii), if]~~ If the billing period for the
8607 transaction begins before the effective date of the repeal of the tax or the tax rate decrease
8608 imposed under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the
8609 first day of the last billing period that began before the effective date of the repeal of the tax or
8610 the tax rate decrease.
8611 ~~[(iii) Subsections (9)(b)(i) and (ii) apply to transactions subject to a tax under:]~~
8612 ~~[(A) Subsection 59-12-103(1)(b);]~~
8613 ~~[(B) Subsection 59-12-103(1)(c);]~~
8614 ~~[(C) Subsection 59-12-103(1)(d);]~~

8615 ~~[(D) Subsection 59-12-103(1)(e);]~~

8616 ~~[(E) Subsection 59-12-103(1)(f);]~~

8617 ~~[(F) Subsection 59-12-103(1)(g);]~~

8618 ~~[(G) Subsection 59-12-103(1)(h);]~~

8619 ~~[(H) Subsection 59-12-103(1)(i);]~~

8620 ~~[(I) Subsection 59-12-103(1)(j); or]~~

8621 ~~[(J) Subsection 59-12-103(1)(k).]~~

8622 (c) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
8623 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
8624 a tax described in Subsection (9)(a)(i) takes effect:

8625 (A) on the first day of a calendar quarter; and

8626 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
8627 rate of the tax under Subsection (9)(a)(i).

8628 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
8629 the commission may by rule define the term "catalogue sale."

8630 (d) (i) Except as provided in Subsection (9)(e) or (f), if, for an annexation that occurs
8631 on or after April 1, 2007, the annexation will result in the enactment, repeal, or change in the
8632 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
8633 effect:

8634 (A) on the first day of a calendar quarter; and

8635 (B) after a 90-day period beginning on the date the commission receives notice meeting
8636 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

8637 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

8638 (A) that the annexation described in Subsection (9)(d)(i)(B) will result in an enactment,
8639 repeal, or change in the rate of a tax under this part for the annexing area;

8640 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

8641 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

8642 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
8643 (9)(d)(ii)(A), the rate of the tax.

8644 (e) (i) ~~[For a transaction described in Subsection (9)(e)(iii), if]~~ If the billing period for
8645 the transaction begins before the effective date of the enactment of the tax or a tax rate increase

under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) ~~[For a transaction described in Subsection (9)(e)(iii), if]~~ 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), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

~~[(iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:]~~

~~[(A) Subsection 59-12-103(1)(b);]~~

~~[(B) Subsection 59-12-103(1)(c);]~~

~~[(C) Subsection 59-12-103(1)(d);]~~

~~[(D) Subsection 59-12-103(1)(e);]~~

~~[(E) Subsection 59-12-103(1)(f);]~~

~~[(F) Subsection 59-12-103(1)(g);]~~

~~[(G) Subsection 59-12-103(1)(h);]~~

~~[(H) Subsection 59-12-103(1)(i);]~~

~~[(I) Subsection 59-12-103(1)(j); or]~~

~~[(J) Subsection 59-12-103(1)(k).]~~

(f) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (9)(d)(i) takes effect:

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

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate under Subsection (9)(d)(i).

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

Section 98. Section **59-12-1706** is enacted to read:

59-12-1706. 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

8677 imposed under this part if:

8678 (1) the tax rate at which the seller or certified service provider collects the tax is
8679 derived from a database created by the commission containing tax rates; and

8680 (2) the seller's or certified service provider's failure to collect the tax is as a result of the
8681 seller's or certified service provider's reliance on incorrect data provided by the commission in
8682 the database created by the commission containing tax rates.

8683 Section 99. Section **59-12-1707** is enacted to read:

8684 **59-12-1707. Certified service provider or model 2 seller reliance on commission**
8685 **certified software.**

8686 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified
8687 service provider or model 2 seller is not liable for failing to collect a tax required under this
8688 part if:

8689 (a) the certified service provider or model 2 seller relies on software the commission
8690 certifies; and

8691 (b) the certified service provider's or model 2 seller's failure to collect a tax required
8692 under this part is as a result of the seller's or certified service provider's reliance on incorrect
8693 data:

8694 (i) provided by the commission; or

8695 (ii) in the software the commission certifies.

8696 (2) The relief from liability described in Subsection (1) does not apply if a certified
8697 service provider or model 2 seller incorrectly classifies an item or transaction into a product
8698 category the commission certifies.

8699 (3) If the taxability of a product category is incorrectly classified in software the
8700 commission certifies, the commission shall:

8701 (a) notify a certified service provider or model 2 seller of the incorrect classification of
8702 the taxability of a product category in software the commission certifies; and

8703 (b) state in the notice required by Subsection (3)(a) that the certified service provider or
8704 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
8705 incorrectly classified product category if the certified service provider or model 2 seller fails to
8706 correct the taxability of the item or transaction within ten days after the day on which the
8707 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 100. Section **59-12-1708** is enacted to read:

59-12-1708. 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 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:

(i) fraudulent;

(ii) intentional; or

(iii) willful.

