

**TAX COMMISSION ADMINISTRATION,
COLLECTION, AND ENFORCEMENT
AMENDMENTS**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne L. Niederhauser

House Sponsor: Todd E. Kiser

LONG TITLE

Committee Note:

The Utah Tax Review Commission recommended this bill.

Membership: 6 legislators 10 non-legislators

Legislative Vote: 3 voting for 0 voting against 2 absent

General Description:

This bill modifies provisions related to the administration, collection, and enforcement of certain taxes, fees, and charges by the State Tax Commission.

Highlighted Provisions:

This bill:

- ▶ addresses the administration, collection, and enforcement of certain taxes, fees, and charges by the State Tax Commission;
- ▶ defines terms;
- ▶ addresses penalties and interest on a tax, fee, or charge;
- ▶ addresses the procedure for obtaining a redetermination of a deficiency;
- ▶ addresses general collection procedures by the State Tax Commission;
- ▶ addresses mailing procedures for the State Tax Commission or a person required to mail certain documents to the State Tax Commission;
- ▶ addresses record retention requirements for a person subject to a tax, fee, or charge;



- 28 ▶ enacts provisions related to the assessment, collection, and refund of a tax, fee, or
- 29 charge, including:
 - 30 • providing general collection authority;
 - 31 • providing exceptions to the provisions;
 - 32 • allowing for the State Tax Commission to make rules establishing collection
 - 33 procedures;
 - 34 • addressing notice requirements for the State Tax Commission;
 - 35 • providing for an objection to a notice of deficiency;
 - 36 • requiring the State Tax Commission to estimate a tax, fee, or charge, if a person
 - 37 fails to file a return;
 - 38 • addressing mathematical errors;
 - 39 • addressing assessments of a tax, fee, or charge;
 - 40 • providing for recomputation of amounts due;
 - 41 • addressing actions for the collection of a tax, fee, or charge;
 - 42 • addressing the time period for assessing a tax, fee, or charge;
 - 43 • addressing credits and refunds;
 - 44 • addressing notice and demand for an unpaid liability;
 - 45 • addressing notices to a third party relating to a delinquency in the payment of a
 - 46 liability;
 - 47 • addressing a lien related to the payment of a liability;
 - 48 • addressing a notice of a lien;
 - 49 • addressing a warrant;
 - 50 • addressing a levy for an unpaid liability;
 - 51 • addressing a transferee obligated for the payment of a liability of a person that
 - 52 originally owes the liability;
 - 53 • addressing burden of proof;
 - 54 • addressing statutes of limitations;
 - 55 • addressing venue; and
 - 56 • addressing miscellaneous provisions;
 - 57 ▶ addresses overpayments, credits, and refunds in relation to certain taxes;
 - 58 ▶ addresses State Tax Commission rulemaking authority;

- 59 ▶ addresses limitations on assessment and collections in relation to income taxes;
- 60 ▶ addresses powers and duties of the State Tax Commission;
- 61 ▶ addresses State Tax Commission collection, administration, and enforcement
- 62 authority in relation to the emergency services telephone charge to fund the Utah
- 63 Poison Control Center; and
- 64 ▶ makes technical changes.

65 **Monies Appropriated in this Bill:**

66 None

67 **Other Special Clauses:**

68 None

69 **Utah Code Sections Affected:**

70 AMENDS:

- 71 **10-1-307**, as last amended by Laws of Utah 2008, Chapter 384
- 72 **10-1-405**, as last amended by Laws of Utah 2008, Chapters 382 and 384
- 73 **19-6-410.5**, as last amended by Laws of Utah 2008, Chapter 382
- 74 **34A-2-202**, as last amended by Laws of Utah 2006, Chapter 275
- 75 **38-12-101**, as last amended by Laws of Utah 1998, Chapter 327
- 76 **59-1-101**, as enacted by Laws of Utah 1987, Chapter 3
- 77 **59-1-302**, as last amended by Laws of Utah 2008, Chapter 382
- 78 **59-1-401**, as last amended by Laws of Utah 2008, Chapter 382
- 79 **59-1-501**, as last amended by Laws of Utah 1987, Chapter 161
- 80 **59-1-703**, as last amended by Laws of Utah 2001, Chapter 9
- 81 **59-6-104**, as last amended by Laws of Utah 2008, Chapter 382
- 82 **59-7-519**, as last amended by Laws of Utah 2000, Chapter 86
- 83 **59-7-522**, as last amended by Laws of Utah 1998, Chapter 299
- 84 **59-10-501**, as renumbered and amended by Laws of Utah 1987, Chapter 2
- 85 **59-10-505**, as renumbered and amended by Laws of Utah 1987, Chapter 2
- 86 **59-10-510**, as renumbered and amended by Laws of Utah 1987, Chapter 2
- 87 **59-10-529**, as last amended by Laws of Utah 2007, Chapter 326
- 88 **59-10-531**, as last amended by Laws of Utah 1987, Chapter 161
- 89 **59-10-536**, as renumbered and amended by Laws of Utah 1987, Chapter 2

- 90 **59-10-537**, as last amended by Laws of Utah 1994, Chapter 138
- 91 **59-10-539**, as last amended by Laws of Utah 1993, Second Special Session, Chapter 1
- 92 **59-10-544**, as last amended by Laws of Utah 2007, Chapter 122
- 93 **59-11-113**, as last amended by Laws of Utah 2008, Chapter 382
- 94 **59-12-104**, as last amended by Laws of Utah 2008, Second Special Session, Chapter 2
- 95 **59-12-107**, as last amended by Laws of Utah 2008, Chapters 7, 382, and 384
- 96 **59-12-110**, as last amended by Laws of Utah 2008, Chapters 382 and 384
- 97 **59-12-110.1**, as last amended by Laws of Utah 2008, Chapter 384
- 98 **59-12-111**, as last amended by Laws of Utah 2001, Chapter 9
- 99 **59-12-128**, as enacted by Laws of Utah 2008, Chapter 384
- 100 **59-12-209**, as last amended by Laws of Utah 2008, Chapter 382
- 101 **59-13-209**, as last amended by Laws of Utah 2005, Chapter 198
- 102 **59-13-210**, as last amended by Laws of Utah 1998, Chapter 299
- 103 **59-13-211**, as enacted by Laws of Utah 1987, Chapter 6
- 104 **59-13-312**, as last amended by Laws of Utah 1997, Chapter 271
- 105 **59-13-313**, as last amended by Laws of Utah 2000, Chapter 86
- 106 **59-13-318**, as last amended by Laws of Utah 1998, Chapter 299
- 107 **59-14-205**, as last amended by Laws of Utah 2007, Chapter 6
- 108 **62A-11-304.1**, as last amended by Laws of Utah 2008, Chapter 382
- 109 **69-2-5.5**, as last amended by Laws of Utah 2008, Chapter 384

110 ENACTS:

- 111 **59-1-1401**, Utah Code Annotated 1953
- 112 **59-1-1402**, Utah Code Annotated 1953
- 113 **59-1-1403**, Utah Code Annotated 1953
- 114 **59-1-1404**, Utah Code Annotated 1953
- 115 **59-1-1405**, Utah Code Annotated 1953
- 116 **59-1-1406**, Utah Code Annotated 1953
- 117 **59-1-1407**, Utah Code Annotated 1953
- 118 **59-1-1408**, Utah Code Annotated 1953
- 119 **59-1-1409**, Utah Code Annotated 1953
- 120 **59-1-1410**, Utah Code Annotated 1953

- 121 **59-1-1411**, Utah Code Annotated 1953
- 122 **59-1-1412**, Utah Code Annotated 1953
- 123 **59-1-1413**, Utah Code Annotated 1953
- 124 **59-1-1414**, Utah Code Annotated 1953
- 125 **59-1-1415**, Utah Code Annotated 1953
- 126 **59-1-1416**, Utah Code Annotated 1953
- 127 **59-1-1417**, Utah Code Annotated 1953
- 128 **59-1-1418**, Utah Code Annotated 1953
- 129 **59-1-1419**, Utah Code Annotated 1953

130 REPEALS:

- 131 **59-1-302.1**, as enacted by Laws of Utah 1994, Chapter 107
- 132 **59-1-706**, as renumbered and amended by Laws of Utah 1987, Chapter 3
- 133 **59-5-105**, as last amended by Laws of Utah 1988, Chapter 4
- 134 **59-5-112**, as repealed and reenacted by Laws of Utah 1988, Chapter 4
- 135 **59-5-113**, as repealed and reenacted by Laws of Utah 1988, Chapter 4
- 136 **59-5-205**, as enacted by Laws of Utah 1988, Chapter 4
- 137 **59-5-212**, as enacted by Laws of Utah 1988, Chapter 4
- 138 **59-5-213**, as enacted by Laws of Utah 1988, Chapter 4
- 139 **59-5-214**, as last amended by Laws of Utah 1998, Chapter 299
- 140 **59-7-506**, as renumbered and amended by Laws of Utah 1993, Chapter 169
- 141 **59-7-516**, as renumbered and amended by Laws of Utah 1993, Chapter 169
- 142 **59-7-517**, as renumbered and amended by Laws of Utah 1993, Chapter 169
- 143 **59-7-518**, as last amended by Laws of Utah 2000, Chapter 86
- 144 **59-7-520**, as renumbered and amended by Laws of Utah 1993, Chapter 169
- 145 **59-7-521**, as last amended by Laws of Utah 2000, Chapter 86
- 146 **59-7-523**, as renumbered and amended by Laws of Utah 1993, Chapter 169
- 147 **59-7-524**, as renumbered and amended by Laws of Utah 1993, Chapter 169
- 148 **59-7-525**, as renumbered and amended by Laws of Utah 1993, Chapter 169
- 149 **59-7-526**, as renumbered and amended by Laws of Utah 1993, Chapter 169
- 150 **59-7-527**, as renumbered and amended by Laws of Utah 1993, Chapter 169
- 151 **59-9-106**, as last amended by Laws of Utah 1998, Chapter 299

- 152 **59-10-506**, as renumbered and amended by Laws of Utah 1987, Chapter 2
- 153 **59-10-521**, as renumbered and amended by Laws of Utah 1987, Chapter 2
- 154 **59-10-523**, as renumbered and amended by Laws of Utah 1987, Chapter 2
- 155 **59-10-524**, as last amended by Laws of Utah 2000, Chapter 86
- 156 **59-10-525**, as renumbered and amended by Laws of Utah 1987, Chapter 2
- 157 **59-10-526**, as renumbered and amended by Laws of Utah 1987, Chapter 2
- 158 **59-10-528**, as renumbered and amended by Laws of Utah 1987, Chapter 2
- 159 **59-10-532**, as last amended by Laws of Utah 1987, Chapter 161
- 160 **59-10-533**, as last amended by Laws of Utah 1987, Chapter 161
- 161 **59-10-535**, as last amended by Laws of Utah 1987, Chapter 161
- 162 **59-10-540**, as last amended by Laws of Utah 2006, Chapter 55
- 163 **59-10-542**, as renumbered and amended by Laws of Utah 1987, Chapter 2
- 164 **59-10-543**, as renumbered and amended by Laws of Utah 1987, Chapter 2
- 165 **59-12-113**, as last amended by Laws of Utah 2003, Chapter 312
- 166 **59-12-114**, as last amended by Laws of Utah 2008, Chapter 382
- 167 **59-12-115**, as last amended by Laws of Utah 2003, Chapter 312
- 168 **59-13-316**, as last amended by Laws of Utah 2000, Chapter 86
- 169 **59-13-317**, as last amended by Laws of Utah 1997, Chapter 271
- 170 **59-14-405**, as last amended by Laws of Utah 1993, Chapter 169
- 171 **59-15-103**, as last amended by Laws of Utah 1998, Chapter 299
- 172 **59-23-6**, as last amended by Laws of Utah 1998, Chapter 299
- 173 **59-24-107**, as enacted by Laws of Utah 2001, Chapter 314
- 174 **59-25-107**, as enacted by Laws of Utah 2003, Chapter 295
- 175 **59-26-107**, as enacted by Laws of Utah 2004, Chapter 300
- 176 **59-27-107**, as enacted by Laws of Utah 2004, Chapter 214

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

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

180 **10-1-307. Administration, collection, and enforcement of taxes by commission --**
 181 **Distribution of revenues -- Charge for services -- Collection of taxes by municipality.**

182 (1) Except as provided in Subsection (3), the commission shall administer, collect, and

183 enforce~~[- and administer]~~ the municipal energy sales and use tax from energy suppliers
184 according to the procedures established in:

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

186 (b) Title 59, Chapter 12, Part 1, Tax Collection, except for Sections 59-12-107.1 and
187 59-12-123.

188 (2) (a) Except as provided in Subsections 10-1-203(3)(d), 10-1-305(5), and
189 10-1-310(2) and subject to Subsection (6), the commission shall pay a municipality the
190 difference between:

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

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

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

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

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

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

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

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

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

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

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

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

214 and

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

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

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

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

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

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

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

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

233 (B) the 2005 base amount, plus:

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

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

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

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

242 (B) the 2006 base amount, plus:

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

244 (II) the natural gas portion of municipal energy sales and use tax proceeds paid to the

245 municipality for fiscal year 2007 attributable to an increase in the rate of the municipal energy
246 sales and use tax implemented by the municipality during fiscal year 2007.

247 (v) "Fiscal year 2005" means the period beginning July 1, 2004 and ending June 30,
248 2005.

249 (vi) "Fiscal year 2006" means the period beginning July 1, 2005 and ending June 30,
250 2006.

251 (vii) "Fiscal year 2007" means the period beginning July 1, 2006 and ending June 30,
252 2007.

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

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

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

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

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

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

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

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

276 amount.

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

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

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

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

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

294 Section 2. Section **10-1-405** is amended to read:

295 **10-1-405. Collection of taxes by commission -- Uniform interlocal agreement --**
296 **Rulemaking authority -- Charge for services.**

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

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

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

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

304 (A) except for:

305 (I) Subsection 59-12-103(2)(g);

306 (II) Section 59-12-104;

307 (III) Section 59-12-104.1;
308 (IV) Section 59-12-104.2;
309 (V) Section 59-12-104.3;
310 (VI) Section 59-12-107.1; and
311 (VII) Section 59-12-123; and
312 (B) except that for purposes of Section [~~59-12-110~~] 59-1-1410, the term "[~~taxpayer~~
313 person" may include a customer from whom a municipal telecommunications license tax is
314 recovered in accordance with Subsection 10-1-403(2); and
315 (b) a uniform interlocal agreement:
316 (i) between:
317 (A) the municipality that imposes the municipal telecommunications license tax; and
318 (B) the commission;
319 (ii) that is executed under Title 11, Chapter 13, Interlocal Cooperation Act;
320 (iii) that complies with Subsection (2)(a); and
321 (iv) that is developed by rule in accordance with Subsection (2)(b).
322 (2) (a) The uniform interlocal agreement described in Subsection (1) shall provide that
323 the commission shall:
324 (i) transmit monies collected under this part:
325 (A) monthly; and
326 (B) by electronic funds transfer by the commission to the municipality;
327 (ii) conduct audits of the municipal telecommunications license tax;
328 (iii) charge the municipality for the commission's services under this section in an
329 amount:
330 (A) sufficient to reimburse the commission for the cost to the commission in rendering
331 the services; and
332 (B) that may not exceed an amount equal to 1.5% of the municipal telecommunications
333 license tax imposed by the ordinance of the municipality; and
334 (iv) collect, enforce, and administer the municipal telecommunications license tax
335 authorized under this part pursuant to the same procedures used in the administration,
336 collection, and enforcement of the state sales and use tax as provided in Subsection (1)(a).
337 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

338 commission shall develop a uniform interlocal agreement that meets the requirements of this
339 section.

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

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

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

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

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

348 (i) within the municipality;

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

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

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

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

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

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

361 Section 3. Section **19-6-410.5** is amended to read:

362 **19-6-410.5. Environmental assurance program -- Participant fee -- State Tax**
363 **Commission administration, collection, and enforcement of tax.**

364 (1) As used in this section:

365 (a) "Cash balance" means cash plus investments and current accounts receivable minus
366 current accounts payable, excluding the liabilities estimated by the state risk manager.

367 (b) "Commission" means the State Tax Commission, as defined in Section 59-1-101.

368 (2) (a) There is created an Environmental Assurance Program.

369 (b) The program shall provide to a participating [owners and operators] owner or
 370 operator, upon payment of the fee imposed under Subsection (4), assistance with satisfying the
 371 financial responsibility requirements of 40 [~~CFR~~] C.F.R., Part 280, Subpart H, by providing
 372 funds from the Petroleum Storage Tank Trust Fund established in Section 19-6-409, subject to
 373 the terms and conditions of Chapter 6, Part 4, Underground Storage Tank Act, and rules
 374 implemented under that part.

375 (3) (a) Subject to Subsection (3)(b), participation in the program is voluntary.

376 (b) [~~Each~~] An owner [~~and~~] or operator seeking to satisfy financial responsibility
 377 requirements through the program shall use the program for all petroleum underground storage
 378 tanks that the owner or operator owns or operates.

379 (4) (a) There is assessed an environmental assurance fee of 1/2 cent per gallon on the
 380 first sale or use of petroleum products in the state.

381 (b) The environmental assurance fee and any other revenue collected under this section
 382 shall be deposited in the Petroleum Storage Tank Trust Fund created in Section 19-6-409 and
 383 used solely for the purposes listed in Section 19-6-409.

384 [~~(5)(a) The commission shall collect the environmental assurance fee and any~~
 385 ~~penalties and interest imposed under this section.]~~

386 (5) (a) The commission shall administer, collect, and enforce the fee imposed under
 387 this section according to the same procedures used in the administration, collection, and
 388 enforcement of the state sales and use tax under:

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

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

391 (b) [~~By following the procedures and requirements of~~] In accordance with Title 63G,
 392 Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules to establish:

393 (i) the method of payment of the environmental assurance fee;

394 (ii) the procedure for reimbursement or exemption of [~~owners or operators who do~~] an
 395 owner or operator that does not participate in the program, including [owners and operators of]
 396 an owner or operator of an above ground storage [tanks] tank; and

397 (iii) the procedure for confirming with the department [~~those owners and operators~~
 398 ~~who qualify~~] that an owner or operator qualifies for reimbursement or exemption under
 399 Subsection (5)(b)(ii).

400 (c) The commission may retain an amount not to exceed 2.5% of fees collected under
401 this section for the cost to [it] the commission of rendering its services.

402 (6) (a) The person [~~or entity~~] responsible for payment of the fee under this section
403 shall, by the last day of the month following the month in which the sale occurs:

- 404 (i) complete and submit the form prescribed by the commission; and
- 405 (ii) pay the fee to the commission.

406 (b) (i) The penalties and interest for failure to file the form or to pay the environmental
407 assurance fee are the same as the penalties and interest under Sections 59-1-401 and 59-1-402.

408 (ii) The commission shall deposit penalties and interest collected under this section in
409 the Petroleum Storage Tank Trust Fund.

410 (c) The commission shall report to the department [~~any person or entity~~] a person who
411 is delinquent in payment of the fee under this section.

412 (7) (a) (i) If the cash balance of the Petroleum Storage Tank Trust Fund on June 30 of
413 any year exceeds \$20,000,000, the assessment of the environmental assurance fee as provided
414 in Subsection (4) is reduced to 1/4 cent per gallon beginning November 1.

415 (ii) The reduction [~~shall remain~~] under this Subsection (7)(a) remains in effect until
416 modified by the Legislature in a general or special session.

417 (b) The commission shall determine the cash balance of the fund each year as of June
418 30.

419 (c) Before September 1 of each year, the department shall provide the commission with
420 the accounts payable of the fund as of June 30.

421 Section 4. Section **34A-2-202** is amended to read:

422 **34A-2-202. Assessment on self-insured employers including the state, counties,**
423 **cities, towns, or school districts paying compensation direct.**

424 (1) (a) (i) A self-insured employer, including a county, city, town, or school district,
425 shall pay annually, on or before March 31, an assessment in accordance with this section and
426 rules made by the commission under this section.

427 (ii) For purposes of this section, "self-insured employer" is as defined in Section
428 34A-2-201.5, except it includes the state if the state self-insures under Section 34A-2-203.

429 (b) The assessment required by Subsection (1)(a) is:

- 430 (i) to be collected by the State Tax Commission;

431 (ii) paid by the State Tax Commission into the state treasury as provided in Subsection
432 59-9-101(2); and

433 (iii) subject to the offset provided in Section 34A-2-202.5.

434 (c) The assessment under Subsection (1)(a) shall be based on a total calculated
435 premium multiplied by the premium assessment rate established pursuant to Subsection
436 59-9-101(2).

437 (d) The total calculated premium, for purposes of calculating the assessment under
438 Subsection (1)(a), shall be calculated by:

439 (i) multiplying the total of the standard premium for each class code calculated in
440 Subsection (1)(e) by the self-insured employer's experience modification factor; and

441 (ii) multiplying the total under Subsection (1)(d)(i) by a safety factor determined under
442 Subsection (1)(g).

443 (e) A standard premium shall be calculated by:

444 (i) multiplying the prospective loss cost for the year being considered, as filed with the
445 insurance department pursuant to Section 31A-19a-406, for each applicable class code by 1.10
446 to determine the manual rate for each class code; and

447 (ii) multiplying the manual rate for each class code under Subsection (1)(e)(i) by each
448 \$100 of the self-insured employer's covered payroll for each class code.

449 (f) (i) Each self-insured employer paying compensation direct shall annually obtain the
450 experience modification factor required in Subsection (1)(d)(i) by using:

451 (A) the rate service organization designated by the insurance commissioner in Section
452 31A-19a-404; or

453 (B) for a self-insured employer that is a public agency insurance mutual, an actuary
454 approved by the commission.

455 (ii) If a self-insured employer's experience modification factor under Subsection
456 (1)(f)(i) is less than 0.50, the self-insured employer shall use an experience modification factor
457 of 0.50 in determining the total calculated premium.

458 (g) To provide incentive for improved safety, the safety factor required in Subsection
459 (1)(d)(ii) shall be determined based on the self-insured employer's experience modification
460 factor as follows:

461 EXPERIENCE

462	MODIFICATION FACTOR	SAFETY FACTOR
463	Less than or equal to 0.90	0.56
464	Greater than 0.90 but less than or equal to 1.00	0.78
465	Greater than 1.00 but less than or equal to 1.10	1.00
466	Greater than 1.10 but less than or equal to 1.20	1.22
467	Greater than 1.20	1.44

468 (h) (i) A premium or premium assessment modification other than a premium or
469 premium assessment modification under this section may not be allowed.

470 (ii) If a self-insured employer paying compensation direct fails to obtain an experience
471 modification factor as required in Subsection (1)(f)(i) within the reasonable time period
472 established by rule by the State Tax Commission, the State Tax Commission shall use an
473 experience modification factor of 2.00 and a safety factor of 2.00 to calculate the total
474 calculated premium for purposes of determining the assessment.

475 (iii) Prior to calculating the total calculated premium under Subsection (1)(h)(ii), the
476 State Tax Commission shall provide the self-insured employer with written notice that failure
477 to obtain an experience modification factor within a reasonable time period, as established by
478 rule by the State Tax Commission:

479 (A) shall result in the State Tax Commission using an experience modification factor
480 of 2.00 and a safety factor of 2.00 in calculating the total calculated premium for purposes of
481 determining the assessment; and

482 (B) may result in the division revoking the self-insured employer's right to pay
483 compensation direct.

484 (i) The division may immediately revoke a self-insured employer's certificate issued
485 under Sections 34A-2-201 and 34A-2-201.5 that permits the self-insured employer to pay
486 compensation direct if the State Tax Commission assigns an experience modification factor
487 and a safety factor under Subsection (1)(h) because the self-insured employer failed to obtain
488 an experience modification factor.

489 (2) Notwithstanding the annual payment requirement in Subsection (1)(a), a
490 self-insured employer whose total assessment obligation under Subsection (1)(a) for the
491 preceding year was \$10,000 or more shall pay the assessment in quarterly installments in the
492 same manner provided in Section 59-9-104 and subject to the same penalty provided in Section

493 59-9-104 for not paying or underpaying an installment.

494 (3) (a) The State Tax Commission shall have access to all the records of the division
495 for the purpose of auditing and collecting any amounts described in this section.

496 (b) Time periods for the State Tax Commission to allow a refund or make an
497 assessment shall be determined in accordance with [~~Section 59-9-106~~] Title 59, Chapter 1, Part
498 14, Assessment, Collections, and Refunds Act.

499 (4) (a) A review of appropriate use of job class assignment and calculation
500 methodology may be conducted as directed by the division at any reasonable time as a
501 condition of the self-insured employer's certification of paying compensation direct.

502 (b) The State Tax Commission shall make any records necessary for the review
503 available to the commission.

504 (c) The commission shall make the results of any review available to the State Tax
505 Commission.

506 Section 5. Section **38-12-101** is amended to read:

507 **38-12-101. Definitions.**

508 For purposes of this chapter:

509 (1) "Lien" means:

510 (a) failure to pay moneys owed for property, services, or a notice of interest, a
511 judgment, or any other encumbrance on the title, that becomes a charge against or interest in:

512 (i) real property, a building, a structure, or an improvement including any franchise,
513 privilege, appurtenance, machinery, or fixture pertaining to or used in connection with any real
514 property, building, structure, or improvement;

515 (ii) personal property; or

516 (iii) a judgment, settlement, or compromise; or

517 (b) a tax as provided in Section [~~59-1-302.1;~~] 59-1-1413, 59-5-108, 59-5-208,
518 59-11-110, or 59-12-112.

519 (2) "Lien" does not mean a charge against or interest in, for failure to pay moneys owed
520 for property, services, or a judgment, any:

521 (a) bank account;

522 (b) pension; or

523 (c) garnishment.

524 Section 6. Section **59-1-101** is amended to read:

525 **59-1-101. Definitions.**

526 [~~For purposes of this title "commission"~~]

527 As used in this title:

528 (1) "Commission" and "tax commission" mean the State Tax Commission.

529 (2) "Deficiency" is as defined in Section 59-1-1402.

530 Section 7. Section **59-1-302** is amended to read:

531 **59-1-302. Penalty for nonpayment of certain taxes -- Jeopardy proceedings.**

532 (1) This section applies to the following:

533 (a) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

534 (b) a tax under Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax

535 Act;

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

537 (d) [~~(i) except as provided in Subsection (1)(d)(ii);~~] a tax under Chapter 12, Sales and

538 Use Tax Act; [~~and~~]

539 [~~(ii) notwithstanding Subsection (1)(d)(i), this section does not apply to Chapter 12,~~

540 ~~Part 9, Sales Tax Refund for Qualified Emergency Food Agencies;]~~

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

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

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

544 (2) [~~Any~~] (a) A person required to collect, truthfully account for, and pay over [~~any~~] a

545 tax listed in Subsection (1) who willfully fails to collect the tax, fails to truthfully account for

546 and pay over the tax, or attempts in any manner to evade or defeat [~~any~~] the tax or the payment

547 of the tax, [~~shall be~~] is liable for a penalty equal to the total amount of the tax evaded, not

548 collected, not accounted for, or not paid over. [~~This penalty~~]

549 (b) The penalty described in Subsection (2)(a) is in addition to other penalties provided

550 by law.

551 (3) (a) If the commission determines in accordance with Subsection (2) that a person is

552 liable for the penalty, the commission shall [~~notify the taxpayer~~] mail a notice of the proposed

553 penalty to the person.

554 (b) The notice of proposed penalty shall:

- 555 (i) set forth the basis of the assessment; and
556 (ii) be mailed [~~by certified mail~~];
557 (A) in accordance with Section 59-1-1404; and
558 (B) to the person's last-known address.
- 559 (4) Upon receipt of the notice of proposed penalty, the person against whom the
560 penalty is proposed may:
- 561 (a) pay the amount of the proposed penalty at the place and time stated in the notice; or
562 (b) proceed in accordance with the review procedures of Subsection (5).
- 563 (5) [~~Any~~] A person against whom a penalty [~~has been~~] is proposed in accordance with
564 Subsections (2) and (3) may contest the proposed penalty by filing a petition for an adjudicative
565 proceeding with the commission.
- 566 (6) If the commission determines that the collection of the penalty is in jeopardy,
567 [~~nothing in~~] this section [~~may~~] does not prevent the immediate collection of the penalty in
568 accordance with the procedures and requirements for an emergency [~~proceedings in~~
569 proceeding under Title 63G, Chapter 4, Administrative Procedures Act.
- 570 (7) (a) In [~~any~~] a hearing before the commission and in [~~any~~] a judicial review of the
571 hearing, the commission and the court shall consider any inference and evidence that a person
572 has willfully failed to collect, truthfully account for, or pay over [~~any~~] a tax listed in Subsection
573 (1).
- 574 (b) It is prima facie evidence that a person has willfully failed to collect, truthfully
575 account for, or pay over [~~any of the taxes~~] a tax listed in Subsection (1) if the commission or a
576 court finds that the person charged with the responsibility of collecting, accounting for, or
577 paying over the taxes:
- 578 (i) made a voluntary, conscious, and intentional decision to prefer other creditors over
579 the state government or utilize the tax money for personal purposes;
- 580 (ii) recklessly disregarded obvious or known risks[~~, which~~] that resulted in the failure
581 to collect, truthfully account for, or pay over the tax; or
- 582 (iii) failed to investigate or to correct mismanagement, having notice that the tax was
583 not or is not being collected, accounted for, or paid over as provided by law.
- 584 (c) The commission or court [~~need not~~] is not required to find a bad motive or specific
585 intent to defraud the government or deprive [~~it~~] the government of revenue to establish

586 willfulness under this section.

587 (d) [(†)] If the commission determines that a person is liable for the penalty under
588 Subsection (2), the commission shall assess the penalty and give notice and demand for
589 payment in accordance with Section 59-1-1411.

590 [~~(ii) The notice and demand for payment described in Subsection (7)(d)(i) shall be~~
591 ~~mailed by certified mail to the person's last-known address.]~~

592 Section 8. Section **59-1-401** is amended to read:

593 **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**
594 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**
595 **interest.**

596 (1) As used in this section:

597 (a) (i) "Nonqualifying obligation" means a charge, fee, payment, or tax administered by
598 the commission.

599 (ii) "Nonqualifying obligation" does not include:

600 (A) beginning on the phase I activation date, a phase I obligation; or

601 (B) beginning on the phase II activation date, a phase II obligation.

602 (b) "Phase I activation date" means the earlier of:

603 (i) the day on which the commission's GenTax system is activated to administer all
604 phase I obligations; or

605 (ii) May 1, 2008.

606 (c) "Phase I obligation" means:

607 (i) a fee under Section 19-6-808;

608 (ii) a tax under Chapter 10, Part 1, Determination and Reporting of Tax Liability and
609 Information;

610 (iii) a tax under Chapter 10, Part 2, Trusts and Estates; or

611 [~~(iv) a tax under Chapter 10, Part 12, Single Rate Individual Income Tax Act; or]~~

612 [~~(†v)] (iv) a tax under Chapter 12, Sales and Use Tax Act.~~

613 (d) "Phase II activation date" means the earlier of:

614 (i) the day on which the commission's GenTax system is activated to administer all
615 phase II obligations; or

616 (ii) May 4, 2009.

