

SB0198S03 compared with SB0198S02

~~deleted text~~ shows text that was in SB0198S02 but was deleted in SB0198S03.

Inserted text shows text that was not in SB0198S02 but was inserted into SB0198S03.

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Senator Wayne A. Harper proposes the following substitute bill:

UTAH COMMUNICATIONS AUTHORITY AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Stephen G. Handy

LONG TITLE

General Description:

This bill amends provisions related to providing 911 emergency service.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ repeals ~~an~~ a 911 emergency ~~services telecommunication~~ service charge;
- ▶ modifies the composition of the Utah Communications Authority Board;
- ▶ modifies the duties of the Utah Communications Authority;
- ▶ creates regional advisory committees that report to the Utah Communications Authority Board;
- ▶ creates an operations advisory committee;
- ▶ repeals certain provisions that gave the Utah Communications Authority bonding

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authority;

- ▶ imposes certain charges on each access line within the state, and provides for the collection of the charges and the distribution of the proceeds of the charges;
- ▶ directs the State Tax Commission to distribute the proceeds of a 911 emergency service charge to public safety answering points within the state according to a formula based on a public safety answering point's proportion of total 911 emergency communications;
- ▶ provides that a public agency may not establish a new public safety answering point after a certain day;
- ▶ directs the State Tax Commission to report on access line providers that are delinquent in paying emergency service charges;

~~{ → provides that the Utah Communications Authority may secure a bond by pledging a state appropriation;~~

- ‡
- ▶ requires the Utah Communications Authority to meet with stakeholders to identify existing communications sites and develop a plan for the public safety communications network;
 - ▶ provides future repeal dates;
 - ▶ provides future effective dates;
 - ▶ designates appropriations from certain restricted accounts as nonlapsing;
 - ▶ repeals certain advisory committees within the Utah Communications Authority;

~~{ → allows the Utah Communications Authority to assess a service fee on a user of the public safety communications network;~~

~~→ requires the Utah Communications Authority to consult and receive approval to issue bonds from the Utah State Treasurer under certain circumstances;~~

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- ▶ requires a county to conduct an audit of the county's emergency services under certain circumstances; and
 - ▶ delegates, to the executive director of the Utah Communications Authority, certain duties formerly assigned to divisions within the Utah Communications Authority.

Money Appropriated in this Bill:

None

Other Special Clauses:

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This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

- 59-1-306**, as enacted by Laws of Utah 2011, Chapter 309
- 59-1-401**, as last amended by Laws of Utah 2015, Chapter 369
- 59-1-402**, as last amended by Laws of Utah 2012, Chapter 357
- 59-1-403**, as last amended by Laws of Utah 2015, Chapters 411 and 451
- 59-1-1402**, as last amended by Laws of Utah 2016, Chapter 326
- 59-12-107**, as last amended by Laws of Utah 2012, Chapters 178, 312, and 399
- 59-12-108**, as last amended by Laws of Utah 2013, Chapter 50
- 59-12-128**, as last amended by Laws of Utah 2011, Chapters 285 and 309
- 63H-7a-102**, as renumbered and amended by Laws of Utah 2015, Chapter 411
- 63H-7a-103**, as last amended by Laws of Utah 2016, Chapter 179
- 63H-7a-201**, as renumbered and amended by Laws of Utah 2015, Chapter 411
- 63H-7a-202**, as renumbered and amended by Laws of Utah 2015, Chapter 411
- 63H-7a-203**, as last amended by Laws of Utah 2016, Chapter 123
- 63H-7a-204**, as last amended by Laws of Utah 2016, Chapters 123 and 179
- 63H-7a-205**, as last amended by Laws of Utah 2016, Chapter 123
- 63H-7a-302**, as last amended by Laws of Utah 2016, Chapters 123 and 179
- 63H-7a-303**, as renumbered and amended by Laws of Utah 2015, Chapter 411
- 63H-7a-304**, as renumbered and amended by Laws of Utah 2015, Chapter 411
- 63H-7a-403**, as last amended by Laws of Utah 2016, Chapter 123
- 63H-7a-404**, as enacted by Laws of Utah 2015, Chapter 411
- 63H-7a-502**, as last amended by Laws of Utah 2016, Chapters 123 and 179
- 63H-7a-601**, as enacted by Laws of Utah 2015, Chapter 411
- 63H-7a-603**, as last amended by Laws of Utah 2016, Chapter 348
- 63H-7a-803**, as last amended by Laws of Utah 2016, Chapter 123
- 63I-1-269**, as last amended by Laws of Utah 2014, Chapter 320
- 63I-2-263**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 2
- 63J-1-602.4**, as last amended by Laws of Utah 2016, Chapters 193 and 240

ENACTS:

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63H-7a-207, Utah Code Annotated 1953

63H-7a-208, Utah Code Annotated 1953

~~{ **63H-7a-209**, Utah Code Annotated 1953~~

{ **69-2-202**, Utah Code Annotated 1953

69-2-203, Utah Code Annotated 1953

69-2-301, Utah Code Annotated 1953

69-2-302, Utah Code Annotated 1953

69-2-401, Utah Code Annotated 1953

69-2-402, Utah Code Annotated 1953

69-2-404, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

69-2-101, (Renumbered from 69-2-1, as enacted by Laws of Utah 1986, Chapter 33)

69-2-102, (Renumbered from 69-2-2, as last amended by Laws of Utah 2016, Chapter 179)

69-2-201, (Renumbered from 69-2-3, as last amended by Laws of Utah 2014, Chapter 320)

69-2-303, (Renumbered from 69-2-5.8, as enacted by Laws of Utah 2012, Chapter 326)

69-2-403, (Renumbered from 69-2-5.6, as last amended by Laws of Utah 2016, Chapter 179)

69-2-405, (Renumbered from 69-2-5.7, as last amended by Laws of Utah 2016, Chapter 179)

69-2-501, (Renumbered from 69-2-6, as enacted by Laws of Utah 1986, Chapter 33)

69-2-502, (Renumbered from 69-2-7, as last amended by Laws of Utah 2015, Chapter 411)

69-2-503, (Renumbered from 69-2-8, as last amended by Laws of Utah 2014, Chapter 36)

REPEALS AND REENACTS:

63H-7a-206, as last amended by Laws of Utah 2016, Chapters 123 and 179

63H-7a-602, as renumbered and amended by Laws of Utah 2015, Chapter 411

63H-7a-701, as last amended by Laws of Utah 2016, Chapter 123

REPEALS:

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63H-7a-305, as renumbered and amended by Laws of Utah 2015, Chapter 411

63H-7a-306, as renumbered and amended by Laws of Utah 2015, Chapter 411

63H-7a-307, as last amended by Laws of Utah 2016, Chapter 123

63H-7a-405, as last amended by Laws of Utah 2016, Chapter 123

63H-7a-504, as last amended by Laws of Utah 2016, Chapter 123

63H-7a-700, as enacted by Laws of Utah 2015, Chapter 411

63H-7a-702, as renumbered and amended by Laws of Utah 2015, Chapter 411

63H-7a-703, as renumbered and amended by Laws of Utah 2015, Chapter 411

63H-7a-704, as renumbered and amended by Laws of Utah 2015, Chapter 411

63H-7a-705, as renumbered and amended by Laws of Utah 2015, Chapter 411

63H-7a-706, as renumbered and amended by Laws of Utah 2015, Chapter 411

69-2-4, as last amended by Laws of Utah 2014, Chapter 320

69-2-5, as last amended by Laws of Utah 2016, Chapter 179

69-2-5.5, as last amended by Laws of Utah 2016, Chapter 179

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

Section 1. Section **59-1-306** is amended to read:

59-1-306. Definition -- State Tax Commission Administrative Charge Account -- Amount of administrative charge -- Deposit of revenues into the restricted account -- Interest deposited into General Fund -- Expenditure of money deposited into the restricted account.

(1) As used in this section, "qualifying tax, fee, or charge" means a tax, fee, or charge the commission administers under:

~~[(b)]~~ (a) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

~~[(c)]~~ (b) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

~~[(d)]~~ (c) Section 19-6-714;

~~[(e)]~~ (d) Section 19-6-805;

~~[(a)]~~ (e) Chapter 12, Sales and Use Tax Act, other than a tax under Chapter 12, Part 1, Tax Collection, or Chapter 12, Part 18, Additional State Sales and Use Tax Act;

(f) Section 59-27-105; or

~~[(g)] Section 69-2-5;~~

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~~[(h) Section 69-2-5.5; or]~~

~~[(i) Section 69-2-5.6.]~~

(g) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges.

(2) There is created a restricted account within the General Fund known as the "State Tax Commission Administrative Charge Account."