(2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part

8739 or an underpayment if:

8740 (a) the purchaser's seller or certified service provider relies on:

8741 (i) incorrect data provided by the commission:

8742 (A) on a tax rate;

8743 (B) on a boundary; or

8744 (C) on a taxing jurisdiction; or

8745 (ii) an erroneous classification by the commission:

8746 (A) in the taxability matrix the commission provides in accordance with the agreement;

8747 and

8748 (B) with respect to a term:

8749 (I) in the library of definitions; and

8750 (II) that is:

8751 (Aa) listed as taxable or exempt;

8752 (Bb) included or excluded from "sales price"; or

8753 (Cc) included in or excluded from a definition; or

8754 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in

8755 accordance with Section 59-12-107.1, relies on:

8756 (i) incorrect data provided by the commission:

8757 (A) on a tax rate;

8758 (B) on a boundary; or

8759 (C) on a taxing jurisdiction; or

8760 (ii) an erroneous classification by the commission:

8761 (A) in the taxability matrix the commission provides in accordance with the agreement;

8762 and

8763 (B) with respect to a term:

8764 (I) in the library of definitions; and

8765 (II) that is:

8766 (Aa) listed as taxable or exempt;

8767 (Bb) included or excluded from "sales price"; or

8768 (Cc) included in or excluded from a definition.

8769 Section 101. Section **59-12-1802** is amended to read:

59-12-1802. State sales and use tax -- Base -- Rate -- Revenues deposited into General Fund.

(1) If a county does not impose a tax under Part 11, County Option Sales and Use Tax, a tax shall be imposed within the county under this section by the state:

- (a) on the transactions described in Subsection 59-12-103(1);
- (b) at a rate of .25%; and
- (c) beginning on January 1, 2008, and ending on the day on which the county imposes a tax under Part 11, County Option Sales and Use Tax.

(2) Notwithstanding Subsection (1), a tax under this section may not be imposed on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

(3) For purposes of 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.

(4) Revenues collected from the sales and use tax imposed by this section, after subtracting amounts a seller retains in accordance with Section 59-12-108, shall be deposited into the General Fund.

Section 102. Section **59-12-1803** is amended to read:

59-12-1803. Enactment or repeal of tax -- Effective date -- Administration, collection, and enforcement of tax.

(1) Subject to Subsections (2) and (3), a tax rate repeal or a tax rate change for a tax imposed under this part shall take effect on the first day of a calendar quarter.

(2) (a) ~~[For a transaction described in Subsection (2)(c), the]~~ The enactment of a tax shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax if the billing period for the transaction begins before the effective date of the tax under this part.

(b) ~~[For a transaction described in Subsection (2)(c), the]~~ The repeal of a tax shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under this part.

~~[(c) Subsections (2)(a) and (b) apply to transactions subject to a tax under:]~~

~~[(i) Subsection 59-12-103(1)(b);]~~

8801 ~~[(ii) Subsection 59-12-103(1)(c);]~~
8802 ~~[(iii) Subsection 59-12-103(1)(d);]~~
8803 ~~[(iv) Subsection 59-12-103(1)(e);]~~
8804 ~~[(v) Subsection 59-12-103(1)(f);]~~
8805 ~~[(vi) Subsection 59-12-103(1)(g);]~~
8806 ~~[(vii) Subsection 59-12-103(1)(h);]~~
8807 ~~[(viii) Subsection 59-12-103(1)(i);]~~
8808 ~~[(ix) Subsection 59-12-103(1)(j); or]~~
8809 ~~[(x) Subsection 59-12-103(1)(k);]~~

8810 (3) (a) If a tax due under this part on a catalogue sale is computed on the basis of sales
8811 and use tax rates published in the catalogue, an enactment or repeal of a tax under this part
8812 takes effect:

8813 (i) on the first day of a calendar quarter; and
8814 (ii) beginning 60 days after the effective date of the enactment or repeal of the tax
8815 under this part.

8816 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
8817 commission may by rule define the term "catalogue sale."

8818 (4) A tax imposed by this part shall be administered, collected, and enforced in
8819 accordance with:

8820 (a) the same procedures used to administer, collect, and enforce the tax under Part 1,
8821 Tax Collection; and

8822 (b) Chapter 1, General Taxation Policies.

8823 Section 103. Section **59-12-1804** is enacted to read:

8824 **59-12-1804. Seller or certified service provider reliance on commission**
8825 **information or certain systems.**

8826 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
8827 imposed under this part if:

8828 (1) the tax rate at which the seller or certified service provider collects the tax is
8829 derived from a database created by the commission containing tax rates; and

8830 (2) the seller's or certified service provider's failure to collect the tax is as a result of the
8831 seller's or certified service provider's reliance on incorrect data provided by the commission in

8832 the database created by the commission containing tax rates.

8833 Section 104. Section **59-12-1805** is enacted to read:

8834 **59-12-1805. Certified service provider or model 2 seller reliance on commission**
8835 **certified software.**

8836 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified
8837 service provider or model 2 seller is not liable for failing to collect a tax required under this
8838 part if:

8839 (a) the certified service provider or model 2 seller relies on software the commission
8840 certifies; and

8841 (b) the certified service provider's or model 2 seller's failure to collect a tax required
8842 under this part is as a result of the seller's or certified service provider's reliance on incorrect
8843 data:

8844 (i) provided by the commission; or

8845 (ii) in the software the commission certifies.