- 617 (e) (i) "Phase II obligation" means:
- 618 (A) a payment under Chapter 6, Mineral Production Tax Withholding;
- 619 (B) a tax under Chapter 7, Corporate Franchise and Income Taxes;
- 620 (C) a payment under Chapter 10, Part 4, Withholding of Tax; or
- 621 (D) a tax paid on a return filed in accordance with Section 59-10-507.
- 622 (ii) "Phase II obligation" does not include a payment of estimated tax under Section
- 623 59-7-504.
- 624 (2) (a) The due date for filing a return is:
- 625 (i) if the person filing the return is not allowed by law an extension of time for filing
- 626 the return, the day on which the return is due as provided by law; or
- 627 (ii) if the person filing the return is allowed by law an extension of time for filing the
- 628 return, the last day of that extension of time.
- 629 (b) (i) A penalty in the amount described in Subsection (2)(b)(ii) is imposed if:
- 630 (A) a person is required to file a return with respect to a nonqualifying obligation; and
- 631 (B) the person described in Subsection (2)(b)(i)(A) files the return after the due date
- 632 described in Subsection (2)(a).
- 633 (ii) For purposes of Subsection (2)(b)(i), the penalty is an amount equal to the greater
- 634 of:
- 635 (A) \$20; or
- 636 (B) 10% of the unpaid nonqualifying obligation due on the return.
- 637 (c) (i) A penalty in the amount described in Subsection (2)(c)(ii) is imposed if a person:
- 638 (A) (I) is required to file a return:
- 639 (Aa) on or after the phase I activation date; and
- 640 (Bb) with respect to a phase I obligation; and
- 641 (II) files the return after the due date described in Subsection (2)(a); or
- 642 (B) (I) is required to file a return:
- 643 (Aa) on or after the phase II activation date; and
- 644 (Bb) with respect to a phase II obligation; and
- 645 (II) files the return after the due date described in Subsection (2)(a).
- 646 (ii) For purposes of Subsection (2)(c)(i), the penalty is an amount equal to the greater
- 647 of:

648 (A) \$20; or
649 (B) (I) 2% of the unpaid phase I obligation or phase II obligation due on the return if
650 the return is filed no later than five days after the due date described in Subsection (2)(a);
651 (II) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
652 return is filed more than five days after the due date but no later than 15 days after the due date
653 described in Subsection (2)(a); or
654 (III) 10% of the unpaid phase I obligation or phase II obligation due on the return if the
655 return is filed more than 15 days after the due date described in Subsection (2)(a).
656 (d) This Subsection (2) does not apply to:
657 (i) an amended return; or
658 (ii) a return with no tax due.
659 (3) (a) If a person fails to pay a tax, fee, or charge due, the person is subject to a penalty
660 as provided in this Subsection (3).
661 (b) (i) A penalty in the amount described in Subsection (3)(b)(ii) is imposed if:
662 (A) a person files a return with respect to a nonqualifying obligation on or before the
663 due date for filing a return described in Subsection (2)(a), but fails to pay the nonqualifying
664 obligation due on the return on or before that due date;
665 (B) a person:
666 (I) is subject to a penalty under Subsection (2)(b); and
667 (II) fails to pay a nonqualifying obligation due on a return within a 90-day period after
668 the due date for filing a return described in Subsection (2)(a);
669 (C) (I) a person is subject to a penalty under Subsection (2)(b); and
670 (II) the commission estimates an amount of tax due for that person in accordance with
671 Subsection 59-1-1406(2);
672 [~~C~~] (D) a person:
673 (I) is mailed a notice of deficiency; and
674 (II) within a 30-day period after the day on which the notice of deficiency described in
675 Subsection (3)(b)(i)[~~C~~](D)(I) is mailed:
676 (Aa) does not file a petition for redetermination or a request for agency action; and
677 (Bb) fails to pay a nonqualifying obligation due on a return;
678 [~~D~~] (E) (I) the commission:

679 (Aa) issues an order constituting final agency action resulting from a timely filed
680 petition for redetermination or a timely filed request for agency action; or

681 (Bb) is considered to have denied a request for reconsideration under Subsection
682 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed
683 request for agency action; and

684 (II) a person fails to pay a nonqualifying obligation due on a return within a 30-day
685 period after the date the commission:

686 (Aa) issues the order constituting final agency action described in Subsection
687 (3)(b)(i)~~(F)~~(E)(I)(Aa); or

688 (Bb) is considered to have denied the request for reconsideration described in
689 Subsection (3)(b)(i)~~(F)~~(E)(I)(Bb); or

690 ~~(E)~~ (F) a person fails to pay a nonqualifying obligation within a 30-day period after
691 the date of a final judicial decision resulting from a timely filed petition for judicial review.

692 (ii) For purposes of Subsection (3)(b)(i), the penalty is an amount equal to the greater
693 of:

694 (A) \$20; or

695 (B) 10% of the unpaid nonqualifying obligation due on the return.

696 (c) (i) This Subsection (3)(c) applies to a penalty:

697 (A) imposed on or after the phase I activation date with respect to a phase I obligation;
698 or

699 (B) imposed on or after the phase II activation date with respect to a phase II
700 obligation.

701 (ii) (A) The penalty described in Subsection (3)(c)(ii)(B) applies if a person:

702 (I) with respect to a phase I obligation:

703 (Aa) files a return on or before the due date for filing a return described in Subsection
704 (2)(a); and

705 (Bb) fails to pay the phase I obligation due on the return on or before the due date
706 described in Subsection (2)(a); or

707 (II) with respect to a phase II obligation:

708 (Aa) files a return on or before the due date for filing a return described in Subsection
709 (2)(a); and

710 (Bb) fails to pay the phase II obligation due on the return on or before the due date
711 described in Subsection (2)(a).

712 (B) For purposes of Subsection (3)(c)(ii)(A), the penalty is an amount equal to the
713 greater of:

714 (I) \$20; or

715 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
716 the phase I obligation or phase II obligation due on the return is paid no later than five days
717 after the due date for filing a return described in Subsection (2)(a);

718 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
719 phase I obligation or phase II obligation due on the return is paid more than five days after the
720 due date for filing a return described in Subsection (2)(a) but no later than 15 days after that
721 due date; or

722 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if the
723 phase I obligation or phase II obligation due on the return is paid more than 15 days after the
724 due date for filing a return described in Subsection (2)(a).

725 (iii) (A) A person is subject to a penalty as provided in Subsection (3)(c)(iii)(B) if the
726 person:

727 (I) is subject to a penalty under Subsection (2)(c); and

728 (II) fails to pay a phase I obligation or phase II obligation due on a return within a
729 90-day period after the due date for filing a return described in Subsection (2)(a).

730 (B) For purposes of Subsection (3)(c)(iii)(A), the penalty is an amount equal to the
731 greater of:

732 (I) \$20; or

733 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
734 the phase I obligation or phase II obligation due on the return is paid no later than five days
735 after the last day of the 90-day period described in Subsection (3)(c)(iii)(A)(II);

736 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
737 phase I obligation or phase II obligation due on the return is paid more than five days after the
738 last day of the 90-day period described in Subsection (3)(c)(iii)(A)(II) but no later than 15 days
739 after the last day of the 90-day period described in Subsection (3)(c)(iii)(A)(II); or

740 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if the

741 phase I obligation or phase II obligation due on the return is paid more than 15 days after the
742 last day of the 90-day period described in Subsection (3)(c)(iii)(A)(II).

743 (iv) (A) A person is subject to a penalty as provided in Subsection (3)(c)(iv)(B) if:

744 (I) the person is subject to a penalty under Subsection (2)(b); and

745 (II) the commission estimates an amount of tax due for that person in accordance with
746 Subsection 59-1-1406(2).

747 (B) For purposes of Subsection (3)(c)(iv)(A), the penalty is an amount equal to the
748 greater of:

749 (I) \$20; or

750 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
751 the phase I obligation or phase II obligation due on the return is paid no later than five days
752 after the due date for filing a return described in Subsection (2)(a);

753 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
754 phase I obligation or phase II obligation due on the return is paid more than five days after the
755 due date for filing a return described in Subsection (2)(a) but no later than 15 days after the due
756 date for filing a return described in Subsection (2)(a); or

757 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if the
758 phase I obligation or phase II obligation due on the return is paid more than 15 days after the
759 due date for filing a return described in Subsection (2)(a).

760 ~~(iv)~~ (v) (A) A person is subject to a penalty as provided in Subsection (3)(c)(iv)(B) if
761 the person:

762 (I) is mailed a notice of deficiency; and

763 (II) within a 30-day period after the day on which the notice of deficiency described in
764 Subsection (3)(c)~~(iv)~~(v)(A)(I) is mailed:

765 (Aa) does not file a petition for redetermination or a request for agency action; and

766 (Bb) fails to pay a phase I obligation or phase II obligation due on a return.

767 (B) For purposes of Subsection (3)(c)~~(iv)~~(v)(A), the penalty is an amount equal to the
768 greater of:

769 (I) \$20; or

770 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
771 the phase I obligation or phase II obligation due on the return is paid no later than five days

772 after the last day of the 30-day period described in Subsection (3)(c)[(iv)](v)(A)(II);

773 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
774 phase I obligation or phase II obligation due on the return is paid more than five days after the
775 last day of the 30-day period described in Subsection (3)(c)[(iv)](v)(A)(II) but no later than 15
776 days after the last day of the 30-day period described in Subsection (3)(c)[(iv)](v)(A)(II); or

777 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if the
778 phase I obligation or phase II obligation due on the return is paid more than 15 days after the
779 last day of the 30-day period described in Subsection (3)(c)[(iv)](v)(A)(II).

780 [(v)] (vi) (A) A person is subject to a penalty as provided in Subsection
781 (3)(c)[(v)](vi)(B) if:

782 (I) the commission:

783 (Aa) issues an order constituting final agency action resulting from a timely filed
784 petition for redetermination or a timely filed request for agency action; or

785 (Bb) is considered to have denied a request for reconsideration under Subsection
786 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed
787 request for agency action; and

788 (II) the person fails to pay a phase I obligation or phase II obligation due on a return
789 within a 30-day period after the date the commission:

790 (Aa) issues the order constituting final agency action described in Subsection
791 (3)(c)[(v)](vi)(A)(I)(Aa); or

792 (Bb) is considered to have denied the request for reconsideration described in
793 Subsection (3)(c)[(v)](vi)(A)(I)(Bb).

794 (B) For purposes of Subsection (3)(c)[(v)](vi)(A), the penalty is an amount equal to the
795 greater of:

796 (I) \$20; or

797 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
798 the phase I obligation or phase II obligation due on the return is paid no later than five days
799 after the last day of the 30-day period described in Subsection (3)(c)[(v)](vi)(A)(II);

800 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
801 phase I obligation or phase II obligation due on the return is paid more than five days after the
802 last day of the 30-day period described in Subsection (3)(c)[(v)](vi)(A)(II) but no later than 15

803 days after the last day of the 30-day period described in Subsection (3)(c)[(v)](vi)(A)(II); or
804 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if the
805 phase I obligation or phase II obligation due on the return is paid more than 15 days after the
806 last day of the 30-day period described in Subsection (3)(c)[(v)](vi)(A)(II).

807 [(v)] (vii) (A) A person is subject to a penalty as provided in Subsection
808 (3)(c)[(v)](vii)(B) if within a 30-day period after the date of a final judicial decision resulting
809 from a timely filed petition for judicial review, the person fails to pay a phase I obligation or
810 phase II obligation.

811 (B) For purposes of Subsection (3)(c)[(v)](vii)(A), the penalty is an amount equal to
812 the greater of:

813 (I) \$20; or

814 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
815 the phase I obligation or phase II obligation due on the return is paid no later than five days
816 after the last day of the 30-day period described in Subsection (3)(c)[(v)](vii)(A);

817 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
818 phase I obligation or phase II obligation due on the return is paid more than five days after the
819 last day of the 30-day period described in Subsection (3)(c)[(v)](vii)(A) but no later than 15
820 days after the last day of the 30-day period described in Subsection (3)(c)[(v)](vii)(A); or

821 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if the
822 phase I obligation or phase II obligation due on the return is paid more than 15 days after the
823 last day of the 30-day period described in Subsection (3)(c)[(v)](vii)(A).

824 (4) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or
825 quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there
826 shall be added a penalty in an amount determined by applying the interest rate provided under
827 Section 59-1-402 plus four percentage points to the amount of the underpayment for the period
828 of the underpayment.

829 (b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the
830 excess of the required installment over the amount, if any, of the installment paid on or before
831 the due date for the installment.

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

834 (A) the original due date of the tax return, without extensions, for the taxable year; or
835 (B) with respect to any portion of the underpayment, the date on which that portion is
836 paid.

837 (iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited
838 against unpaid required installments in the order in which the installments are required to be
839 paid.

840 (5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a
841 person allowed by law an extension of time for filing a corporate franchise or income tax return
842 under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return
843 under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in
844 Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not
845 including the extension of time, the person fails to pay:

846 (i) for a person filing a corporate franchise or income tax return under Chapter 7,
847 Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b); or

848 (ii) for a person filing an individual income tax return under Chapter 10, Individual
849 Income Tax Act, the payment required by Subsection 59-10-516(2).

850 (b) For purposes of Subsection (5)(a), the penalty per month during the period of the
851 extension of time for filing the return is an amount equal to 2% of the ~~unpaid~~ tax due on the
852 return, unpaid as of the day on which the return is due as provided by law.

853 (6) If a person does not file a return within an extension of time allowed by Section
854 59-7-505 or 59-10-516, the person:

855 (a) is not subject to a penalty in the amount described in Subsection (5)(b); and

856 (b) is subject to a penalty in an amount equal to the sum of:

857 (i) a late file penalty in an amount equal to the greater of:

858 (A) \$20; or

859 (B) 10% of the ~~unpaid~~ tax due on the return, unpaid as of the day on which the return
860 is due as provided by law, not including the extension of time; and

861 (ii) a late pay penalty in an amount equal to the greater of:

862 (A) \$20; or

863 (B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is
864 due as provided by law, not including the extension of time.

865 (7) (a) Additional penalties for underpayments of tax are as provided in this Subsection
866 (7)(a).

867 (i) Except as provided in Subsection (7)(c), if any portion of an underpayment of tax is
868 due to negligence, the penalty is 10% of the portion of the underpayment that is due to
869 negligence.

870 (ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of tax is
871 due to intentional disregard of law or rule, the penalty is 15% of the entire underpayment.

872 (iii) ~~For~~ If any portion of an underpayment is due to an intent to evade the tax, the
873 penalty is the greater of \$500 per period or 50% of the ~~[tax due]~~ entire underpayment.

874 (iv) If ~~the~~ any portion of an underpayment is due to fraud with intent to evade the tax,
875 the penalty is the greater of \$500 per period or 100% of the entire underpayment.

876 (b) If the commission determines that a person is liable for a penalty imposed under
877 Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the taxpayer of the proposed
878 penalty.

879 (i) The notice of proposed penalty shall:

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

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

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

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

885 or

886 (B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).

887 (iii) ~~Any~~ A person against whom a penalty ~~has been~~ is proposed in accordance with
888 this Subsection (7) may contest the proposed penalty by filing a petition for an adjudicative
889 proceeding with the commission.

890 (iv) (A) If the commission determines that a person is liable for a penalty under this
891 Subsection (7), the commission shall assess the penalty and give notice and demand for
892 payment.

893 (B) The commission shall mail the notice and demand for payment described in
894 Subsection (7)(b)(iv)(A) ~~[shall be mailed by certified mail, postage prepaid,];~~

895 (I) to the person's last-known address[-]; and

896 (II) in accordance with Section 59-1-1404.

897 (c) A seller that voluntarily collects a tax under Subsection 59-12-107(1)(b) is not
898 subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

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

901 (A) the seller meets one or more of the criteria described in Subsection
902 59-12-107(1)(a); and

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

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

906 (A) the seller meets one or more of the criteria described in Subsection
907 59-12-107(1)(a); and

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

910 (d) A seller that voluntarily collects a tax under Subsection 59-12-107(1)(b) is not
911 subject to the penalty under Subsection (7)(a)(ii) if:

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

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

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

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

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

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

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

926 (8) Except as provided in Section 59-12-105, the penalty for failure to file an

927 information return, information report, or a complete supporting schedule is \$50 for each
928 information return, information report, or supporting schedule up to a maximum of \$1,000.

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

933 (10) (a) A seller that fails to remit a tax, fee, or charge monthly as required by
934 Subsection 59-12-108(1)(a)(~~ii~~):

935 (i) is subject to a penalty described in Subsection (2); and

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

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

940 (i) is subject to a penalty described in Subsection (2); and

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

943 (11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:

944 (i) commits an act described in Subsection (11)(b) with respect to one or more of the
945 following documents:

946 (A) a return;

947 (B) an affidavit;

948 (C) a claim; or

949 (D) a document similar to Subsections (11)(a)(i)(A) through (C);

950 (ii) knows or has reason to believe that the document described in Subsection (11)(a)(i)
951 will be used in connection with any material matter administered by the commission; and

952 (iii) knows that the document described in Subsection (11)(a)(i), if used in connection
953 with any material matter administered by the commission, would result in an understatement of
954 another person's liability for a tax, fee, or charge administered by the commission.

955 (b) The following acts apply to Subsection (11)(a)(i):

956 (i) preparing any portion of a document described in Subsection (11)(a)(i);

957 (ii) presenting any portion of a document described in Subsection (11)(a)(i);

958 (iii) procuring any portion of a document described in Subsection (11)(a)(i);
959 (iv) advising in the preparation or presentation of any portion of a document described
960 in Subsection (11)(a)(i);
961 (v) aiding in the preparation or presentation of any portion of a document described in
962 Subsection (11)(a)(i);
963 (vi) assisting in the preparation or presentation of any portion of a document described
964 in Subsection (11)(a)(i); or
965 (vii) counseling in the preparation or presentation of any portion of a document
966 described in Subsection (11)(a)(i).
967 (c) For purposes of Subsection (11)(a), the penalty:
968 (i) shall be imposed by the commission;
969 (ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which
970 the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and
971 (iii) is in addition to any other penalty provided by law.
972 (d) The commission may seek a court order to enjoin a person from engaging in
973 conduct that is subject to a penalty under this Subsection (11).
974 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
975 commission may make rules prescribing the documents that are similar to Subsections
976 (11)(a)(i)(A) through (C).
977 (12) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as
978 provided in Subsections (12)(b) through (e).
979 (b) (i) ~~Any~~ A person who is required by this title or any laws the commission
980 administers or regulates to register with or obtain a license or permit from the commission,
981 who operates without having registered or secured a license or permit, or who operates when
982 the registration, license, or permit is expired or not current, is guilty of a class B misdemeanor.
983 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the
984 penalty may not:
985 (A) be less than \$500; or
986 (B) exceed \$1,000.
987 (c) (i) ~~Any~~ A person who, with intent to evade ~~any~~ a tax or requirement of this title
988 or any lawful requirement of the commission, fails to make, render, sign, or verify ~~any~~ a

989 return or to supply [~~any~~] information within the time required by law, or who makes, renders,
 990 signs, or verifies [~~any~~] a false or fraudulent return or statement, or who supplies [~~any~~] false or
 991 fraudulent information, is guilty of a third degree felony.

992 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(c)(i), the
 993 penalty may not:

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

995 (B) exceed \$5,000.

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

999 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the
 1000 penalty may not:

1001 (A) be less than \$1,500; or

1002 (B) exceed \$25,000.

1003 (e) (i) A person is guilty of a second degree felony if that person commits an act:

1004 (A) described in Subsection (12)(e)(ii) with respect to one or more of the following
 1005 documents:

1006 (I) a return;

1007 (II) an affidavit;

1008 (III) a claim; or

1009 (IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and

1010 (B) subject to Subsection (12)(e)(iii), with knowledge that the document described in
 1011 Subsection (12)(e)(i)(A):

1012 (I) is false or fraudulent as to any material matter; and

1013 (II) could be used in connection with any material matter administered by the
 1014 commission.

1015 (ii) The following acts apply to Subsection (12)(e)(i):

1016 (A) preparing any portion of a document described in Subsection (12)(e)(i)(A);

1017 (B) presenting any portion of a document described in Subsection (12)(e)(i)(A);

1018 (C) procuring any portion of a document described in Subsection (12)(e)(i)(A);

1019 (D) advising in the preparation or presentation of any portion of a document described

1020 in Subsection (12)(e)(i)(A);
1021 (E) aiding in the preparation or presentation of any portion of a document described in
1022 Subsection (12)(e)(i)(A);
1023 (F) assisting in the preparation or presentation of any portion of a document described
1024 in Subsection (12)(e)(i)(A); or
1025 (G) counseling in the preparation or presentation of any portion of a document
1026 described in Subsection (12)(e)(i)(A).
1027 (iii) This Subsection (12)(e) applies:
1028 (A) regardless of whether the person for which the document described in Subsection
1029 (12)(e)(i)(A) is prepared or presented:
1030 (I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or
1031 (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and
1032 (B) in addition to any other penalty provided by law.
1033 (iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the
1034 penalty may not:
1035 (A) be less than \$1,500; or
1036 (B) exceed \$25,000.
1037 (v) The commission may seek a court order to enjoin a person from engaging in
1038 conduct that is subject to a penalty under this Subsection (12)(e).
1039 (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1040 the commission may make rules prescribing the documents that are similar to Subsections
1041 (12)(e)(i)(A)(I) through (III).
1042 (f) The statute of limitations for prosecution for a violation of this Subsection (12) is
1043 the later of six years:
1044 (i) from the date the tax should have been remitted; or
1045 (ii) after the day on which the person commits the criminal offense.
1046 (13) Upon making a record of its actions, and upon reasonable cause shown, the
1047 commission may waive, reduce, or compromise any of the penalties or interest imposed under
1048 this part.
1049 Section 9. Section **59-1-501** is amended to read:
1050 **59-1-501. Procedure for obtaining redetermination of a deficiency -- Claim for**

1051 **refund.**

1052 [Any taxpayer]

1053 (1) As used in this section:

1054 (a) "Legal holiday" is as defined in Section 59-10-518.

1055 (b) "Tax, fee, or charge" is as defined in Section 59-1-1402.

1056 (2) A person may file a request for agency action, petitioning the commission for
1057 redetermination of a deficiency.

1058 (3) Subject to Subsections (4) through (6), a person shall file the request for agency
1059 action described in Subsection (2):

1060 (a) within a 30-day period after the date the commission mails a notice of deficiency to
1061 the person in accordance with Section 59-1-1405; or

1062 (b) within a 90-day period after the date the commission mails a notice of deficiency to
1063 the person in accordance with Section 59-1-1405 if the notice of deficiency is addressed to a
1064 person outside the United States or the District of Columbia.

1065 (4) If the last day of a time period described in Subsection (3) is a Saturday, Sunday, or
1066 legal holiday, the last day for a person to file a request for agency action is the next day that is
1067 not a Saturday, Sunday, or legal holiday.

1068 (5) A person that mails a request for agency action shall mail the request for agency
1069 action in accordance with Section 59-1-1404.

1070 (6) For purposes of Subsection (3), a person is considered to have filed a request for
1071 agency action:

1072 (a) if the person mails the request for agency action, on the date the person is
1073 considered to have mailed the request for agency action in accordance with Section 59-1-1404;
1074 or

1075 (b) if the person delivers the request for agency action to the commission by a method
1076 other than mail, on the date the commission receives the request for agency action.

1077 (7) A person who has not previously filed a timely request for agency action in
1078 accordance with Subsection ~~§~~ (3) may object to a final assessment issued by the
1078a commission by:

1079 (a) paying the tax, fee, or charge; and

1080 (b) filing a claim for a refund as provided in Section 59-1-1410.

1081 Section 10. Section **59-1-703** is amended to read:

1082 **59-1-703. Collection procedure -- Review -- Bond for stay -- Sale of seized**
1083 **property.**

1084 (1) (a) If [~~any liability which~~] an amount that is due and payable under Sections
1085 59-1-701 and 59-1-702 is not paid, the [~~collection shall be made in the same manner as is~~
1086 ~~provided for the collection of delinquent taxes in Sections 59-7-526 and 59-7-527. In addition,~~
1087 ~~the commission may issue a warrant of like terms, force, and effect directed to any legally~~
1088 ~~authorized representative of the commission. In the execution of the warrant the authorized~~
1089 ~~representative shall have all the powers conferred by law upon sheriffs, but is entitled to no fee~~
1090 ~~or compensation in excess of actual expenses paid in the performance of such duty.]~~
1091 commission shall collect that amount in accordance with Part 14, Assessment, Collections, and
1092 Refunds Act.

1093 (b) (i) For purposes of collecting an amount described in Subsection (1)(a), the
1094 commission may issue a warrant.

1095 (ii) The commission may direct the warrant described in Subsection (1)(b)(i) to an
1096 authorized representative of the commission.

1097 (iii) In executing the warrant described in Subsection (1)(b)(i), the authorized
1098 representative described in Subsection (1)(b)(ii):

1099 (A) has all of the powers conferred by law upon a sheriff; and

1100 (B) may not collect a fee or other compensation for executing the warrant other than
1101 the actual expenses paid to execute the warrant.

1102 (2) (a) The appropriateness of [~~any~~] a termination or jeopardy assessment shall be
1103 reviewable under [~~the~~] procedures prescribed by the commission by rule made in accordance
1104 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1105 (b) The amount of [~~any~~] a termination or jeopardy assessment is reviewable only in the
1106 manner prescribed in [~~Title 59,~~] Chapter 1, [~~Parts 5 and 6~~] Part 5, Petitions for Redetermination
1107 of Deficiencies, and Part 6, Judicial Review.

1108 (3) In [~~any~~] a proceeding brought to enforce payment of [~~any~~] a liability made due and
1109 payable [~~by virtue of~~] under this section [~~or~~], Section 59-1-701, or 59-1-702, the finding of the
1110 commission, whether made after notice to the taxpayer or not, [~~shall be for all purposes~~] is
1111 presumptive evidence of jeopardy.

1112 (4) (a) After a petition [~~has been~~] is filed with the commission and when the amount

1113 [~~which~~] that the commission [~~has determined~~] determines to be assessable [~~has become~~]
1114 becomes final, any unpaid portion [~~which has been~~] that is stayed by bond shall be collected as
1115 part of the tax upon notice and demand from the commission[~~, and any remaining portion of~~
1116 ~~the assessment shall be abated~~].

1117 (b) A portion remaining after the commission collects the amount determined to be
1118 assessable under Subsection (4)(a) shall be abated.

1119 (c) If the amount [~~already collected~~] the commission collects in accordance with
1120 Subsection (4)(a) exceeds the amount [~~which~~] that should have been assessed, the excess shall
1121 be credited or refunded to the taxpayer [~~without the filing of claim~~].

1122 (d) If the amount the commission [~~has determined~~] determines to be assessable in
1123 accordance with Subsection (4)(a) is greater than the amount actually assessed, the difference
1124 shall be assessed, and collected as part of the tax, upon notice and demand by the commission.

1125 (5) (a) The commission may abate [~~the~~] a jeopardy assessment if [~~it~~] the commission
1126 finds that jeopardy does not exist. [~~The abatement~~]

1127 (b) An abatement described in Subsection (5)(a) may not be made after a decision of
1128 the commission in respect of the deficiency [~~has been~~] is rendered or, if no petition is filed with
1129 the commission, after the expiration of the period for filing a petition.

1130 (c) The period of limitation on making [~~assessments and levies~~] an assessment or levy
1131 or a proceeding for collection, in respect of [~~any~~] a deficiency, shall be determined as if the
1132 commission had not abated the jeopardy assessment [~~so abated had not been made~~] under
1133 Subsection (5)(a).

1134 (d) The running of the period of limitation on making an assessment or levy or a
1135 proceeding for collection shall be suspended from the date of [~~such~~] a jeopardy [~~assessments~~]
1136 assessment until the expiration of the 10th day after the jeopardy assessment is abated under
1137 this Subsection (5).

1138 (6) (a) The collection of all or [~~any~~] a part of [~~any~~] a jeopardy assessment may be
1139 stayed by [~~filing~~] posting a bond with the commission [~~a bond~~] in the amount and under
1140 conditions established by the commission. [~~The taxpayer has the right to waive the stay~~]

1141 (b) A taxpayer may waive a stay described in Subsection (6)(a) at any time in respect of
1142 all or part of the amount covered by the bond.

1143 (c) If, as a result of [~~the~~] a waiver described in Subsection (6)(b), any part of the

1144 amount covered by the bond is paid, ~~[then the bond shall, at the request of the taxpayer, be~~
1145 ~~proportionately reduced.]~~ the commission shall proportionately reduce the bond at the request
1146 of the taxpayer that waives the stay in accordance with Subsection (6)(b).

1147 (d) If any portion of ~~[the]~~ a jeopardy assessment is abated, or if a notice of deficiency is
1148 mailed to ~~[the]~~ a taxpayer in a lesser amount, the bond shall, at the request of the taxpayer, be
1149 proportionately reduced.

1150 (7) (a) If a bond is ~~[given before the taxpayer has filed his petition pursuant to Chapter~~
1151 ~~4, Part 5,]~~ posted before a taxpayer files a petition for redetermination of a deficiency under
1152 Section 59-1-501, the bond shall contain a condition that the amount of the deficiency
1153 assessment, the collection of which is stayed by the bond, ~~[will]~~ shall be paid on notice and
1154 demand at any time after the expiration of ~~[such period]~~ the stay, together with interest ~~[thereon~~
1155 ~~from]~~ on the deficiency assessment, beginning on the date of the jeopardy notice and demand
1156 ~~[until]~~ and ending on the date of notice and demand under this Subsection (7)(a). ~~[The bond]~~

1157 (b) A bond described in Subsection (7)(a) shall be conditioned upon the payment of
1158 that part of the assessment, ~~[collection of which is stayed by the bond]~~ ~~which is],~~ that is:

1159 (i) not abated by a decision of the commission; and ~~[has become]~~

1160 (ii) final.

1161 (c) If the commission determines that the amount of a deficiency assessed is greater
1162 than the amount ~~[which]~~ that should have been assessed, ~~[then]~~ the bond shall ~~[, at the request~~
1163 ~~of the taxpayer,]~~ be proportionately reduced ~~[when]:~~

1164 (i) at the time the decision of the commission is rendered~~[-];~~ and

1165 (ii) at the request of the taxpayer that posts the bond.

1166 (8) ~~[When]~~ (a) If a jeopardy assessment is made~~[, the]~~ under this section, property
1167 seized for the collection of ~~[the]~~ a tax may not be sold until:

1168 (i) the commission issues a notice of deficiency ~~[is issued];~~ and

1169 (ii) the time for filing a petition for redetermination ~~[has expired. If]~~ expires.

1170 (b) Except as provided in Subsection (8)(c), if a taxpayer files a petition for
1171 redetermination ~~[is filed (whether),]~~ regardless of whether the taxpayer files the petition for
1172 redetermination before or after the ~~[making of]~~ commission makes the jeopardy assessment~~[-]~~,
1173 the property described in Subsection (8)(a) may not be sold until the commission's decision on
1174 the petition ~~[becomes]~~ is final ~~[unless].~~

1175 (c) For purposes of Subsection (8)(b), the property described in Subsection (8)(a) may
1176 be sold if:

1177 (i) the taxpayer consents to the sale[;];

1178 (ii) the commission determines that the expenses of conservation and maintenance of
1179 the property would greatly reduce the net proceeds[;] of the sale; or

1180 (iii) the property is perishable.

1181 Section 11. Section **59-1-1401** is enacted to read:

Part 14. Assessment, Collections, and Refunds Act

59-1-1401. Title.