(3) Subject to the other provisions of this section, the restricted account shall consist of administrative charges the commission retains and deposits in accordance with this section.

(4) For purposes of this section, the administrative charge is a percentage of revenues the commission collects from each qualifying tax, fee, or charge of not to exceed the lesser of:

(a) 1.5%; or

(b) an equal percentage of revenues the commission collects from each qualifying tax, fee, or charge sufficient to cover the cost to the commission of administering the qualifying taxes, fees, or charges.

(5) The commission shall deposit an administrative charge into the restricted account.

(6) Interest earned on the restricted account shall be deposited into the General Fund.

(7) The commission shall expend money appropriated by the Legislature to the commission from the restricted account to administer qualifying taxes, fees, or charges.

Section 2. Section **59-1-401** is amended to read:

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

(1) As used in this section:

(a) "Activated tax, fee, or charge" means a tax, fee, or charge with respect to which the commission:

(i) has implemented the commission's GenTax system; and

(ii) at least 30 days before implementing the commission's GenTax system as described in Subsection (1)(a)(i), has provided notice in a conspicuous place on the commission's website stating:

(A) the date the commission will implement the GenTax system with respect to the tax, fee, or charge; and

(B) that, at the time the commission implements the GenTax system with respect to the

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tax, fee, or charge:

(I) a person that files a return after the due date as described in Subsection (2)(a) is subject to the penalty described in Subsection (2)(c)(ii); and

(II) a person that fails to pay the tax, fee, or charge as described in Subsection (3)(a) is subject to the penalty described in Subsection (3)(b)(ii).

(b) "Activation date for a tax, fee, or charge" means with respect to a tax, fee, or charge, the later of:

(i) the date on which the commission implements the commission's GenTax system with respect to the tax, fee, or charge; or

(ii) 30 days after the date the commission provides the notice described in Subsection (1)(a)(ii) with respect to the tax, fee, or charge.

(c) (i) Except as provided in Subsection (1)(c)(ii), "tax, fee, or charge" means:

(A) a tax, fee, or charge the commission administers under:

(I) this title;

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

(III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(IV) Section 19-6-410.5;

(V) Section 19-6-714;

(VI) Section 19-6-805;

(VII) Section 32B-2-304;

(VIII) Section 34A-2-202;

(IX) Section 40-6-14; or

~~[(X) Section 69-2-5;]~~

~~[(XI) Section 69-2-5.5; or]~~

~~[(XII) Section 69-2-5.6; or]~~

(X) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or

(B) another amount that by statute is subject to a penalty imposed under this section.

(ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:

(A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

(B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

(C) Chapter 2, Property Tax Act, except for Section 59-2-1309;

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(D) Chapter 3, Tax Equivalent Property Act; or

(E) Chapter 4, Privilege Tax.

(d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated tax, fee, or charge.

(2) (a) The due date for filing a return is:

(i) if the person filing the return is not allowed by law an extension of time for filing the return, the day on which the return is due as provided by law; or

(ii) if the person filing the return is allowed by law an extension of time for filing the return, the earlier of:

(A) the date the person files the return; or

(B) the last day of that extension of time as allowed by law.

(b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a return after the due date described in Subsection (2)(a).

(c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:

(i) if the return described in Subsection (2)(b) is filed with respect to an unactivated tax, fee, or charge:

(A) \$20; or

(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

(ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax, fee, or charge, beginning on the activation date for the tax, fee, or charge:

(A) \$20; or

(B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is filed no later than five days after the due date described in Subsection (2)(a);

(II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed more than five days after the due date but no later than 15 days after the due date described in Subsection (2)(a); or

(III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is filed more than 15 days after the due date described in Subsection (2)(a).

(d) This Subsection (2) does not apply to:

(i) an amended return; or

(ii) a return with no tax due.

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(3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:

(i) the person files a return on or before the due date for filing a return described in Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due date;

(ii) the person:

(A) is subject to a penalty under Subsection (2)(b); and

(B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the due date for filing a return described in Subsection (2)(a);

(iii) (A) the person is subject to a penalty under Subsection (2)(b); and

(B) the commission estimates an amount of tax due for that person in accordance with Subsection 59-1-1406(2);

(iv) the person:

(A) is mailed a notice of deficiency; and

(B) within a 30-day period after the day on which the notice of deficiency described in Subsection (3)(a)(iv)(A) is mailed:

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

(II) fails to pay the tax, fee, or charge due on a return;

(v) (A) the commission:

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

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

(B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period after the date the commission:

(I) issues the order constituting final agency action described in Subsection (3)(a)(v)(A)(I); or

(II) is considered to have denied the request for reconsideration described in Subsection (3)(a)(v)(A)(II); or

(vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date of a final judicial decision resulting from a timely filed petition for judicial review.

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(b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:

(i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with respect to an unactivated tax, fee, or charge:

(A) \$20; or

(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

(ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with respect to an activated tax, fee, or charge, beginning on the activation date:

(A) \$20; or

(B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid no later than five days after the due date for filing a return described in Subsection (2)(a);

(II) 5% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than five days after the due date for filing a return described in Subsection (2)(a) but no later than 15 days after that due date; or

(III) 10% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a return described in Subsection (2)(a).

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

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

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

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

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

(iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited

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against unpaid required installments in the order in which the installments are required to be paid.

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

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

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

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

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

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

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

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

(A) \$20; or

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

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

(A) \$20; or

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

(7) (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided in this Subsection (7)(a).

(i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax, fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that

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is due to negligence.

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

(iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge, the penalty is the greater of \$500 per period or 50% of the entire underpayment.

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

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

(i) The notice of proposed penalty shall:

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

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

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

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

or

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

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

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

(B) The commission shall mail the notice and demand for payment described in Subsection (7)(b)(iv)(A):

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

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

(c) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

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

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d); or

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

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d).

(d) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(ii) if:

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

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d); or

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

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d); and

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

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(8) (a) Subject to Subsections (8)(b) and (c), the penalty for failure to file an information return, information report, or a complete supporting schedule is \$50 for each information return, information report, or supporting schedule up to a maximum of \$1,000.

(b) If an employer is subject to a penalty under Subsection (13), the employer may not be subject to a penalty under Subsection (8)(a).

(c) If an employer is subject to a penalty under this Subsection (8) for failure to file a return in accordance with Subsection 59-10-406(3) on or before the due date described in Subsection 59-10-406(3)(b)(ii), the commission may not impose a penalty under this Subsection (8) unless the return is filed more than 14 days after the due date described in Subsection 59-10-406(3)(b)(ii).

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

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

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

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

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

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

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

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

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

(A) a return;

(B) an affidavit;

(C) a claim; or

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

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

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

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

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

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

(iii) procuring any portion of a document described in Subsection (11)(a)(i);

(iv) advising in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(v) aiding in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(vi) assisting in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i); or

(vii) counseling in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i).

(c) For purposes of Subsection (11)(a), the penalty:

(i) shall be imposed by the commission;

(ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and

(iii) is in addition to any other penalty provided by law.

(d) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (11).

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (11)(a)(i)(A) through (C).

(12) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as provided in Subsections (12)(b) through (e).

(b) (i) A person who is required by this title or any laws the commission administers or

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regulates to register with or obtain a license or permit from the commission, who operates without having registered or secured a license or permit, or who operates when the registration, license, or permit is expired or not current, is guilty of a class B misdemeanor.

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

(A) be less than \$500; or

(B) exceed \$1,000.

(c) (i) With respect to a tax, fee, or charge, a person who knowingly and intentionally, and without a reasonable good faith basis, fails to make, render, sign, or verify a return within the time required by law or to supply information within the time required by law, or who makes, renders, signs, or verifies a false or fraudulent return or statement, or who supplies false or fraudulent information, is guilty of a third degree felony.

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

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

(B) exceed \$5,000.

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

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

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

(B) exceed \$25,000.

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

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

(I) a return;

(II) an affidavit;

(III) a claim; or

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

(B) subject to Subsection (12)(e)(iii), with knowledge that the document described in

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Subsection (12)(e)(i)(A):

- (I) is false or fraudulent as to any material matter; and
- (II) could be used in connection with any material matter administered by the

commission.

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

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

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

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

(D) advising in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(E) aiding in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(F) assisting in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A); or

(G) counseling in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A).

(iii) This Subsection (12)(e) applies:

(A) regardless of whether the person for which the document described in Subsection (12)(e)(i)(A) is prepared or presented:

(I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or

(II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and

(B) in addition to any other penalty provided by law.

(iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the penalty may not:

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

(B) exceed \$25,000.

(v) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (12)(e).

(vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (12)(e)(i)(A)(I) through (III).