8846 (2) The relief from liability described in Subsection (1) does not apply if a certified
8847 service provider or model 2 seller incorrectly classifies an item or transaction into a product
8848 category the commission certifies.

8849 (3) If the taxability of a product category is incorrectly classified in software the
8850 commission certifies, the commission shall:

8851 (a) notify a certified service provider or model 2 seller of the incorrect classification of
8852 the taxability of a product category in software the commission certifies; and

8853 (b) state in the notice required by Subsection (3)(a) that the certified service provider or
8854 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
8855 incorrectly classified product category if the certified service provider or model 2 seller fails to
8856 correct the taxability of the item or transaction within ten days after the day on which the
8857 certified service provider or model 2 seller receives the notice.

8858 (4) If a certified service provider or model 2 seller fails to correct the taxability of an
8859 item or transaction within ten days after the day on which the certified service provider or
8860 model 2 seller receives the notice described in Subsection (3), the certified service provider or
8861 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
8862 item or transaction.

8863 Section 105. Section **59-12-1806** is enacted to read:

8864 **59-12-1806. Purchaser relief from liability.**

8865 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
8866 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

8867 (i) the purchaser's seller or certified service provider relies on incorrect data provided
8868 by the commission:

8869 (A) on a tax rate;

8870 (B) on a boundary;

8871 (C) on a taxing jurisdiction; or

8872 (D) in the taxability matrix the commission provides in accordance with the agreement;

8873 or

8874 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
8875 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

8876 (A) on a tax rate;

8877 (B) on a boundary;

8878 (C) on a taxing jurisdiction; or

8879 (D) in the taxability matrix the commission provides in accordance with the agreement.

8880 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
8881 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
8882 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
8883 incorrect data provided by the commission is as a result of conduct that is:

8884 (i) fraudulent;

8885 (ii) intentional; or

8886 (iii) willful.

8887 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
8888 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
8889 or an underpayment if:

8890 (a) the purchaser's seller or certified service provider relies on:

8891 (i) incorrect data provided by the commission:

8892 (A) on a tax rate;

8893 (B) on a boundary; or

8894 (C) on a taxing jurisdiction; or
8895 (ii) an erroneous classification by the commission:
8896 (A) in the taxability matrix the commission provides in accordance with the agreement;
8897 and
8898 (B) with respect to a term:
8899 (I) in the library of definitions; and
8900 (II) that is:
8901 (Aa) listed as taxable or exempt;
8902 (Bb) included or excluded from "sales price"; or
8903 (Cc) included in or excluded from a definition; or
8904 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
8905 accordance with Section 59-12-107.1, relies on:
8906 (i) incorrect data provided by the commission:
8907 (A) on a tax rate;
8908 (B) on a boundary; or
8909 (C) on a taxing jurisdiction; or
8910 (ii) an erroneous classification by the commission:
8911 (A) in the taxability matrix the commission provides in accordance with the agreement;
8912 and
8913 (B) with respect to a term:
8914 (I) in the library of definitions; and
8915 (II) that is:
8916 (Aa) listed as taxable or exempt;
8917 (Bb) included or excluded from "sales price"; or
8918 (Cc) included in or excluded from a definition.
8919 Section 106. Section **63-55-269** is amended to read:
8920 **63-55-269. Repeal dates, Title 69.**
8921 Section 69-2-5.6, Emergency services [~~telephone~~] telecommunications charge to fund
8922 statewide unified E-911 emergency service, is repealed July 1, 2011.
8923 Section 107. Section **69-2-5** is amended to read:
8924 **69-2-5. Funding for 911 emergency telecommunications service.**

8925 (1) In providing funding of 911 emergency [~~telephone~~] telecommunications service,
8926 any public agency establishing a 911 emergency [~~telephone~~] telecommunications service may:

8927 (a) seek assistance from the federal or state government, to the extent constitutionally
8928 permissible, in the form of loans, advances, grants, subsidies, and otherwise, directly or
8929 indirectly;

8930 (b) seek funds appropriated by local governmental taxing authorities for the funding of
8931 public safety agencies; and

8932 (c) seek gifts, donations, or grants from individuals, corporations, or other private
8933 entities.

8934 (2) For purposes of providing funding of 911 emergency [~~telephone~~]
8935 telecommunications service, special service districts may raise funds as provided in Section
8936 17A-2-1322 and may borrow money and incur indebtedness as provided in Section
8937 17A-2-1316.

8938 (3) (a) Except as provided in Subsection (3)(b) and subject to the other provisions of
8939 this Subsection (3) a county, city, or town within which 911 emergency [~~telephone~~]
8940 telecommunications service is provided may levy monthly an emergency services [~~telephone~~]
8941 telecommunications charge on:

8942 (i) each local exchange service switched access line within the boundaries of the
8943 county, city, or town;

8944 (ii) each revenue producing radio communications access line with a billing address
8945 within the boundaries of the county, city, or town; and

8946 (iii) any other service, including voice over Internet protocol, provided to a user within
8947 the boundaries of the county, city, or town that allows the user to make calls to and receive
8948 calls from the public switched [~~telephone~~] telecommunications network, including commercial
8949 mobile radio service networks.