This part is known as the "Assessment, Collections, and Refunds Act."

Section 12. Section **59-1-1402** is enacted to read:

59-1-1402. Definitions.

As used in this part:

(1) "Administrative cost" means a fee imposed to cover:

(a) the cost of filing;

(b) the cost of administering a garnishment; or

(c) a cost similar to Subsection (1)(a) or (b) as determined by the commission by rule
1192 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) "Books and records" means the following made available in printed or electronic
1194 format:

(a) an account;

(b) a book;

(c) an invoice;

(d) a memorandum;

(e) a paper;

(f) a record; or

(g) an item similar to Subsections (2)(a) through (f) as determined by the commission
1202 by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Deficiency" means:

(a) the amount by which a tax, fee, or charge exceeds the difference between:

(i) the sum of:

- 1206 (A) the amount shown as the tax, fee, or charge by a person on the person's return; and
1207 (B) any amount previously assessed, or collected without assessment, as a deficiency;
1208 and
1209 (ii) any amount previously abated, credited, refunded, or otherwise repaid with respect
1210 to that tax, fee, or charge; or
1211 (b) if a person does not show an amount as a tax, fee, or charge on the person's return,
1212 or if a person does not make a return, the amount by which the tax, fee, or charge exceeds:
1213 (i) the amount previously assessed, or collected without assessment, as a deficiency;
1214 and
1215 (ii) any amount previously abated, credited, refunded, or otherwise repaid with respect
1216 to that tax, fee, or charge.
1217 (4) "Garnishment" means any legal or equitable procedure through which one or more
1218 of the following are required to be withheld for payment of an amount a person owes:
1219 (a) an asset of the person held by another person; or
1220 (b) the earnings of the person.
1221 (5) "Liability" means the following that a person is required to remit to the
1222 commission:
1223 (a) a tax, fee, or charge;
1224 (b) an addition to a tax, fee, or charge;
1225 (c) an administrative cost;
1226 (d) interest that accrues in accordance with Section 59-1-402; or
1227 (e) a penalty that accrues in accordance with Section 59-1-401.
1228 (6) (a) Subject to Subsection (6)(b), "mathematical error" is as defined in Section
1229 6213(g)(2), Internal Revenue Code.
1230 (b) The reference to Section 6213(g)(2), Internal Revenue Code, in Subsection (6)(a)
1231 means:
1232 (i) the reference to Section 6213(g)(2), Internal Revenue Code, in effect for the taxable
1233 year; or
1234 (ii) a corresponding or comparable provision of the Internal Revenue Code as
1235 amended, redesignated, or reenacted.
1236 (7) (a) Except as provided in Subsection (7)(b), "tax, fee, or charge" means a tax, fee,

- 1237 or charge the commission administers under:
- 1238 (i) this title;
- 1239 (ii) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 1240 (iii) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- 1241 (iv) Section 19-6-410.5;
- 1242 (v) Section 19-6-714;
- 1243 (vi) Section 19-6-805;
- 1244 (vii) Section 69-2-5;
- 1245 (viii) Section 69-2-5.5; or
- 1246 (ix) Section 69-2-5.6.
- 1247 (b) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:
- 1248 (i) Chapter 2, Property Tax Act;
- 1249 (ii) Chapter 3, Tax Equivalent Property Act; or
- 1250 (iii) Chapter 4, Privilege Tax.
- 1251 (8) "Transferee" means:
- 1252 (a) a devisee;
- 1253 (b) a distributee;
- 1254 (c) a donee;
- 1255 (d) an heir;
- 1256 (e) a legatee; or
- 1257 (f) a person similar to Subsections (8)(a) through (e) as determined by the commission
- 1258 by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 1259 Section 13. Section **59-1-1403** is enacted to read:
- 1260 **59-1-1403. Commission to collect a tax, fee, or charge -- Receipt for tax, fee, or**
- 1261 **charge paid -- Additional remedies -- Collection agents and counsel -- Action by attorney**
- 1262 **general or county attorney -- Commission rulemaking authority.**
- 1263 (1) Except as otherwise provided in this title, the commission shall collect a tax, fee, or
- 1264 charge.
- 1265 (2) The commission may designate an agent to collect a tax, fee, or charge.
- 1266 (3) The commission shall, upon request, give a receipt for a tax, fee, or charge the
- 1267 commission collects.

1268 (4) (a) A remedy provided in this part is in addition to other existing remedies.
1269 (b) An action taken by the commission may not be construed to be an election on the
1270 part of the state or an officer of the state to pursue a remedy under this part to the exclusion of
1271 another remedy.

1272 (5) The commission may:
1273 (a) retain counsel for the purpose of collecting an amount the commission assesses
1274 against a person who is not a resident of this state;

1275 (b) establish the compensation of an agent described in Subsection (2) or counsel
1276 described in Subsection (5)(a) to be paid out of money appropriated or otherwise lawfully
1277 available for payment to the agent or counsel; and

1278 (c) require a bond or other security for an agent described in Subsection (2) or counsel
1279 described in Subsection (5)(a) in a form and amount the commission considers appropriate.

1280 (6) (a) The commission shall represent the state in a matter pertaining to the collection
1281 of a tax, fee, or charge.

1282 (b) The commission may institute a proceeding to enforce a judgment allowing for the
1283 collection of a liability in the district court of a county in which is located a portion of property
1284 against which collection is sought.

1285 (c) For purposes of Subsection (6)(b), the commission may request that the following
1286 assist the commission:

1287 (i) the attorney general; or

1288 (ii) a county attorney.

1289 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1290 commission may by rule establish a collection procedure:

1291 (a) in addition to the methods of collecting a liability provided in this title;

1292 (b) that is consistent with this part;

1293 (c) that uses a return, warrant, or other reasonable document or method; and

1294 (d) that is necessary in collecting a liability.

1295 Section 14. Section **59-1-1404** is enacted to read:

1296 **59-1-1404. Definition -- Mailing procedures -- Rulemaking authority --**

1297 **Commission mailing requirements.**

1298 (1) As used in this section, "Section 7502, Internal Revenue Code" means:

- 1299 (a) Section 7502, Internal Revenue Code, in effect for the taxable year; or
1300 (b) a corresponding or comparable provision to Section 7502, Internal Revenue Code,
1301 as amended, redesignated, or reenacted.
- 1302 (2) If the commission or a person is required to mail a document under this part:
1303 (a) the commission or the person shall mail the document using:
1304 (i) the United States Postal Service; or
1305 (ii) a delivery service the commission describes or designates in accordance with any
1306 rules the commission makes as authorized by Subsection (3); and
1307 (b) the document is considered to be mailed:
1308 (i) for a document that is mailed using the method described in Subsection (2)(a)(i), on
1309 the date the document is postmarked; or
1310 (ii) for a document that is mailed using the method described in Subsection (2)(a)(ii),
1311 on the date the delivery service records or marks the document as having been received by the
1312 delivery service for delivery in accordance with any rules the commission makes as authorized
1313 by Subsection (3).
- 1314 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1315 commission may make rules:
1316 (a) describing or designating one or more delivery services the commission or a person
1317 may use to mail a document under this part if a delivery service the commission describes or
1318 specifies is consistent with the definition of "designated delivery service" in Section 7502,
1319 Internal Revenue Code; or
1320 (b) providing procedures or requirements for determining the date a delivery service
1321 records or marks a document as having been received by the delivery service for delivery if
1322 those rules are consistent with Section 7502, Internal Revenue Code.
- 1323 (4) Subject to Subsection (5), if the commission is required to mail a notice to a person
1324 under this part, the commission shall mail the notice to the person at the person's last-known
1325 address as shown on the records of the commission.
- 1326 (5) In the case of a joint return filed by a husband and wife under Chapter 10,
1327 Individual Income Tax Act, if the commission is notified in writing by either spouse that
1328 separate residences have been established, the commission shall mail a duplicate of the joint
1329 notice to each spouse at each spouse's last-known address.

1330 Section 15. Section **59-1-1405** is enacted to read:

1331 **59-1-1405. Notice of deficiency -- Notice of assessment -- Amended return --**

1332 **Exception.**

1333 (1) Except as provided in Subsection (3) or (5), the commission shall mail a notice of
1334 deficiency to a person in accordance with Section 59-1-1404 if the commission finds there is:

1335 (a) a deficiency in a tax, fee, or charge imposed; or

1336 (b) an increase or decrease in a deficiency.

1337 (2) A notice of deficiency described in Subsection (1) shall contain:

1338 (a) the details of the deficiency; and

1339 (b) the manner of computing the tax.

1340 (3) If the commission estimates an amount of tax, fee, or charge due under Subsection
1341 59-1-1406(2), the commission:

1342 (a) shall mail a notice of deficiency:

1343 (i) to the person for which the commission estimates the amount of tax, fee, or charge
1344 due; and

1345 (ii) in accordance with Section 59-1-1404; or

1346 (b) shall:

1347 (i) mail a notice to the person for which the commission estimates the amount of tax,
1348 fee, or charge due:

1349 (A) that the amount the commission estimates as a tax, fee, or charge is an assessment;

1350 and

1351 (B) in accordance with Section 59-1-1404; and

1352 (ii) provide in the notice described in Subsection (3)(b)(i) that if the person files an
1353 amended return within the time period provided in Section 59-1-1410, the commission shall
1354 replace the assessment with the amount shown on the person's amended return.

1355 (4) If the commission mails notice to a person under Subsection (3)(b), the person may
1356 file an amended return within the period provided in Section 59-1-1410 to replace the
1357 assessment of tax.

1358 (5) If the commission makes a jeopardy assessment under Part 7, Termination and
1359 Jeopardy Assessments Procedure:

1360 (a) the commission is not required to mail a notice of deficiency described in

1361 Subsection (1) to the person against which the commission makes the jeopardy assessment; and
1362 (b) the jeopardy assessment is subject to the procedures and requirements of Part 7,
1363 Termination and Jeopardy Assessments Procedure.

1364 Section 16. Section **59-1-1406** is enacted to read:

1365 **59-1-1406. Record retention -- Commission estimates tax if person fails to file a**
1366 **return.**

1367 (1) A person subject to a tax, fee, or charge shall:

1368 (a) keep in a form prescribed by the commission books and records that are necessary
1369 to determine the amount of a tax, fee, or charge the person owes;

1370 (b) keep books and records described in Subsection (1)(a) for the time period during
1371 which an assessment may be made under Section 59-1-1408; and

1372 (c) open the person's books and records for examination at any time by:

1373 (i) the commission; or

1374 (ii) an agent or representative the commission designates.

1375 (2) (a) If a person required to file a return with the commission fails to file the return
1376 with the commission, the commission may estimate the tax, fee, or charge due from the best
1377 information or knowledge the commission can obtain.

1378 (b) An estimate the commission makes under Subsection (2)(a) is considered to be a
1379 return filed on the date the commission makes the estimate.

1380 (3) For the purpose of ascertaining the correctness of a return or for estimating a tax,
1381 fee, or charge due in accordance with Subsection (2)(a), the commission may:

1382 (a) examine the books and records bearing upon the matter required to be included in a
1383 return;

1384 (b) authorize an agent or representative designated by the commission to examine the
1385 books and records bearing upon the matter required to be included in a return;

1386 (c) require the attendance of:

1387 (i) an officer or employee of a person required to make a return; or

1388 (ii) a person having knowledge of a pertinent fact;

1389 (d) take testimony; or

1390 (e) require any other necessary information.

1391 Section 17. Section **59-1-1407** is enacted to read:

1392 **59-1-1407. Mathematical errors.**

1393 (1) The commission shall correct a mathematical error.

1394 (2) The commission shall provide notice to a person if:

1395 (a) because of a mathematical error appearing on a return, an amount of tax, fee, or

1396 charge in excess of that shown upon the return is due; and

1397 (b) an assessment of the amount of tax, fee, or charge is or will be made on the basis of

1398 what would have been the correct amount of tax, fee, or charge but for the mathematical error.

1399 (3) The notice required by Subsection (2):

1400 (a) shall describe the mathematical error; and

1401 (b) is not considered to be a notice of deficiency.

1402 (4) For purposes of Subsection (2):

1403 (a) there is no restriction upon the assessment and collection of an amount of tax, fee,

1404 or charge described in Subsection (2); and

1405 (b) the person described in Subsection (2) does not have a right to:

1406 (i) file a petition to the commission on the basis of a notice provided under Subsection

1407 (2); or

1408 (ii) apply for review by a district court or the Utah Supreme Court of the determination

1409 of a mathematical error by the commission.

1410 Section 18. Section **59-1-1408** is enacted to read:

1411 **59-1-1408. Assessments.**

1412 (1) Except as provided in Subsections (2) through (4), an assessment is made on the
1413 date a liability is posted to the records of the commission.

1414 (2) Except as provided in Subsection (4), for purposes of a liability for which the

1415 commission mails a notice of deficiency to a person in accordance with Section 59-1-1405, an

1416 assessment is made:

1417 (a) if a person has not filed a petition for redetermination of a deficiency under Section

1418 59-1-501, on the date:

1419 (i) (A) 30 days after the day on which the commission mails the notice of deficiency to

1420 the person; or

1421 (B) 90 days after the day on which the commission mails the notice of deficiency to the

1422 person if the notice is addressed to a person outside the United States or the District of

1423 Columbia; or
1424 (ii) the person in writing:
1425 (A) agrees with the commission on the existence and amount of the liability; and
1426 (B) consents to the assessment of the liability; or
1427 (b) if a person files a petition for redetermination of a deficiency under Section
1428 59-1-501, on the date the liability resulting from a final commission decision is posted to the
1429 records of the commission.
1430 (3) Except as provided in Subsection (4), for purposes of a notice of proposed penalty
1431 under Section 59-1-302 or Subsection 59-1-401(7), an assessment is made:
1432 (a) if a person has not filed a petition for redetermination of a deficiency under Section
1433 59-1-501, on the date:
1434 (i) (A) 30 days after the day on which the commission mails the notice of proposed
1435 penalty to the person; or
1436 (B) 90 days after the day on which the commission mails the notice of proposed
1437 penalty to the person if the notice is addressed to a person outside the United States or the
1438 District of Columbia; or
1439 (ii) the person in writing:
1440 (A) agrees with the commission on the existence and amount of the liability; and
1441 (B) consents to the assessment of the liability; or
1442 (b) if a person files a petition for redetermination of a deficiency under Section
1443 59-1-501, on the date the liability resulting from a final commission decision is posted to the
1444 records of the commission.
1445 (4) In the case of interest under Section 59-1-402 that accrues to a tax, fee, or charge,
1446 an assessment is considered to have been made on the date the tax, fee, or charge is assessed.
1447 (5) The commission may at any time within the time period prescribed for assessment
1448 under Section 59-1-1410, increase or decrease an assessment if the commission ascertains that
1449 the assessment is imperfect or incomplete in a material respect.
1450 Section 19. Section **59-1-1409** is enacted to read:
1451 **59-1-1409. Definition -- Recomputation of amounts due -- Refunds allowed.**
1452 (1) As used in this section, "overpayment" means the amount by which a tax, fee, or
1453 charge a person pays exceeds the amount of tax, fee, or charge the person owes.

1454 (2) If the commission determines that the correct amount of a tax, fee, or charge a
1455 person is required to remit is greater or less than the amount shown to be due on a return, the
1456 commission shall:

1457 (a) recompute the tax, fee, or charge; and

1458 (b) mail notice to the person:

1459 (i) that the commission recomputed the tax, fee, or charge; and

1460 (ii) in accordance with Section 59-1-1404.

1461 (3) If the amount of a tax, fee, or charge a person pays exceeds the amount of tax, fee,
1462 or charge the person owes, the commission shall:

1463 (a) credit the overpayment against any liability the person owes; and

1464 (b) refund any balance to:

1465 (i) the person; or

1466 (ii) (A) the person's assign;

1467 (B) the person's personal representative;

1468 (C) the person's successor; or

1469 (D) a person similar to Subsections (3)(b)(ii)(A) through (C) as determined by the
1470 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1471 Rulemaking Act.

1472 (4) The commission may not credit or refund interest on an overpayment to a person if
1473 the commission determines that the overpayment was made for the purpose of investment.

1474 (5) If the commission erroneously determines an amount of tax, fee, or charge to be
1475 due from a person, the commission shall:

1476 (a) authorize the amount to be cancelled upon the commission's records; and

1477 (b) mail notice to the person:

1478 (i) that the commission cancelled the amount upon the commission's records; and

1479 (ii) in accordance with Section 59-1-1404.

1480 Section 20. Section **59-1-1410** is enacted to read:

1481 **59-1-1410. Action for collection of tax, fee, or charge -- Action for refund or credit**
1482 **of tax, fee, or charge -- Denial of refund claim under appeal -- Appeal of denied refund**
1483 **claim.**

1484 (1) (a) Except as provided in Subsections (3) through (7) and Sections 59-5-114,

1485 59-7-519, 59-10-536, and 59-11-113, the commission shall assess a tax, fee, or charge within
1486 three years after the day on which a person files a return.

1487 (b) Except as provided in Subsections (3) through (7), if the commission does not
1488 assess a tax, fee, or charge within the three-year period provided in Subsection (1)(a), the
1489 commission may not commence a proceeding to collect the tax, fee, or charge.

1490 (2) (a) Except as provided in Subsection (2)(b), for purposes of this part, a return filed
1491 before the last day prescribed by statute or rule for filing the return is considered to be filed on
1492 the last day for filing the return.

1493 (b) A return of withholding tax under Chapter 10, Part 4, Withholding of Tax, is
1494 considered to be filed on April 15 of the succeeding calendar year if the return:

1495 (i) is for a period ending with or within a calendar year; and

1496 (ii) is filed before April 15 of the succeeding calendar year.

1497 (3) The commission may assess a tax, fee, or charge or commence a proceeding for the
1498 collection of a tax, fee, or charge at any time if:

1499 (a) a person:

1500 (i) files a:

1501 (A) false return with intent to evade; or

1502 (B) fraudulent return with intent to evade; or

1503 (ii) fails to file a return; or

1504 (b) the commission estimates the amount of tax, fee, or charge due in accordance with
1505 Subsection 59-1-1406(2).

1506 (4) The commission may extend the period to make an assessment or to commence a
1507 proceeding to collect a tax, fee, or charge if:

1508 (a) the three-year period under Subsection (1) has not expired; and

1509 (b) the commission and the person sign a written agreement:

1510 (i) authorizing the extension; and

1511 (ii) providing for the length of the extension.

1512 (5) The commission may make an assessment as provided in Subsection (6) if:

1513 (a) the commission delays an audit at the request of a person;

1514 (b) the person subsequently refuses to agree to an extension request by the commission;

1515 and

1516 (c) the three-year period under Subsection (1) expires before the commission
1517 completes the audit.

1518 (6) An assessment under Subsection (5) shall be:

1519 (a) for the time period for which the commission could not make the assessment
1520 because of the expiration of the three-year period; and

1521 (b) in an amount equal to the difference between:

1522 (i) the commission's estimate of the amount of tax, fee, or charge the person would
1523 have been assessed for the time period described in Subsection (6)(a); and

1524 (ii) the amount of tax, fee, or charge the person actually paid for the time period
1525 described in Subsection (6)(a).

1526 (7) If a person pays a liability more than once or the commission erroneously receives,
1527 collects, or computes a liability, the commission shall:

1528 (a) credit the liability against any amount of liability the person owes; and

1529 (b) refund any balance to:

1530 (i) the person; or

1531 (ii) (A) the person's assign;

1532 (B) the person's personal representative;

1533 (C) the person's successor; or

1534 (D) a person similar to Subsections (7)(b)(ii)(A) through (C) as determined by the
1535 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1536 Rulemaking Act.

1537 (8) (a) Except as provided in Subsection (8)(b) or Section 19-2-124, 59-7-522,
1538 59-10-529, or 59-12-110, the commission may not make a credit or refund unless a person files
1539 a claim with the commission within the later of:

1540 (i) three years from the due date of the return, including the period of any extension of
1541 time provided in statute for filing the return; or

1542 (ii) two years from the date the tax was paid.

1543 (b) The commission shall extend the time period for a person to file a claim under
1544 Subsection (8)(a) if:

1545 (i) the time period described in Subsection (8)(a) has not expired; and

1546 (ii) the commission and the person sign a written agreement:

- 1547 (A) authorizing the extension; and
1548 (B) providing for the length of the extension.
1549 (9) If the commission denies a claim for a credit or refund, a person may request a
1550 redetermination of the denial by filing a petition or request for agency action with the
1551 commission:
1552 (a) (i) within a 30-day period after the day on which the commission mails a notice of
1553 denial for the claim for credit or refund; or
1554 (ii) within a 90-day period after the day on which the commission mails a notice of
1555 denial for the claim for credit or refund, if the notice is addressed to a person outside the
1556 United States or the District of Columbia; and
1557 (b) in accordance with:
1558 (i) Section 59-1-501; and
1559 (ii) Title 63G, Chapter 4, Administrative Procedures Act.
1560 (10) The action of the commission on a person's petition for redetermination of a denial
1561 of a claim for credit or refund is final 30 days after the day on which the commission sends the
1562 commission's decision or order, unless the person seeks judicial review.
1563 Section 21. Section **59-1-1411** is enacted to read:
1564 **59-1-1411. Notice and demand.**
1565 (1) The commission shall as soon as practicable mail notice and demand to a person
1566 who owes a liability that has been assessed but remains unpaid.
1567 (2) (a) The notice and demand required by Subsection (1) shall:
1568 (i) except as provided in Subsection (2)(b), state the amount of the liability;
1569 (ii) demand payment of the liability; and
1570 (iii) be mailed in accordance with Section 59-1-1404.
1571 (b) For purposes of Subsection (2)(a)(i), the notice and demand shall:
1572 (i) state the amount of interest and penalties that have accrued as of the date of the
1573 notice and demand; and
1574 (ii) include a statement that interest and penalties may continue to accrue in accordance
1575 with Sections 59-1-401 and 59-1-402.
1576 (3) Payment for a liability may not be demanded before the last day prescribed for
1577 payment of the liability, including an extension, unless the commission determines under

1578 Section 59-1-701 that collection of the liability would be jeopardized by delay.

1579 (4) Upon issuance of the notice and demand described in this section, a person that
1580 owes a liability shall pay the liability at the place and time stated in the notice and demand.

1581 Section 22. Section **59-1-1412** is enacted to read:

1582 **59-1-1412. Applicability of section -- Delinquent payment -- Notice to third**
1583 **parties.**

1584 (1) (a) Except as provided in Subsection (1)(b), this section applies to a delinquency in
1585 the payment of a liability.

1586 (b) This section does not apply to a garnishment.

1587 (2) If a person is delinquent in the payment of a liability, the commission may mail
1588 notice of the amount of the delinquency:

1589 (a) to a person that at the time of the receipt of the notice has in that person's
1590 possession, under that person's control, or owing to that person:

1591 (i) a credit of the person owing the liability;

1592 (ii) personal property of the person owing the liability; or

1593 (iii) a debt of the person owing the liability; and

1594 (b) in accordance with Section 59-1-1404.

1595 (3) A person to which the commission mails notice in accordance with this section
1596 shall, within ten days after the date the commission mails the notice, advise the commission of
1597 the following in the person's possession, under the person's control, or owing to the person:

1598 (a) a credit of the person owing the liability;

1599 (b) personal property of the person owing the liability; or

1600 (c) a debt of the person owing the liability.

1601 (4) A person to which the commission mails notice in accordance with this section may
1602 not transfer or make any other disposition of a credit, personal property, or debt described in
1603 Subsection (3) until the sooner of:

1604 (a) the commission consents to the transfer or disposition; or

1605 (b) 20 days elapse after the day on which the person provides the commission the
1606 information required by Subsection (3).

1607 Section 23. Section **59-1-1413** is enacted to read:

1608 **59-1-1413. Lien for a liability.**

1609 (1) In addition to Section 40-6-14, 59-5-108, 59-5-208, 59-11-110, 59-12-112,
1610 59-13-302, or 59-13-311, if a person that owes a liability fails to pay that liability after the
1611 commission mails notice and demand under Section 59-1-1411, the amount of liability, plus
1612 any administrative cost, is a lien in favor of the state upon all property and rights to property,
1613 whether real or personal, belonging to that person.

1614 (2) Unless another date is specifically established by law, the lien imposed by this
1615 section:

1616 (a) arises at the time the commission makes the assessment of the tax, fee, or charge
1617 that is part of the liability; and

1618 (b) continues until the liability and administrative costs described in Subsection (1), or
1619 a judgment against the person arising from that liability and administrative costs:

1620 (i) is satisfied; or

1621 (ii) is unenforceable because the time period described in Subsection 59-1-1414(8) has
1622 elapsed.

1623 Section 24. Section **59-1-1414** is enacted to read:

1624 **59-1-1414. Notice of lien -- Filing of warrant with district court -- Levy for unpaid**
1625 **liability -- Entering of warrant on judgment docket -- Effect of lien -- Notice**
1626 **requirements after filing warrant.**

1627 (1) Except as provided in Subsections (3) and (4), if a person who owes a liability fails
1628 to pay that liability within 30 days after the day on which the commission mails notice and
1629 demand under Section 59-1-1411, the commission may:

1630 (a) file a warrant with the clerk of:

1631 (i) except as provided in Subsection (1)(a)(ii), the district court of any county in which
1632 that person has real or personal property; or

1633 (ii) if the person is not a resident of this state, the Third District Court in Salt Lake
1634 City; or

1635 (b) issue a warrant in duplicate under its official seal directed to the sheriff of a county
1636 requiring the sheriff to:

1637 (i) levy upon and sell the person's real and personal property for the payment of the
1638 liability, plus the cost of executing the warrant; and

1639 (ii) return to the commission within 60 days:

1640 (A) the warrant; and
1641 (B) the money collected under the warrant.
1642 (2) (a) A sheriff that receives a warrant under Subsection (1) shall within five days file
1643 a duplicate copy of the warrant with the clerk of the district court of the appropriate county.
1644 (b) (i) The sheriff shall execute the warrant in the same manner prescribed by law for
1645 an execution issued against property in accordance with a judgment by a court.
1646 (ii) An execution of a warrant described in Subsection (2)(b)(i) has the same effect as
1647 an execution issued against property in accordance with a judgment by a court.
1648 (iii) A sheriff that executes a warrant under Subsection (2)(b)(i) shall receive fees for
1649 the sheriff's services in executing the warrant as if the sheriff were executing a judgment by a
1650 court.
1651 (3) The commission may file a warrant without regard to the 30-day period provided in
1652 Subsection (1) if the commission finds that the collection of a liability that a person owes is in
1653 jeopardy.
1654 (4) The commission may not file a warrant under this section more than three years
1655 after the assessment of the tax, fee, or charge that is a portion of a liability.
1656 (5) A clerk of a district court that receives a warrant under this section shall enter in the
1657 judgment docket:
1658 (a) in the column for judgment debtors, the name of the person stated in the warrant;
1659 and
1660 (b) in appropriate columns:
1661 (i) the amount for which the warrant is filed; and
1662 (ii) the date the warrant is filed.
1663 (6) Notwithstanding Section 78B-5-202, the liability that serves as the basis for a
1664 warrant is a binding lien upon the real, personal, and other property of the person to the same
1665 extent as other judgments docketed in the office of the clerk of the district court.
1666 (7) When a warrant is filed with the clerk of a district court in accordance with this
1667 section, the commission is considered to have obtained a judgment against a person for a
1668 liability.
1669 (8) Notwithstanding Section 78B-5-202, a judgment described in Subsection (7) is
1670 effective for a period ending ten years after the date the amount for which the warrant is filed is

1671 assessed in accordance with Section 59-1-1408.

1672 (9) The commission may not renew a judgment described in Subsection (7).

1673 (10) The commission may authorize an action or proceeding to collect or enforce a
1674 judgment described in Subsection (7) in any place and by any procedure that a civil judgment
1675 of the Utah Supreme Court may be collected or enforced if:

1676 (a) a warrant is filed under this section against a person who is not a resident of this
1677 state; and

1678 (b) the commission determines that the person does not have sufficient real or personal
1679 property in the state to pay the person's liability.

1680 (11) After filing a warrant under Section 59-1-1414, the commission shall follow the
1681 notice requirements of Section 38-12-102.

1682 Section 25. Section **59-1-1415** is enacted to read:

1683 **59-1-1415. Release of lien.**

1684 The commission may release property from a lien placed under this part:

1685 (1) if the commission determines that the interests of the state will not be jeopardized
1686 by the release; and

1687 (2) under conditions the commission may require.

1688 Section 26. Section **59-1-1416** is enacted to read:

1689 **59-1-1416. Transferees.**

1690 (1) (a) If a transferee is obligated at law or equity for an amount of a liability of a
1691 person that originally owes a liability, the transferee is subject to this part for the assessment,
1692 payment, and collection of the amount of the liability for which the transferee has an
1693 obligation.

1694 (b) The period of limitations for an assessment against a transferee is extended:

1695 (i) subject to the other provisions of this section, by one year for each successive
1696 transfer:

1697 (A) in the order of transfer; and

1698 (B) beginning from the person that originally owes the liability to the transferee
1699 involved; and

1700 (ii) by not more than three years in the aggregate.

1701 (2) (a) Subject to Subsection (2)(b), if before the expiration of the period of limitations

1702 for assessment against a transferee, the commission files a claim in court against the person
1703 that originally owes the liability or the last preceding transferee, based upon the liability the
1704 person originally owes, the period of limitation for assessment against the transferee may not
1705 expire before one year after the claim is finally allowed, disallowed, or otherwise disposed of.

1706 (b) (i) Subject to Subsection (2)(b)(ii), if before expiration of the time period described
1707 in Subsection (1)(b) or (2)(a) for an assessment against a transferee, the commission and the
1708 transferee agree in writing to an assessment after the time period described in Subsection (1)(b)
1709 or (2)(a), the commission may make an assessment against the transferee at any time before the
1710 expiration of the time period to which the commission and transferee agree in writing.

1711 (ii) A time period that the commission and a transferee agree upon in writing in
1712 accordance with Subsection (2)(b)(i) may be extended by written agreement:

1713 (A) between the commission and the transferee; and

1714 (B) made before the expiration of the time period that the commission and the
1715 transferee previously agreed upon.

1716 (c) An agreement described in Subsection (2)(b)(i) or an extension described in
1717 Subsection (2)(b)(ii) is considered to be an agreement or extension described in Section
1718 59-1-1410 for purposes of determining the period of limitation on a credit or refund to a
1719 transferee of an overpayment of a liability:

1720 (i) made by:

1721 (A) the transferee; or

1722 (B) the transferor; and

1723 (ii) for which the transferee is allowed a credit or refund.

1724 (d) If an agreement described in Subsection (2)(b)(i) or an extension described in
1725 Subsection (2)(b)(ii) is executed after the expiration of the period of limitation for assessment
1726 against the person that originally owes a liability, the time period in which a credit or refund
1727 may be claimed shall be increased by the time period:

1728 (i) beginning on the date of the expiration of the period of limitation for assessment
1729 against the person that originally owes the liability; and

1730 (ii) ending on the date the agreement described in Subsection (2)(b)(i) or the extension
1731 described in Subsection (2)(b)(ii) is executed.

1732 (3) If the person that originally owes a liability is deceased, the period of limitation for

1733 assessment of a liability against that person is the period that would be in effect had the person
1734 lived.