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(f) The statute of limitations for prosecution for a violation of this Subsection (12) is the later of six years:

- (i) from the date the tax should have been remitted; or
- (ii) after the day on which the person commits the criminal offense.

(13) (a) Subject to Subsection (13)(b), an employer that is required to file a form with the commission in accordance with Subsection 59-10-406(8) is subject to a penalty described in Subsection (13)(b) if the employer:

- (i) fails to file the form with the commission in an electronic format approved by the commission as required by Subsection 59-10-406(8);
- (ii) fails to file the form on or before the due date provided in Subsection 59-10-406(8);
- (iii) fails to provide accurate information on the form; or
- (iv) fails to provide all of the information required by the Internal Revenue Service to be contained on the form.

(b) For purposes of Subsection (13)(a), the penalty is:

(i) \$30 per form, not to exceed \$75,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8), more than 14 days after the due date provided in Subsection 59-10-406(8) but no later than 30 days after the due date provided in Subsection 59-10-406(8);

(ii) \$60 per form, not to exceed \$200,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8), more than 30 days after the due date provided in Subsection 59-10-406(8) but on or before June 1; or

(iii) \$100 per form, not to exceed \$500,000 in a calendar year, if the employer:

- (A) files the form in accordance with Subsection 59-10-406(8) after June 1; or
- (B) fails to file the form.

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

Section 3. Section **59-1-402** is amended to read:

59-1-402. Definitions -- Interest.

(1) As used in this section:

(a) "Final judicial decision" means a final ruling by a court of this state or the United

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States for which the time for any further review or proceeding has expired.

(b) "Retroactive application of a judicial decision" means the application of a final judicial decision that:

- (i) invalidates a state or federal taxation statute; and
- (ii) requires the state to provide a refund for an overpayment that was made:
 - (A) prior to the final judicial decision; or
 - (B) during the 180-day period after the final judicial decision.
- (c) (i) Except as provided in Subsection (1)(c)(ii), "tax, fee, or charge" means:
 - (A) a tax, fee, or charge the commission administers under:
 - (I) this title;
 - (II) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
 - (III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
 - (IV) Section 19-6-410.5;
 - (V) Section 19-6-714;
 - (VI) Section 19-6-805;
 - (VII) Section 32B-2-304;
 - (VIII) Section 34A-2-202;
 - (IX) Section 40-6-14; or
 - ~~[(X) Section 69-2-5;]~~
 - ~~[(XI) Section 69-2-5.5; or]~~
 - ~~[(XII) Section 69-2-5.6; or]~~
 - (X) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or
 - (B) another amount that by statute is subject to interest imposed under this section.
 - (ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:
 - (A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;
 - (B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;
 - (C) Chapter 2, Property Tax Act, except for Section 59-2-1309;
 - (D) Chapter 3, Tax Equivalent Property Act;
 - (E) Chapter 4, Privilege Tax; or
 - (F) Chapter 13, Part 5, Interstate Agreements.
- (2) Except as otherwise provided by law, the interest rate for a calendar year for a

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tax, fee, or charge administered by the commission shall be calculated based on the federal short-term rate determined by the Secretary of the Treasury under Section 6621, Internal Revenue Code, in effect for the preceding fourth calendar quarter.

(3) The interest rate calculation shall be as follows:

(a) except as provided in Subsection (7), in the case of an overpayment or refund, simple interest shall be calculated at the rate of two percentage points above the federal short-term rate; or

(b) in the case of an underpayment, deficiency, or delinquency, simple interest shall be calculated at the rate of two percentage points above the federal short-term rate.

(4) Notwithstanding Subsection (2) or (3), the interest rate applicable to certain installment sales for purposes of a tax under Chapter 7, Corporate Franchise and Income Taxes, shall be determined in accordance with Section 453A, Internal Revenue Code, as provided in Section 59-7-112.

(5) (a) Except as provided in Subsection (5)(c), interest may not be allowed on an overpayment of a tax, fee, or charge if the overpayment of the tax, fee, or charge is refunded within:

(i) 45 days after the last date prescribed for filing the return with respect to a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act, if the return is filed electronically; or

(ii) 90 days after the last date prescribed for filing the return:

(A) with respect to a tax, fee, or charge, except for a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act; or

(B) if the return is not filed electronically.

(b) Except as provided in Subsection (5)(c), if the return is filed after the last date prescribed for filing the return, interest may not be allowed on the overpayment if the overpayment is refunded within:

(i) 45 days after the date the return is filed:

(A) with respect to a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act; and

(B) if the return is filed electronically; or

(ii) 90 days after the date the return is filed:

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(A) with respect to a tax, fee, or charge, except for a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act; or

(B) if the return is not filed electronically.

(c) (i) In the case of an amended return, interest on an overpayment shall be allowed:

(A) for a time period:

(I) that begins on the later of:

(Aa) the date the original return was filed; or

(Bb) the due date for filing the original return not including any extensions for filing the original return; and

(II) that ends on the date the commission receives the amended return; and

(B) if the commission does not make a refund of an overpayment under this Subsection (5)(c):

(I) if the amended return is with respect to a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act, and is filed electronically, within a 45-day period after the date the commission receives the amended return, for a time period:

(Aa) that begins 46 days after the commission receives the amended return; and

(Bb) subject to Subsection (5)(c)(ii), that ends on the date that the commission completes processing the refund of the overpayment; or

(II) if the amended return is with respect to a tax, fee, or charge except for a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act, or is not filed electronically, within a 90-day period after the date the commission receives the amended return, for a time period:

(Aa) that begins 91 days after the commission receives the amended return; and

(Bb) subject to Subsection (5)(c)(ii), that ends on the date that the commission completes processing the refund of the overpayment.

(ii) For purposes of Subsection (5)(c)(i)(B)(I)(Bb) or (5)(c)(i)(B)(II)(Bb), interest shall be calculated forward from the preparation date of the refund document to allow for processing.

(6) Interest on any underpayment, deficiency, or delinquency of a tax, fee, or charge shall be computed from the time the original return is due, excluding any filing or payment

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extensions, to the date the payment is received.

(7) Interest on a refund relating to a tax, fee, or charge may not be paid on any overpayment that arises from a statute that is determined to be invalid under state or federal law or declared unconstitutional under the constitution of the United States or Utah if the basis for the refund is the retroactive application of a judicial decision upholding the claim of unconstitutionality or the invalidation of a statute.

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

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

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

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

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

- (i) in accordance with judicial order;
- (ii) on behalf of the commission in any action or proceeding under:
 - (A) this title; or
 - (B) other law under which persons are required to file returns with the commission;
- (iii) on behalf of the commission in any action or proceeding to which the commission is a party; or
- (iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

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

(2) This section does not prohibit:

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

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

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

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

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

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

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

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (1), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

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

- (i) Chapter 13, Part 2, Motor Fuel; or
- (ii) Chapter 13, Part 4, Aviation Fuel.

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

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

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

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

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

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

- (A) reported to the commission under Section 59-14-212; or
- (B) related to a violation under Section 59-14-211; and

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

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

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

(k) Notwithstanding Subsection (1), the commission may share information with

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federal, state, or local agencies as provided in Subsection 59-14-606(3).

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

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

(m) (i) Notwithstanding Subsection (1), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and ~~{Social Security}~~ social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (3)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

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

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

- (A) Office of the Legislative Fiscal Analyst; or
- (B) Office of Legislative Research and General Counsel.

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

- (A) gained by the commission; and
- (B) required to be attached to or included in returns filed with the commission.

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

- (I) address;
- (II) name;
- (III) ~~{Social Security}~~ social security number; or
- (IV) taxpayer identification number.

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

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

(A) as:

(I) a fiscal estimate;

(II) fiscal note information; or

(III) statistical information; and

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

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

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

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

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

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

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

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

(D) a document filed with the commission; or

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

(q) Notwithstanding Subsection (1), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

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(r) Notwithstanding Subsection (1), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(s) Notwithstanding Subsection (1), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(t) Notwithstanding Subsection (1), for the purpose of verifying eligibility under Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the Department of Health or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26-18-2.5 and 26-40-105.

(u) Notwithstanding Subsection (1), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(v) Notwithstanding Subsection (1), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, 911 Emergency Service Charges, to:

~~(A)~~i) the board of the Utah Communications Authority created in Section 63H-7a-201; and

~~(B)~~ii) the Public Utilities, Energy, and Technology Interim Committee.

(4) (a) Each report and return shall be preserved for at least three years.