8950 (b) Notwithstanding Subsection (3)(a), an access line provided for public coin
8951 [~~telephone~~] telecommunications service is exempt from emergency [~~telephone~~]
8952 telecommunications charges.

8953 (c) The amount of the charge levied under this section may not exceed:

8954 (i) 61 cents per month for each local exchange service switched access line;

8955 (ii) 61 cents per month for each radio communications access line; and

- 8956 (iii) 61 cents per month for each service under Subsection (3)(a)(iii).
- 8957 (d) (i) For purposes of this Subsection (3)(d) the following terms shall be defined as
- 8958 provided in Section 59-12-102 or 59-12-215:
- 8959 (A) "mobile telecommunications service";
- 8960 (B) "primary place of use";
- 8961 (C) "service address"; and
- 8962 (D) "[~~telephone~~] telecommunications service."
- 8963 (ii) An access line described in Subsection (3)(a) is considered to be within the
- 8964 boundaries of a county, city, or town if the [~~telephone~~] telecommunications services provided
- 8965 over the access line are located within the county, city, or town:
- 8966 (A) for purposes of sales and use taxes under Title 59, Chapter 12, Sales and Use Tax
- 8967 Act; and
- 8968 (B) determined in accordance with Section [~~59-12-207.4~~] 59-12-215.
- 8969 (iii) The rate imposed on an access line under this section shall be determined in
- 8970 accordance with Subsection (3)(d)(iv) if the location of an access line described in Subsection
- 8971 (3)(a) is determined under Subsection (3)(d)(ii) to be a county, city, or town other than county,
- 8972 city, or town in which is located:
- 8973 (A) for [~~telephone~~] a telecommunications service [~~other than mobile~~
- 8974 ~~telecommunications service~~], the purchaser's service address; or
- 8975 (B) for mobile telecommunications service, the purchaser's primary place of use.
- 8976 (iv) The rate imposed on an access line under this section shall be the lower of:
- 8977 (A) the rate imposed by the county, city, or town in which the access line is located
- 8978 under Subsection (3)(d)(ii); or
- 8979 (B) the rate imposed by the county, city, or town in which it is located:
- 8980 (I) for [~~telephone~~] telecommunications service [~~other than mobile telecommunications~~
- 8981 ~~service~~], the purchaser's service address; or
- 8982 (II) for mobile telecommunications service, the purchaser's primary place of use.
- 8983 (e) (i) A county, city, or town shall notify the Public Service Commission of the intent
- 8984 to levy the charge under this Subsection (3) at least 30 days before the effective date of the
- 8985 charge being levied.
- 8986 (ii) For purposes of this Subsection (3)(e):

8987 (A) "Annexation" means an annexation to:
8988 (I) a city or town under Title 10, Chapter 2, Part 4, Annexation; or
8989 (II) a county under Title 17, Chapter 2, Annexation to County.
8990 (B) "Annexing area" means an area that is annexed into a county, city, or town.
8991 (iii) (A) Except as provided in Subsection (3)(e)(iii)(C) or (D), if on or after July 1,
8992 2003, a county, city, or town enacts or repeals a charge or changes the amount of the charge
8993 under this section, the enactment, repeal, or change shall take effect:
8994 (I) on the first day of a calendar quarter; and
8995 (II) after a 90-day period beginning on the date the State Tax Commission receives
8996 notice meeting the requirements of Subsection (3)(e)(iii)(B) from the county, city, or town.
8997 (B) The notice described in Subsection (3)(e)(iii)(A) shall state:
8998 (I) that the county, city, or town will enact or repeal a charge or change the amount of
8999 the charge under this section;
9000 (II) the statutory authority for the charge described in Subsection (3)(e)(iii)(B)(I);
9001 (III) the effective date of the charge described in Subsection (3)(e)(iii)(B)(I); and
9002 (IV) if the county, city, or town enacts the charge or changes the amount of the charge
9003 described in Subsection (3)(e)(iii)(B)(I), the amount of the charge.
9004 (C) Notwithstanding Subsection (3)(e)(iii)(A), the enactment of a charge or a charge
9005 increase under this section shall take effect on the first day of the first billing period:
9006 (I) that begins after the effective date of the enactment of the charge or the charge
9007 increase; and
9008 (II) if the billing period for the charge begins before the effective date of the enactment
9009 of the charge or the charge increase imposed under this section.
9010 (D) Notwithstanding Subsection (3)(e)(iii)(A), the repeal of a charge or a charge
9011 decrease under this section shall take effect on the first day of the last billing period:
9012 (I) that began before the effective date of the repeal of the charge or the charge
9013 decrease; and
9014 (II) if the billing period for the charge begins before the effective date of the repeal of
9015 the charge or the charge decrease imposed under this section.
9016 (iv) (A) Except as provided in Subsection (3)(e)(iv)(C) or (D), if for an annexation
9017 that occurs on or after July 1, 2003, the annexation will result in the enactment, repeal, or a

9018 change in the amount of a charge imposed under this section for an annexing area, the
9019 enactment, repeal, or change shall take effect:

9020 (I) on the first day of a calendar quarter; and

9021 (II) after a 90-day period beginning on the date the State Tax Commission receives
9022 notice meeting the requirements of Subsection (3)(e)(iv)(B) from the county, city, or town that
9023 annexes the annexing area.