1735 (4) (a) Subject to Subsection (4)(b) and notwithstanding Section 59-1-403, the
1736 commission shall make available to a transferee information necessary to enable the transferee
1737 to determine the liability:

1738 (i) of the person that originally owes the liability; or

1739 (ii) a preceding transferee owes.

1740 (b) The commission may not take an action under Subsection (4)(a) that imposes an
1741 undue hardship to the person that originally owes the liability or a preceding transferee.

1742 Section 27. Section **59-1-1417** is enacted to read:

1743 **59-1-1417. Burden of proof.**

1744 In a proceeding before the commission, the burden of proof is on the petitioner except
1745 for determining the following, in which the burden of proof is on the commission:

1746 (1) whether the petitioner committed fraud with intent to evade a tax, fee, or charge;

1747 (2) whether the petitioner is obligated as the transferee of property of the person that
1748 originally owes a liability or a preceding transferee, but not to show that the person that
1749 originally owes a liability is obligated for the liability; and

1750 (3) whether the petitioner is liable for an increase in a deficiency if the increase is
1751 asserted initially after a notice of deficiency is mailed in accordance with Section 59-1-1405
1752 and a petition under Part 5, Petitions for Redetermination of Deficiencies, is filed, unless the
1753 increase in the deficiency is the result of a change or correction of federal taxable income:

1754 (a) required to be reported; and

1755 (b) of which the commission has no notice at the time the commission mails the notice
1756 of deficiency.

1757 Section 28. Section **59-1-1418** is enacted to read:

1758 **59-1-1418. Suspension of running of statute of limitations.**

1759 (1) The time period allowed for making an assessment or commencing a proceeding
1760 under Section 59-1-1410 shall be extended by the time period during which the commission is
1761 prohibited by law from making an assessment or commencing a proceeding for collection, plus
1762 60 days.

1763 (2) The time period allowed for commencing a proceeding under Section 59-1-1410

1764 shall be extended by the time period during which the commencement of the proceeding is
 1765 stayed by injunction or statutory prohibition.

1766 Section 29. Section **59-1-1419** is enacted to read:

1767 **59-1-1419. Venue** ~~§~~ **-- Section does not affect right to seek judicial review.** ~~←§~~ .

1768 ~~§~~ **→ (1)** ~~←§~~ If the commission commences a proceeding relating to the following, the venue is the
 1769 Third District Court in Salt Lake City:

1770 ~~§~~ **→** ~~(1)~~ **(a)** ~~←§~~ failure to pay a liability;

1771 ~~§~~ **→** ~~(2)~~ **(b)** ~~←§~~ failure to file a return; or

1772 ~~§~~ **→** ~~(3)~~ **(c)** ~~←§~~ failure to supply information.

1772a ~~§~~ **→ (2) Nothing in this section affects a right to seek judicial review in accordance with Part 6,**
 1772b **Judicial Review.** ~~←§~~

1773 Section 30. Section **59-6-104** is amended to read:

1774 **59-6-104. Commission administration of chapter -- Rulemaking authority.**

1775 ~~[(1) The provisions of Title 59, Chapter 10, applicable to withholding of taxes by~~
 1776 ~~employers under Title 59, Chapter 10, Part 4, relating to records, penalties, interest,~~
 1777 ~~deficiencies, overpayments, refunds, assessments, venue, and civil and criminal penalties are~~
 1778 ~~applicable to the withholding and payment of withheld taxes under this chapter to the extent~~
 1779 ~~that those provisions are consistent with this chapter.]~~

1780 (1) To the extent the following are consistent with this chapter, the commission shall
 1781 administer this chapter in accordance with:

1782 (a) Chapter 1, General Taxation Policies; and

1783 (b) Chapter 10, Part 4, Withholding of Tax.

1784 ~~(2) [The commission may adopt rules pursuant to]~~ In accordance with Title 63G,
 1785 Chapter 3, [the] Utah Administrative Rulemaking Act, the commission may make rules
 1786 necessary to effectuate the purposes of this chapter.

1787 Section 31. Section **59-7-519** is amended to read:

1788 **59-7-519. Period of limitation for making assessments -- Change, correction, or**
 1789 **amendment of federal income tax -- Duty of corporation to notify state -- Extensions.**

1790 (1) (a) [Except as provided in Section 59-7-520, the] Subject to the other provisions of
 1791 this section, the amount of taxes imposed by this chapter shall be assessed within three years
 1792 after [the] a return [was] is filed[; and no proceeding in the court].

1793 (b) After the expiration of the time period described in Subsection (1)(a), a proceeding
 1794 in court may not be made without assessment for the collection of ~~[such taxes shall be begun~~

1795 ~~after the expiration of such period]~~ the taxes described in Subsection (1)(a).

1796 (2) In the case of a deficiency attributable to the application of a net loss carryback,
1797 ~~[this]~~ the deficiency may be assessed at any time before the expiration of the period within
1798 which a deficiency for the taxable year of the net loss ~~[which]~~ that results in the carryback may
1799 be assessed.

1800 (3) If the amount of federal taxable income for any year of any corporation as returned
1801 to the United States treasury department is changed or corrected by the commissioner of
1802 internal revenue or other officer of the United States or other competent authority, or where a
1803 renegotiation of a contract or subcontract with the United States results in a change of federal
1804 taxable income, ~~[that]~~ a taxpayer shall:

1805 (a) report the change or corrected net income within 90 days after the final
1806 determination of the change or correction as required to the commission; and ~~[shall]~~

1807 (b) concede the accuracy of the determination or state ~~[wherein it]~~ where the
1808 determination is erroneous.

1809 (4) Any corporation filing an amended return with the United States treasury
1810 department shall also file, within 90 days ~~[thereafter]~~ after the corporation files the amended
1811 return with the United States treasury department, an amended return with the commission
1812 ~~[which shall contain]~~ that contains the information ~~[as it shall require]~~ the commission
1813 requires.

1814 ~~[(4)]~~ (5) If a corporation fails to report a change or correction by the commissioner of
1815 internal revenue, other officer of the United States, or other competent authority or fails to file
1816 an amended return, any deficiency resulting from the ~~[adjustments]~~ change or correction may
1817 be assessed and collected within three years after ~~[said]~~ the change, correction, or amended
1818 return is reported to or filed with the federal government.

1819 ~~[(5)]~~ (6) If any corporation agrees with the commissioner of internal revenue for an
1820 extension, or ~~[renewals thereof]~~ a renewal of an extension, of the period for proposing and
1821 assessing deficiencies in federal income tax for any year, the period for sending ~~[notices]~~ a
1822 notice of proposed Utah tax deficiencies for [such year shall be] that year is the later of:

1823 (a) three years after the return ~~[was]~~ is filed; or

1824 (b) six months after the date of the expiration of the agreed period for assessing
1825 deficiencies in federal income tax ~~[, whichever period expires the later].~~

1826 (7) The extensions described in Section 59-1-1418 apply to this section.

1827 Section 32. Section **59-7-522** is amended to read:

1828 **59-7-522. Overpayments.**

1829 [~~(1) Where there has been an overpayment of any tax imposed by this chapter, the~~
1830 ~~amount of such overpayment and interest calculated at the rate and in the manner prescribed in~~
1831 ~~Section 59-1-402 shall be credited against any tax then due from the taxpayer under this~~
1832 ~~chapter, and any balance shall be refunded immediately to the taxpayer.]~~

1833 [(2)(a) Except as provided in Subsection (2)(b), the commission may not make a credit
1834 or refund unless the taxpayer files a claim with the commission within three years from the date
1835 of overpayment.]

1836 [(b) Notwithstanding Subsection (2)(a), beginning on July 1, 1998, the commission
1837 shall extend the period for a taxpayer to file a claim under Subsection (2)(a) if:]

1838 [(i) the three-year period under Subsection (2)(a) has not expired; and]

1839 [(ii) the commission and the taxpayer sign a written agreement:]

1840 [(A) authorizing the extension; and]

1841 [(B) providing for the length of the extension.]

1842 [~~(3) If the~~ (1)(a) Subject to Subsection (1)(b), a claim for credit or refund [relates to]
1843 of an overpayment that is attributable to a ~~§→ Utah ←§~~ net ~~§→ [operating] ←§~~ loss [carryback
1843a adjustment as provided

1844 in Section 59-7-110, in lieu of the three-year period provided for in Subsection (2)(a), the
1845 period shall be that period which ends with the expiration of the 15th day of the 40th month
1846 following the end of the taxable year of the net loss which results in the carryback.] carry back
1847 or carry forward shall be filed within three years from the due date of the return for the taxable
1848 year of the ~~§→ Utah ←§~~ net ~~§→ [operating] ←§~~ loss.

1849 (b) The three-year period described in Subsection (1)(a) shall be extended by any
1850 extension of time provided in statute for filing the return described in Subsection (1)(a).

1851 [~~(4) Where~~] (2) If an overpayment relates to [adjustments to] a change in or correction
1852 of federal taxable income [referred to] described in Section 59-7-519, a credit may be allowed
1853 or a refund paid any time before the expiration of the period within which a deficiency may be
1854 assessed.

1855 [~~(5)~~] (3) The amount of the credit or refund described in Subsection (2) may not
1856 exceed;

1857 (a) if a taxpayer files a claim for a credit or refund, the portion of the tax paid during
1858 the three years immediately preceding the filing of the claim[;]; or [if no claim was filed, then]

1859 (b) if a taxpayer does not file a claim for a credit or refund, the portion of the tax paid
1860 during the two years immediately preceding the allowance of the credit or refund.

1861 ~~[(6) Except as provided in Subsections (3) and (4), if on appeal a court finds that there~~
1862 ~~is no deficiency and further finds that the taxpayer has made an overpayment of tax in respect~~
1863 ~~of the taxable year in respect to which the commission determined the deficiency, the court~~
1864 ~~shall have jurisdiction to determine the amount of the overpayment and that amount shall,~~
1865 ~~when the court's decision has become final, be credited or refunded to the taxpayer. A credit or~~
1866 ~~refund may not be made of any portion of the tax paid more than three years before the filing of~~
1867 ~~the claim or the filing of the appeal or petition, whichever is earlier.]~~

1868 (4) The commission shall make a credit or refund within a 30-day period after the day
1869 on which a court's decision to require the commission to credit or refund the amount of an
1870 overpayment to a taxpayer is final.

1871 Section 33. Section **59-10-501** is amended to read:

1872 **59-10-501. Rulemaking authority -- Federal income tax return information.**

1873 ~~[(1) Every person liable for any tax imposed by this chapter, or for the collections~~
1874 ~~thereof, shall keep such records, render such statements, make such returns, and comply with~~
1875 ~~such rules as the commission may from time to time by rule prescribe. Whenever in the~~
1876 ~~judgment of the commission it is necessary, it may require any person, by notice served upon~~
1877 ~~such person or by rule, to make such returns, render such statements, or keep such records, as~~
1878 ~~the commission deems sufficient to show whether or not such person is liable for tax under this~~
1879 ~~chapter.]~~

1880 ~~[(2) The commission may, in its discretion, promulgate rules or instructions that~~
1881 ~~permit]~~

1882 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1883 commission may make rules to allow a taxpayer to submit specified excerpts from [his] the
1884 taxpayer's federal income tax return [in lieu of] rather than submitting a copy of the taxpayer's
1885 entire federal income tax return.

1886 Section 34. Section **59-10-505** is amended to read:

1887 **59-10-505. Return by minor.**

1888 ~~[In the case of any individual required to make a return under Section 59-10-501, who~~
 1889 ~~is a minor, such return shall include]~~

1890 (1) As used in this section, "parent" includes an individual who is entitled to the
 1891 services of an individual who is a minor by reason of having parental rights and duties with
 1892 respect to the individual who is a minor.

1893 (2) If an individual who is a minor is required to make a return under this chapter, the
 1894 return shall include:

1895 (a) all income attributable to [his] the individual's personal services; and

1896 (b) all other items of [his] the individual's income[; and such income shall].

1897 (3) The income of an individual who is a minor may not be included on the return of
 1898 [his] the individual's parent. [All expenditures by the parent or the minor attributable to such
 1899 income shall be]

1900 (4) An expenditure attributable to the income of an individual who is a minor that is
 1901 made by the individual or the individual's parent is considered to have been paid or incurred by
 1902 the individual who is a minor. [However, any]

1903 (5) A tax assessed against [the] an individual who is a minor, to the extent attributable
 1904 to income from personal services, if not paid by the [minor] individual, for all purposes [shall
 1905 be] is considered as being properly assessable against the individual's parent. [For the purposes
 1906 of this section, the term "parent" includes an individual who is entitled to the services of a
 1907 minor by reason of having parental rights and duties in respect of such minor.]

1908 Section 35. Section **59-10-510** is amended to read:

1909 **59-10-510. Return of electing small business corporation.**

1910 ~~[Every] An~~ An electing small business corporation, ~~[([as defined in Section 1371(a)(2) [of~~
 1911 ~~the], Internal Revenue Code[;)], shall make a return for each taxable year, stating specifically;~~

1912 (1) the items of [its] the electing small business corporation's gross income and the
 1913 deductions allowable by Subtitle A [of the], Internal Revenue Code[;];

1914 (2) the names and addresses of all persons owning stock in the electing small business
 1915 corporation at any time during the taxable year[;];

1916 (3) the number of shares of stock owned by each shareholder at all times during the
 1917 taxable year to each shareholder[;];

1918 (4) the date of each [such] distribution[;] to a shareholder; and [such]

1919 (5) other information as the commission may [by forms and rules] prescribe[. Any
 1920 return filed pursuant to this section shall, for the purposes of Section 59-10-536 (relating to
 1921 limitations), be treated as a required return filed by the corporation.] by:

1922 (a) form; or

1923 (b) administrative rule made in accordance with Title 63G, Chapter 3, Utah
 1924 Administrative Rulemaking Act.

1925 Section 36. Section **59-10-529** is amended to read:

1926 **59-10-529. Overpayment of tax -- Credits -- Refunds.**

1927 (1) [~~In cases where~~] If there has been an overpayment of any tax imposed by this
 1928 chapter, the amount of overpayment is credited as follows:

1929 (a) against any income tax then due from the taxpayer;

1930 (b) against:

1931 (i) the amount of any judgment against the taxpayer, including one ordering the
 1932 payment of a fine or of restitution to a victim under Title 77, Chapter 38a, Crime Victims
 1933 Restitution Act, obtained through due process of law by any entity of state government; or

1934 (ii) subject to Subsection (3), any child support obligation [~~which~~] that is due or past
 1935 due, as determined by the Office of Recovery Services in the Department of Human Services
 1936 and after notice and an opportunity for an adjudicative proceeding, as provided in Subsection
 1937 (2); or

1938 (c) subject to Subsection (3), (5), (6), or (7), as bail, to ensure the appearance of the
 1939 taxpayer before the appropriate authority to resolve an outstanding warrant against the taxpayer
 1940 for which bail is due, if a court of competent jurisdiction has not approved an alternative form
 1941 of payment. [~~This bail~~]

1942 (2) If a balance remains after an overpayment is credited in accordance with Subsection
 1943 (1), the balance shall be refunded to the taxpayer.

1944 (3) Bail described in Subsection (1)(c) may be applied to any fine or forfeiture [~~which~~];

1945 (a) that is due and related to a warrant [~~which~~] that is outstanding on or after February
 1946 16, 1984[;]; and

1947 (b) in accordance with Subsections [~~(3) and (4)] (5) and (6).~~

1948 [~~(2) (a) Subsection (1)(b)(ii) may be exercised only~~]

1949 (4) (a) The amount of an overpayment may be credited against an obligation described

1950 in Subsection (1)(b)(ii) if the Office of Recovery Services has sent written notice to the
1951 taxpayer's last-known address or the address on file under Section 62A-11-304.4, stating:

1952 (i) the amount of child support that is due or past due as of the date of the notice or
1953 other specified date;

1954 (ii) that any overpayment shall be applied to reduce the amount of due or past-due child
1955 support specified in the notice; and

1956 (iii) that the taxpayer may contest the amount of past-due child support specified in the
1957 notice by filing a written request for an adjudicative proceeding with the office within 15 days
1958 of the notice being sent.

1959 (b) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
1960 Act, the Office of Recovery Services shall establish rules to implement this Subsection ~~[(2)]~~
1961 ~~(4)~~, including procedures, in accordance with the other provisions of this section, to ensure:

1962 (i) prompt reimbursement to the taxpayer of any amount of an overpayment ~~[of taxes~~
1963 ~~which]~~ that was credited against a child support obligation in error~~[-]; and [to ensure]~~

1964 (ii) prompt distribution of properly credited funds to the obligee parent.

1965 ~~[(3) Subsection (1)(c) may be exercised only if:]~~

1966 (5) The amount of an overpayment may be credited against bail described in
1967 Subsection (1)(c) if:

1968 (a) a court has issued a warrant for the arrest of the taxpayer for failure to post bail,
1969 appear, or otherwise satisfy the terms of a citation, summons, or court order; and

1970 (b) a notice of intent to apply the overpayment as bail on the issued warrant has been
1971 sent to the person's current address on file with the commission.

1972 ~~[(4)]~~ (6) (a) (i) The commission shall deliver ~~[the]~~ an overpayment applied as bail to
1973 the court that issued the warrant of arrest.

1974 (ii) The clerk of the court is authorized to endorse the check or commission warrant of
1975 payment on behalf of the payees and deposit the monies in the court treasury.

1976 (b) (i) The court receiving ~~[the]~~ an overpayment applied as bail shall order withdrawal
1977 of the warrant for arrest of the taxpayer if:

1978 (A) the case is ~~[one]~~ a case for which a personal appearance of the taxpayer is not
1979 required; and ~~[if]~~

1980 (B) the dollar amount of the overpayment represents the full dollar amount of bail. ~~[It]~~

1981 ~~all other cases,]~~

1982 (ii) In a case except for a case described in Subsection (6)(b)(i):

1983 (A) the court receiving the overpayment applied as bail is not required to order the

1984 withdrawal of the warrant of arrest of the taxpayer during the 40-day period[;]; and

1985 (B) the taxpayer may be arrested on the warrant.

1986 (c) (i) If ~~the~~ a taxpayer fails to respond to the notice ~~[described in Subsection (3)]~~

1987 required by Subsection (5)(b), or to resolve the warrant within 40 days after the notice ~~[was]~~ is

1988 sent under ~~[that Subsection,]~~ Subsection (5)(b):

1989 (A) the overpayment applied as bail is forfeited; and

1990 (B) notice of the forfeiture shall be mailed to the taxpayer at the current address on file

1991 with the commission. ~~[The court may then]~~

1992 (ii) A court may issue another warrant or allow the original warrant to remain in force

1993 if:

1994 (i) the taxpayer has not complied with an order of the court;

1995 (ii) the taxpayer has failed to appear and respond to a criminal charge for which a

1996 personal appearance is required; or

1997 (iii) the taxpayer has paid partial but not full bail in a case for which a personal

1998 appearance is not required.

1999 ~~[(5)] (d) If the alleged violations named in ~~[the]~~ a warrant are later resolved in favor of~~

2000 the taxpayer, the bail amount shall be remitted to the taxpayer.

2001 ~~[(6) Any balance shall be refunded immediately to the taxpayer.]~~

2002 ~~[(7) (a) If a refund or credit is due because the amount of tax deducted and withheld~~

2003 ~~from wages exceeds the actual tax due, a refund or credit may not be made or allowed unless~~

2004 ~~the taxpayer or his legal representative files with the commission a tax return claiming the~~

2005 ~~refund or credit:]~~

2006 ~~[(i) within three years from the due date of the return, plus the period of any extension~~

2007 ~~of time for filing the return provided for in Subsection (7)(c); or]~~

2008 ~~[(ii) within two years from the date the tax was paid, whichever period is later.]~~

2009 ~~[(b) Except as provided in Subsection (7)(d), in other instances where a refund or credit~~

2010 ~~of tax which has not been deducted and withheld from income is due, a credit or refund may~~

2011 ~~not be allowed or made after three years from the time the tax was paid, unless, before the~~

2012 expiration of the period, a claim is filed by the taxpayer or his legal representative.]

2013 ~~[(c) Beginning on July 1, 1998, the commission shall extend the period for a taxpayer~~

2014 ~~to file a claim under Subsection (7)(a)(i) if:]~~

2015 ~~[(i) the time period for filing a claim under Subsection (7)(a) has not expired; and]~~

2016 ~~[(ii) the commission and the taxpayer sign a written agreement:]~~

2017 ~~[(A) authorizing the extension; and]~~

2018 ~~[(B) providing for the length of the extension.]~~

2019 ~~[(d) Notwithstanding Subsection (7)(b), beginning on July 1, 1998, the commission~~

2020 ~~shall extend the period for a taxpayer to file a claim under Subsection (7)(b) if:]~~

2021 ~~[(i) the three-year period under Subsection (7)(b) has not expired; and]~~

2022 ~~[(ii) the commission and the taxpayer sign a written agreement:]~~

2023 ~~[(A) authorizing the extension; and]~~

2024 ~~[(B) providing for the length of the extension.]~~

2025 ~~[(8)]~~ (7) The fine and bail forfeiture provisions of this section apply to all warrants and

2026 fines issued in cases charging ~~[the]~~ a taxpayer with a felony, a misdemeanor, or an infraction

2027 described in this section which are outstanding on or after February 16, 1984.

2028 ~~[(9)]~~ (8) If the amount allowable as a credit for tax withheld from ~~[the]~~ a taxpayer

2029 exceeds the tax to which the credit relates, the excess is considered an overpayment.

2030 ~~[(10)]~~ (9) (a) ~~[(A)]~~ Subject to Subsection (9)(b), a claim for credit or refund of an

2031 overpayment [which] that is attributable to [the application to the taxpayer of] a net operating

2032 loss [carryback shall be filed within three years from the time the return was due for the taxable

2033 year of the loss] carry back or carry forward shall be filed within three years from the due date

2034 of the return for the taxable year of the net operating loss.

2035 (b) The three-year period described in Subsection (9)(a) shall be extended by any

2036 extension of time provided in statute for filing the return described in Subsection (9)(a).

2037 ~~[(11)]~~ (10) If there has been an overpayment of ~~[the]~~ a tax ~~[which] that~~ is required to be

2038 deducted and withheld under Section 59-10-402, a refund shall be made to the employer only

2039 to the extent that the amount of overpayment ~~[was]~~ is not deducted and withheld by the

2040 employer.

2041 ~~[(12)]~~ (11) If there is no tax liability for a period in which an amount is paid ~~[as income~~

2042 ~~tax]~~ under this chapter, the amount is an overpayment.

2043 ~~[(13)]~~ (12) If ~~[an income]~~ a tax under this chapter is assessed or collected after the
2044 expiration of the applicable period of limitation, that amount is an overpayment.

2045 ~~[(14) (a) If a taxpayer is required to]~~

2046 (13) (a) A taxpayer may file a claim for a credit or refund of an overpayment within
2047 two years from the date a notice of change, notice of correction, or amended return is required
2048 to be filed with the commission if the taxpayer is required to:

2049 (i) report a change or correction in ~~[federal taxable]~~ income reported on ~~[his]~~ the
2050 taxpayer's federal income tax return~~[- or to]~~;

2051 (ii) report a change or correction ~~[which]~~ that is treated in the same manner as if ~~[it]~~ the
2052 change or correction were an overpayment for federal income tax purposes~~[-];~~ or ~~[to]~~

2053 (iii) file an amended return with the commission~~[- a claim for credit or refund of any~~
2054 ~~resulting overpayment of tax shall be filed by the taxpayer within two years from the date the~~
2055 ~~notice of the change, correction, or amended return was required to be filed with the~~
2056 ~~commission]~~.

2057 (b) If ~~[the]~~ a report or amended return is not filed within 90 days, interest on any
2058 resulting refund or credit ceases to accrue after the 90-day period.

2059 (c) The amount of the credit or refund may not exceed the amount of the reduction in
2060 tax attributable to the federal change, correction, or items amended on the taxpayer's amended
2061 federal income tax return.

2062 (d) Except as ~~[specifically provided, this section]~~ provided in Subsection (13)(a), this
2063 Subsection (13) does not affect the amount or the time within which a claim for credit or
2064 refund may be filed.

2065 ~~[(15) No credit or refund may]~~

2066 (14) A credit or refund may not be allowed or made if [the] an overpayment is less than
2067 \$1.

2068 ~~[(16)]~~ (15) The amount of ~~[the]~~ a credit or refund may not exceed the tax paid during
2069 the three years immediately preceding the filing of the claim, or if no claim is filed, then during
2070 the three years immediately preceding the allowance of the credit or refund.

2071 ~~[(17)]~~ (16) In the case of an overpayment of tax by ~~[the]~~ an employer under ~~[the~~
2072 ~~withholding provisions of this chapter]~~ Part 4, Withholding of Tax, a refund or credit shall be
2073 made to the employer only to the extent that the amount of the overpayment ~~[was]~~ is not

2074 deducted and withheld from wages under ~~[the provisions of]~~ this chapter.

2075 ~~[(18)]~~ (17) (a) If a taxpayer ~~[who is entitled to]~~ that is allowed a refund under this
2076 chapter dies, the commission may make payment to the ~~[duly appointed executor or~~
2077 ~~administrator]~~ personal representative of the taxpayer's estate.

2078 (b) If there is no ~~[executor or administrator]~~ personal representative of the taxpayer's
2079 estate, payment may be made to those persons who establish entitlement to inherit the property
2080 of the decedent in the proportions ~~[set out]~~ established in Title 75, Utah Uniform Probate Code.

2081 ~~[(19) Where]~~ (18) If an overpayment relates to ~~[adjustments to]~~ a change in net
2082 income ~~[referred to]~~ described in Subsection 59-10-536~~[(5);](2)(a)~~, a credit may be allowed or
2083 a refund paid any time before the expiration of the period within which a deficiency may be
2084 assessed.

2085 ~~[(20)]~~ (19) An overpayment of a tax imposed by this chapter shall accrue interest at the
2086 rate and in the manner prescribed in Section 59-1-402.

2087 Section 37. Section **59-10-531** is amended to read:

2088 **59-10-531. Claims for refund or credit.**

2089 ~~[(1) Any taxpayer claiming to be entitled to]~~

2090 A taxpayer that claims to be allowed a refund or credit under ~~[the provisions of]~~ Section
2091 59-10-529 may file a claim for the refund or credit with the commission within the time
2092 provided in ~~[that section]~~ Section 59-10-529.

2093 ~~[(2) No claim may be filed for refund or credit on any tax for which the taxpayer has~~
2094 ~~sought judicial review:]~~

2095 Section 38. Section **59-10-536** is amended to read:

2096 **59-10-536. Limitations on assessment and collection.**

2097 ~~[(1) Except as otherwise provided in this section, the amount of any tax imposed by~~
2098 ~~this chapter shall be assessed within three years after the return was filed (whether or not such~~
2099 ~~return was filed on or after the date prescribed), and no proceeding in court without assessment~~
2100 ~~for the collection of such tax shall be begun after the expiration of such period.]~~

2101 ~~[(2) For purposes of this section:]~~

2102 ~~[(a) A return of tax imposed by this chapter, except withholding tax, filed before the~~
2103 ~~last day prescribed by statute or by rules promulgated pursuant to statute for the filing thereof,~~
2104 ~~shall be deemed to be filed on such last day.]~~

2105 ~~[(b) If a return of withholding tax for any period ending with or within a calendar year~~
 2106 ~~is filed before April 15 of the succeeding calendar year, such return shall be deemed to be filed~~
 2107 ~~on April 15 of such succeeding calendar year.]~~

2108 ~~[(3) The tax may be assessed at any time if:]~~

2109 ~~[(a) no return is filed;]~~

2110 ~~[(b) a false or fraudulent return is filed with intent to evade tax; or]~~

2111 ~~[(c) a return for the taxpayer is prepared by the commission in accordance with Section~~
 2112 ~~59-10-506.]~~

2113 ~~[(4)]~~ (1) (a) If, before the expiration of the time prescribed in this section for the
 2114 assessment of a tax, ~~[both]~~ the commission and the taxpayer ~~[have consented]~~ agree in writing
 2115 to ~~[its]~~ the assessment [after such time] of the tax in a time period after the time period
 2116 prescribed in this section for the assessment of a tax, the tax may be assessed at any time ~~[prior~~
 2117 ~~to]~~ before the expiration of the period ~~[agreed upon. The period so agreed upon may be~~
 2118 ~~extended by subsequent agreements in writing]~~ to which the commission and the taxpayer
 2119 agree.

2120 (b) A time period that the commission and a taxpayer agree upon under Subsection
 2121 (1)(a) may be extended by written agreement:

2122 (i) between the commission and the taxpayer; and

2123 (ii) made before the expiration of the [period previously agreed upon] time period that
 2124 the commission and the taxpayer previously agreed upon.

2125 ~~[(5)]~~ (2) (a) (i) [H] Except as provided in Subsection (2)(a)(iii), if a change is made in a
 2126 taxpayer's net income on ~~[his or her]~~ the taxpayer's federal income tax return~~[- either because~~
 2127 ~~the taxpayer has filed an amended return or]~~ because of an action by the federal government,
 2128 the taxpayer ~~[must notify]~~ shall file with the commission within 90 days after the date there is a
 2129 final determination of [such change. The taxpayer shall file a copy of the amended federal
 2130 return and an amended state return which conforms to the changes on the federal return. No
 2131 notification is required of changes in the] the action:

2132 (A) a copy of the taxpayer's amended federal income tax return; and

2133 (B) an amended state income tax return that conforms with the changes made in the
 2134 taxpayer's amended federal income tax return.

2135 (ii) Except as provided in Subsection (2)(a)(iii), if a change is made in a taxpayer's net

2136 income on the taxpayer's federal income tax return because the taxpayer files an amended
2137 federal income tax return, the taxpayer shall file with the commission within 90 days after the
2138 date the taxpayer files the amended federal income tax return:

2139 (A) a copy of the taxpayer's amended federal income tax return; and

2140 (B) an amended state income tax return that conforms with the changes made in the
2141 taxpayer's amended federal income tax return.

2142 (iii) A taxpayer is not required to file a return described in Subsection (2)(a)(i) or (ii) if
2143 a change in the taxpayer's federal income tax return [which do] does not [affect] increase state
2144 tax liability.

2145 (b) [The] (i) Subject to Subsection (2)(b)(iii), the commission may assess [any] a
2146 deficiency in state income taxes within three years after [such report] a notification or amended
2147 federal income tax return [was] described in Subsection (2)(a) is filed.

2148 (ii) The amount of [such] an assessment of tax [shall] under this Subsection (2)(b) may
2149 not exceed the amount of the increase in Utah tax attributable to [such federal change or
2150 correction. The provisions of this Subsection (b) do not affect the time within which or the
2151 amount for which an assessment may otherwise be made. However, if the] the change
2152 described in Subsection (2)(a).

2153 (iii) If a taxpayer fails to report to the commission [the correction] a change specified
2154 in this Subsection (2)(b), the assessment may be made at any time within six years after the
2155 date of [said correction] the change.

2156 [~~(6)~~] (3) If a deficiency in federal income tax required to be reported is attributable to
2157 [the application to the taxpayer of] a net operating loss [carryback within the meaning of
2158 Section 6501(h) of the Internal Revenue Code, the corresponding] carry back or carry forward,
2159 a deficiency in the tax imposed by this chapter may be assessed [at any time before the
2160 expiration of the period within which a deficiency for the taxable year of the net operating loss
2161 giving rise to the carryback may be assessed:] within three years from the due date of the return
2162 for the taxable year of the net operating loss.