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

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

(b) If the person described in Subsection (5)(a) is an officer or employee of the state,

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the person shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

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

- (i) is not guilty of a class A misdemeanor; and
 - (ii) is not subject to:
 - (A) dismissal from office in accordance with Subsection (5)(b); or
 - (B) disqualification from holding public office in accordance with Subsection (5)(b).
 - (6) Except as provided in Section 59-1-404, this part does not apply to the property tax.
- Section 5. Section **59-1-1402** is amended 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;
 - (c) the amount the commission pays to a depository institution in accordance with [~~Title 59, Chapter 1,~~] Part 17, Depository Institution Data Match System and Levy Act; or
 - (d) a cost similar to Subsections (1)(a) through (c) as determined by the commission by rule 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 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 by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3) "Deficiency" means:

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

(i) the sum of:

(A) the amount shown as the tax, fee, or charge by a person on the person's return; and

(B) any amount previously assessed, or collected without assessment, as a deficiency;

and

(ii) any amount previously abated, credited, refunded, or otherwise repaid with respect to that tax, fee, or charge; or

(b) if a person does not show an amount as a tax, fee, or charge on the person's return, or if a person does not make a return, the amount by which the tax, fee, or charge exceeds:

(i) the amount previously assessed, or collected without assessment, as a deficiency;

and

(ii) any amount previously abated, credited, refunded, or otherwise repaid with respect to that tax, fee, or charge.

(4) "Garnishment" means any legal or equitable procedure through which one or more of the following are required to be withheld for payment of an amount a person owes:

(a) an asset of the person held by another person; or

(b) the earnings of the person.

(5) "Liability" means the following that a person is required to remit to the commission:

(a) a tax, fee, or charge;

(b) an addition to a tax, fee, or charge;

(c) an administrative cost;

(d) interest that accrues in accordance with Section 59-1-402; or

(e) a penalty that accrues in accordance with Section 59-1-401.

(6) (a) Subject to Subsection (6)(b), "mathematical error" is as defined in Section 6213(g)(2), Internal Revenue Code.

(b) The reference to Section 6213(g)(2), Internal Revenue Code, in Subsection (6)(a) means:

(i) the reference to Section 6213(g)(2), Internal Revenue Code, in effect for the taxable year; or

(ii) a corresponding or comparable provision of the Internal Revenue Code as

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amended, redesignated, or reenacted.

- (7) (a) Except as provided in Subsection (7)(b), "tax, fee, or charge" means:
- (i) a tax, fee, or charge the commission administers under:
 - (A) this title;
 - (B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
 - (C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
 - (D) Section 19-6-410.5;
 - (E) Section 19-6-714;
 - (F) Section 19-6-805;
 - (G) Section 32B-2-304;
 - (H) Section 34A-2-202;
 - (I) Section 40-6-14; or
 - ~~[(J) Section 69-2-5;]~~
 - ~~[(K) Section 69-2-5.5; or]~~
 - ~~[(L) Section 69-2-5.6; or]~~
 - (J) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or
 - (ii) another amount that by statute is administered by the commission.
- (b) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:
- (i) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;
 - (ii) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;
 - (iii) Chapter 2, Property Tax Act;
 - (iv) Chapter 3, Tax Equivalent Property Act;
 - (v) Chapter 4, Privilege Tax; or
 - (vi) Chapter 13, Part 5, Interstate Agreements.
- (8) "Transferee" means:
- (a) a devisee;
 - (b) a distributee;
 - (c) a donee;
 - (d) an heir;
 - (e) a legatee; or
 - (f) a person similar to Subsections (8)(a) through (e) as determined by the commission

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by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 6. Section **59-12-107** is amended to read:

59-12-107. Definitions -- Collection, remittance, and payment of tax by sellers or other persons -- Returns -- Reports -- Direct payment by purchaser of vehicle -- Other liability for collection -- Rulemaking authority -- Credits -- Treatment of bad debt -- Penalties and interest.

(1) As used in this section:

(a) "Ownership" means direct ownership or indirect ownership through a parent, subsidiary, or affiliate.

(b) "Related seller" means a seller that:

(i) meets one or more of the criteria described in Subsection (2)(a)(i); and

(ii) delivers tangible personal property, a service, or a product transferred electronically that is sold:

(A) by a seller that does not meet one or more of the criteria described in Subsection (2)(a)(i); and

(B) to a purchaser in the state.

(c) "Substantial ownership interest" means an ownership interest in a business entity if that ownership interest is greater than the degree of ownership of equity interest specified in 15 U.S.C. Sec. 78p, with respect to a person other than a director or an officer.

(2) (a) Except as provided in Subsection (2)(e), Section 59-12-107.1, or Section 59-12-123, and subject to Subsection (2)(f), each seller shall pay or collect and remit the sales and use taxes imposed by this chapter if within this state the seller:

(i) has or utilizes:

(A) an office;

(B) a distribution house;

(C) a sales house;

(D) a warehouse;

(E) a service enterprise; or

(F) a place of business similar to Subsections (2)(a)(i)(A) through (E);

(ii) maintains a stock of goods;

(iii) regularly solicits orders, regardless of whether or not the orders are accepted in the

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state, unless the seller's only activity in the state is:

- (A) advertising; or
- (B) solicitation by:
 - (I) direct mail;
 - (II) electronic mail;
 - (III) the Internet;
 - (IV) telecommunications service; or
 - (V) a means similar to Subsection (2)(a)(iii)(A) or (B);
- (iv) regularly engages in the delivery of property in the state other than by:
 - (A) common carrier; or
 - (B) United States mail; or
- (v) regularly engages in an activity directly related to the leasing or servicing of

property located within the state.

(b) A seller is considered to be engaged in the business of selling tangible personal property, a service, or a product transferred electronically for use in the state, and shall pay or collect and remit the sales and use taxes imposed by this chapter if:

(i) the seller holds a substantial ownership interest in, or is owned in whole or in substantial part by, a related seller; and

(ii) (A) the seller sells the same or a substantially similar line of products as the related seller and does so under the same or a substantially similar business name; or

(B) the place of business described in Subsection (2)(a)(i) of the related seller or an in state employee of the related seller is used to advertise, promote, or facilitate sales by the seller to a purchaser.

(c) A seller that does not meet one or more of the criteria provided for in Subsection (2)(a) or is not a seller required to pay or collect and remit sales and use taxes under Subsection (2)(b):

(i) except as provided in Subsection (2)(c)(ii), may voluntarily:

(A) collect a tax on a transaction described in Subsection 59-12-103(1); and

(B) remit the tax to the commission as provided in this part; or

(ii) notwithstanding Subsection (2)(c)(i), shall collect a tax on a transaction described in Subsection 59-12-103(1) if Section 59-12-103.1 requires the seller to collect the tax.

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(d) The collection and remittance of a tax under this chapter by a seller that is registered under the agreement may not be used as a factor in determining whether that seller is required by Subsection (2) to:

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

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

(B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(C) Section 19-6-714;

(D) Section 19-6-805;

~~[(E) Section 69-2-5;]~~

~~[(F) Section 69-2-5.5;]~~

~~[(G) Section 69-2-5.6; or]~~

(E) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or

~~[(H) (F) this title; or~~

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

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

(B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(C) Section 19-6-714;

(D) Section 19-6-805;

~~[(E) Section 69-2-5;]~~

~~[(F) Section 69-2-5.5;]~~

~~[(G) Section 69-2-5.6; or]~~

(E) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or

~~[(H) (F) this title.~~

(e) A person shall pay a use tax imposed by this chapter on a transaction described in Subsection 59-12-103(1) if:

(i) the seller did not collect a tax imposed by this chapter on the transaction; and

(ii) the person:

(A) stores the tangible personal property or product transferred electronically in the state;

(B) uses the tangible personal property or product transferred electronically in the state;

or

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(C) consumes the tangible personal property or product transferred electronically in the state.

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

(3) (a) Except as provided in Section 59-12-107.1, a tax under this chapter shall be collected from a purchaser.

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

(c) (i) Each seller shall:

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

(B) bill the tax as a separate item and declare the name of this state and the seller's sales and use tax license number on the invoice for the sale.

(ii) The receipt or invoice is prima facie evidence that the seller has collected the tax and relieves the purchaser of the liability for reporting the tax to the commission as a consumer.

(d) A seller is not required to maintain a separate account for the tax collected, but is considered to be a person charged with receipt, safekeeping, and transfer of public money.

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

(f) If any seller, during any reporting period, collects as a tax an amount in excess of the lawful state and local percentage of total taxable sales allowed under this chapter, the seller shall remit to the commission the full amount of the tax imposed under this chapter, plus any excess.

(g) If the accounting methods regularly employed by the seller in the transaction of the seller's business are such that reports of sales made during a calendar month or quarterly period will impose unnecessary hardships, the commission may accept reports at intervals that will, in

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the commission's opinion, better suit the convenience of the taxpayer or seller and will not jeopardize collection of the tax.