9024 (B) The notice described in Subsection (3)(e)(iv)(A) shall state:

9025 (I) that the annexation described in Subsection (3)(e)(iv)(A) will result in an
9026 enactment, repeal, or a change in the charge being imposed under this section for the annexing
9027 area;

9028 (II) the statutory authority for the charge described in Subsection (3)(e)(iv)(B)(I);

9029 (III) the effective date of the charge described in Subsection (3)(e)(iv)(B)(I); and

9030 (IV) if the county, city, or town enacts the charge or changes the amount of the charge
9031 described in Subsection (3)(e)(iv)(B)(I), the amount of the charge.

9032 (C) Notwithstanding Subsection (3)(e)(iv)(A), the enactment of a charge or a charge
9033 increase under this section shall take effect on the first day of the first billing period:

9034 (I) that begins after the effective date of the enactment of the charge or the charge
9035 increase; and

9036 (II) if the billing period for the charge begins before the effective date of the enactment
9037 of the charge or the charge increase imposed under this section.

9038 (D) Notwithstanding Subsection (3)(e)(iv)(A), the repeal of a charge or a charge
9039 decrease under this section shall take effect on the first day of the last billing period:

9040 (I) that began before the effective date of the repeal of the charge or the charge
9041 decrease; and

9042 (II) if the billing period for the charge begins before the effective date of the repeal of
9043 the charge or the charge decrease imposed under this section.

9044 (f) Subject to Subsection (3)(g), an emergency services [~~telephone~~]
9045 telecommunications charge levied under this section shall:

9046 (i) be billed and collected by the person that provides the:

9047 (A) local exchange service switched access line services; or

9048 (B) radio communications access line services; and

9049 (ii) except for costs retained under Subsection (3)(h), remitted to the State Tax
9050 Commission.

9051 (g) An emergency services [~~telephone~~] telecommunications charge on a mobile
9052 telecommunications service may be levied, billed, and collected only to the extent permitted by
9053 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

9054 (h) The person that bills and collects the charges levied under Subsection (3)(f) may:

9055 (i) bill the charge imposed by this section in combination with the charge levied under
9056 Section 69-2-5.6 as one line item charge; and

9057 (ii) retain an amount not to exceed 1.5% of the levy collected under this section as
9058 reimbursement for the cost of billing, collecting, and remitting the levy.

9059 (i) The State Tax Commission shall:

9060 (i) collect, enforce, and administer the charge imposed under this Subsection (3) using
9061 the same procedures used in the administration, collection, and enforcement of the state sales
9062 and use taxes under:

9063 (A) Title 59, Chapter 1, General Taxation Policies; and

9064 (B) Title 59, Chapter 12, Part 1, Tax Collection, except for:

9065 (I) Section 59-12-104;

9066 (II) Section 59-12-104.1;

9067 (III) Section 59-12-104.2; [~~and~~]

9068 (IV) Section 59-12-107.1; and

9069 (V) Section 59-12-107.3;

9070 (ii) transmit monies collected under this Subsection (3):

9071 (A) monthly; and

9072 (B) by electronic funds transfer by the commission to the county, city, or town that
9073 imposes the charge; and

9074 (iii) charge the county, city, or town for the State Tax Commission's services under this
9075 Subsection (3) in an amount:

9076 (A) sufficient to reimburse the State Tax Commission for the cost to the State Tax
9077 Commission in rendering the services; and

9078 (B) that may not exceed an amount equal to 1.5% of the charges imposed under this
9079 Subsection (3).

9080 (4) (a) Any money received by a public agency for the provision of 911 emergency
9081 [~~telephone~~] telecommunications service shall be deposited in a special emergency [~~telephone~~]
9082 telecommunications service fund.

9083 (b) (i) Except as provided in Subsection (5), the money in the emergency [~~telephone~~]
9084 telecommunications service fund shall be expended by the public agency to pay the costs of
9085 establishing, installing, maintaining, and operating a 911 emergency [~~telephone~~]
9086 telecommunications system or integrating a 911 system into an established public safety
9087 dispatch center, including contracting with the providers of local exchange service, radio
9088 communications service, and vendors of appropriate terminal equipment as necessary to
9089 implement the 911 emergency [~~telephone~~] telecommunications service.

9090 (ii) Revenues derived for the funding of 911 emergency [~~telephone~~]
9091 telecommunications service may only be used for that portion of costs related to the operation
9092 of the 911 emergency [~~telephone~~] telecommunications system when such a system is integrated
9093 with any public safety dispatch system.

9094 (c) Any unexpended money in the emergency [~~telephone~~] telecommunications service
9095 fund at the end of a fiscal year does not lapse, and must be carried forward to be used for the
9096 purposes described in this section.

9097 (5) (a) Revenue received by a local entity from an increase in the levy imposed under
9098 Subsection (3) after the 2004 Annual General Session, or from grants from the Utah 911
9099 Committee pursuant to Section 53-10-605:

9100 (i) shall be deposited into the special emergency [~~telephone~~] telecommunications
9101 service fund described in Subsection (4)(a); and

9102 (ii) shall only be used for that portion of the costs related to the development and
9103 operation of wireless and land-based enhanced 911 emergency [~~telephone~~] telecommunications
9104 service and the implementation of wireless E-911 Phase I and Phase II services as provided in
9105 Subsection (5)(b).