2163 (4) Except as provided in Subsections (1) through (3), this section does not affect the
2164 time within which or the amount for which an assessment may otherwise be made.

2165 [~~(7)~~] (5) (a) An erroneous refund shall be considered an underpayment of tax on the
2166 date [made, and an] the commission makes the erroneous refund.

2167 (b) An assessment of a deficiency arising out of an erroneous refund may be made at
 2168 any time within three years from the [~~time~~] date the refund [~~was~~] is made, except that [~~the~~] an
 2169 assessment may be made within five years from the time the refund [~~was~~] is made if [~~it appears~~
 2170 ~~that~~] any part of the refund [~~was~~] is induced by fraud or misrepresentation of a material fact.

2171 [~~(8) If~~] (6) (a) Subject to Subsection (6)(b), if a return is required for a decedent or for
 2172 [his] the decedent's estate during the period of administration, the tax shall be assessed within
 2173 18 months after written request [~~therefor~~] for the assessment:

2174 (i) made after the return is filed[;]; and

2175 (ii) by [~~the executor, administrator, or other~~];

2176 (A) the personal representative; or

2177 (B) another person representing the estate of [~~such~~] the decedent[; but not].

2178 (b) Except as otherwise provided in this section, the assessment described in
 2179 Subsection (6)(a) may not be made more than three years after the time the return [~~was~~] is
 2180 filed[; except as otherwise provided in Subsections (3) through (9)].

2181 [~~(9)~~] (7) (a) The amount of [~~any~~] a tax imposed by this chapter may be assessed at any
 2182 time within six years after the time the return [~~was~~] is filed if:

2183 [~~(a)~~] (i) a resident individual, resident estate, or resident trust omits from gross income
 2184 as reported for federal income tax purposes an amount properly includable [~~therein~~] in adjusted
 2185 gross income, which is in excess of 25% of the amount of gross income stated in the return; or

2186 [~~(b)~~] (ii) a nonresident individual, nonresident estate, or nonresident trust omits from
 2187 gross income as reported for federal income tax purposes an amount of adjusted gross income
 2188 derived from Utah sources as defined by Section 59-10-117, properly includable [~~therein~~] in
 2189 adjusted gross income, which is in excess of 25% of the amount of adjusted gross income
 2190 derived from Utah sources which is reflected in [~~such~~] the return.

2191 (b) For [~~the~~] purposes of [~~this~~] Subsection [~~(b)~~] (7)(a)(ii), there may not be taken into
 2192 account any amount [~~which~~] that is omitted in the return if [~~such~~] the amount is disclosed;

2193 (i) (A) in the return[;]; or

2194 (B) in a statement attached to the return[;]; and

2195 (ii) in a manner adequate to apprise the commission of the nature and amount of [~~such~~]
 2196 the item.

2197 [~~(10) The running of the period of limitations on assessments or collection of tax or~~

2198 other amount (or of a transferee's liability) shall, after the mailing of a notice of deficiency, be
2199 suspended for the period during which the commission is prohibited from making the
2200 assessment or from collecting by levy.]

2201 Section 39. Section **59-10-537** is amended to read:

2202 **59-10-537. Interest on underpayment, nonpayment, or extension of time for**
2203 **payment of tax.**

2204 (1) ~~[H]~~ (a) Subject to the other provisions of this section, if any amount of income tax
2205 is not paid on or before the last date prescribed in this chapter for payment, interest on ~~[such]~~
2206 the amount at the rate and in the manner prescribed in Section 59-1-402 shall be paid.

2207 (b) Interest under this Subsection (1) may not be paid if the amount ~~[thereof]~~ of the
2208 interest is less than \$1.

2209 (c) If the time for filing of a return of tax withheld by an employer is extended, the
2210 employer shall pay interest for the period for which the extension is granted and may not
2211 charge such interest to the employee.

2212 (2) ~~[Where]~~ If a deficiency or any interest or additional ~~[amounts]~~ amount assessed in
2213 connection ~~[therewith under Section 59-10-525 or]~~ with an amount under Subsection (1), or
2214 ~~[an addition to the tax]~~ a penalty in case of a delinquency provided for in Section 59-10-539 is
2215 not paid in full within ten days from the date of notice and demand from the commission, there
2216 shall be collected as part of the tax, interest at the rate and in the manner prescribed in Section
2217 59-1-402 from the date of ~~[such]~~ the notice and demand until ~~[it]~~ the entire amount of the
2218 deficiency, interest, and additional amount is paid.

2219 (3) If the time for payment of the amount determined as the tax by the taxpayer is
2220 extended under the authority of Section 59-10-522, ~~[there]~~ interest shall be collected as a part
2221 of ~~[such]~~ the amount~~[, interest thereon]~~ at the rate and in the manner prescribed in Section
2222 59-1-402.

2223 Section 40. Section **59-10-539** is amended to read:

2224 **59-10-539. Penalties and interest.**

2225 (1) (a) In case of failure to file an income tax return and pay the tax required under this
2226 chapter on or before the date prescribed ~~[therefor (determined with regard to any extension of~~
2227 time for filing)] for paying the tax, including extensions, unless it is shown that ~~[such]~~ the
2228 failure is due to reasonable cause and not due to willful neglect, there shall be added to the

2229 amount required to be shown as tax on ~~[such]~~ the return a penalty as provided in Section
2230 59-1-401.

2231 (b) For ~~[the]~~ purposes of ~~[this subsection]~~ Subsection (1)(a), the amount of tax required
2232 to be shown on ~~[the]~~ a return shall be reduced by:

2233 (i) the amount of any part of the tax ~~[which]~~ that is paid on or before the date
2234 prescribed for payment of the tax; and ~~[by]~~

2235 (ii) the amount of any credit against the tax ~~[which]~~ that may be claimed upon the
2236 return.

2237 (2) If any part of any deficiency in a tax imposed by this chapter~~[-as defined by Section~~
2238 ~~59-10-523;]~~ is due to negligence or intentional disregard of rules, but without intent to defraud,
2239 a penalty shall be assessed, collected, and paid as provided in Section 59-1-401 in the same
2240 manner as if ~~[it]~~ the deficiency were an underpayment.

2241 (3) (a) If any part of a deficiency in a tax imposed by this chapter~~[-as defined by~~
2242 ~~Section 59-10-523;]~~ is due to fraud, there shall be added to the tax a penalty as provided in
2243 Section 59-1-401. ~~[This amount]~~

2244 (b) The amount described in Subsection (3)(a) shall be in lieu of any other ~~[addition to~~
2245 ~~tax]~~ penalty imposed by Subsection (1) or (2).

2246 (4) (a) If any employer, without intent to evade or defeat any tax imposed by this
2247 chapter or the payment ~~[thereof]~~ of any tax imposed by this chapter, fails to make a return and
2248 pay a tax withheld by ~~[him]~~ the employer at the time required under Section 59-10-402, ~~[such]~~
2249 the employer shall be liable for ~~[such]~~ the tax and shall pay ~~[it]~~ the tax together with interest at
2250 the rate and in the manner prescribed in Section 59-1-402.

2251 (b) The ~~[addition to tax]~~ penalty provided in Subsection (1) and ~~[such]~~ interest may not
2252 be charged to or collected from the employee by the employer.

2253 (c) The commission has the same rights and powers for the collection of ~~[such]~~ a tax,
2254 interest, and ~~[addition to tax]~~ penalty against ~~[such]~~ an employer described in this section as are
2255 prescribed by this chapter for the collection of tax against an individual taxpayer.

2256 (5) (a) Any person required to collect, truthfully account for, and pay over the tax
2257 imposed by this chapter who willfully fails to collect ~~[such]~~ the tax or truthfully account for
2258 and pay over ~~[such]~~ the tax or willfully attempts in any manner to evade or default the tax or
2259 the payment ~~[thereof]~~ of the tax, shall, in addition to other penalties provided by law, be liable

2260 ~~[to]~~ for a penalty as provided in Section 59-1-401. ~~[No addition to tax under]~~

2261 (b) A penalty described in Subsection (1) or (2) may not be imposed for any offense to
2262 which ~~[this subsection]~~ Subsection (5)(a) applies.

2263 (6) In case of each failure to file a statement of a payment to another person, required
2264 under authority of Section 59-10-406, ~~[r]elating to information at source, including the~~
2265 duplicate statement of tax withheld on wages~~]~~, on the date prescribed ~~[therefor (determined~~
2266 ~~with regard to any extension of time for filing)]~~ for filing the statement, including extensions,
2267 unless it is shown that ~~[such]~~ the failure is due to reasonable cause and not to willful neglect,
2268 there shall, upon notice and demand by the commission and in the same manner as tax, be paid
2269 by the person ~~[so failing]~~ that fails to file the statement, a penalty as provided in Section
2270 59-1-401.

2271 (7) (a) ~~[If any person who is]~~ Except as provided in Subsection (7)(b) or (c), a person is
2272 subject to a penalty as provided in Section 59-1-401 if the person fails to do one or more of the
2273 following as required by rules prescribed by the commission under this chapter: ~~[(a)]~~

2274 (A) to include ~~[his]~~ the person's identifying number in any return, statement, or other
2275 document~~[-(b)]~~;

2276 (B) to furnish ~~[his]~~ the person's identifying number to another person~~[-];~~ or ~~[(c)]~~

2277 (C) to include on any return, statement, or other document made with respect to
2278 another person the identifying number of ~~[such]~~ the other person~~[-, fails to comply with such~~
2279 ~~requirement at the time prescribed by such rules, such person shall pay a penalty as provided in~~
2280 ~~Section 59-1-401, unless]~~.

2281 (b) A person is not subject to a penalty under Subsection (7)(a) if it is shown that ~~[such~~
2282 ~~failure]~~ the person's failure to do an act described in Subsection (7)(a) is due to reasonable
2283 cause. ~~[For failure to include his]~~

2284 (c) If a person fails to include the person's own identification number in any return,
2285 statement, or other document ~~[required to be filed by him, such]~~, a penalty under Subsection
2286 (7)(a) may not be imposed unless ~~[such]~~ the person fails to supply ~~[his]~~ the person's
2287 identification number to the commission within 30 days after ~~[demand therefor]~~ the
2288 commission requests the identification number.

2289 (8) In addition to the penalties ~~[added]~~ required by this section, there shall be added to
2290 ~~[the]~~ a tax due interest payable at the rate and in the manner prescribed in Section 59-1-402 for

2291 underpayments.

2292 (9) The ~~[additions to tax;]~~ penalties~~;~~ and interest ~~[provided]~~ required by this section
2293 shall be:

2294 (a) paid upon notice and demand by the commission in accordance with Section
2295 59-1-1411; and ~~[shall be]~~

2296 (b) assessed, collected, and paid in ~~[the same manner as taxes. Any]~~ accordance with
2297 Chapter 1, Part 14, Assessment, Collections, and Refunds Act.

2298 (10) A reference in this chapter to income tax or tax imposed by this chapter~~;~~is
2299 ~~deemed also to refer to the additions to tax;]~~ is considered to include the penalties~~;~~ and
2300 interest provided by this section.

2301 ~~[(10)]~~ (11) For purposes of Subsections (2) and (3), the amount shown as the tax by the
2302 taxpayer upon ~~[his]~~ the taxpayer's return shall be taken into account in determining the amount
2303 of the deficiency only if ~~[such]~~ the return ~~[was]~~ is filed on or before the last day prescribed for
2304 ~~[the]~~ filing of ~~[such]~~ the return, ~~[determined with regard to any extension of time for such~~
2305 ~~filing]~~ including extensions.

2306 Section 41. Section **59-10-544** is amended to read:

2307 **59-10-544. General powers and duties of the commission.**

2308 (1) (a) The commission shall administer and enforce ~~[the]~~ a tax ~~[herein]~~ imposed under
2309 this chapter for which purpose it may divide the state into districts in each of which a branch
2310 office of the commission may be maintained.

2311 (b) A county may not be divided in forming a district.

2312 ~~[(2) The commission may designate agents for the purpose of collecting income taxes~~
2313 ~~and shall require from each of them an adequate bond.]~~

2314 ~~[(3) The commission, for the purpose of ascertaining the correctness of any return or~~
2315 ~~for the purpose of making an estimate of taxable income of any person where information has~~
2316 ~~been obtained, may examine or cause to have examined, by any agent or representative~~
2317 ~~designated by it for that purpose, any books, papers, records, or memoranda bearing upon the~~
2318 ~~matters required to be included in the return, and may require the attendance of the person~~
2319 ~~rendering the return or any officer or employee of such person, or the attendance of any other~~
2320 ~~person having knowledge in the premises, and may take testimony and require proof material~~
2321 ~~for its information.]~~

2322 ~~[(4) AH] (2) (a) The commission shall daily deposit all~~ revenue collected or received
 2323 by the commission under this chapter ~~[shall be deposited daily]~~ with the state treasurer. ~~[The~~
 2324 ~~balance of such revenue, subject to the provisions of Sections 59-10-529 and 59-10-531~~
 2325 ~~(relating to refunds);]~~

2326 (b) Subject to Sections 59-10-529 and 59-10-531, the balance of the revenue described
 2327 in Subsection (2)(a) shall be periodically distributed and credited to the Education Fund.
 2328 ~~[Refunds shall be made by the commission, and if]~~

2329 (c) If a refund the commission makes is not claimed within two years from the date [of
 2330 issuance shall revert] the commission issues the refund:

2331 (i) the refund reverts to the state to be credited to the Education Fund~~[-];~~ and

2332 (ii) no further [claims] claim may be made ~~[upon]~~ on the commission for the ~~[amounts~~
 2333 ~~of such refunds]~~ amount of the refund.

2334 Section 42. Section **59-11-113** is amended to read:

2335 **59-11-113. Administration by commission -- Taxpayer notification of change in**
 2336 **income -- Assessment of deficiency -- Appeal.**

2337 (1) The commission is charged with the administration and enforcement of this chapter
 2338 and may ~~[promulgate]~~ make rules under Title 63G, Chapter 3, Utah Administrative
 2339 Rulemaking Act, to effectuate the purposes of this chapter.

2340 ~~[(2) The commission shall collect the tax provided for under this chapter, including~~
 2341 ~~applicable interest and penalties, and shall represent this state in all matters pertaining to~~
 2342 ~~collection, either before courts or otherwise. The commission may institute proceedings for the~~
 2343 ~~collection of this tax, and any interest and penalties on the tax, in the district court of any~~
 2344 ~~county in which any portion of the property is situated. For this purpose the commission may~~
 2345 ~~call to its assistance the attorney general and the various county attorneys throughout the state.]~~

2346 ~~[(3) (a) Except as provided in Subsections (4) through (7), the commission shall assess~~
 2347 ~~a tax under this chapter within three years after a taxpayer files a return.]~~

2348 ~~[(b) Except as provided in Subsections (4) through (7), if the commission does not~~
 2349 ~~assess a tax under this chapter within the three-year period provided in Subsection (3)(a), the~~
 2350 ~~commission may not file an action to collect the tax.]~~

2351 ~~[(4) Notwithstanding Subsection (3), the commission may assess a tax at any time if a~~
 2352 ~~taxpayer:]~~

2353 ~~[(a) files a false or fraudulent return with intent to evade; or]~~
2354 ~~[(b) does not file a return.]~~
2355 ~~[(5) Notwithstanding Subsection (3), beginning on July 1, 1998, the commission may~~
2356 ~~extend the period to make an assessment or to commence a proceeding to collect the tax under~~
2357 ~~this chapter if:]~~
2358 ~~[(a) the three-year period under Subsection (3) has not expired; and]~~
2359 ~~[(b) the commission and the taxpayer sign a written agreement:]~~
2360 ~~[(i) authorizing the extension; and]~~
2361 ~~[(ii) providing for the length of the extension.]~~
2362 ~~[(6) If the commission delays an audit at the request of a taxpayer, the commission may~~
2363 ~~make an assessment as provided in Subsection (7) if:]~~
2364 ~~[(a) the taxpayer subsequently refuses to agree to an extension request by the~~
2365 ~~commission; and]~~
2366 ~~[(b) the three-year period under Subsection (3) expires before the commission~~
2367 ~~completes the audit.]~~
2368 ~~[(7) An assessment under Subsection (6) shall be:]~~
2369 ~~[(a) for the time period for which the commission could not make an assessment~~
2370 ~~because of the expiration of the three-year period; and]~~
2371 ~~[(b) in an amount equal to the difference between:]~~
2372 ~~[(i) the commission's estimate of the amount of taxes the taxpayer would have been~~
2373 ~~assessed for the time period described in Subsection (7)(a); and]~~
2374 ~~[(ii) the amount of taxes the taxpayer actually paid for the time period described in~~
2375 ~~Subsection (7)(a).]~~
2376 ~~[(8)]~~ (2) A taxpayer shall:
2377 (a) notify the commission within 90 days after a final determination of a change ~~[made~~
2378 ~~in a taxpayer's net income]~~ on the taxpayer's federal estate tax return if:
2379 (i) the change is made because:
2380 (A) the taxpayer filed an amended federal return; or
2381 (B) of an action by the federal government; and
2382 (ii) the change ~~[affects]~~ increases the taxpayer's state tax liability; and
2383 (b) if the taxpayer is required to notify the commission of a change as provided in

2384 Subsection ~~[(8)]~~ (2)(a)(i), file a copy of:

2385 (i) the amended federal return; and

2386 (ii) an amended state return ~~[which]~~ that conforms to the changes on the federal return.

2387 ~~[(9)]~~ (3) (a) The commission may assess a deficiency in state estate taxes as a result of

2388 a change in a taxpayer's net income under Subsection ~~[(8)]~~ (2):

2389 (i) within three years after a taxpayer files an amended return under Subsection ~~[(8)]~~

2390 (2)(b) if the taxpayer files an amended return; or

2391 (ii) within six years after the change if a taxpayer does not file an amended return under

2392 Subsection ~~[(8)]~~ (2)(b).

2393 (b) The amount of a deficiency assessed under Subsection ~~[(9)]~~ (3)(a) may not exceed

2394 the amount of the increase in Utah tax attributable to the change ~~[in the taxpayer's net income]~~

2395 under Subsection ~~[(8)]~~ (2)(a).

2396 ~~[(10) (a) Except as provided in Subsection (10)(b), the commission may not make a~~
2397 ~~credit or refund unless the taxpayer files a claim with the commission within three years of the~~
2398 ~~date of overpayment.]~~

2399 ~~[(b) Notwithstanding Subsection (10)(a), beginning on July 1, 1998, the commission~~
2400 ~~shall extend the period for a taxpayer to file a claim under Subsection (10)(a) if:]~~

2401 ~~[(i) the three-year period under Subsection (10)(a) has not expired; and]~~

2402 ~~[(ii) the commission and the taxpayer sign a written agreement:]~~

2403 ~~[(A) authorizing the extension; and]~~

2404 ~~[(B) providing for the length of the extension.]~~

2405 ~~[(H) Any]~~ (4) A party to a proceeding before the district court concerning ~~[the]~~ a tax
2406 imposed by this chapter, including the commission, may appeal from the order, judgment, or
2407 decree entered by the district court.

2408 Section 43. Section **59-12-104** is amended to read:

2409 **59-12-104. Exemptions.**

2410 The following sales and uses are exempt from the taxes imposed by this chapter:

2411 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
2412 under Chapter 13, Motor and Special Fuel Tax Act;

2413 (2) sales to the state, its institutions, and its political subdivisions; however, this
2414 exemption does not apply to sales of:

- 2415 (a) construction materials except:
- 2416 (i) construction materials purchased by or on behalf of institutions of the public
- 2417 education system as defined in Utah Constitution Article X, Section 2, provided the
- 2418 construction materials are clearly identified and segregated and installed or converted to real
- 2419 property which is owned by institutions of the public education system; and
- 2420 (ii) construction materials purchased by the state, its institutions, or its political
- 2421 subdivisions which are installed or converted to real property by employees of the state, its
- 2422 institutions, or its political subdivisions; or
- 2423 (b) tangible personal property in connection with the construction, operation,
- 2424 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
- 2425 providing additional project capacity, as defined in Section 11-13-103;
- 2426 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
- 2427 (i) the proceeds of each sale do not exceed \$1; and
- 2428 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
- 2429 the cost of the item described in Subsection (3)(b) as goods consumed; and
- 2430 (b) Subsection (3)(a) applies to:
- 2431 (i) food and food ingredients; or
- 2432 (ii) prepared food;
- 2433 (4) sales of the following to a commercial airline carrier for in-flight consumption:
- 2434 (a) food and food ingredients;
- 2435 (b) prepared food; or
- 2436 (c) services related to Subsection (4)(a) or (b);
- 2437 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
- 2438 and equipment:
- 2439 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
- 2440 North American Industry Classification System of the federal Executive Office of the
- 2441 President, Office of Management and Budget; and
- 2442 (II) for:
- 2443 (Aa) installation in an aircraft, including services relating to the installation of parts or
- 2444 equipment in the aircraft;
- 2445 (Bb) renovation of an aircraft; or

2446 (Cc) repair of an aircraft; or
2447 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
2448 commerce; or
2449 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
2450 aircraft operated by a common carrier in interstate or foreign commerce; and
2451 (b) notwithstanding the time period of Subsection [~~59-12-110(2)~~] 59-1-1410(8) for
2452 filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a
2453 sale by filing for a refund:
2454 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;
2455 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
2456 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
2457 the sale prior to filing for the refund;
2458 (iv) for sales and use taxes paid under this chapter on the sale;
2459 (v) in accordance with Section [~~59-12-110~~] 59-1-1410; and
2460 (vi) subject to any extension allowed for filing for a refund under Section [~~59-12-110~~]
2461 59-1-1410, if the person files for the refund on or before September 30, 2011;
2462 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
2463 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
2464 exhibitor, distributor, or commercial television or radio broadcaster;
2465 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
2466 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
2467 washing of tangible personal property;
2468 (b) if a seller that sells at the same business location assisted cleaning or washing of
2469 tangible personal property and cleaning or washing of tangible personal property that is not
2470 assisted cleaning or washing of tangible personal property, the exemption described in
2471 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
2472 or washing of the tangible personal property; and
2473 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
2474 Utah Administrative Rulemaking Act, the commission may make rules:
2475 (i) governing the circumstances under which sales are at the same business location;
2476 and

- 2477 (ii) establishing the procedures and requirements for a seller to separately account for
- 2478 sales of assisted cleaning or washing of tangible personal property;
- 2479 (8) sales made to or by religious or charitable institutions in the conduct of their regular
- 2480 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
- 2481 fulfilled;
- 2482 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
- 2483 this state if the vehicle is:
- 2484 (a) not registered in this state; and
- 2485 (b) (i) not used in this state; or
- 2486 (ii) used in this state:
- 2487 (A) if the vehicle is not used to conduct business, for a time period that does not
- 2488 exceed the longer of:
- 2489 (I) 30 days in any calendar year; or
- 2490 (II) the time period necessary to transport the vehicle to the borders of this state; or
- 2491 (B) if the vehicle is used to conduct business, for the time period necessary to transport
- 2492 the vehicle to the borders of this state;
- 2493 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
- 2494 (i) the item is intended for human use; and
- 2495 (ii) (A) a prescription was issued for the item; or
- 2496 (B) the item was purchased by a hospital or other medical facility; and
- 2497 (b) (i) Subsection (10)(a) applies to:
- 2498 (A) a drug;
- 2499 (B) a syringe; or
- 2500 (C) a stoma supply; and
- 2501 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2502 commission may by rule define the terms:
- 2503 (A) "syringe"; or
- 2504 (B) "stoma supply";
- 2505 (11) sales or use of property, materials, or services used in the construction of or
- 2506 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
- 2507 (12) (a) sales of an item described in Subsection (12)(c) served by:

2508 (i) the following if the item described in Subsection (12)(c) is not available to the
2509 general public:

2510 (A) a church; or
2511 (B) a charitable institution;

2512 (ii) an institution of higher education if:

2513 (A) the item described in Subsection (12)(c) is not available to the general public; or
2514 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
2515 offered by the institution of higher education; or

2516 (b) sales of an item described in Subsection (12)(c) provided for a patient by:

2517 (i) a medical facility; or
2518 (ii) a nursing facility; and

2519 (c) Subsections (12)(a) and (b) apply to:

2520 (i) food and food ingredients;
2521 (ii) prepared food; or
2522 (iii) alcoholic beverages;

2523 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
2524 or a product transferred electronically by a person:

2525 (i) regardless of the number of transactions involving the sale of that tangible personal
2526 property or product transferred electronically by that person; and
2527 (ii) not regularly engaged in the business of selling that type of tangible personal
2528 property or product transferred electronically;

2529 (b) this Subsection (13) does not apply if:

2530 (i) the sale is one of a series of sales of a character to indicate that the person is
2531 regularly engaged in the business of selling that type of tangible personal property or product
2532 transferred electronically;

2533 (ii) the person holds that person out as regularly engaged in the business of selling that
2534 type of tangible personal property or product transferred electronically;

2535 (iii) the person sells an item of tangible personal property or product transferred
2536 electronically that the person purchased as a sale that is exempt under Subsection (25); or
2537 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
2538 this state in which case the tax is based upon:

2539 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
2540 sold; or

2541 (B) in the absence of a bill of sale or other written evidence of value, the fair market
2542 value of the vehicle or vessel being sold at the time of the sale as determined by the
2543 commission; and

2544 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2545 commission shall make rules establishing the circumstances under which:

2546 (i) a person is regularly engaged in the business of selling a type of tangible personal
2547 property or product transferred electronically;

2548 (ii) a sale of tangible personal property or a product transferred electronically is one of
2549 a series of sales of a character to indicate that a person is regularly engaged in the business of
2550 selling that type of tangible personal property or product transferred electronically; or

2551 (iii) a person holds that person out as regularly engaged in the business of selling a type
2552 of tangible personal property or product transferred electronically;

2553 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
2554 July 1, 2006, for a purchase or lease by a manufacturing facility other than a cogeneration
2555 facility, for the following:

2556 (i) machinery and equipment that:

2557 (A) is used:

2558 (I) for a manufacturing facility other than a manufacturing facility that is a scrap
2559 recycler described in Subsection 59-12-102(52)(b):

2560 (Aa) in the manufacturing process; and

2561 (Bb) to manufacture an item sold as tangible personal property; or

2562 (II) for a manufacturing facility that is a scrap recycler described in Subsection
2563 59-12-102(52)(b), to process an item sold as tangible personal property; and

2564 (B) has an economic life of three or more years; and

2565 (ii) normal operating repair or replacement parts that:

2566 (A) have an economic life of three or more years; and

2567 (B) are used:

2568 (I) for a manufacturing facility in the state other than a manufacturing facility that is a
2569 scrap recycler described in Subsection 59-12-102(52)(b), in the manufacturing process; or

2570 (II) for a manufacturing facility in the state that is a scrap recycler described in
2571 Subsection 59-12-102(52)(b), to process an item sold as tangible personal property;
2572 (b) (i) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
2573 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
2574 for the following:

- 2575 (A) machinery and equipment that:
 - 2576 (I) is used:
 - 2577 (Aa) in the manufacturing process; and
 - 2578 (Bb) to manufacture an item sold as tangible personal property; and
 - 2579 (II) has an economic life of three or more years; and
- 2580 (B) normal operating repair or replacement parts that:
 - 2581 (I) are used in the manufacturing process in a manufacturing facility in the state; and
 - 2582 (II) have an economic life of three or more years; and
- 2583 (ii) for amounts paid or charged on or after July 1, 2005, but on or before June 30,
2584 2006, for a purchase or lease described in Subsection (14)(b)(i), a cogeneration facility may
2585 claim the exemption allowed by Subsection (14)(b)(i) by filing for a refund:
 - 2586 (A) for sales and use taxes paid under this chapter on the purchase or lease payment;
2587 and
 - 2588 (B) in accordance with Section [~~59-12-110~~] 59-1-1410;
- 2589 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
2590 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
2591 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
2592 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
2593 of the 2002 North American Industry Classification System of the federal Executive Office of
2594 the President, Office of Management and Budget:
 - 2595 (i) machinery and equipment that:
 - 2596 (A) are used in:
 - 2597 (I) the production process, other than the production of real property; or
 - 2598 (II) research and development; and
 - 2599 (B) have an economic life of three or more years; and
 - 2600 (ii) normal operating repair or replacement parts that:

- 2601 (A) have an economic life of three or more years; and
2602 (B) are used in:
- 2603 (I) the production process, other than the production of real property, in an
2604 establishment described in this Subsection (14)(c) in the state; or
2605 (II) research and development in an establishment described in this Subsection (14)(c)
2606 in the state;
- 2607 (d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,
2608 Utah Administrative Rulemaking Act, the commission:
- 2609 (i) shall by rule define the term "establishment"; and
2610 (ii) may by rule define what constitutes:
- 2611 (A) processing an item sold as tangible personal property;
2612 (B) the production process, other than the production of real property; or
2613 (C) research and development; and
2614 (e) on or before October 1, 2011, and every five years after October 1, 2011, the
2615 commission shall:
- 2616 (i) review the exemptions described in this Subsection (14) and make
2617 recommendations to the Revenue and Taxation Interim Committee concerning whether the
2618 exemptions should be continued, modified, or repealed; and
2619 (ii) include in its report:
- 2620 (A) the cost of the exemptions;
2621 (B) the purpose and effectiveness of the exemptions; and
2622 (C) the benefits of the exemptions to the state;
- 2623 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
- 2624 (i) tooling;
2625 (ii) special tooling;
2626 (iii) support equipment;
2627 (iv) special test equipment; or
2628 (v) parts used in the repairs or renovations of tooling or equipment described in
2629 Subsections (15)(a)(i) through (iv); and
2630 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
2631 (i) the tooling, equipment, or parts are used or consumed exclusively in the

2632 performance of any aerospace or electronics industry contract with the United States
2633 government or any subcontract under that contract; and
2634 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
2635 title to the tooling, equipment, or parts is vested in the United States government as evidenced
2636 by:
2637 (A) a government identification tag placed on the tooling, equipment, or parts; or
2638 (B) listing on a government-approved property record if placing a government
2639 identification tag on the tooling, equipment, or parts is impractical;
2640 (16) sales of newspapers or newspaper subscriptions;
2641 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
2642 product transferred electronically traded in as full or part payment of the purchase price, except
2643 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
2644 trade-ins are limited to other vehicles only, and the tax is based upon:
2645 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
2646 vehicle being traded in; or
2647 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
2648 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
2649 commission; and
2650 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the
2651 following items of tangible personal property or products transferred electronically traded in as
2652 full or part payment of the purchase price:
2653 (i) money;
2654 (ii) electricity;
2655 (iii) water;
2656 (iv) gas; or
2657 (v) steam;
2658 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
2659 or a product transferred electronically used or consumed primarily and directly in farming
2660 operations, regardless of whether the tangible personal property or product transferred
2661 electronically:
2662 (A) becomes part of real estate; or