(h) (i) For a purchase paid with specie legal tender as defined in Section 59-1-1501.1, and until such time as the commission accepts specie legal tender for the payment of a tax under this chapter, if the commission requires a seller to remit a tax under this chapter in legal tender other than specie legal tender, the seller shall state on the seller's books and records and on an invoice, bill of sale, or similar document provided to the purchaser:

(A) the purchase price in specie legal tender and in the legal tender the seller is required to remit to the commission;

(B) subject to Subsection (3)(h)(ii), the amount of tax due under this chapter in specie legal tender and in the legal tender the seller is required to remit to the commission;

(C) the tax rate under this chapter applicable to the purchase; and

(D) the date of the purchase.

(ii) (A) Subject to Subsection (3)(h)(ii)(B), for purposes of determining the amount of tax due under Subsection (3)(h)(i), a seller shall use the most recent London fixing price for the specie legal tender the purchaser paid.

(B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for determining the amount of tax due under Subsection (3)(h)(i) if the London fixing price is not available for a particular day.

(4) (a) Except as provided in Subsections (5) through (7) and Section 59-12-108, the sales or use tax imposed by this chapter is due and payable to the commission quarterly on or before the last day of the month next succeeding each calendar quarterly period.

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

(ii) The seller shall remit with the return under Subsection (4)(b)(i) the amount of the tax required under this chapter to be collected or paid for the period covered by the return.

(c) Except as provided in Subsection (5)(c), a return shall contain information and be in a form the commission prescribes by rule.

(d) (i) Subject to Subsection (4)(d)(ii), the sales tax as computed in the return shall be based on the total nonexempt sales made during the period for which the return is filed, including both cash and charge sales.

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(ii) For a sale that includes the delivery or installation of tangible personal property at a location other than a seller's place of business described in Subsection (2)(a)(i), if the delivery or installation is separately stated on an invoice or receipt, a seller may compute the tax due on the sale for purposes of Subsection (4)(d)(i) based on the amount the seller receives for that sale during each period for which the seller receives payment for the sale.

(e) (i) The use tax as computed in the return shall be based on the total amount of purchases for storage, use, or other consumption in this state made during the period for which the return is filed, including both cash and charge purchases.

(ii) (A) As used in this Subsection (4)(e)(ii), "qualifying purchaser" means a purchaser who is required to remit taxes under this chapter, but is not required to remit taxes monthly in accordance with Section 59-12-108, and who converts tangible personal property into real property.

(B) Subject to Subsections (4)(e)(ii)(C) and (D), a qualifying purchaser may remit the taxes due under this chapter on tangible personal property for which the qualifying purchaser claims an exemption as allowed under Subsection 59-12-104(23) or (25) based on the period in which the qualifying purchaser receives payment, in accordance with Subsection (4)(e)(ii)(C), for the conversion of the tangible personal property into real property.

(C) A qualifying purchaser remitting taxes due under this chapter in accordance with Subsection (4)(e)(ii)(B) shall remit an amount equal to the total amount of tax due on the qualifying purchaser's purchase of the tangible personal property that was converted into real property multiplied by a fraction, the numerator of which is the payment received in the period for the qualifying purchaser's sale of the tangible personal property that was converted into real property and the denominator of which is the entire sales price for the qualifying purchaser's sale of the tangible personal property that was converted into real property.

(D) A qualifying purchaser may remit taxes due under this chapter in accordance with this Subsection (4)(e)(ii) only if the books and records that the qualifying purchaser keeps in the qualifying purchaser's regular course of business identify by reasonable and verifiable standards that the tangible personal property was converted into real property.

(f) (i) Subject to Subsection (4)(f)(ii) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule extend the time for making returns and paying the taxes.

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(ii) An extension under Subsection (4)(f)(i) may not be for more than 90 days.

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

(h) (i) The commission may require a seller that files a simplified electronic return with the commission to file an additional electronic report with the commission.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing:

(A) the information required to be included in the additional electronic report described in Subsection (4)(h)(i); and

(B) one or more due dates for filing the additional electronic report described in Subsection (4)(h)(i).

(5) (a) As used in this Subsection (5) and Subsection (6)(b), "remote seller" means a seller that is:

(i) registered under the agreement;

(ii) described in Subsection (2)(c); and

(iii) not a:

(A) model 1 seller;

(B) model 2 seller; or

(C) model 3 seller.

(b) (i) Except as provided in Subsection (5)(b)(ii), a tax a remote seller collects in accordance with Subsection (2)(c) is due and payable:

(A) to the commission;

(B) annually; and

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

(ii) The commission may require that a tax a remote seller collects in accordance with Subsection (2)(c) be due and payable:

(A) to the commission; and

(B) on the last day of the month immediately following any month in which the seller accumulates a total of at least \$1,000 in agreement sales and use tax.

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(c) (i) If a remote seller remits a tax to the commission in accordance with Subsection (5)(b), the remote seller shall file a return:

- (A) with the commission;
- (B) with respect to the tax;
- (C) containing information prescribed by the commission; and
- (D) on a form prescribed by the commission.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules prescribing:

(A) the information required to be contained in a return described in Subsection (5)(c)(i); and

(B) the form described in Subsection (5)(c)(i)(D).

(d) A tax a remote seller collects in accordance with this Subsection (5) shall be calculated on the basis of the total amount of taxable transactions under Subsection 59-12-103(1) the remote seller completes, including:

- (i) a cash transaction; and
- (ii) a charge transaction.

(6) (a) Except as provided in Subsection (6)(b), a tax a seller that files a simplified electronic return collects in accordance with this chapter is due and payable:

- (i) monthly on or before the last day of the month immediately following the month for which the seller collects a tax under this chapter; and
- (ii) for the month for which the seller collects a tax under this chapter.

(b) A tax a remote seller that files a simplified electronic return collects in accordance with this chapter is due and payable as provided in Subsection (5).

(7) (a) On each vehicle sale made by other than a regular licensed vehicle dealer, the purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to titling or registration under the laws of this state.

(b) The commission shall collect the tax described in Subsection (7)(a) when the vehicle is titled or registered.

(8) If any sale of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not responsible for the collection or payment of the tax imposed on the sale and the retailer is

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responsible for the collection or payment of the tax imposed on the sale if:

(a) the retailer represents that the personal property is purchased by the retailer for resale; and

(b) the personal property is not subsequently resold.

(9) If any sale of property or service subject to the tax is made to a person prepaying sales or use tax in accordance with Title 63M, Chapter 5, Resource Development Act, or to a contractor or subcontractor of that person, the person to whom such payment or consideration is payable is not responsible for the collection or payment of the sales or use tax and the person prepaying the sales or use tax is responsible for the collection or payment of the sales or use tax if the person prepaying the sales or use tax represents that the amount prepaid as sales or use tax has not been fully credited against sales or use tax due and payable under the rules promulgated by the commission.

(10) (a) For purposes of this Subsection (10):

(i) Except as provided in Subsection (10)(a)(ii), "bad debt" is as defined in Section 166, Internal Revenue Code.

(ii) Notwithstanding Subsection (10)(a)(i), "bad debt" does not include:

(A) an amount included in the purchase price of tangible personal property, a product transferred electronically, or a service that is:

(I) not a transaction described in Subsection 59-12-103(1); or

(II) exempt under Section 59-12-104;

(B) a financing charge;

(C) interest;

(D) a tax imposed under this chapter on the purchase price of tangible personal property, a product transferred electronically, or a service;

(E) an uncollectible amount on tangible personal property or a product transferred electronically that:

(I) is subject to a tax under this chapter; and

(II) remains in the possession of a seller until the full purchase price is paid;

(F) an expense incurred in attempting to collect any debt; or

(G) an amount that a seller does not collect on repossessed property.

(b) (i) To the extent an amount remitted in accordance with Subsection (4)(d) later

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becomes bad debt, a seller may deduct the bad debt from the total amount from which a tax under this chapter is calculated on a return.

(ii) A qualifying purchaser, as defined in Subsection (4)(e)(ii)(A), may deduct from the total amount of taxes due under this chapter the amount of tax the qualifying purchaser paid on the qualifying purchaser's purchase of tangible personal property converted into real property to the extent that:

(A) tax was remitted in accordance with Subsection (4)(e) on that tangible personal property converted into real property;

(B) the qualifying purchaser's sale of that tangible personal property converted into real property later becomes bad debt; and

(C) the books and records that the qualifying purchaser keeps in the qualifying purchaser's regular course of business identify by reasonable and verifiable standards that the tangible personal property was converted into real property.