9106 (b) The costs allowed under Subsection (5)(a)(ii) shall include the public service
9107 answering point's or local entity's costs for:

9108 (i) acquisition, upgrade, modification, maintenance, and operation of public service
9109 answering point equipment capable of receiving E-911 information;

9110 (ii) database development, operation, and maintenance; and

9111 (iii) personnel costs associated with establishing, installing, maintaining, and operating
9112 wireless E-911 Phase I and Phase II services, including training emergency service personnel
9113 regarding receipt and use of E-911 wireless service information and educating consumers
9114 regarding the appropriate and responsible use of E-911 wireless service.

9115 (6) A local entity that increases the levy it imposes under Subsection (3)(c) after the
9116 2004 Annual General Session shall increase the levy to the maximum amount permitted by
9117 Subsection (3)(c).

9118 Section 108. Section **69-2-5.5** is amended to read:

9119 **69-2-5.5. Emergency services telecommunications charge to fund the Poison**
9120 **Control Center.**

9121 (1) Subject to Subsection (13), there is imposed an emergency services [~~telephone~~]
9122 telecommunications charge of 7 cents per month on each local exchange service switched
9123 access line and each revenue producing radio communications access line that is subject to an
9124 emergency services [~~telephone~~] telecommunications charge levied by a county, city, or town
9125 under Section 69-2-5.

9126 (2) The emergency services [~~telephone~~] telecommunications charge imposed under this
9127 section shall be:

9128 (a) subject to Subsection (13), billed and collected by the person that provides:

9129 (i) local exchange service switched access line services; or

9130 (ii) radio communications access line services;

9131 (b) remitted to the State Tax Commission at the same time as the person remits to the
9132 State Tax Commission monies collected by the person under Title 59, Chapter 12, Sales and
9133 Use Tax Act; and

9134 (c) deposited into the General Fund as dedicated credits to pay for:

9135 (i) costs of establishing, installing, maintaining, and operating the University of Utah
9136 Poison Control Center; and

9137 (ii) expenses of the State Tax Commission to administer and enforce the collection of
9138 the emergency services [~~telephone~~] telecommunications charges.

9139 (3) Funds for the University of Utah Poison Control Center program are nonlapsing.

9140 (4) Emergency services [~~telephone~~] telecommunications charges remitted to the State
9141 Tax Commission pursuant to Subsection (2) shall be accompanied by the form prescribed by

9142 the commission.

9143 (5) The State Tax Commission may make rules to administer and enforce the collection
9144 of emergency services [~~telephone~~] telecommunications charges imposed under this section.

9145 (6) A provider of local exchange service switched access line services or radio
9146 communications access line services who fails to comply with this section is subject to
9147 penalties and interest as provided in Sections 59-1-401 and 59-1-402.

9148 (7) (a) Except as provided in Subsections (8) through (11), and subject to Subsection
9149 (13), the State Tax Commission shall assess a charge imposed under this section within three
9150 years after a provider of local exchange service switched access line services or radio
9151 communications access line services files a return.

9152 (b) Except as provided in Subsections (8) through (11), if the commission does not
9153 assess a charge imposed under this section within the three-year period provided in Subsection
9154 (7)(a), the commission may not commence a proceeding to collect the charge.

9155 (8) Notwithstanding Subsection (7), and subject to Subsection (13), the State Tax
9156 Commission may assess a charge at any time if a provider of local exchange service switched
9157 access line services or radio communications access line services:

- 9158 (a) files a false or fraudulent return with intent to evade; or
9159 (b) does not file a return.

9160 (9) Notwithstanding Subsection (7), beginning on July 1, 1998, the State Tax
9161 Commission may extend the period to make an assessment or commence a proceeding to
9162 collect the charge imposed under this section if:

- 9163 (a) the three-year period under Subsection (7) has not expired; and
9164 (b) the commission and the provider of local exchange service switched access line
9165 services or radio communications access line services sign a written agreement:
9166 (i) authorizing the extension; and
9167 (ii) providing for the length of the extension.

9168 (10) If the State Tax Commission delays an audit at the request of a provider of local
9169 exchange service switched access line services or radio communications access line services,
9170 the commission may make an assessment as provided in Subsection (11) if:

- 9171 (a) the provider of local exchange service switched access line services or radio
9172 communications access line services subsequently refuses to agree to an extension request by

9173 the commission; and

9174 (b) the three-year period under Subsection (7) expires before the commission
9175 completes the audit.

9176 (11) An assessment under Subsection (10) shall be:

9177 (a) for the time period for which the State Tax Commission could not make an
9178 assessment because of the expiration of the three-year period; and

9179 (b) in an amount equal to the difference between:

9180 (i) the commission's estimate of the amount of the charge the provider of local
9181 exchange service switched access line services or radio communications access line services
9182 would have been assessed for the time period described in Subsection (11)(a); and

9183 (ii) the amount of the charge the provider of local exchange service switched access
9184 line services or radio communications access line services actually paid for the time period
9185 described in Subsection (11)(a).