2663 (B) is installed by a:
2664 (I) farmer;
2665 (II) contractor; or
2666 (III) subcontractor; or
2667 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
2668 product transferred electronically if the tangible personal property or product transferred
2669 electronically is exempt under Subsection (18)(a)(i); and
2670 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following are
2671 subject to the taxes imposed by this chapter:
2672 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is
2673 incidental to farming:
2674 (I) machinery;
2675 (II) equipment;
2676 (III) materials; or
2677 (IV) supplies; and
2678 (B) tangible personal property that is considered to be used in a manner that is
2679 incidental to farming includes:
2680 (I) hand tools; or
2681 (II) maintenance and janitorial equipment and supplies;
2682 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
2683 transferred electronically if the tangible personal property or product transferred electronically
2684 is used in an activity other than farming; and
2685 (B) tangible personal property or a product transferred electronically that is considered
2686 to be used in an activity other than farming includes:
2687 (I) office equipment and supplies; or
2688 (II) equipment and supplies used in:
2689 (Aa) the sale or distribution of farm products;
2690 (Bb) research; or
2691 (Cc) transportation; or
2692 (iii) a vehicle required to be registered by the laws of this state during the period
2693 ending two years after the date of the vehicle's purchase;

- 2694 (19) sales of hay;
- 2695 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
- 2696 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
- 2697 garden, farm, or other agricultural produce is sold by:
 - 2698 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
 - 2699 agricultural produce;
 - 2700 (b) an employee of the producer described in Subsection (20)(a); or
 - 2701 (c) a member of the immediate family of the producer described in Subsection (20)(a);
- 2702 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
- 2703 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 2704 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
- 2705 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
- 2706 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
- 2707 manufacturer, processor, wholesaler, or retailer;
- 2708 (23) a product stored in the state for resale;
- 2709 (24) (a) purchases of a product if:
 - 2710 (i) the product is:
 - 2711 (A) purchased outside of this state;
 - 2712 (B) brought into this state:
 - 2713 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
 - 2714 (II) by a nonresident person who is not living or working in this state at the time of the
 - 2715 purchase;
 - 2716 (C) used for the personal use or enjoyment of the nonresident person described in
 - 2717 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
 - 2718 (D) not used in conducting business in this state; and
 - 2719 (ii) for:
 - 2720 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
 - 2721 the product for a purpose for which the product is designed occurs outside of this state;
 - 2722 (B) a boat, the boat is registered outside of this state; or
 - 2723 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
 - 2724 outside of this state;

- 2725 (b) the exemption provided for in Subsection (24)(a) does not apply to:
- 2726 (i) a lease or rental of a product; or
- 2727 (ii) a sale of a vehicle exempt under Subsection (33); and
- 2728 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
- 2729 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
- 2730 following:
- 2731 (i) conducting business in this state if that phrase has the same meaning in this
- 2732 Subsection (24) as in Subsection (64);
- 2733 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
- 2734 as in Subsection (64); or
- 2735 (iii) a purpose for which a product is designed if that phrase has the same meaning in
- 2736 this Subsection (24) as in Subsection (64);
- 2737 (25) a product purchased for resale in this state, in the regular course of business, either
- 2738 in its original form or as an ingredient or component part of a manufactured or compounded
- 2739 product;
- 2740 (26) a product upon which a sales or use tax was paid to some other state, or one of its
- 2741 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
- 2742 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
- 2743 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
- 2744 Act;
- 2745 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
- 2746 person for use in compounding a service taxable under the subsections;
- 2747 (28) purchases made in accordance with the special supplemental nutrition program for
- 2748 women, infants, and children established in 42 U.S.C. Sec. 1786;
- 2749 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
- 2750 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
- 2751 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
- 2752 Manual of the federal Executive Office of the President, Office of Management and Budget;
- 2753 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
- 2754 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
- 2755 (a) not registered in this state; and

- 2756 (b) (i) not used in this state; or
- 2757 (ii) used in this state:
- 2758 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
- 2759 time period that does not exceed the longer of:
- 2760 (I) 30 days in any calendar year; or
- 2761 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
- 2762 the borders of this state; or
- 2763 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
- 2764 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
- 2765 state;
- 2766 (31) sales of aircraft manufactured in Utah;
- 2767 (32) amounts paid for the purchase of telecommunications service for purposes of
- 2768 providing telecommunications service;
- 2769 (33) sales, leases, or uses of the following:
- 2770 (a) a vehicle by an authorized carrier; or
- 2771 (b) tangible personal property that is installed on a vehicle:
- 2772 (i) sold or leased to or used by an authorized carrier; and
- 2773 (ii) before the vehicle is placed in service for the first time;
- 2774 (34) (a) 45% of the sales price of any new manufactured home; and
- 2775 (b) 100% of the sales price of any used manufactured home;
- 2776 (35) sales relating to schools and fundraising sales;
- 2777 (36) sales or rentals of durable medical equipment if:
- 2778 (a) a person presents a prescription for the durable medical equipment; and
- 2779 (b) the durable medical equipment is used for home use only;
- 2780 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 2781 Section 72-11-102; and
- 2782 (b) the commission shall by rule determine the method for calculating sales exempt
- 2783 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 2784 (38) sales to a ski resort of:
- 2785 (a) snowmaking equipment;
- 2786 (b) ski slope grooming equipment;

- 2787 (c) passenger ropeways as defined in Section 72-11-102; or
- 2788 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 2789 described in Subsections (38)(a) through (c);
- 2790 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 2791 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 2792 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 2793 59-12-102;
- 2794 (b) if a seller that sells or rents at the same business location the right to use or operate
- 2795 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 2796 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 2797 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 2798 amusement, entertainment, or recreation for the assisted amusement devices; and
- 2799 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
- 2800 Utah Administrative Rulemaking Act, the commission may make rules:
- 2801 (i) governing the circumstances under which sales are at the same business location;
- 2802 and
- 2803 (ii) establishing the procedures and requirements for a seller to separately account for
- 2804 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
- 2805 assisted amusement devices;
- 2806 (41) (a) sales of photocopies by:
- 2807 (i) a governmental entity; or
- 2808 (ii) an entity within the state system of public education, including:
- 2809 (A) a school; or
- 2810 (B) the State Board of Education; or
- 2811 (b) sales of publications by a governmental entity;
- 2812 (42) amounts paid for admission to an athletic event at an institution of higher
- 2813 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
- 2814 20 U.S.C. Sec. 1681 et seq.;
- 2815 (43) sales of telecommunications service charged to a prepaid telephone calling card;
- 2816 (44) (a) sales made to or by:
- 2817 (i) an area agency on aging; or

2818 (ii) a senior citizen center owned by a county, city, or town; or
2819 (b) sales made by a senior citizen center that contracts with an area agency on aging;
2820 (45) sales or leases of semiconductor fabricating, processing, research, or development
2821 materials regardless of whether the semiconductor fabricating, processing, research, or
2822 development materials:
2823 (a) actually come into contact with a semiconductor; or
2824 (b) ultimately become incorporated into real property;
2825 (46) an amount paid by or charged to a purchaser for accommodations and services
2826 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
2827 59-12-104.2;
2828 (47) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
2829 sports event registration certificate in accordance with Section 41-3-306 for the event period
2830 specified on the temporary sports event registration certificate;
2831 (48) sales or uses of electricity, if the sales or uses are:
2832 (a) made under a tariff adopted by the Public Service Commission of Utah only for
2833 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
2834 source, as designated in the tariff by the Public Service Commission of Utah; and
2835 (b) for an amount of electricity that is:
2836 (i) unrelated to the amount of electricity used by the person purchasing the electricity
2837 under the tariff described in Subsection (48)(a); and
2838 (ii) equivalent to the number of kilowatthours specified in the tariff described in
2839 Subsection (48)(a) that may be purchased under the tariff described in Subsection (48)(a);
2840 (49) sales or rentals of mobility enhancing equipment if a person presents a
2841 prescription for the mobility enhancing equipment;
2842 (50) sales of water in a:
2843 (a) pipe;
2844 (b) conduit;
2845 (c) ditch; or
2846 (d) reservoir;
2847 (51) sales of currency or coinage that constitute legal tender of the United States or of a
2848 foreign nation;

- 2849 (52) (a) sales of an item described in Subsection (52)(b) if the item:
2850 (i) does not constitute legal tender of any nation; and
2851 (ii) has a gold, silver, or platinum content of 80% or more; and
2852 (b) Subsection (52)(a) applies to a gold, silver, or platinum:
2853 (i) ingot;
2854 (ii) bar;
2855 (iii) medallion; or
2856 (iv) decorative coin;
2857 (53) amounts paid on a sale-leaseback transaction;
2858 (54) sales of a prosthetic device:
2859 (a) for use on or in a human; and
2860 (b) (i) for which a prescription is required; or
2861 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
2862 (55) (a) except as provided in Subsection (55)(b), purchases, leases, or rentals of
2863 machinery or equipment by an establishment described in Subsection (55)(c) if the machinery
2864 or equipment is primarily used in the production or postproduction of the following media for
2865 commercial distribution:
2866 (i) a motion picture;
2867 (ii) a television program;
2868 (iii) a movie made for television;
2869 (iv) a music video;
2870 (v) a commercial;
2871 (vi) a documentary; or
2872 (vii) a medium similar to Subsections (55)(a)(i) through (vi) as determined by the
2873 commission by administrative rule made in accordance with Subsection (55)(d); or
2874 (b) notwithstanding Subsection (55)(a), purchases, leases, or rentals of machinery or
2875 equipment by an establishment described in Subsection (55)(c) that is used for the production
2876 or postproduction of the following are subject to the taxes imposed by this chapter:
2877 (i) a live musical performance;
2878 (ii) a live news program; or
2879 (iii) a live sporting event;

2880 (c) the following establishments listed in the 1997 North American Industry
2881 Classification System of the federal Executive Office of the President, Office of Management
2882 and Budget, apply to Subsections (55)(a) and (b):

2883 (i) NAICS Code 512110; or

2884 (ii) NAICS Code 51219; and

2885 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2886 commission may by rule:

2887 (i) prescribe what constitutes a medium similar to Subsections (55)(a)(i) through (vi);

2888 or

2889 (ii) define:

2890 (A) "commercial distribution";

2891 (B) "live musical performance";

2892 (C) "live news program"; or

2893 (D) "live sporting event";

2894 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
2895 or before June 30, 2019, of machinery or equipment that:

2896 (i) is leased or purchased for or by a facility that:

2897 (A) is a renewable energy production facility;

2898 (B) is located in the state; and

2899 (C) (I) becomes operational on or after July 1, 2004; or

2900 (II) has its generation capacity increased by one or more megawatts on or after July 1,
2901 2004 as a result of the use of the machinery or equipment;

2902 (ii) has an economic life of five or more years; and

2903 (iii) is used to make the facility or the increase in capacity of the facility described in

2904 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
2905 transmission grid including:

2906 (A) a wind turbine;

2907 (B) generating equipment;

2908 (C) a control and monitoring system;

2909 (D) a power line;

2910 (E) substation equipment;

- 2911 (F) lighting;
- 2912 (G) fencing;
- 2913 (H) pipes; or
- 2914 (I) other equipment used for locating a power line or pole; and
- 2915 (b) this Subsection (56) does not apply to:
- 2916 (i) machinery or equipment used in construction of:
- 2917 (A) a new renewable energy production facility; or
- 2918 (B) the increase in the capacity of a renewable energy production facility;
- 2919 (ii) contracted services required for construction and routine maintenance activities;
- 2920 and
- 2921 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
- 2922 of the facility described in Subsection (56)(a)(i)(C)(II), machinery or equipment used or
- 2923 acquired after:
- 2924 (A) the renewable energy production facility described in Subsection (56)(a)(i) is
- 2925 operational as described in Subsection (56)(a)(iii); or
- 2926 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
- 2927 in Subsection (56)(a)(iii);
- 2928 (57) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
- 2929 or before June 30, 2019, of machinery or equipment that:
- 2930 (i) is leased or purchased for or by a facility that:
- 2931 (A) is a waste energy production facility;
- 2932 (B) is located in the state; and
- 2933 (C) (I) becomes operational on or after July 1, 2004; or
- 2934 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 2935 2004 as a result of the use of the machinery or equipment;
- 2936 (ii) has an economic life of five or more years; and
- 2937 (iii) is used to make the facility or the increase in capacity of the facility described in
- 2938 Subsection (57)(a)(i) operational up to the point of interconnection with an existing
- 2939 transmission grid including:
- 2940 (A) generating equipment;
- 2941 (B) a control and monitoring system;

- 2942 (C) a power line;
- 2943 (D) substation equipment;
- 2944 (E) lighting;
- 2945 (F) fencing;
- 2946 (G) pipes; or
- 2947 (H) other equipment used for locating a power line or pole; and
- 2948 (b) this Subsection (57) does not apply to:
- 2949 (i) machinery or equipment used in construction of:
- 2950 (A) a new waste energy facility; or
- 2951 (B) the increase in the capacity of a waste energy facility;
- 2952 (ii) contracted services required for construction and routine maintenance activities;
- 2953 and
- 2954 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
- 2955 described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or acquired after:
- 2956 (A) the waste energy facility described in Subsection (57)(a)(i) is operational as
- 2957 described in Subsection (57)(a)(iii); or
- 2958 (B) the increased capacity described in Subsection (57)(a)(i) is operational as described
- 2959 in Subsection (57)(a)(iii);
- 2960 (58) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
- 2961 or before June 30, 2019, of machinery or equipment that:
- 2962 (i) is leased or purchased for or by a facility that:
- 2963 (A) is located in the state;
- 2964 (B) produces fuel from biomass energy including:
- 2965 (I) methanol; or
- 2966 (II) ethanol; and
- 2967 (C) (I) becomes operational on or after July 1, 2004; or
- 2968 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as
- 2969 a result of the installation of the machinery or equipment;
- 2970 (ii) has an economic life of five or more years; and
- 2971 (iii) is installed on the facility described in Subsection (58)(a)(i);
- 2972 (b) this Subsection (58) does not apply to:

- 2973 (i) machinery or equipment used in construction of:
2974 (A) a new facility described in Subsection (58)(a)(i); or
2975 (B) the increase in capacity of the facility described in Subsection (58)(a)(i); or
2976 (ii) contracted services required for construction and routine maintenance activities;
2977 and
2978 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
2979 described in Subsection (58)(a)(i)(C)(II), machinery or equipment used or acquired after:
2980 (A) the facility described in Subsection (58)(a)(i) is operational; or
2981 (B) the increased capacity described in Subsection (58)(a)(i) is operational;
2982 (59) (a) subject to Subsection (59)(b) or (c), sales of tangible personal property or a
2983 product transferred electronically to a person within this state if that tangible personal property
2984 or product transferred electronically is subsequently shipped outside the state and incorporated
2985 pursuant to contract into and becomes a part of real property located outside of this state;
2986 (b) the exemption under Subsection (59)(a) is not allowed to the extent that the other
2987 state or political entity to which the tangible personal property is shipped imposes a sales, use,
2988 gross receipts, or other similar transaction excise tax on the transaction against which the other
2989 state or political entity allows a credit for sales and use taxes imposed by this chapter; and
2990 (c) notwithstanding the time period of Subsection [~~59-12-110(2)(b)~~] 59-1-1410(8) for
2991 filing for a refund, a person may claim the exemption allowed by this Subsection (59) for a sale
2992 by filing for a refund:
2993 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;
2994 (ii) as if this Subsection (59) as in effect on July 1, 2008, were in effect on the day on
2995 which the sale is made;
2996 (iii) if the person did not claim the exemption allowed by this Subsection (59) for the
2997 sale prior to filing for the refund;
2998 (iv) for sales and use taxes paid under this chapter on the sale;
2999 (v) in accordance with Section [~~59-12-110~~] 59-1-1410; and
3000 (vi) subject to any extension allowed for filing for a refund under Section [~~59-12-110~~]
3001 59-1-1410, if the person files for the refund on or before June 30, 2011;
3002 (60) purchases:
3003 (a) of one or more of the following items in printed or electronic format:

- 3004 (i) a list containing information that includes one or more:
- 3005 (A) names; or
- 3006 (B) addresses; or
- 3007 (ii) a database containing information that includes one or more:
- 3008 (A) names; or
- 3009 (B) addresses; and
- 3010 (b) used to send direct mail;
- 3011 (61) redemptions or repurchases of a product by a person if that product was:
- 3012 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 3013 (b) redeemed or repurchased within the time period established in a written agreement
- 3014 between the person and the pawnbroker for redeeming or repurchasing the product;
- 3015 (62) (a) purchases or leases of an item described in Subsection (62)(b) if the item:
- 3016 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
- 3017 and
- 3018 (ii) has a useful economic life of one or more years; and
- 3019 (b) the following apply to Subsection (62)(a):
- 3020 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 3021 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 3022 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 3023 (iv) telecommunications switching or routing equipment, machinery, or software; or
- 3024 (v) telecommunications transmission equipment, machinery, or software;
- 3025 (63) (a) beginning on July 1, 2006, and ending on June 30, 2016, purchases of tangible
- 3026 personal property or a product transferred electronically that are used in the research and
- 3027 development of coal-to-liquids, oil shale, or tar sands technology; and
- 3028 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3029 commission may, for purposes of Subsection (63)(a), make rules defining what constitutes
- 3030 purchases of tangible personal property or a product transferred electronically that are used in
- 3031 the research and development of coal-to-liquids, oil shale, and tar sands technology;
- 3032 (64) (a) purchases of tangible personal property or a product transferred electronically
- 3033 if:
- 3034 (i) the tangible personal property or product transferred electronically is:

- 3035 (A) purchased outside of this state;
- 3036 (B) brought into this state at any time after the purchase described in Subsection
- 3037 (64)(a)(i)(A); and
- 3038 (C) used in conducting business in this state; and
- 3039 (ii) for:
- 3040 (A) tangible personal property or a product transferred electronically other than the
- 3041 tangible personal property described in Subsection (64)(a)(ii)(B), the first use of the property
- 3042 for a purpose for which the property is designed occurs outside of this state; or
- 3043 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
- 3044 outside of this state;
- 3045 (b) the exemption provided for in Subsection (64)(a) does not apply to:
- 3046 (i) a lease or rental of tangible personal property or a product transferred electronically;
- 3047 or
- 3048 (ii) a sale of a vehicle exempt under Subsection (33); and
- 3049 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
- 3050 purposes of Subsection (64)(a), the commission may by rule define what constitutes the
- 3051 following:
- 3052 (i) conducting business in this state if that phrase has the same meaning in this
- 3053 Subsection (64) as in Subsection (24);
- 3054 (ii) the first use of tangible personal property or a product transferred electronically if
- 3055 that phrase has the same meaning in this Subsection (64) as in Subsection (24); or
- 3056 (iii) a purpose for which tangible personal property or a product transferred
- 3057 electronically is designed if that phrase has the same meaning in this Subsection (64) as in
- 3058 Subsection (24);
- 3059 (65) sales of disposable home medical equipment or supplies if:
- 3060 (a) a person presents a prescription for the disposable home medical equipment or
- 3061 supplies;
- 3062 (b) the disposable home medical equipment or supplies are used exclusively by the
- 3063 person to whom the prescription described in Subsection (65)(a) is issued; and
- 3064 (c) the disposable home medical equipment and supplies are listed as eligible for
- 3065 payment under:

- 3066 (i) Title XVIII, federal Social Security Act; or
- 3067 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- 3068 (66) sales:
- 3069 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
- 3070 District Act; or
- 3071 (b) of tangible personal property to a subcontractor of a public transit district, if the
- 3072 tangible personal property is:
- 3073 (i) clearly identified; and
- 3074 (ii) installed or converted to real property owned by the public transit district;
- 3075 (67) sales of construction materials:
- 3076 (a) purchased on or after July 1, 2010;
- 3077 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 3078 (i) located within a county of the first class; and
- 3079 (ii) that has a United States customs office on its premises; and
- 3080 (c) if the construction materials are:
- 3081 (i) clearly identified;
- 3082 (ii) segregated; and
- 3083 (iii) installed or converted to real property:
- 3084 (A) owned or operated by the international airport described in Subsection (67)(b); and
- 3085 (B) located at the international airport described in Subsection (67)(b);
- 3086 (68) sales of construction materials:
- 3087 (a) purchased on or after July 1, 2008;
- 3088 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 3089 (i) located within a county of the second class; and
- 3090 (ii) that is owned or operated by a city in which an airline as defined in Section
- 3091 59-2-102 is headquartered; and
- 3092 (c) if the construction materials are:
- 3093 (i) clearly identified;
- 3094 (ii) segregated; and
- 3095 (iii) installed or converted to real property:
- 3096 (A) owned or operated by the new airport described in Subsection (68)(b);

3097 (B) located at the new airport described in Subsection (68)(b); and
3098 (C) as part of the construction of the new airport described in Subsection (68)(b); and
3099 (69) sales of fuel to a common carrier that is a railroad for use in a locomotive engine.

3100 Section 44. Section **59-12-107** is amended to read:

3101 **59-12-107. Collection, remittance, and payment of tax by sellers or other persons**
3102 **-- Returns -- Reports -- Direct payment by purchaser of vehicle -- Other liability for**
3103 **collection -- Rulemaking authority -- Credits -- Treatment of bad debt -- Penalties.**

3104 (1) (a) Except as provided in Subsection (1)(d) or Section 59-12-107.1 or 59-12-123
3105 and subject to Subsection (1)(e), each seller shall pay or collect and remit the sales and use
3106 taxes imposed by this chapter if within this state the seller:

3107 (i) has or utilizes:

3108 (A) an office;

3109 (B) a distribution house;

3110 (C) a sales house;

3111 (D) a warehouse;

3112 (E) a service enterprise; or

3113 (F) a place of business similar to Subsections (1)(a)(i)(A) through (E);

3114 (ii) maintains a stock of goods;

3115 (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the
3116 state, unless the seller's only activity in the state is:

3117 (A) advertising; or

3118 (B) solicitation by:

3119 (I) direct mail;

3120 (II) electronic mail;

3121 (III) the Internet;

3122 (IV) telecommunications service; or

3123 (V) a means similar to Subsection (1)(a)(iii)(A) or (B);

3124 (iv) regularly engages in the delivery of property in the state other than by:

3125 (A) common carrier; or

3126 (B) United States mail; or

3127 (v) regularly engages in an activity directly related to the leasing or servicing of

3128 property located within the state.

3129 (b) A seller that does not meet one or more of the criteria provided for in Subsection

3130 (1)(a):

3131 (i) except as provided in Subsection (1)(b)(ii), may voluntarily:

3132 (A) collect a tax on a transaction described in Subsection 59-12-103(1); and

3133 (B) remit the tax to the commission as provided in this part; or

3134 (ii) notwithstanding Subsection (1)(b)(i), shall collect a tax on a transaction described
3135 in Subsection 59-12-103(1) if Section 59-12-103.1 requires the seller to collect the tax.

3136 (c) The collection and remittance of a tax under this chapter by a seller that is
3137 registered under the agreement may not be used as a factor in determining whether that seller is
3138 required by Subsection (1)(a) to:

3139 (i) pay a tax, fee, or charge under:

3140 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

3141 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

3142 [~~(B)~~] (C) Section [19-6-716] 19-6-714;

3143 [~~(C)~~] (D) Section 19-6-805;

3144 [~~(D)~~] (E) Section 69-2-5;

3145 [~~(E)~~] (F) Section 69-2-5.5;

3146 [~~(F)~~] (G) Section 69-2-5.6; or

3147 [~~(G)~~] (H) this title; or

3148 (ii) collect and remit a tax, fee, or charge under:

3149 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

3150 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

3151 [~~(B)~~] (C) Section [19-6-716] 19-6-714;

3152 [~~(C)~~] (D) Section 19-6-805;

3153 [~~(D)~~] (E) Section 69-2-5;

3154 [~~(E)~~] (F) Section 69-2-5.5;

3155 [~~(F)~~] (G) Section 69-2-5.6; or

3156 [~~(G)~~] (H) this title.

3157 (d) A person shall pay a use tax imposed by this chapter on a transaction described in
3158 Subsection 59-12-103(1) if:

3159 (i) the seller did not collect a tax imposed by this chapter on the transaction; and
3160 (ii) the person:
3161 (A) stores the tangible personal property or product transferred electronically in the
3162 state;
3163 (B) uses the tangible personal property or product transferred electronically in the state;
3164 or
3165 (C) consumes the tangible personal property or product transferred electronically in the
3166 state.
3167 (e) The ownership of property that is located at the premises of a printer's facility with
3168 which the retailer has contracted for printing and that consists of the final printed product,
3169 property that becomes a part of the final printed product, or copy from which the printed
3170 product is produced, shall not result in the retailer being considered to have or maintain an
3171 office, distribution house, sales house, warehouse, service enterprise, or other place of
3172 business, or to maintain a stock of goods, within this state.
3173 (f) (i) As used in this Subsection (1) (f):
3174 (A) "affiliated group" is as defined in Section 59-7-101, except that "affiliated group"
3175 includes a corporation that is qualified to do business but is not otherwise doing business in
3176 this state;
3177 (B) "common ownership" is as defined in Section 59-7-101;
3178 (C) "related seller" means a seller that:
3179 (I) is not required to pay or collect and remit sales and use taxes under Subsection
3180 (1)(a) or Section 59-12-103.1;
3181 (II) is:
3182 (Aa) related to a seller that is required to pay or collect and remit sales and use taxes
3183 under Subsection (1)(a) as part of an affiliated group or because of common ownership; or
3184 (Bb) a limited liability company owned by the parent corporation of an affiliated group
3185 if that parent corporation of the affiliated group is required to pay or collect and remit sales and
3186 use taxes under Subsection (1)(a); and
3187 (III) does not voluntarily collect and remit a tax under Subsection (1)(b)(i).
3188 (ii) A seller is not required to pay or collect and remit sales and use taxes under
3189 Subsection (1)(a):

- 3190 (A) if the seller is a related seller;
- 3191 (B) if the seller to which the related seller is related does not engage in any of the
- 3192 following activities on behalf of the related seller:
 - 3193 (I) advertising;
 - 3194 (II) marketing;
 - 3195 (III) sales; or
 - 3196 (IV) other services; and
- 3197 (C) if the seller to which the related seller is related accepts the return of an item sold
- 3198 by the related seller, the seller to which the related seller is related accepts the return of that
- 3199 item:
 - 3200 (I) sold by a seller that is not a related seller; and
 - 3201 (II) on the same terms as the return of an item sold by that seller to which the related
 - 3202 seller is related.
- 3203 (2) (a) Except as provided in Section 59-12-107.1, a tax under this chapter shall be
- 3204 collected from a purchaser.
 - 3205 (b) A seller may not collect as tax an amount, without regard to fractional parts of one
 - 3206 cent, in excess of the tax computed at the rates prescribed by this chapter.
 - 3207 (c) (i) Each seller shall:
 - 3208 (A) give the purchaser a receipt for the tax collected; or
 - 3209 (B) bill the tax as a separate item and declare the name of this state and the seller's
 - 3210 sales and use tax license number on the invoice for the sale.
 - 3211 (ii) The receipt or invoice is prima facie evidence that the seller has collected the tax
 - 3212 and relieves the purchaser of the liability for reporting the tax to the commission as a
 - 3213 consumer.
 - 3214 (d) A seller is not required to maintain a separate account for the tax collected, but is
 - 3215 considered to be a person charged with receipt, safekeeping, and transfer of public moneys.
 - 3216 (e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the
 - 3217 benefit of the state and for payment to the commission in the manner and at the time provided
 - 3218 for in this chapter.
 - 3219 (f) If any seller, during any reporting period, collects as a tax an amount in excess of
 - 3220 the lawful state and local percentage of total taxable sales allowed under this chapter, the seller

3221 shall remit to the commission the full amount of the tax imposed under this chapter, plus any
3222 excess.

3223 (g) If the accounting methods regularly employed by the seller in the transaction of the
3224 seller's business are such that reports of sales made during a calendar month or quarterly period
3225 will impose unnecessary hardships, the commission may accept reports at intervals that will, in
3226 the commission's opinion, better suit the convenience of the taxpayer or seller and will not
3227 jeopardize collection of the tax.

3228 (3) (a) Except as provided in Subsections (4) through (6) and Section 59-12-108, the
3229 sales or use tax imposed by this chapter is due and payable to the commission quarterly on or
3230 before the last day of the month next succeeding each calendar quarterly period.

3231 (b) (i) Each seller shall, on or before the last day of the month next succeeding each
3232 calendar quarterly period, file with the commission a return for the preceding quarterly period.

3233 (ii) The seller shall remit with the return under Subsection (3)(b)(i) the amount of the
3234 tax required under this chapter to be collected or paid for the period covered by the return.

3235 (c) Except as provided in Subsection (4)(c), a return shall contain information and be in
3236 a form the commission prescribes by rule.

3237 (d) The sales tax as computed in the return shall be based upon the total nonexempt
3238 sales made during the period, including both cash and charge sales.

3239 (e) The use tax as computed in the return shall be based upon the total amount of
3240 purchases for storage, use, or other consumption in this state made during the period, including
3241 both by cash and by charge.

3242 (f) (i) Subject to Subsection (3)(f)(ii) and in accordance with Title 63G, Chapter 3,
3243 Utah Administrative Rulemaking Act, the commission may by rule extend the time for making
3244 returns and paying the taxes.

3245 (ii) An extension under Subsection (3)(f)(i) may not be for more than 90 days.

3246 (g) The commission may require returns and payment of the tax to be made for other
3247 than quarterly periods if the commission considers it necessary in order to ensure the payment
3248 of the tax imposed by this chapter.

3249 (h) (i) The commission may require a seller that files a simplified electronic return with
3250 the commission to file an additional electronic report with the commission.

3251 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3252 commission may make rules providing:

3253 (A) the information required to be included in the additional electronic report described
3254 in Subsection (3)(h)(i); and

3255 (B) one or more due dates for filing the additional electronic report described in
3256 Subsection (3)(h)(i).

3257 (4) (a) As used in this Subsection (4) and Subsection (5)(b), "remote seller" means a
3258 seller that is:

3259 (i) registered under the agreement;

3260 (ii) described in Subsection (1)(b); and

3261 (iii) not a:

3262 (A) model 1 seller;

3263 (B) model 2 seller; or

3264 (C) model 3 seller.

3265 (b) (i) Except as provided in Subsection (4)(b)(ii), a tax a remote seller collects in
3266 accordance with Subsection (1)(b) is due and payable:

3267 (A) to the commission;

3268 (B) annually; and

3269 (C) on or before the last day of the month immediately following the last day of each
3270 calendar year.

3271 (ii) The commission may require that a tax a remote seller collects in accordance with
3272 Subsection (1)(b) be due and payable:

3273 (A) to the commission; and

3274 (B) on the last day of the month immediately following any month in which the seller
3275 accumulates a total of at least \$1,000 in agreement sales and use tax.

3276 (c) (i) If a remote seller remits a tax to the commission in accordance with Subsection
3277 (4)(b), the remote seller shall file a return:

3278 (A) with the commission;

3279 (B) with respect to the tax;

3280 (C) containing information prescribed by the commission; and

3281 (D) on a form prescribed by the commission.

3282 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3283 commission shall make rules prescribing:

3284 (A) the information required to be contained in a return described in Subsection

3285 (4)(a)(i); and

3286 (B) the form described in Subsection (4)(c)(i)(D).

3287 (d) A tax a remote seller collects in accordance with this Subsection (4) shall be

3288 calculated on the basis of the total amount of taxable transactions under Subsection

3289 59-12-103(1) the remote seller completes, including:

3290 (i) a cash transaction; and

3291 (ii) a charge transaction.

3292 (5) (a) Except as provided in Subsection (5)(b), a tax a seller that files a simplified

3293 electronic return collects in accordance with this chapter is due and payable:

3294 (i) monthly on or before the last day of the month immediately following the month for

3295 which the seller collects a tax under this chapter; and

3296 (ii) for the month for which the seller collects a tax under this chapter.