(c) A seller may file a refund claim with the commission if:

(i) the amount of bad debt for the time period described in Subsection (10)(e) exceeds the amount of the seller's sales that are subject to a tax under this chapter for that same time period; and

(ii) as provided in Section 59-1-1410.

(d) A bad debt deduction under this section may not include interest.

(e) A bad debt may be deducted under this Subsection (10) on a return for the time period during which the bad debt:

(i) is written off as uncollectible in the seller's books and records; and

(ii) would be eligible for a bad debt deduction:

(A) for federal income tax purposes; and

(B) if the seller were required to file a federal income tax return.

(f) If a seller recovers any portion of bad debt for which the seller makes a deduction or claims a refund under this Subsection (10), the seller shall report and remit a tax under this chapter:

(i) on the portion of the bad debt the seller recovers; and

(ii) on a return filed for the time period for which the portion of the bad debt is recovered.

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(g) For purposes of reporting a recovery of a portion of bad debt under Subsection (10)(f), a seller shall apply amounts received on the bad debt in the following order:

(i) in a proportional amount:

(A) to the purchase price of the tangible personal property, product transferred electronically, or service; and

(B) to the tax due under this chapter on the tangible personal property, product transferred electronically, or service; and

(ii) to:

(A) interest charges;

(B) service charges; and

(C) other charges.

(h) A seller's certified service provider may make a deduction or claim a refund for bad debt on behalf of the seller:

(i) in accordance with this Subsection (10); and

(ii) if the certified service provider credits or refunds the entire amount of the bad debt deduction or refund to the seller.

(i) A seller may allocate bad debt among the states that are members of the agreement if the seller's books and records support that allocation.

(11) (a) A seller may not, with intent to evade any tax, fail to timely remit the full amount of tax required by this chapter.

(b) A violation of this section is punishable as provided in Section 59-1-401.

(c) Each person who fails to pay any tax to the state or any amount of tax required to be paid to the state, except amounts determined to be due by the commission under Chapter 1, Part 14, Assessment, Collections, and Refunds Act, or Section 59-12-111, within the time required by this chapter, or who fails to file any return as required by this chapter, shall pay, in addition to the tax, penalties and interest as provided in Sections 59-1-401 and 59-1-402.

(d) For purposes of prosecution under this section, each quarterly tax period in which a seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the tax required to be remitted, constitutes a separate offense.

Section 7. Section **59-12-108** is amended to read:

59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --

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Certain amounts allocated to local taxing jurisdictions.

(1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this chapter of \$50,000 or more for the previous calendar year shall:

(i) file a return with the commission:

(A) monthly on or before the last day of the month immediately following the month for which the seller collects a tax under this chapter; and

(B) for the month for which the seller collects a tax under this chapter; and

(ii) except as provided in Subsection (1)(b), remit with the return required by Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax, fee, or charge described in Subsection (1)(c):

(A) if that seller's tax liability under this chapter for the previous calendar year is less than \$96,000, by any method permitted by the commission; or

(B) if that seller's tax liability under this chapter for the previous calendar year is \$96,000 or more, by electronic funds transfer.

(b) A seller shall remit electronically with the return required by Subsection (1)(a)(i) the amount the seller is required to remit to the commission for each tax, fee, or charge described in Subsection (1)(c) if that seller:

(i) is required by Section 59-12-107 to file the return electronically; or

(ii) (A) is required to collect and remit a tax under Section 59-12-107; and

(B) files a simplified electronic return.

(c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:

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

(ii) a fee under Section 19-6-714;

(iii) a fee under Section 19-6-805;

(iv) a charge under [~~Section 69-2-5;~~] Title 69, Chapter 2, Part 4, 911 Emergency

Service Charges; or

~~[(v) a charge under Section 69-2-5.5;]~~

~~[(vi) a charge under Section 69-2-5.6; or]~~

~~[(vii)]~~ (v) a tax under this chapter.

(d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing for a method

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for making same-day payments other than by electronic funds transfer if making payments by electronic funds transfer fails.

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall establish by rule procedures and requirements for determining the amount a seller is required to remit to the commission under this Subsection (1).

(2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month the amount allowed by this Subsection (2).

(b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month 1.31% of any amounts the seller is required to remit to the commission:

(i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax and a local tax imposed in accordance with the following, for the month for which the seller is filing a return in accordance with Subsection (1):

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

(B) Subsection 59-12-103(2)(b); and

(C) Subsection 59-12-103(2)(d); and

(ii) for an agreement sales and use tax.

(c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(c).

(ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount equal to the sum of:

(A) 1.31% of any amounts the seller is required to remit to the commission for:

(I) the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(c);

(II) the month for which the seller is filing a return in accordance with Subsection (1); and

(III) an agreement sales and use tax; and

(B) 1.31% of the difference between:

(I) the amounts the seller would have been required to remit to the commission:

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(Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(a);

(Bb) for the month for which the seller is filing a return in accordance with Subsection (1); and

(Cc) for an agreement sales and use tax; and

(II) the amounts the seller is required to remit to the commission for:

(Aa) the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(c);

(Bb) the month for which the seller is filing a return in accordance with Subsection (1); and

(Cc) an agreement sales and use tax.

(d) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month 1% of any amounts the seller is required to remit to the commission:

(i) for the month for which the seller is filing a return in accordance with Subsection (1); and

(ii) under:

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

(B) Subsection 59-12-603(1)(a)(i)(A); or

(C) Subsection 59-12-603(1)(a)(i)(B).

(3) A state government entity that is required to remit taxes monthly in accordance with Subsection (1) may not retain any amount under Subsection (2).

(4) A seller that has a tax liability under this chapter for the previous calendar year of less than \$50,000 may:

(a) voluntarily meet the requirements of Subsection (1); and

(b) if the seller voluntarily meets the requirements of Subsection (1), retain the amounts allowed by Subsection (2).

(5) (a) Subject to Subsections (5)(b) through (d), a seller that voluntarily collects and remits a tax in accordance with Subsection 59-12-107(2)(c)(i) may retain an amount equal to 18% of any amounts the seller would otherwise remit to the commission:

(i) if the seller obtains a license under Section 59-12-106 for the first time on or after January 1, 2014; and

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(ii) for:

(A) an agreement sales and use tax; and

(B) the time period for which the seller files a return in accordance with this section.

(b) If a seller retains an amount under this Subsection (5), the seller may not retain any other amount under this section.

(c) If a seller retains an amount under this Subsection (5), the commission may require the seller to file a return by:

(i) electronic means; or

(ii) a means other than electronic means.

(d) A seller may not retain an amount under this Subsection (5) if the seller is required to collect or remit a tax under this section in accordance with Section 59-12-103.1.

(6) Penalties for late payment shall be as provided in Section 59-1-401.

(7) (a) Except as provided in Subsection (7)(c), for any amounts required to be remitted to the commission under this part, the commission shall each month calculate an amount equal to the difference between:

(i) the total amount retained for that month by all sellers had the percentages listed under Subsections (2)(b) and (2)(c)(ii) been 1.5%; and

(ii) the total amount retained for that month by all sellers at the percentages listed under Subsections (2)(b) and (2)(c)(ii).

(b) The commission shall each month allocate the amount calculated under Subsection (7)(a) to each county, city, and town on the basis of the proportion of agreement sales and use tax that the commission distributes to each county, city, and town for that month compared to the total agreement sales and use tax that the commission distributes for that month to all counties, cities, and towns.

(c) The amount the commission calculates under Subsection (7)(a) may not include an amount collected from a tax that:

(i) the state imposes within a county, city, or town, including the unincorporated area of a county; and

(ii) is not imposed within the entire state.

Section 8. Section **59-12-128** is amended to read:

59-12-128. Amnesty.

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(1) As used in this section, "amnesty" means that a seller is not required to pay the following amounts that the seller would otherwise be required to pay:

(a) a tax, fee, or charge under:

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

(ii) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(iii) Section 19-6-714;

(iv) Section 19-6-805;

(v) Chapter 26, Multi-Channel Video or Audio Service Tax Act;

~~[(vi) Section 69-2-5;]~~

~~[(vii) Section 69-2-5.5;]~~

~~[(viii) Section 69-2-5.6; or]~~

(vi) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or

~~[(ix)]~~ (vii) this chapter;

(b) a penalty on a tax, fee, or charge described in Subsection (1)(a); or

(c) interest on a tax, fee, or charge described in Subsection (1)(a).

(2) (a) Except as provided in Subsections (2)(b) and (3) and subject to Subsections (4) and (5), the commission shall grant a seller amnesty if the seller:

(i) obtains a license under Section 59-12-106; and

(ii) is registered under the agreement.