9186 (12) (a) Except as provided in Subsection (12)(b), the State Tax Commission may not
9187 make a credit or refund unless the provider of local exchange service switched access line
9188 services or radio communications access line services files a claim with the commission within
9189 three years of the date of overpayment.

9190 (b) Notwithstanding Subsection (12)(a), beginning on July 1, 1998, the commission
9191 shall extend the period for a provider of local exchange service switched access line services or
9192 radio communications access line services to file a claim under Subsection (12)(a) if:

9193 (i) the three-year period under Subsection (12)(a) has not expired; and

9194 (ii) the commission and the provider of local exchange service switched access line
9195 services or radio communications access line services sign a written agreement:

9196 (A) authorizing the extension; and

9197 (B) providing for the length of the extension.

9198 (13) An emergency services [~~telephone~~] telecommunications charge under this section
9199 on a mobile telecommunications service may be imposed, billed, and collected only to the
9200 extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

9201 (14) (a) (i) For purposes of this Subsection (14) and except as provided in Subsection
9202 (14)(a)(ii), "bad debt" is as defined in Section 166, Internal Revenue Code.

9203 (ii) "Bad debt" does not include:

9204 (A) amounts not subject to the charge imposed under this section that are included in
9205 the purchase price for:

9206 (I) local exchange service switched access line service; or

9207 (II) radio communications access line service;

9208 (B) financing charges or interest;

9209 (C) the charge imposed under this section on:

9210 (I) a local exchange service switched access line; or

9211 (II) a radio communications access line;

9212 (D) uncollectible amounts on tangible personal property that remains in the possession
9213 of the vendor until the full purchase price is paid;

9214 (E) expenses incurred in attempting to collect any debt; and

9215 (F) amounts uncollected on repossessed property.

9216 (b) The State Tax Commission shall allow a credit for amounts remitted to the State
9217 Tax Commission under this section that constitute bad debt.

9218 Section 109. Section **69-2-5.6** is amended to read:

9219 **69-2-5.6. Emergency services telecommunications charge to fund statewide**
9220 **unified E-911 emergency service.**

9221 (1) Subject to Subsection 69-2-5(3)(g), there is imposed a statewide unified E-911
9222 emergency service charge on each local exchange service switched access line and each
9223 revenue producing radio communications access line that is subject to an emergency services
9224 [~~telephone~~] telecommunications charge levied by a county, city, or town under Section 69-2-5
9225 or 69-2-5.5 at:

9226 (a) 13 cents per month until June 30, 2007; and

9227 (b) 8 cents per month on and after July 1, 2007.

9228 (2) The emergency services [~~telephone~~] telecommunications charge imposed under this
9229 section shall be:

9230 (a) subject to Subsection 69-2-5(3)(g);

9231 (b) billed and collected by the person that provides:

9232 (i) local exchange service switched access line services;

9233 (ii) radio communications access line services; or

9234 (iii) service described in Subsection 69-2-5(3)(a)(iii).

9235 (c) except for costs retained under Subsection (3), remitted to the State Tax
9236 Commission at the same time as the person remits to the State Tax Commission monies
9237 collected by the person under Title 59, Chapter 12, Sales and Use Tax Act; and
9238 (d) deposited into the Statewide Unified E-911 Emergency Service Fund restricted
9239 account in the General Fund created by Section 53-10-603.

9240 (3) The person that bills and collects the charges levied by this section pursuant to
9241 Subsections (2)(b) and (c) may:

9242 (a) bill the charge imposed by this section in combination with the charge levied under
9243 Section 69-2-5 as one line item charge; and

9244 (b) retain an amount not to exceed 1.5% of the charges collected under this section as
9245 reimbursement for the cost of billing, collecting, and remitting the levy.

9246 (4) The State Tax Commission shall collect, enforce, and administer the charges
9247 imposed under Subsection (1) using the same procedures used in the administration, collection,
9248 and enforcement of the emergency services [~~telephone~~] telecommunications charge to fund the
9249 Poison Control Center under Section 69-2-5.5.

9250 (5) This section sunsets in accordance with Section 63-55-269.

9251 Section 110. Section **72-2-125** is amended to read:

9252 **72-2-125. Critical Highway Needs Fund.**

9253 (1) There is created a restricted special revenue fund entitled the Critical Highway
9254 Needs Fund.

9255 (2) The fund consists of monies generated from the following sources:

9256 (a) any voluntary contributions received for the maintenance, construction,
9257 reconstruction, or renovation of state and federal highways;

9258 (b) appropriations made to the fund by the Legislature; and

9259 (c) the sales and use tax revenues deposited into the fund in accordance with
9260 Subsection 59-12-103[~~(10)~~] (9).

9261 (3) (a) The fund shall earn interest.

9262 (b) All interest earned on fund monies shall be deposited into the fund.

9263 (4) (a) The executive director shall use monies deposited into the fund to pay:

9264 (i) the costs of right-of-way acquisition, maintenance, construction, reconstruction, or
9265 renovation to state and federal highways identified by the department and prioritized by the

9266 commission in accordance with this Subsection (4); and

9267 (ii) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101.