3297 (b) A tax a remote seller that files a simplified electronic return collects in accordance

3298 with this chapter is due and payable as provided in Subsection (4).

3299 (6) (a) On each vehicle sale made by other than a regular licensed vehicle dealer, the

3300 purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to

3301 titling or registration under the laws of this state.

3302 (b) The commission shall collect the tax described in Subsection (6)(a) when the

3303 vehicle is titled or registered.

3304 (7) If any sale of tangible personal property or any other taxable transaction under

3305 Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not

3306 responsible for the collection or payment of the tax imposed on the sale and the retailer is

3307 responsible for the collection or payment of the tax imposed on the sale if:

3308 (a) the retailer represents that the personal property is purchased by the retailer for

3309 resale; and

3310 (b) the personal property is not subsequently resold.

3311 (8) If any sale of property or service subject to the tax is made to a person prepaying

3312 sales or use tax in accordance with Title 63M, Chapter 5, Resource Development Act, or to a

3313 contractor or subcontractor of that person, the person to whom such payment or consideration

3314 is payable is not responsible for the collection or payment of the sales or use tax and the person
3315 prepaying the sales or use tax is responsible for the collection or payment of the sales or use tax
3316 if the person prepaying the sales or use tax represents that the amount prepaid as sales or use
3317 tax has not been fully credited against sales or use tax due and payable under the rules
3318 promulgated by the commission.

3319 (9) (a) For purposes of this Subsection (9):

3320 (i) Except as provided in Subsection (9)(a)(ii), "bad debt" is as defined in Section 166,
3321 Internal Revenue Code.

3322 (ii) Notwithstanding Subsection (9)(a)(i), "bad debt" does not include:

3323 (A) an amount included in the purchase price of tangible personal property, a product
3324 transferred electronically, or a service that is:

3325 (I) not a transaction described in Subsection 59-12-103(1); or

3326 (II) exempt under Section 59-12-104;

3327 (B) a financing charge;

3328 (C) interest;

3329 (D) a tax imposed under this chapter on the purchase price of tangible personal
3330 property, a product transferred electronically, or a service;

3331 (E) an uncollectible amount on tangible personal property or a product transferred
3332 electronically that:

3333 (I) is subject to a tax under this chapter; and

3334 (II) remains in the possession of a seller until the full purchase price is paid;

3335 (F) an expense incurred in attempting to collect any debt; or

3336 (G) an amount that a seller does not collect on repossessed property.

3337 (b) A seller may deduct bad debt from the total amount from which a tax under this
3338 chapter is calculated on a return.

3339 (c) A seller may file a refund claim with the commission if:

3340 (i) the amount of bad debt for the time period described in Subsection (9)(e) exceeds
3341 the amount of the seller's sales that are subject to a tax under this chapter for that same time
3342 period; and

3343 (ii) as provided in Section [~~59-12-110~~] 59-1-1410.

3344 (d) A bad debt deduction under this section may not include interest.

- 3345 (e) A bad debt may be deducted under this Subsection (9) on a return for the time
3346 period during which the bad debt:
- 3347 (i) is written off as uncollectible in the seller's books and records; and
 - 3348 (ii) would be eligible for a bad debt deduction:
 - 3349 (A) for federal income tax purposes; and
 - 3350 (B) if the seller were required to file a federal income tax return.
 - 3351 (f) If a seller recovers any portion of bad debt for which the seller makes a deduction or
3352 claims a refund under this Subsection (9), the seller shall report and remit a tax under this
3353 chapter:
 - 3354 (i) on the portion of the bad debt the seller recovers; and
 - 3355 (ii) on a return filed for the time period for which the portion of the bad debt is
3356 recovered.
 - 3357 (g) For purposes of reporting a recovery of a portion of bad debt under Subsection
3358 (9)(f), a seller shall apply amounts received on the bad debt in the following order:
 - 3359 (i) in a proportional amount:
 - 3360 (A) to the purchase price of the tangible personal property, product transferred
3361 electronically, or service; and
 - 3362 (B) to the tax due under this chapter on the tangible personal property, product
3363 transferred electronically, or service; and
 - 3364 (ii) to:
 - 3365 (A) interest charges;
 - 3366 (B) service charges; and
 - 3367 (C) other charges.
 - 3368 (h) A seller's certified service provider may make a deduction or claim a refund for bad
3369 debt on behalf of the seller:
 - 3370 (i) in accordance with this Subsection (9); and
 - 3371 (ii) if the certified service provider credits or refunds the entire amount of the bad debt
3372 deduction or refund to the seller.
 - 3373 (i) A seller may allocate bad debt among the states that are members of the agreement
3374 if the seller's books and records support that allocation.
 - 3375 (10) (a) A seller may not, with intent to evade any tax, fail to timely remit the full

3376 amount of tax required by this chapter.

3377 (b) A violation of this section is punishable as provided in Section 59-1-401.

3378 (c) Each person who fails to pay any tax to the state or any amount of tax required to be
3379 paid to the state, except amounts determined to be due by the commission under [~~Sections~~
3380 ~~59-12-110 and 59-12-111~~] Chapter 1, Part 14, Assessment, Collections, and Refunds Act, or
3381 Section 59-12-111, within the time required by this chapter, or who fails to file any return as
3382 required by this chapter, shall pay, in addition to the tax, penalties and interest as provided in
3383 Section [~~59-12-110~~] 59-1-401.

3384 (d) For purposes of prosecution under this section, each quarterly tax period in which a
3385 seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the
3386 tax required to be remitted, constitutes a separate offense.

3387 Section 45. Section **59-12-110** is amended to read:

3388 **59-12-110. Refunds procedures.**

3389 [~~(1) (a) As soon as practicable after a return is filed, the commission shall examine the~~
3390 ~~return.~~]

3391 [~~(b) If the commission determines that the correct amount of tax to be remitted is~~
3392 ~~greater or less than the amount shown to be due on the return, the commission shall recompute~~
3393 ~~the tax.~~]

3394 [~~(c) If the amount paid exceeds the amount due, the excess, plus interest as provided in~~
3395 ~~Section 59-1-402, shall be credited or refunded to the taxpayer as provided in Subsection (2).~~]

3396 [~~(d) The commission may not credit or refund to the taxpayer interest on an~~
3397 ~~overpayment under Subsection (1)(c) if the commission determines that the overpayment was~~
3398 ~~made for the purpose of investment.~~]

3399 [(2) (a) If a taxpayer pays a tax, penalty, or interest more than once or the commission
3400 erroneously receives, collects, or computes any tax, penalty, or interest, including an
3401 overpayment described in Subsection (1)(c), the commission shall:]

3402 [(i) credit the amount of tax, penalty, or interest paid by the taxpayer against any
3403 amounts of tax, penalties, or interest the taxpayer owes; and]

3404 [(ii) refund any balance to the taxpayer or the taxpayer's successors, administrators,
3405 executors, or assigns.]

3406 [(b) Except as provided in Subsections (2)(c) and (d) or Section 19-2-124, a taxpayer

3407 shall file a claim with the commission to obtain a refund or credit under this Subsection (2)
 3408 within three years from the day on which the taxpayer overpaid the tax, penalty, or interest.]

3409 [~~(c) Notwithstanding Subsection (2)(b), beginning on July 1, 1998, the commission~~
 3410 shall extend the period for a taxpayer to file a claim under Subsection (2)(b) if:]

3411 [~~(i) the three-year period under Subsection (2)(b) has not expired; and]~~

3412 [~~(ii) the commission and the taxpayer sign a written agreement:]~~

3413 [~~(A) authorizing the extension; and]~~

3414 [~~(B) providing for the length of the extension.]~~

3415 [~~(d) Notwithstanding Subsection (2)(b), a]~~

3416 (1) A seller that files a claim for a refund under [Subsection 59-12-107(9)(c)] Section
 3417 59-12-107 for bad debt shall file the claim with the commission within three years from the
 3418 date on which the seller could first claim the refund for the bad debt.

3419 [~~(e) A taxpayer may file a claim to obtain a refund or credit under this Subsection (2)~~
 3420 ~~regardless of whether the taxpayer received or objected to a notice of deficiency or a notice of~~
 3421 ~~assessment as provided in Subsection 59-12-114(1).]~~

3422 (2) A seller that files a claim for a refund for a repossessed item shall file the claim
 3423 with the commission within three years from the date the item is repossessed.

3424 [~~(f)~~] (3) A taxpayer may obtain a refund under [this Subsection (2)] Section 59-1-1410
 3425 of a tax paid under this chapter on a transaction that is taxable under Section 59-12-103 if:

3426 [~~(i)~~] (a) the sale or use [was] is exempt from sales and use taxes under Section
 3427 59-12-104 on the date of purchase; and

3428 [~~(ii) except as provided in Subsection (2)(c);]~~

3429 (b) the taxpayer files a claim for a refund with the commission as provided in
 3430 [Subsections (2)(b) through (e)] Section 59-1-1410.

3431 [~~(g) If the commission denies a claim for a refund or credit under this Subsection (2),~~
 3432 ~~the taxpayer may request a redetermination of the denial by filing a petition or request for~~
 3433 ~~agency action with the commission as provided in Title 63G, Chapter 4, Administrative~~
 3434 ~~Procedures Act.]~~

3435 [~~(3) If the commission erroneously determines an amount to be due from a taxpayer,~~
 3436 ~~the commission shall authorize the amounts to be cancelled upon its records.]~~

3437 [~~(4) (a) Subject to the provisions of Subsection (4)(b), the commission may impose on~~

3438 a deficiency under this section:]
3439 ~~[(i) a penalty as provided in Section 59-1-401; and]~~
3440 ~~[(ii) interest as provided in Section 59-1-402.]~~
3441 ~~[(b) The commission may impose a penalty and interest on the entire deficiency if any~~
3442 ~~part of the deficiency is due to:]~~
3443 ~~[(i) negligence;]~~
3444 ~~[(ii) intentional disregard of law or rule; or]~~
3445 ~~[(iii) fraud with intent to evade the tax.]~~
3446 ~~[(5) (a) Except as provided in Subsection (5)(b), a taxpayer shall pay a tax deficiency;~~
3447 ~~including penalties or interest under this section, within ten days after the commission provides~~
3448 ~~the taxpayer notice and demand of the deficiency, penalty, or interest.]~~
3449 ~~[(b) Notwithstanding Subsection (5)(a), a taxpayer may pay a tax deficiency, penalty,~~
3450 ~~or interest within 30 days after the commission provides the taxpayer notice and demand of the~~
3451 ~~deficiency, penalty, or interest if the commission determines:]~~
3452 ~~[(i) that a greater amount was due than was shown on the return; and]~~
3453 ~~[(ii) the tax is not in jeopardy.]~~
3454 ~~[(6) (a) Except as provided in Subsections (6)(c) through (f), the commission shall~~
3455 ~~assess the amount of taxes imposed by this chapter, and any penalties and interest, within three~~
3456 ~~years after a taxpayer files a return.]~~
3457 ~~[(b) Except as provided in Subsections (6)(c) through (f), if the commission does not~~
3458 ~~make an assessment under Subsection (6)(a) within three years, the commission may not~~
3459 ~~commence a proceeding for the collection of the taxes after the expiration of the three-year~~
3460 ~~period.]~~
3461 ~~[(c) Notwithstanding Subsections (6)(a) and (b), the commission may make an~~
3462 ~~assessment or commence a proceeding to collect a tax at any time if a deficiency is due to:]~~
3463 ~~[(i) fraud; or]~~
3464 ~~[(ii) failure to file a return.]~~
3465 ~~[(d) Notwithstanding Subsections (6)(a) and (b), beginning on July 1, 1998, the~~
3466 ~~commission may extend the period to make an assessment or to commence a proceeding to~~
3467 ~~collect the tax under this chapter if:]~~
3468 ~~[(i) the three-year period under this Subsection (6) has not expired; and]~~

3469 [~~(ii) the commission and the taxpayer sign a written agreement;~~]
 3470 [~~(A) authorizing the extension; and~~]
 3471 [~~(B) providing for the length of the extension.~~]
 3472 [~~(e) If the commission delays an audit at the request of a taxpayer, the commission may~~
 3473 ~~make an assessment as provided in Subsection (6)(f) if:~~]
 3474 [~~(i) the taxpayer subsequently refuses to agree to an extension request by the~~
 3475 ~~commission; and~~]
 3476 [~~(ii) the three-year period under this Subsection (6) expires before the commission~~
 3477 ~~completes the audit.~~]
 3478 [~~(f) An assessment under Subsection (6)(e) shall be:~~]
 3479 [~~(i) for the time period for which the commission could not make an assessment~~
 3480 ~~because of the expiration of the three-year period; and~~]
 3481 [~~(ii) in an amount equal to the difference between:~~]
 3482 [~~(A) the commission's estimate of the amount of taxes the taxpayer would have been~~
 3483 ~~assessed for the time period described in Subsection (6)(f)(i); and~~]
 3484 [~~(B) the amount of taxes the taxpayer actually paid for the time period described in~~
 3485 ~~Subsection (6)(f)(i).~~]

3486 Section 46. Section **59-12-110.1** is amended to read:

3487 **59-12-110.1. Refund or credit for taxes overpaid by a purchaser -- Seller**
 3488 **reasonable business practice.**

3489 (1) Subject to the other provisions of this section, a purchaser may request from a seller
 3490 a refund or credit of any amount that:

3491 (a) the purchaser overpaid in taxes under this chapter; and
 3492 (b) was collected by the seller.

3493 (2) (a) Except as provided in Subsection (2)(b), the procedure described in Subsection
 3494 (1) is in addition to the process for a taxpayer to file a claim for a refund or credit with the
 3495 commission under Section [~~59-12-110~~] 59-1-1410.

3496 (b) Notwithstanding Subsection (2)(a):

3497 (i) the commission is not required to make a refund or credit of an amount for which as
 3498 of the date the refund or credit is to be given the purchaser has requested or received a refund
 3499 or credit from the seller; and

3500 (ii) a seller is not required to refund or credit an amount for which as of the date the
3501 refund is to be given the purchaser has requested or received a refund or credit from the
3502 commission.

3503 (3) A purchaser may not bring a cause of action against a seller for a refund or credit
3504 described in Subsection (1):

3505 (a) unless the purchaser provided the seller written notice that:

3506 (i) the purchaser requests the refund or credit described in Subsection (1); and

3507 (ii) contains the information necessary for the seller to determine the validity of the
3508 request; and

3509 (b) sooner than 60 days after the day on which the seller receives the written notice
3510 described in Subsection (3)(a).

3511 (4) A seller that collects a tax under this chapter that exceeds the amount the seller is
3512 required to collect under this chapter is presumed to have a reasonable business practice if the
3513 seller:

3514 (a) collects the tax under this chapter that exceeds the amount the seller is required to
3515 collect under this chapter through the use of:

3516 (i) a certified service provider; or

3517 (ii) a system certified by the state, including a proprietary system certified by the state;

3518 and

3519 (b) remits to the commission all taxes the seller is required to remit to the commission
3520 under this chapter.

3521 Section 47. Section **59-12-111** is amended to read:

3522 **59-12-111. Penalty for certain purchasers that fail to file a return or pay a tax**
3523 **due -- Commission rulemaking authority.**

3524 [~~(1) Each person engaging or continuing in any business in this state for the transaction~~
3525 ~~of which a license is required under this chapter shall:]~~

3526 [~~(a) keep and preserve suitable records of all sales made by the person and other books~~
3527 ~~or accounts necessary to determine the amount of tax for the collection of which the person is~~
3528 ~~liable under this chapter in a form prescribed by the commission;]~~

3529 [~~(b) keep and preserve for a period of three years all such books, invoices, and other~~
3530 ~~records; and]~~

3531 ~~[(c) open such records for examination at any time by the commission or its duly~~
 3532 ~~authorized agent.]~~

3533 ~~[(2) If no return is made by any person required to make returns as provided in this~~
 3534 ~~chapter, the commission shall give written notice to the person to make the return within a~~
 3535 ~~reasonable time to be designated by the commission or, alternatively, the commission may~~
 3536 ~~make an estimate for the period or periods or any part thereof in respect to which the person~~
 3537 ~~failed to make a return, based upon any information in its possession or that may come into its~~
 3538 ~~possession of the total sales subject to the tax imposed by this chapter. Upon the basis of this~~
 3539 ~~estimate the commission may compute and determine the amount of tax required to be paid to~~
 3540 ~~the state. The return shall be prima facie correct for the purposes of this chapter and the~~
 3541 ~~amount of the tax due thereon shall be subject to the penalties and interest as provided in~~
 3542 ~~Sections 59-1-401 and 59-1-402. Promptly thereafter the commission shall give to the person~~
 3543 ~~written notice of the estimate, determination, penalty, and interest.]~~

3544 ~~[(3) If any person not holding a sales tax license under Section 59-12-106 or a valid use~~
 3545 ~~tax registration certificate makes a purchase of tangible personal property for storage, use, or~~
 3546 ~~other consumption in this state and fails to file a return or pay the tax due within 170 days from~~
 3547 ~~the time the return is due, this]~~

3548 A person shall pay a penalty as provided in Section 59-1-401, plus interest at the rate
 3549 and in the manner prescribed in Section 59-1-402, and all other penalties and interest as
 3550 provided by this title[-] if the person:

3551 (1) does not hold:

3552 (a) a license under Section 59-12-106; or

3553 (b) a valid use tax registration certificate;

3554 (2) purchases tangible personal property subject to taxation under Subsection
 3555 59-12-103(1) for storage, use, or other consumption in this state; and

3556 (3) fails to file a return or pay the tax due as prescribed by the commission by rule
 3557 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

3558 Section 48. Section **59-12-128** is amended to read:

3559 **59-12-128. Amnesty.**

3560 (1) As used in this section, "amnesty" means that a seller is not required to pay the
 3561 following amounts that the seller would otherwise be required to pay:

- 3562 (a) a tax, fee, or charge under:
- 3563 (i) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 3564 (ii) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- 3565 [~~(ii)~~] (iii) Section 19-6-714;
- 3566 [~~(iii)~~] (iv) Section 19-6-805;
- 3567 [~~(iv)~~] (v) Section 69-2-5;
- 3568 [~~(v)~~] (vi) Section 69-2-5.5;
- 3569 [~~(vi)~~] (vii) Section 69-2-5.6; or
- 3570 [~~(vii)~~] (viii) this chapter;
- 3571 (b) a penalty on a tax, fee, or charge described in Subsection (1)(a); or
- 3572 (c) interest on a tax, fee, or charge described in Subsection (1)(a).
- 3573 (2) The commission shall grant a seller amnesty under this section if the seller:
- 3574 (a) was not licensed under Section 59-12-106 at any time during the 12-month period
- 3575 prior to the effective date of the state's participation in the agreement;
- 3576 (b) obtains a license under Section 59-12-106 within a 12-month period after the
- 3577 effective date of the state's participation in the agreement; and
- 3578 (c) is registered under the agreement.
- 3579 (3) A seller may not receive amnesty under this section for a tax, fee, or charge:
- 3580 (a) the seller collects;
- 3581 (b) the seller remits to the commission;
- 3582 (c) that the seller is required to remit to the commission on the seller's purchase; or
- 3583 (d) arising from a transaction that occurs within a time period that is under audit by the
- 3584 commission if:
- 3585 (i) the seller receives notice of the commencement of the audit prior to obtaining a
- 3586 license under Section 59-12-106; and
- 3587 (ii) (A) the audit described in Subsection (3)(d)(i) is not complete; or
- 3588 (B) the seller has not exhausted all administrative and judicial remedies in connection
- 3589 with the audit described in Subsection (3)(d)(i).
- 3590 (4) (a) Except as provided in Subsection (4)(b), amnesty the commission grants to a
- 3591 seller under this section:
- 3592 (i) applies to the time period during which the seller is not licensed under Section

3593 59-12-106; and

3594 (ii) remains in effect if, for a period of three years, the seller:

3595 (A) remains registered under the agreement;

3596 (B) collects a tax, fee, or charge on a transaction subject to a tax, fee, or charge

3597 described in Subsection (1)(a); and

3598 (C) remits to the commission the taxes, fees, and charges the seller collects in

3599 accordance with Subsection (4)(a)(ii)(B).

3600 (b) The commission may not grant a seller amnesty under this section if, with respect

3601 to a tax, fee, or charge for which the seller would otherwise be granted amnesty under this

3602 section, the seller commits:

3603 (i) fraud; or

3604 (ii) an intentional misrepresentation of a material fact.

3605 (5) (a) If a seller does not meet a requirement of Subsection (4)(a)(ii), the commission

3606 shall require the seller to pay the amounts described in Subsection (1) that the seller would

3607 have otherwise been required to pay.

3608 (b) Notwithstanding Section ~~[59-12-110]~~ 59-1-1410, for purposes of requiring a seller

3609 to pay an amount in accordance with Subsection (5)(a), the time period for the commission to

3610 make an assessment under Section ~~[59-12-110]~~ 59-1-1410 is extended for a time period

3611 beginning on the date the seller does not meet a requirement of Subsection (4)(a)(ii) and ends

3612 three years after that date.

3613 Section 49. Section **59-12-209** is amended to read:

3614 **59-12-209. Participation of counties, cities, and towns in administration and**

3615 **enforcement of local option sales and use tax.**

3616 (1) Notwithstanding ~~[the provisions of]~~ Title 63G, Chapter 4, Administrative

3617 Procedures Act, a county, city, or town ~~[shall]~~ does not have the right to any of the following,

3618 except as specifically allowed by Subsection (2) and Section 59-12-210:

3619 (a) to inspect, review, or have access to any taxpayer sales and use tax records; or

3620 (b) to be informed of, participate in, intervene in, or appeal from any adjudicative

3621 proceeding commenced pursuant to Section 63G-4-201 to determine the liability of any

3622 taxpayer for sales and use ~~[tax]~~ taxes imposed pursuant to ~~[Title 59, Chapter 12, Sales and Use~~

3623 ~~Tax Act]~~ this chapter.

3624 (2) ~~(a)~~ (a) Counties, cities, and towns shall have access to records and information on file
3625 with the commission, and shall have the right to notice of, and ~~[such]~~ rights to intervene in or
3626 to appeal from, a proposed final agency action of the commission as ~~[follows:]~~ provided in this
3627 Subsection (2).

3628 ~~[(a)]~~ (b) If the commission, following a formal adjudicative proceeding commenced
3629 pursuant to Title 63G, Chapter 4, Administrative Procedures Act, proposes to take final agency
3630 action that would reduce the amount of sales and use tax liability alleged in the notice of
3631 deficiency, the commission shall provide notice of a proposed agency action to each qualified
3632 county, city, and town.

3633 ~~[(b)]~~ (c) For purposes of this ~~[section]~~ Subsection (2), a county, city, or town is a
3634 qualified county, city, or town if a proposed final agency action reduces the local option sales
3635 and use tax distributable to that county, city, or town by more than \$10,000 below the amount
3636 of the tax that would have been distributable to that county, city, or town had a notice of
3637 deficiency, as described in Section ~~[59-12-110]~~ 59-1-1405, not been reduced.

3638 ~~[(c)]~~ (d) A qualified county, city, or town may designate a representative who shall
3639 have the right to review the record of the formal hearing and any other commission records
3640 relating to a proposed final agency action, subject to the confidentiality provisions of Section
3641 59-1-403.

3642 ~~[(d)]~~ (e) No later than ten days after receiving the notice of the commission's proposed
3643 final agency action, a qualified county, city, or town may file a notice of intervention with the
3644 commission.

3645 ~~[(e)]~~ (f) No later than 20 days after filing a notice of intervention, if a qualified county,
3646 city, or town objects to the proposed final agency action, that qualified county, city, or town
3647 may file a petition for reconsideration with the commission and shall serve copies of the
3648 petition on the taxpayer and the appropriate division in the commission.

3649 ~~[(f)]~~ (g) The taxpayer and appropriate division in the commission may each file a
3650 response to the petition for reconsideration within 20 days of receipt of the petition for
3651 reconsideration.

3652 ~~[(g)]~~ (h) After consideration of the petition for reconsideration and any response, and
3653 any additional proceeding the commission considers appropriate, the commission may affirm,
3654 modify, or amend its proposed final agency action.

3655 (i) The taxpayer and any qualified county, city, or town that has filed a petition for
3656 reconsideration may appeal the final agency action.

3657 Section 50. Section **59-13-209** is amended to read:

3658 **59-13-209. Due date -- Delinquency -- Penalties -- Interest.**

3659 (1) (a) The motor fuel tax is due and payable by the distributor on or before the last day
3660 of each month to the commission for the number of gallons of motor fuel sold, used, or
3661 received for sale or use by the distributor during the preceding calendar month.

3662 (b) The commission shall receipt the distributor for taxes paid and shall promptly
3663 deposit all revenue with the state treasurer.

3664 (2) (a) If any distributor fails or refuses to pay any tax when it becomes due and
3665 payable, the tax is delinquent.

3666 (b) If a distributor is delinquent in tax payments, the commission shall impose a
3667 penalty as provided under Section 59-1-401.

3668 (c) The amount of the tax shall bear interest at the rate and in the manner prescribed in
3669 Section 59-1-402.

3670 (3) ~~Not~~ (a) A report or payment of tax is not considered delinquent if the envelope in
3671 which the report or remittance is enclosed bears a post office cancellation mark dated on or
3672 before the date on which the report or payment ~~was~~ is due.

3673 (b) The commission, upon receipt of ~~the~~ a report or remittance described in
3674 Subsection (3)(a), shall treat the report or payment as if it had been received on the date it was
3675 due.

3676 (4) If any part of ~~the~~ a tax due is deficient or delinquent because of negligence or
3677 disregard of this part, or in the case of false or fraudulent monthly reports, or intent to evade the
3678 tax, a penalty shall be added to the tax due as provided in Section 59-1-401.

3679 (5) (a) A tax due and unpaid under this part constitutes a debt due the state and may be
3680 collected, together with interest, penalty, and costs, by appropriate judicial proceeding. ~~[This~~
3681 ~~remedy]~~

3682 (b) The remedy described in Subsection (5)(a) is in addition to all other remedies.

3683 (6) If the tax imposed by this part is not paid when it is due, collection may be made
3684 ~~[as provided in Sections 59-7-526 and 59-7-527]~~ in accordance with Chapter 1, Part 14,
3685 Assessment, Collections, and Refunds Act.

3686 Section 51. Section **59-13-210** is amended to read:

3687 **59-13-210. Commission rulemaking authority.**

3688 [~~(1) The~~] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
3689 Act, the commission may [promulgate] make rules to administer and enforce this part.

3690 [~~(2) The commission may examine the monthly reports of sales, recompute the tax due~~
3691 ~~on them, or, if no monthly report is filed, estimate the amount of tax due. The estimate may be~~
3692 ~~based upon information either in its possession or that comes into its possession, and is prima~~
3693 ~~facie correct for purposes of this part.]~~

3694 [~~(3) If the amount determined due is greater than the amount paid, the difference,~~
3695 ~~together with penalty and interest, as provided under Sections 59-1-401 and 59-1-402, shall be~~
3696 ~~due and payable 30 days after notice by the commission. Any distributor aggrieved by the tax~~
3697 ~~adjustment may petition for redetermination, hearing, and review by the commission. A~~
3698 ~~taxpayer who is dissatisfied with a final decision received from the commission may seek~~
3699 ~~judicial review.]~~

3700 [~~(4) If the commission finds an overpayment has been made, the amount of~~
3701 ~~overpayment shall be credited or refunded to the person who made the overpayment, or the~~
3702 ~~person's successors, administrators, executors, or assigns.]~~

3703 [~~(5) Interest at the rate and in the manner prescribed in Section 59-1-402 shall be added~~
3704 ~~to any delinquency or refund determined by the commission.]~~

3705 [~~(6) (a) Except as provided in Subsections (6)(c) through (f), the commission shall~~
3706 ~~assess the amount of taxes imposed under this part, and any penalties and interest, within three~~
3707 ~~years after a taxpayer files a return.]~~

3708 [~~(b) Except as provided in Subsections (6)(c) through (f), if the commission does not~~
3709 ~~make an assessment under Subsection (6)(a) within three years, the commission may not~~
3710 ~~commence a proceeding for the collection of the taxes after the expiration of the three-year~~
3711 ~~period.]~~

3712 [~~(c) Notwithstanding Subsections (6)(a) and (b), the commission may make an~~
3713 ~~assessment or commence a proceeding to collect a tax at any time if a deficiency is due to:]~~

3714 [~~(i) fraud; or]~~

3715 [~~(ii) failure to file a return.]~~

3716 [~~(d) Notwithstanding Subsections (6)(a) and (b), beginning on July 1, 1998, the~~

3717 ~~commission may extend the period to make an assessment or to commence a proceeding to~~
3718 ~~collect the tax under this part if:]~~

3719 ~~[(i) the three-year period under this Subsection (6) has not expired; and]~~

3720 ~~[(ii) the commission and the taxpayer sign a written agreement:]~~

3721 ~~[(A) authorizing the extension; and]~~

3722 ~~[(B) providing for the length of the extension.]~~

3723 ~~[(e) If the commission delays an audit at the request of a taxpayer, the commission may~~
3724 ~~make an assessment as provided in Subsection (6)(f) if:]~~

3725 ~~[(i) the taxpayer subsequently refuses to agree to an extension request by the~~
3726 ~~commission; and]~~

3727 ~~[(ii) the three-year period under this Subsection (6) expires before the commission~~
3728 ~~completes the audit.]~~

3729 ~~[(f) An assessment under Subsection (6)(e) shall be:]~~

3730 ~~[(i) for the time period for which the commission could not make an assessment~~
3731 ~~because of the expiration of the three-year period; and]~~

3732 ~~[(ii) in an amount equal to the difference between:]~~

3733 ~~[(A) the commission's estimate of the amount of taxes the taxpayer would have been~~
3734 ~~assessed for the time period described in Subsection (6)(f)(i); and]~~

3735 ~~[(B) the amount of taxes the taxpayer actually paid for the time period described in~~
3736 ~~Subsection (6)(f)(i).]~~

3737 ~~[(7) (a) Except as provided in Subsection (7)(b), a refund may not be made unless a~~
3738 ~~claim has been filed within three years of the date of overpayment.]~~

3739 ~~[(b) Notwithstanding Subsection (7)(a), beginning on July 1, 1998, the commission~~
3740 ~~shall extend the period for a taxpayer to file a claim under Subsection (7)(a) if:]~~

3741 ~~[(i) the three-year period under Subsection (7)(a) has not expired; and]~~

3742 ~~[(ii) the commission and the taxpayer sign a written agreement:]~~

3743 ~~[(A) authorizing the extension; and]~~

3744 ~~[(B) providing for the length of the extension.]~~

3745 Section 52. Section **59-13-211** is amended to read:

3746 **59-13-211. Distributor's records -- Audit requirements -- Deposit of revenues**
3747 **with treasurer -- Dedicated credits.**

3748 ~~[(1) Every distributor shall keep a record, in a manner prescribed by the commission,~~
3749 ~~of all purchases, receipts, sales, and distribution of motor fuel. The records shall include~~
3750 ~~copies of all invoices or bills of all sales, and shall at all times during business hours of the day~~
3751 ~~be subject to inspection by the commission or its deputies or other persons duly authorized by~~
3752 ~~the commission. All records shall be preserved for a period of three years.]~~

3753 ~~[(2) Any]~~ (1) A distributor who does not maintain adequate motor fuel records at one
3754 location in this state so that an audit of the records may be made, may be required to:

3755 (a) forward the necessary records to Salt Lake City; or

3756 (b) pay the necessary expenses of an auditor to make the examination at the proper
3757 division office. ~~[Any funds]~~

3758 (2) Funds collected under this section:

3759 (a) shall be deposited with the state treasurer; and

3760 (b) are dedicated credits for the commission.