(b) The commission is not required to grant a seller amnesty under this section beginning 12 months after the date the state becomes a full member under the agreement.

(3) A seller may not receive amnesty under this section for a tax, fee, or charge:

(a) the seller collects;

(b) the seller remits to the commission;

(c) that the seller is required to remit to the commission on the seller's purchase; or

(d) arising from a transaction that occurs within a time period that is under audit by the commission if:

(i) the seller receives notice of the commencement of the audit prior to obtaining a license under Section 59-12-106; and

(ii) (A) the audit described in Subsection (3)(d)(i) is not complete; or

(B) the seller has not exhausted all administrative and judicial remedies in connection

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with the audit described in Subsection (3)(d)(i).

(4) (a) Except as provided in Subsection (4)(b), amnesty the commission grants to a seller under this section:

(i) applies to the time period during which the seller is not licensed under Section 59-12-106; and

(ii) remains in effect if, for a period of three years, the seller:

(A) remains registered under the agreement;

(B) collects a tax, fee, or charge on a transaction subject to a tax, fee, or charge described in Subsection (1)(a); and

(C) remits to the commission the taxes, fees, and charges the seller collects in accordance with Subsection (4)(a)(ii)(B).

(b) The commission may not grant a seller amnesty under this section if, with respect to a tax, fee, or charge for which the seller would otherwise be granted amnesty under this section, the seller commits:

(i) fraud; or

(ii) an intentional misrepresentation of a material fact.

(5) (a) If a seller does not meet a requirement of Subsection (4)(a)(ii), the commission shall require the seller to pay the amounts described in Subsection (1) that the seller would have otherwise been required to pay.

(b) Notwithstanding Section 59-1-1410, for purposes of requiring a seller to pay an amount in accordance with Subsection (5)(a), the time period for the commission to make an assessment under Section 59-1-1410 is extended for a time period beginning on the date the seller does not meet a requirement of Subsection (4)(a)(ii) and ends three years after that date.

Section 9. Section **63H-7a-102** is amended to read:

63H-7a-102. Utah Communications Authority -- Purpose.

~~[The purpose of this] (1) This chapter [is to establish an independent state agency and a board to administer the creation, administration, and maintenance of] establishes the Utah Communications Authority [to provide a public safety communications network, facilities, and 911 emergency services on a statewide basis for the benefit and use of public agencies, and state and federal agencies.] as an independent state agency.~~

(2) The Utah Communications Authority shall:

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(a) provide administrative and financial support for statewide 911 emergency services;
and

(b) establish and maintain a statewide public safety communications network.

Section 10. Section **63H-7a-103** is amended to read:

63H-7a-103. Definitions.

As used in this chapter:

(1) "Association of governments" means an association of political subdivisions of the state, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

~~[(1)]~~ (2) "Authority" means the Utah Communications Authority~~[, an independent state agency]~~ created in Section 63H-7a-201.

~~[(2)]~~ (3) "Board" means the Utah Communications Authority Board created in Section 63H-7a-203.

~~[(3)]~~ (4) "Bonds" means bonds, notes, certificates, debentures, contracts, lease purchase agreements, or other evidences of indebtedness or borrowing issued or incurred by the authority pursuant to this chapter.

(5) "Dispatch center" means an entity that receives and responds to an emergency or nonemergency communication transferred to the entity from a public safety answering point.

~~[(4)]~~ (6) "FirstNet" means the federal First Responder Network Authority ~~[created by Congress in the Middle Class Tax Relief and Job Creation Act of 2012]~~ established in 47 U.S.C. Sec. 1424.

~~[(5)]~~ (7) "Lease" means any lease, lease purchase, sublease, operating, management, or similar agreement.

~~[(6) "Local entity" means a county, city, town, local district, special service district, or interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act.]~~

~~[(7) "Member" means a public agency which:]~~

~~[(a) adopts a membership resolution to be included within the authority; and]~~

~~[(b) submits an originally executed copy of an authorizing resolution to the authority's office.]~~

~~[(8) "Member representative" means a person or that person's designee appointed by the governing body of each member.]~~

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~~[(9)]~~ (8) "Public agency" means any political subdivision of the state~~[-including cities, towns, counties, school districts, local districts, and special service districts,]~~ dispatched by a public safety answering point.

~~[(10)]~~ (9) "Public safety answering point" or "PSAP" means an entity that:

(a) receives, as a first point of contact, direct 911 emergency and nonemergency communications requesting a public safety service;

(b) has a facility with the equipment and staff necessary to receive the communication;

(c) assesses, classifies, and prioritizes the communication; and

(d) ~~[transfers]~~ dispatches the communication to the proper responding agency.

~~[(11)]~~ (10) "Public safety communications network" means:

(a) a regional or statewide public safety governmental communications network and related facilities, including real property, improvements, and equipment necessary for the acquisition, construction, and operation of the services and facilities; and

(b) 911 emergency services, including radio communications, connectivity, and computer aided dispatch systems.

~~[(12)] "State" means the state of Utah.~~

~~[(13)] "State representative" means the six appointees of the governor or their designees and the Utah State Treasurer or his designee.~~

Section 11. Section **63H-7a-201** is amended to read:

Part 2. Utah Communications Authority Governance

63H-7a-201. Establishment of Utah Communications Authority.

(1) This part is known as ~~[the]~~ "Utah Communications Authority ~~[and the Board]~~ Governance."

(2) There is established the Utah Communications Authority~~[-formerly known as the Utah Communications Agency Network, which shall assume the operations of the Utah Communications Agency Network and shall perform the functions as provided in this chapter.~~

~~(3) The Utah Communications Authority is]~~ as an independent state agency and not a division within any other department of the state.

~~[(4) The initial offices of the]~~ (3) (a) The authority shall ~~[be]~~ maintain an office in Salt Lake County~~[-but branches of the office may be established in other areas of the state upon approval of the board].~~

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(b) The authority may establish additional branch offices outside of Salt Lake County with the approval of the board.

Section 12. Section **63H-7a-202** is amended to read:

63H-7a-202. Powers of the authority.

The authority [~~shall have~~] has the power to:

(1) sue and be sued in [~~its~~] the authority's own name;

(2) have an official seal and power to alter that seal at will;

(3) make and execute contracts and all other instruments necessary or convenient for the performance of [~~its~~] the authority's duties and the exercise of [~~its~~] the authority's powers and functions under this chapter, including contracts with [~~private companies licensed under Title 26, Chapter 8a, Utah Emergency Medical Services System Act~~] public and private providers;

(4) own, acquire, design, construct, operate, maintain, repair, and dispose of any portion of a public safety communications network utilizing technology that is fiscally prudent, upgradable, technologically advanced, redundant, and secure;

(5) borrow money and incur indebtedness;

~~[(6) issue bonds as provided in this chapter;]~~

~~[(7) (6) enter into agreements with public agencies, private entities, the state, and federal government to provide public safety communications network services on terms and conditions [it] the authority considers to be in the best interest of [its members] the authority;~~

~~[(8) (7) acquire, by gift, grant, purchase, or by exercise of eminent domain, any real property or personal property in connection with the acquisition and construction of a public safety communications network and all related facilities and rights-of-way [which it] that the authority owns, operates, and maintains;~~

(8) sell public safety communications network capacity to a state agency or a political subdivision of the state if the sale is:

(a) for a public safety purpose; and

(b) consistent with the authority's duties under this chapter;

~~[(9) contract with other public agencies, the state, or federal government to provide public safety communications network services in excess of those required to meet the needs or requirements of its members and the state and federal government if:]~~

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~~[(a) it is determined by the board to be necessary to accomplish the purposes and realize the benefits of this chapter; and]~~

~~[(b) any excess is sold to other public agencies, the state, or federal government and is sold on terms that assure:]~~

~~[(i) that the excess services will be used only for the purposes and benefits authorized by the authority under Section 63H-7a-102; and]~~

~~[(ii) that the cost of providing the excess service will be received by the authority;]~~

~~[(10) provide and maintain the public safety communications network for all state and local governmental agencies:]~~

~~[(a) within the current authority network for the state and local governmental agencies that currently subscribe to the authority; and]~~

~~[(b) in a manner that:]~~

~~[(i) promotes high quality, cost effective services; and]~~

~~[(ii) evaluates the benefits, costs, existing facilities and equipment, and services of public and private providers;]~~

~~[(iii) where economically feasible, utilizes existing infrastructure to avoid duplication of facilities, equipment, and services of providers of communication services:]~~

~~[(11) maintain the current VHF and 800 MHz radio networks;]~~

~~[(12)] (9) review, approve, disapprove, or revise recommendations regarding the expenditure of funds [under Sections 69-2-5.5 and 69-2-5.6 that are made by:] disbursed by the authority under this chapter; and~~

~~[(a) the 911 Division;]~~

~~[(b) the Radio Network Division; and]~~

~~[(c) the Interoperability Division; and]~~

~~[(13)] (10) perform all other duties authorized by this chapter.~~

Section 13. Section **63H-7a-203** is amended to read:

63H-7a-203. Board established -- Terms -- Vacancies.