9268 (b) (i) The department shall:

9269 (A) establish a complete list of projects to be maintained, constructed, reconstructed, or

9270 renovated using the funding described in Subsection (4)(a) based on the following criteria:

9271 (I) the highway construction project is a high priority project due to high growth in the

9272 surrounding area;

9273 (II) the highway construction project addresses critical access needs that have a high

9274 impact due to commercial and energy development;

9275 (III) the highway construction project mitigates congestion;

9276 (IV) whether local matching funds are available for the highway construction project;

9277 and

9278 (V) the highway construction project is a critical alternative route for priority Interstate

9279 15 reconstruction projects; and

9280 (B) submit the list of projects to the commission for prioritization in accordance with

9281 Subsection (4)(c).

9282 (ii) A project that is included in the list under this Subsection (4):

9283 (A) is not required to be currently listed in the statewide long-range plan; and

9284 (B) is not required to be prioritized through the prioritization process for new

9285 transportation capacity projects adopted under Section 72-1-304.

9286 (c) The commission shall prioritize the project list submitted by the department in

9287 accordance with Subsection (4)(b).

9288 (d) (i) Expenditures by the department for the construction of highway projects

9289 prioritized under this Subsection (4) may not exceed \$1,000,000,000.

9290 (ii) Monies expended from the fund for principal, interest, and issuance costs of bonds

9291 issued under Section 63B-16-101 are not considered expenditures for purposes of the

9292 \$1,000,000,000 cap under Subsection (4)(d)(i).

9293 (e) (i) Before bonds authorized by Section 63B-16-101 may be issued in any fiscal

9294 year, the department and the commission shall appear before the Executive Appropriations

9295 Committee of the Legislature and present:

9296 (A) the commission's current list of projects established and prioritized in accordance

9297 with this Subsection (4); and

9298 (B) the amount of bond proceeds that the department needs to provide funding for
9299 projects on the project list prioritized in accordance with this Subsection (4) for the next fiscal
9300 year.

9301 (ii) The Executive Appropriations Committee of the Legislature shall review and
9302 comment on the prioritized project list and the amount of bond proceeds needed to fund the
9303 projects on the prioritized list.

9304 (f) The Division of Finance shall, from monies deposited into the fund, transfer the
9305 amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by
9306 Section 63B-16-101 in the current fiscal year to the appropriate debt service or sinking fund.

9307 (5) When the general obligation bonds authorized by Section 63B-16-101 have been
9308 paid off and the highway projects completed that are included in the prioritized project list
9309 under Subsection (4), the Division of Finance shall transfer any existing balance in the fund
9310 into the Transportation Investment Fund of 2005 created by Section 72-2-124.

9311 (6) (a) The Division of Finance shall monitor the general obligation bonds authorized
9312 by Section 63B-16-101.

9313 (b) The department shall monitor the highway construction or reconstruction projects
9314 that are included in the prioritized project list under Subsection (4).

9315 (c) Upon request by the Executive Appropriations Committee of the Legislature:

9316 (i) the Division of Finance shall report to the committee the status of all general
9317 obligation bonds issued under Section 63B-16-101; and

9318 (ii) the department shall report to the committee the status of all highway construction
9319 or reconstruction projects that are included in the prioritized project list under Subsection (4).

9320 (d) When the Division of Finance has reported that the general obligation bonds issued
9321 by Section 63B-16-101 have been paid off and the department has reported that projects
9322 included in the prioritized project list are complete to the Executive Appropriations Committee
9323 of the Legislature, the Division of Finance shall transfer any existing fund balance in
9324 accordance with Subsection (5).

9325 Section 111. **Repealer.**

9326 This bill repeals:

9327 Section **59-12-102.2, Participation in multistate discussions -- Report to Revenue**

9328 **and Taxation Interim Committee.**

9329 Section **59-12-207, Report of tax collections -- Point of sale when retailer has no**
9330 **permanent place of business or more than one place of business is determined by rule of**
9331 **commission -- Public utilities -- Telecommunications service.**

9332 Section 112. **Effective date.**

9333 This bill takes effect on January 1, 2009.

Legislative Review Note
as of 2-15-08 5:33 PM

Office of Legislative Research and General Counsel

H.B. 206 - Tax Amendments**Fiscal Note**

2008 General Session

State of Utah

State Impact

Enactment of this bill could increase the General Fund by \$1,990,000 in FY 2009 and by \$2,000,000 in FY 2010. The Tax Commission would require an ongoing appropriation of \$50,000 and a one-time appropriation of \$26,200 to implement the provisions of the bill.

	FY 2008	FY 2009	FY 2010	FY 2008	FY 2009	FY 2010
	<u>Approp.</u>	<u>Approp.</u>	<u>Approp.</u>	<u>Revenue</u>	<u>Revenue</u>	<u>Revenue</u>
General Fund	\$0	\$25,000	\$25,000	\$0	\$1,990,000	\$2,000,000
General Fund, One-Time	\$0	\$13,100	\$0	\$0	\$0	\$0
Restricted Funds	\$0	\$38,100	\$25,000	\$0	\$0	\$0
Total	\$0	\$76,200	\$50,000	\$0	\$1,990,000	\$2,000,000

Individual, Business and/or Local Impact

Enactment of this bill could increase revenues to local governments by \$320,000 annually. Individuals could receive some benefit due to certain sales tax provisions in the bill. However, some individuals could see increased costs as sales tax is collected on remote purchases.