3761 Section 53. Section **59-13-312** is amended to read:

3762 **59-13-312. Special fuel user records -- Auditing requirements -- Deposit of funds**
3763 **with treasurer as dedicated credits.**

3764 ~~[(1) Each user, supplier, and any other person importing, manufacturing, refining,~~
3765 ~~dealing in, transporting, or storing fuel shall keep a record, in the form prescribed by the~~
3766 ~~commission, of all deliveries, removals, purchases, receipts, sales, meter readings, inventories,~~
3767 ~~and distribution of special fuel. The records shall include copies of all invoices or bills of all~~
3768 ~~sales, and are subject to inspection by the commission or its authorized representative during~~
3769 ~~regular business hours. All records shall be preserved for a period of three years.]~~

3770 ~~[(2) Any]~~ (1) (a) A user claiming a refund for taxes paid to a supplier shall retain on
3771 file a receipt or invoice, or a microfilm or microfiche of the receipt or invoice, evidencing the
3772 purchase of special fuel and the payment of the tax.

3773 (b) The commission may require the user to furnish summaries or copies of original
3774 documentation substantiating the amount of refund claimed.

3775 ~~[(3) (a) The commission or its authorized representative may examine the books,~~
3776 ~~papers, records, and equipment of any supplier, user, or person dealing in, transporting, or~~
3777 ~~storing special fuel and may investigate the character of the disposition which any person~~
3778 ~~makes of special fuel in order to determine whether all taxes due are being properly reported~~

3779 and paid.]

3780 ~~[(b) The fact that the books, papers, records, and equipment are not maintained in this~~
 3781 ~~state at the time of demand does not cause the commission to lose any right of examination~~
 3782 ~~under this part when and where the records become available.]~~

3783 ~~[(4)]~~ (2) If the payer of this tax or the person dealing in special fuel does not maintain
 3784 records in this state so that an audit of the records may be made by the commission or its
 3785 representative, that person may be required to:

3786 (a) forward the necessary records to the commission for examination; or

3787 (b) pay the necessary expenses for an auditor of the commission to travel to the
 3788 location of the records outside of this state to make an examination.

3789 ~~[(5) Any funds]~~ (3) Funds collected under this section:

3790 (a) shall be deposited with the state treasurer; and

3791 (b) are dedicated credits for the commission.

3792 Section 54. Section **59-13-313** is amended to read:

3793 **59-13-313. Commission to enforce the laws -- Estimations of tax -- Penalties --**
 3794 **Notice of determinations -- Information sharing with other states.**

3795 (1) (a) The commission is charged with the enforcement of this part and may prescribe
 3796 rules relating to administration and enforcement of this part.

3797 (b) The commission may coordinate with state and federal agencies in the enforcement
 3798 of this part.

3799 (c) Enforcement procedures may include checking diesel fuel dye compliance of
 3800 storage facilities and tanks of vehicles, in a manner consistent with state and federal law.

3801 (2) (a) If the commission has reason to question the report filed or the amount of
 3802 special fuel tax paid to the state by ~~[any]~~ a user or supplier, ~~[it]~~ the commission may compute
 3803 and determine the amount to be paid based upon the best information available to ~~[it]~~ the
 3804 commission.

3805 (b) Any added amount of special fuel tax determined to be due under this section shall:

3806 (i) have added to it a penalty as provided under Section 59-1-401~~[-]~~; and ~~[shall]~~

3807 (ii) bear interest at the rate and in the manner prescribed in Section 59-1-402.

3808 (c) (i) The commission shall give to the user or supplier written notice of ~~[its]~~ the
 3809 commission's determination. ~~[The notice may be served personally or sent]~~

3810 (ii) The commission may:

3811 (A) serve the notice described in Subsection (2)(c)(i) personally; or

3812 (B) send the notice described in Subsection (2)(c)(i) to the user or supplier at the user
3813 or supplier's last-known address as it appears in the records of the commission.

3814 (3) The commission may, upon the duly received request of the officials to whom the
3815 enforcement of the special fuel laws of any other state are entrusted, forward to those officials
3816 any information which the commission may have in its possession relative to the delivery,
3817 removal, production, manufacture, refining, compounding, receipt, sale, use, transportation, or
3818 shipment of special fuel by any person.

3819 [~~(4) (a) Except as provided in Subsections (4)(c) through (f), the commission shall~~
3820 ~~assess the amount of taxes imposed under this part, and any penalties and interest, within three~~
3821 ~~years after a taxpayer files a return.]~~

3822 [~~(b) Except as provided in Subsections (4)(c) through (f), if the commission does not~~
3823 ~~make an assessment under Subsection (4)(a) within three years, the commission may not~~
3824 ~~commence a proceeding for the collection of the taxes after the expiration of the three-year~~
3825 ~~period.]~~

3826 [~~(c) Notwithstanding Subsections (4)(a) and (b), the commission may make an~~
3827 ~~assessment or commence a proceeding to collect a tax at any time if a deficiency is due to:]~~

3828 [~~(i) fraud; or]~~

3829 [~~(ii) failure to file a return.]~~

3830 [~~(d) Notwithstanding Subsections (4)(a) and (b), beginning on July 1, 1998, the~~
3831 ~~commission may extend the period to make an assessment or to commence a proceeding to~~
3832 ~~collect the tax under this part if:]~~

3833 [~~(i) the three-year period under this Subsection (4) has not expired; and]~~

3834 [~~(ii) the commission and the taxpayer sign a written agreement:]~~

3835 [~~(A) authorizing the extension; and]~~

3836 [~~(B) providing for the length of the extension.]~~

3837 [~~(e) If the commission delays an audit at the request of a taxpayer, the commission may~~
3838 ~~make an assessment as provided in Subsection (4)(f) if:]~~

3839 [~~(i) the taxpayer subsequently refuses to agree to an extension request by the~~
3840 ~~commission; and]~~

3841 ~~[(ii) the three-year period under this Subsection (4) expires before the commission~~
3842 ~~completes the audit.]~~

3843 ~~[(f) An assessment under Subsection (4)(e) shall be:]~~

3844 ~~[(i) for the time period for which the commission could not make an assessment~~
3845 ~~because of the expiration of the three-year period; and]~~

3846 ~~[(ii) in an amount equal to the difference between:]~~

3847 ~~[(A) the commission's estimate of the amount of taxes the taxpayer would have been~~
3848 ~~assessed for the time period described in Subsection (4)(f)(i); and]~~

3849 ~~[(B) the amount of taxes the taxpayer actually paid for the time period described in~~
3850 ~~Subsection (4)(f)(i).]~~

3851 Section 55. Section **59-13-318** is amended to read:

3852 **59-13-318. Refunds.**

3853 ~~[(1) (a) If the commission, through error, collects or receives any special fuel tax,~~
3854 ~~penalty, or interest imposed by this part, the amount of tax, penalty, or interest, upon written~~
3855 ~~application, shall be refunded to the person paying it. The application shall state the specific~~
3856 ~~grounds on which it is founded and whether the sums were paid voluntarily or under protest.]~~

3857 ~~[(b) Except as provided in Subsection (1)(c), a refund may not be made unless a claim~~
3858 ~~has been filed within three years of the date of the overpayment.]~~

3859 ~~[(c) Notwithstanding Subsection (1)(b), beginning on July 1, 1998, the commission~~
3860 ~~shall extend the period for a taxpayer to file a claim under Subsection (1)(b) if:]~~

3861 ~~[(i) the three-year period under Subsection (1)(b) has not expired; and]~~

3862 ~~[(ii) the commission and the taxpayer sign a written agreement:]~~

3863 ~~[(A) authorizing the extension; and]~~

3864 ~~[(B) providing for the length of the extension.]~~

3865 ~~[(d) A refund may not be made to successors or assigns in business of the person~~
3866 ~~making the payment but shall be made to an estate or heir of the person if written application is~~
3867 ~~made within the time limit, accompanied by proper authority from a probate court.]~~

3868 ~~[(e) Refunds to which taxpayers are entitled]~~

3869 A refund that a taxpayer is allowed under this chapter shall be paid from the
3870 Transportation Fund.

3871 ~~[(2) Any user who has paid taxes on purchases in the state which exceed the amount~~

3872 due based on the special fuel reported to be used in the state shall receive a refund of taxes
3873 overpaid in a timely manner.]

3874 [~~(3) Interest shall be applied to refunds given under this section as prescribed in~~
3875 ~~Section 59-1-402.~~]

3876 Section 56. Section **59-14-205** is amended to read:

3877 **59-14-205. Stamping procedure -- Rules -- Exceptions.**

3878 (1) In the case of manufacturers, jobbers, importers, distributors, wholesalers, and
3879 retailers, the taxes imposed on cigarettes by this chapter shall be paid by affixing stamps in the
3880 manner and at the time prescribed in this section.

3881 (2) All manufacturers, importers, distributors, wholesalers, and retailers shall securely
3882 affix the stamps to each individual package or container of cigarettes sold in the state, and may
3883 not sell or provide cigarette stamps to any other person.

3884 (3) (a) Stamps shall be securely affixed to each individual package of cigarettes within
3885 72 hours after the cigarettes are received within the state.

3886 (b) All cigarettes shall be stamped before sale within the state.

3887 (c) Cigarettes manufactured within the state shall be stamped by the manufacturer
3888 when and as sold.

3889 (4) The commission may, [~~where~~] if it is practical and reasonable for the enforcement
3890 of the collection of taxes, [promulgate rules] make rules in accordance with Title 63G, Chapter
3891 3, Utah Administrative Rulemaking Act, to permit cigarettes to remain unstamped until the
3892 original case or crate is broken, unpacked, or sold.

3893 (5) The commission may permit a person to sell and export cigarettes to a regular
3894 dealer in cigarettes outside the state without affixing stamps.

3895 (6) (a) If cigarettes are allowed to remain unstamped under Subsection (4) or (5), the
3896 commission may require the person holding the unstamped cigarettes to secure a surety bond
3897 from a surety company authorized to do business in this state. [~~The bond~~]

3898 (b) The surety bond described in Subsection (6)(a) shall be conditioned to secure the
3899 payment of all taxes and penalties provided in this chapter.

3900 (7) [~~No~~] A manufacturer, jobber, importer, distributor, wholesaler, or retailer may not
3901 remove, conceal, or obscure a cigarette package:

3902 (a) notice described under Subsection 59-14-210(1)(a)(i); or

3903 (b) warning label that is placed on the package in compliance with [~~15 U.S.C. 1333 of~~
3904 ~~the Federal Cigarette Labeling and Advertising Act]~~ the Federal Cigarette Labeling and
3905 Advertising Act, 15 U.S.C. Sec. 1333.

3906 (8) (a) Any person failing to properly affix and cancel stamps to the cigarettes, under
3907 this section and rules promulgated by the commission, may be required by the commission to
3908 pay as part of the tax, and in addition to any other penalty provided in this chapter, a penalty of
3909 \$25 for each offense, to be assessed and collected by the commission [~~as provided in Section~~
3910 ~~59-14-405]~~ in accordance with Chapter 1, Part 14, Assessment, Collections, and Refunds Act.

3911 (b) Each article, package, or container found not having proper stamps affixed to [it
3912 ~~shall be considered]~~ the article, package, or container is a separate offense.

3913 (c) The presence of any package or container in a place of business conducting retail
3914 sales shall be prima facie evidence that it is intended for sale and subject to taxes under this
3915 chapter.

3916 Section 57. Section **62A-11-304.1** is amended to read:

3917 **62A-11-304.1. Expedited procedures for establishing paternity or establishing,**
3918 **modifying, or enforcing a support order.**

3919 (1) The office may, without the necessity of initiating an adjudicative proceeding or
3920 obtaining an order from any other judicial or administrative tribunal, take the following actions
3921 related to the establishment of paternity or the establishment, modification, or enforcement of a
3922 support order, and to recognize and enforce the authority of state agencies of other states to
3923 take the following actions:

3924 (a) require a child, mother, and alleged father to submit to genetic testing;

3925 (b) subpoena financial or other information needed to establish, modify, or enforce a
3926 support order, including:

3927 (i) the name, address, and employer of a person who owes or is owed support that
3928 appears on the customer records of public utilities and cable television companies; and

3929 (ii) information held by financial institutions on such things as the assets and liabilities
3930 of a person who owes or is owed support;

3931 (c) require a public or private employer to promptly disclose information to the office
3932 on the name, address, date of birth, social security number, employment status, compensation,
3933 and benefits, including health insurance, of any person employed as an employee or contractor

3934 by the employer;

3935 (d) require an insurance organization subject to Title 31A, Insurance Code, or an
3936 insurance administrator of a self-insured employer to promptly disclose to the office health
3937 insurance information pertaining to an insured or an insured's dependents, if known;

3938 (e) obtain access to information in the records and automated databases of other state
3939 and local government agencies, including:

3940 (i) marriage, birth, and divorce records;

3941 (ii) state and local tax and revenue records providing information on such things as
3942 residential and mailing addresses, employers, income, and assets;

3943 (iii) real and titled personal property records;

3944 (iv) records concerning occupational and professional licenses and the ownership and
3945 control of corporations, partnerships, and other business entities;

3946 (v) employment security records;

3947 (vi) records of agencies administering public assistance programs;

3948 (vii) motor vehicle department records; and

3949 (viii) corrections records;

3950 (f) upon providing notice to the obligor and obligee, direct an obligor or other payor to
3951 change the payee to the office if support has been assigned to the office under Section
3952 35A-7-108 or if support is paid through the office pursuant to the Social Security Act, 42
3953 U.S.C. Sec. 654B;

3954 (g) order income withholding in accordance with Part 4 [~~of this chapter~~], Income
3955 Withholding in IV-D Cases;

3956 (h) secure assets to satisfy past-due support by:

3957 (i) intercepting or seizing periodic or lump-sum payments from:

3958 (A) a state or local government agency, including unemployment compensation,
3959 workers' compensation, and other benefits; and

3960 (B) judgments, settlements, and lotteries;

3961 (ii) attaching and seizing assets of an obligor held in financial institutions;

3962 (iii) attaching public and private retirement funds, if the obligor presently:

3963 (A) receives periodic payments; or

3964 (B) has the authority to withdraw some or all of the funds; and

3965 (iv) imposing liens against real and personal property in accordance with this section
3966 and Section 62A-11-312.5; and

3967 (i) increase monthly payments in accordance with Section 62A-11-320.

3968 (2) (a) When taking action under Subsection (1), the office shall send notice under this
3969 Subsection (2)(a) to the person or entity who is required to comply with the action if not a party
3970 to a case receiving IV-D services.

3971 (b) The notice described in Subsection (2)(a) shall include:

3972 (i) the authority of the office to take the action;

3973 (ii) the response required by the recipient;

3974 (iii) the opportunity to provide clarifying information to the office under Subsection
3975 (2)~~(b)~~(c);

3976 (iv) the name and telephone number of a person in the office who can respond to
3977 inquiries; and

3978 (v) the protection from criminal and civil liability extended under Subsection (7).

3979 ~~(b)~~ (c) The recipient of a notice sent under this Subsection (2)~~(a)~~ shall promptly
3980 comply with the terms of the notice and may, if the recipient believes the office's request is in
3981 error, send clarifying information to the office setting forth the basis for the recipient's belief.

3982 (3) The office shall in any case in which it requires genetic testing under Subsection
3983 (1)(a):

3984 (a) consider clarifying information if submitted by the obligee and alleged father;

3985 (b) proceed with testing as the office considers appropriate;

3986 (c) pay the cost of the tests, subject to recoupment from the alleged father if paternity is
3987 established;

3988 (d) order a second test if the original test result is challenged, and the challenger pays
3989 the cost of the second test in advance; and

3990 (e) require that the genetic test is:

3991 (i) of a type generally acknowledged as reliable by accreditation bodies designated by
3992 the federal Secretary of Health and Human Services; and

3993 (ii) performed by a laboratory approved by such an accreditation body.

3994 (4) The office may impose a penalty against an entity for failing to provide information
3995 requested in a subpoena issued under Subsection (1) as follows:

3996 (a) \$25 for each failure to provide requested information; or
3997 (b) \$500 if the failure to provide requested information is the result of a conspiracy
3998 between the entity and the obligor to not supply the requested information or to supply false or
3999 incomplete information.

4000 (5) (a) Unless a court or administrative agency has reduced past-due support to a sum
4001 certain judgment, the office shall provide concurrent notice to an obligor in accordance with
4002 Section 62A-11-304.4 of:

4003 (i) any action taken pursuant to Subsections (1)(h)(i)(B), (1)(h)(ii), (1)(h)(iii), or
4004 Subsection 62A-11-304.5(1)(b) if Subsection (5)(b)(iii) does not apply; and

4005 (ii) the opportunity of the obligor to contest the action and the amount claimed to be
4006 past-due by filing a written request for an adjudicative proceeding with the office within 15
4007 days of notice being sent.

4008 (b) (i) Upon receipt of a notice of levy from the office for an action taken pursuant to
4009 Subsections (1)(h)(i)(B), (1)(h)(ii), (1)(h)(iii), or Subsection 62A-11-304.5(1)(b), a person in
4010 possession of personal property of the obligor shall:

4011 (A) secure the property from unauthorized transfer or disposition as required by
4012 Section 62A-11-313; and

4013 (B) surrender the property to the office after 21 days of receiving the notice unless the
4014 office has notified the person to release all or part of the property to the obligor.

4015 (ii) Unless released by the office, a notice of levy upon personal property shall be:

4016 (A) valid for 60 days; and

4017 (B) effective against any additional property which the obligor may deposit or transfer
4018 into the possession of the person up to the amount of the levy.

4019 (iii) If the property upon which the office imposes a levy is insufficient to satisfy the
4020 specified amount of past-due support and the obligor fails to contest that amount under
4021 Subsection (5)(a)(ii), the office may proceed under Subsections (1)(h)(i)(B), (1)(h)(ii),
4022 (1)(h)(iii), or Subsection 62A-11-304.5(1)(b) against additional property of the obligor until the
4023 amount specified and the reasonable costs of collection are fully paid.

4024 (c) Except as provided in Subsection (5)(b)(iii), the office may not disburse funds
4025 resulting from action requiring notice under Subsection (5)(a)(i) until:

4026 (i) 21 days after notice was sent to the obligor; and

4027 (ii) the obligor, if the obligor contests the action under Subsection (5)(a)(ii), has
4028 exhausted the obligor's administrative remedies and, if appealed to a district court, the district
4029 court has rendered a final decision.

4030 (d) Before intercepting or seizing any periodic or lump-sum payment under Subsection
4031 (1)(h)(i)(A), the office shall:

4032 (i) comply with Subsection [~~59-10-529(2)(a)~~] 59-10-529(4)(a); and

4033 (ii) include in the notice required by Subsection [~~59-10-529(2)(a)~~] 59-10-529(4)(a)
4034 reference to Subsection (1)(h)(i)(A).

4035 (e) If Subsection (5)(a) or (5)(d) does not apply, an action against the real or personal
4036 property of the obligor shall be in accordance with Section 62A-11-312.5.

4037 (6) All information received under this section is subject to Title 63G, Chapter 2,
4038 Government Records Access and Management Act.

4039 (7) No employer, financial institution, public utility, cable company, insurance
4040 organization, its agent or employee, or related entity may be civilly or criminally liable for
4041 providing information to the office or taking any other action requested by the office pursuant
4042 to this section.

4043 (8) The actions the office may take under Subsection (1) are in addition to the actions
4044 the office may take pursuant to Part 4, Income Withholding in IV-D Cases.

4045 Section 58. Section **69-2-5.5** is amended to read:

4046 **69-2-5.5. Emergency services telecommunications charge to fund the Poison**
4047 **Control Center.**

4048 (1) Subject to Subsection [~~(13)~~] (7), there is imposed an emergency services
4049 telecommunications charge of 7 cents per month on each local exchange service switched
4050 access line and each revenue producing radio communications access line that is subject to an
4051 emergency services telecommunications charge levied by a county, city, or town under Section
4052 69-2-5.

4053 (2) The emergency services telecommunications charge imposed under this section
4054 shall be:

4055 (a) subject to Subsection [~~(13)~~] (7), billed and collected by the person that provides:

4056 (i) local exchange service switched access line services; or

4057 (ii) radio communications access line services;

4058 (b) remitted to the State Tax Commission at the same time as the person remits to the
4059 State Tax Commission monies collected by the person under Title 59, Chapter 12, Sales and
4060 Use Tax Act; and

4061 (c) deposited into the General Fund as dedicated credits to pay for:

4062 (i) costs of establishing, installing, maintaining, and operating the University of Utah
4063 Poison Control Center; and

4064 (ii) expenses of the State Tax Commission to administer and enforce the collection of
4065 the emergency services telecommunications charges.

4066 (3) Funds for the University of Utah Poison Control Center program are nonlapsing.

4067 (4) Emergency services telecommunications charges remitted to the State Tax
4068 Commission pursuant to Subsection (2) shall be accompanied by the form prescribed by the
4069 ~~[commission:]~~ State Tax Commission.

4070 (5) (a) The State Tax Commission shall administer, collect, and enforce the charge
4071 imposed under Subsection (1) according to the same procedures used in the administration,
4072 collection, and enforcement of the state sales and use tax under:

4073 (i) Title 59, Chapter 1, General Taxation Policies; and

4074 (ii) Title 59, Chapter 12, Part 1, Tax Collection, except for:

4075 (A) Section 59-12-104;

4076 (B) Section 59-12-104.1;

4077 (C) Section 59-12-104.2; and

4078 (D) Section 59-12-107.1.

4079 ~~[(5) The]~~ (b) In accordance with Title 63G, Chapter 3, Utah Administrative
4080 Rulemaking Act, the State Tax Commission may make rules to administer, collect, and enforce
4081 the ~~[collection of]~~ emergency services telecommunications charges imposed under this section.

4082 (6) A provider of local exchange service switched access line services or radio
4083 communications access line services who fails to comply with this section is subject to
4084 penalties and interest as provided in Sections 59-1-401 and 59-1-402.

4085 ~~[(7) (a) Except as provided in Subsections (8) through (11), and subject to Subsection~~
4086 ~~(13), the State Tax Commission shall assess a charge imposed under this section within three~~
4087 ~~years after a provider of local exchange service switched access line services or radio~~
4088 ~~communications access line services files a return.]~~

4089 ~~[(b) Except as provided in Subsections (8) through (11), if the commission does not~~
4090 ~~assess a charge imposed under this section within the three-year period provided in Subsection~~
4091 ~~(7)(a), the commission may not commence a proceeding to collect the charge.]~~

4092 ~~[(8) Notwithstanding Subsection (7), and subject to Subsection (13), the State Tax~~
4093 ~~Commission may assess a charge at any time if a provider of local exchange service switched~~
4094 ~~access line services or radio communications access line services:]~~

4095 ~~[(a) files a false or fraudulent return with intent to evade; or]~~

4096 ~~[(b) does not file a return.]~~

4097 ~~[(9) Notwithstanding Subsection (7), beginning on July 1, 1998, the State Tax~~
4098 ~~Commission may extend the period to make an assessment or commence a proceeding to~~
4099 ~~collect the charge imposed under this section if:]~~

4100 ~~[(a) the three-year period under Subsection (7) has not expired; and]~~

4101 ~~[(b) the commission and the provider of local exchange service switched access line~~
4102 ~~services or radio communications access line services sign a written agreement:]~~

4103 ~~[(i) authorizing the extension; and]~~

4104 ~~[(ii) providing for the length of the extension.]~~

4105 ~~[(10) If the State Tax Commission delays an audit at the request of a provider of local~~
4106 ~~exchange service switched access line services or radio communications access line services,~~
4107 ~~the commission may make an assessment as provided in Subsection (11) if:]~~

4108 ~~[(a) the provider of local exchange service switched access line services or radio~~
4109 ~~communications access line services subsequently refuses to agree to an extension request by~~
4110 ~~the commission; and]~~

4111 ~~[(b) the three-year period under Subsection (7) expires before the commission~~
4112 ~~completes the audit.]~~

4113 ~~[(11) An assessment under Subsection (10) shall be:]~~

4114 ~~[(a) for the time period for which the State Tax Commission could not make an~~
4115 ~~assessment because of the expiration of the three-year period; and]~~

4116 ~~[(b) in an amount equal to the difference between:]~~

4117 ~~[(i) the commission's estimate of the amount of the charge the provider of local~~
4118 ~~exchange service switched access line services or radio communications access line services~~
4119 ~~would have been assessed for the time period described in Subsection (11)(a); and]~~

4120 ~~[(ii) the amount of the charge the provider of local exchange service switched access~~
4121 ~~line services or radio communications access line services actually paid for the time period~~
4122 ~~described in Subsection (11)(a).]~~

4123 ~~[(12) (a) Except as provided in Subsection (12)(b), the State Tax Commission may not~~
4124 ~~make a credit or refund unless the provider of local exchange service switched access line~~
4125 ~~services or radio communications access line services files a claim with the commission within~~
4126 ~~three years of the date of overpayment.]~~

4127 ~~[(b) Notwithstanding Subsection (12)(a), beginning on July 1, 1998, the commission~~
4128 ~~shall extend the period for a provider of local exchange service switched access line services or~~
4129 ~~radio communications access line services to file a claim under Subsection (12)(a) if:]~~

4130 ~~[(i) the three-year period under Subsection (12)(a) has not expired; and]~~

4131 ~~[(ii) the commission and the provider of local exchange service switched access line~~
4132 ~~services or radio communications access line services sign a written agreement:]~~

4133 ~~[(A) authorizing the extension; and]~~

4134 ~~[(B) providing for the length of the extension.]~~

4135 ~~[(13)]~~ (7) An emergency services telecommunications charge under this section on a
4136 mobile telecommunications service may be imposed, billed, and collected only to the extent
4137 permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

4138 ~~[(14) (a) (i) For purposes of this Subsection (14) and except as provided in Subsection~~
4139 ~~(14)(a)(ii), "bad debt" is as defined in Section 166, Internal Revenue Code.]~~

4140 ~~[(ii) "Bad debt" does not include:]~~

4141 ~~[(A) amounts not subject to the charge imposed under this section that are included in~~
4142 ~~the purchase price for:]~~

4143 ~~[(I) local exchange service switched access line service; or]~~

4144 ~~[(H) radio communications access line service;]~~

4145 ~~[(B) financing charges or interest;]~~

4146 ~~[(C) the charge imposed under this section on:]~~

4147 ~~[(I) a local exchange service switched access line; or]~~

4148 ~~[(H) a radio communications access line;]~~

4149 ~~[(D) uncollectible amounts on tangible personal property that remains in the possession~~
4150 ~~of the vendor until the full purchase price is paid;]~~

- 4151 [~~(E)~~ expenses incurred in attempting to collect any debt; and]
- 4152 [~~(F)~~ amounts uncollected on repossessed property.]
- 4153 [~~(b)~~ The State Tax Commission shall allow a credit for amounts remitted to the State
- 4154 ~~Tax Commission under this section that constitute bad debt.]~~
- 4155 Section 59. **Repealer.**
- 4156 This bill repeals:
- 4157 Section **59-1-302.1, Lien for taxes.**
- 4158 Section **59-1-706, Rules prescribing method and time for assessments and**
- 4159 **collections.**
- 4160 Section **59-5-105, Failure to file statement -- Ascertaining correct tax due.**
- 4161 Section **59-5-112, Failure to pay tax -- Warrant.**
- 4162 Section **59-5-113, Collection by warrant.**
- 4163 Section **59-5-205, Failure to file statement.**
- 4164 Section **59-5-212, Failure to pay tax -- Warrant.**
- 4165 Section **59-5-213, Collection by warrant.**
- 4166 Section **59-5-214, Limitation of actions.**
- 4167 Section **59-7-506, Corporations to keep records -- Special returns.**
- 4168 Section **59-7-516, "Deficiency" defined.**
- 4169 Section **59-7-517, Notice of deficiency -- Petition for redetermination.**
- 4170 Section **59-7-518, Sufficiency of notice.**
- 4171 Section **59-7-520, Limitation for enforcing collection.**
- 4172 Section **59-7-521, Suspension of running of statute of limitations.**
- 4173 Section **59-7-523, Period of limitation for claiming refund.**
- 4174 Section **59-7-524, Collection agents -- Bond.**
- 4175 Section **59-7-525, Further powers of commission.**
- 4176 Section **59-7-526, Collection of tax by warrant.**
- 4177 Section **59-7-527, Duties of sheriff.**
- 4178 Section **59-9-106, Assessment of taxes -- Action for collection of tax -- Limit for**
- 4179 **refund or credit of tax.**
- 4180 Section **59-10-506, Returns prepared for or executed by commission.**
- 4181 Section **59-10-521, Payment on notice and demand.**

- 4182 Section **59-10-523, Definition of deficiency.**
- 4183 Section **59-10-524, Notice of deficiency.**
- 4184 Section **59-10-525, Date notice of deficiency is final.**
- 4185 Section **59-10-526, Mathematical errors.**
- 4186 Section **59-10-528, Collection, levy, and liens.**
- 4187 Section **59-10-532, Effect of commission action on claim for refund.**
- 4188 Section **59-10-533, Petition for redetermination of commission action on claim for**
- 4189 **refund.**
- 4190 Section **59-10-535, Finality of action by commission on claim for refund.**
- 4191 Section **59-10-540, Transferees.**
- 4192 Section **59-10-542, Venue of offenses -- Evidence.**
- 4193 Section **59-10-543, Burden of proof.**
- 4194 Section **59-12-113, Collection of tax by warrant.**
- 4195 Section **59-12-114, Taxpayer objections -- Available remedies.**
- 4196 Section **59-12-115, Delinquent payment -- Sufficiency of notice -- Limitation.**
- 4197 Section **59-13-316, Neglect or refusal to report -- Estimations -- Penalties -- Notice**
- 4198 **to user or supplier.**
- 4199 Section **59-13-317, Delinquency -- Collection procedures.**
- 4200 Section **59-14-405, Collection of delinquent taxes.**
- 4201 Section **59-15-103, Overpayment and deficiency.**
- 4202 Section **59-23-6, Action for collection of royalty -- Action for refund or credit of**
- 4203 **royalty.**
- 4204 Section **59-24-107, Action for collection of tax -- Action for refund or credit of tax.**
- 4205 Section **59-25-107, Action for collection of tax -- Action for refund or credit of tax.**
- 4206 Section **59-26-107, Action for collection of tax -- Action for refund or credit of tax.**
- 4207 Section **59-27-107, Action for collection of tax -- Action for refund or credit of tax.**

Legislative Review Note
as of 1-21-09 10:29 AM

Office of Legislative Research and General Counsel

Fiscal Note**S.B. 108 - Tax Commission Administration, Collection, and Enforcement
Amendments**

2009 General Session

State of Utah

State Impact

Enactment of this bill may increase or decrease revenue to the General Fund and the Education Fund. On the provision related to increasing the duration of a judgment, there could be an increase in revenue. On the provision related to prohibiting the Tax Commission from refileing a judgment, there could be a decrease in revenue.

Individual, Business and/or Local Impact

Some businesses and individuals may experience a decrease in tax law compliance costs whereas other businesses and individuals may experience an increase in tax law compliance costs. Local governments are likely unaffected.