(1) There is created the ["]Utah Communications Authority Board.["]

(2) The board shall consist of [the following individuals, who may not be employed by the authority or any office or division of the authority:] nine board members as follows:

~~[(a) the member representatives elected as follows:]~~

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- ~~[(i) one representative elected from each county of the first and second class, who:]~~
~~[(A) is in law enforcement, fire service, or a public safety answering point; and]~~
~~[(B) has a leadership position with public safety communication experience;]~~
~~[(ii) one representative elected from each of the seven associations of government who:]~~
~~[(A) is in law enforcement, fire service, or a public safety answering point; and]~~
~~[(B) has a leadership position with public safety communication experience;]~~
~~[(iii) one representative of the Native American tribes elected by the representative of tribal governments listed in Subsection 9-9-104.5(2);]~~
~~[(iv) one representative elected by the Utah National Guard;]~~
~~[(v) one representative elected by an association that represents fire chiefs;]~~
~~[(vi) one representative elected by an association that represents sheriffs;]~~
~~[(vii) one representative elected by an association that represents chiefs of police; and]~~
~~[(viii) one member elected by the 911 Advisory Committee created in Section 63H-7a-307;]~~
~~[(b) seven state representatives appointed in accordance with Subsection (3); and]~~
~~[(c) two members of the public selected as follows:]~~
~~[(i) one member who:]~~
~~[(A) may not have financial ties to a provider of telecommunication services;]~~
~~[(B) may not have a relationship to a user of public safety telecommunications services; and]~~
~~[(C) is selected by the speaker of the House of Representatives; and]~~
~~[(ii) one member who:]~~
~~[(A) may not have financial ties to a provider of telecommunication services;]~~
~~[(B) may not have a relationship to a user of public safety telecommunications services; and]~~
~~[(C) is selected by the president of the Senate:]~~
~~[(3) (a) (i) Six of the state representatives shall be appointed by the governor, with two of the positions having an initial term of two years, two having an initial term of three years, and two having an initial term of four years.]~~
~~[(ii) Successor state representatives shall each serve for a term of four years.]~~

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~~[(iii) The six governor-appointed state representatives shall consist of:]~~

~~[(A) the executive director of the Utah Department of Transportation or the director's designee;]~~

~~[(B) the commissioner of public safety or the commissioner's designee;]~~

~~[(C) the executive director of the Department of Natural Resources or the director's designee;]~~

~~[(D) the executive director of the Department of Corrections or the director's designee;]~~

~~[(E) the chief information officer of the Department of Technology Services, or the officer's designee; and]~~

~~[(F) the executive director of the Department of Health or the director's designee.]~~

~~[(b) The seventh state representative shall be the Utah State Treasurer or the treasurer's designee.]~~

~~[(c) A vacancy on the board for a state representative shall be filled for the unexpired term by the director of the department or the director's designee as described in Subsection (3)(a)(iii).]~~

~~[(d) An employee of the authority may not be a member of the board.]~~

(a) three individuals appointed by the governor with the advice and consent of the Senate;

(b) one individual appointed by the speaker of the House of Representatives;

(c) one individual appointed by the president of the Senate;

(d) two individuals nominated by an association that represents cities and towns in the state and appointed by the governor with the advice and consent of the Senate; and

(e) two individuals nominated by an association that represents counties in the state and appointed by the governor with the advice and consent of the Senate.

(3) ~~{The governor shall appoint an individual to the board in accordance with Subsection (2)(a) or (b)}~~ ~~Subject to this section, an individual is eligible for appointment under Section (2) if the individual has knowledge of at least one of the following:~~

(a) law enforcement;

(b) public safety;

(c) fire service;

(d) telecommunications;

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(e) finance;

(f) management; and

(g) government ~~;~~ ~~and~~;

(4) An individual may not serve as a board member if the individual is a current public safety communications network:

(a) user; or

(b) vendor.

~~[(4)]~~ (5) (a) (i) [One-half of the positions for member representatives selected] Five of the board members appointed under Subsection (2) shall [have] serve an initial term of two years and [one-half of the positions shall have] four of the board members appointed under Subsection (2) shall serve an initial term of four years.

~~[(ii) Successor member representatives of the board shall each serve for a term of four years, so that the term of office for six of the member representatives expires every two years.]~~

~~[(b) The member representatives of the board shall be removable, with or without cause, by the entity that selected the member. A vacancy on the board for a member representative shall be filled for the unexpired term by the entity the member represents.]~~

(ii) Successor board members shall each serve a term of four years.

(b) (i) The governor may remove a board member with cause.

(ii) If the governor removes a board member the entity that appointed the board member under Subsection (2) shall appoint a replacement board member in the same manner as described in Subsection (2).

~~[(5)]~~ (6) (a) The governor shall, [in accordance with Subsection (5)(b) and] after consultation with the board, appoint [the] a board member as chair of the board with the advice and consent of the Senate. [The chair shall serve a two-year term and the appointment as chair will automatically extend the term of the board member to coincide with the appointment as chair.]

~~[(b) The governor shall make the initial selection of a chair from one of the members described in Subsection (2). After the initial selection of a chair, the governor shall alternate the selection of the chair between a local member described in Subsection (2)(a) and a state member described in Subsection (2)(b).]~~

~~[(c) The chair shall serve at the pleasure of the governor.]~~

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(b) The chair shall serve a ~~two-year~~two-year term.

~~[(6)]~~ (7) The board shall meet on an as-needed basis and as provided in the bylaws.

~~[(7) The board shall also elect a vice chair, secretary, and treasurer to perform those functions provided in the bylaws.]~~

(8) (a) The board shall elect one of the board members to serve as vice chair ~~[shall be a member of the board]~~.

(b) (i) The board may elect a secretary and treasurer ~~[need not be]~~ who are not members of the board, ~~[but shall not have voting powers if they are not members of the board]~~.

(ii) If the board elects a secretary or treasurer who is not a member of the board, the secretary or treasurer does not have voting power.

(c) ~~[The]~~ A separate individual shall hold the offices of chair, vice chair, secretary, and treasurer ~~[shall be held by separate individuals]~~.

~~[(8) Each member representative and state representative shall have one vote, including the chair, at all meetings of the board.]~~

(9) Each board member, including the chair, has one vote.

~~[(9) A constitutional majority of the members of the board constitutes a quorum.]~~

(10) A vote of a majority of the ~~[quorum at any meeting of the]~~ board members is necessary to take action on behalf of the board.

~~[(10)]~~ (11) A board member may not receive compensation for the member's service on the board, but may, in accordance with ~~[administrative]~~ rules adopted by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, receive:

(a) a per diem at the rate established under Section 63A-3-106; and

(b) travel expenses at the rate established under Section 63A-3-107.

Section 14. Section **63H-7a-204** is amended to read:

63H-7a-204. Board -- Powers and duties.

The board shall:

(1) manage the affairs and business of the authority consistent with this chapter ~~[including adopting bylaws by a majority vote of its members];~~

(2) adopt bylaws;

~~[(2)]~~ (3) appoint an executive director to administer the authority;

~~[(3)]~~ (4) receive and act upon reports covering the operations of the public safety

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communications network and funds administered by the authority;

~~[(4)]~~ (5) ensure that the public safety communications network and funds are administered according to law;

~~[(5)]~~ (6) examine and approve an annual operating budget for the authority;

~~[(6)]~~ (7) receive and act upon recommendations of the director;

~~[(7)]~~ (8) recommend to the governor and Legislature ~~[any necessary or desirable changes in the statutes governing]~~ legislation involving the public safety communications network;

~~[(8)]~~ (9) develop ~~[broad]~~ policies for the long-term operation of the authority ~~[for]~~ and the performance of ~~[its]~~ the authority's functions;

~~[(9)]~~ ~~make and execute contracts and other instruments on behalf of the authority, including agreements with members and other entities;~~

(10) authorize the executive director to enter into agreements on behalf of the authority;

~~[(10)]~~ (11) authorize the borrowing of money, the incurring of indebtedness, and the issuance of bonds as provided in this chapter;

~~[(11)]~~ (12) ~~[adopt rules consistent with this chapter and]~~ provide for the management and administration of the public safety communications network by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~[, for the management of the public safety communications network in order to carry out the purposes of this chapter, and perform all other acts necessary for the administration of the public safety communications network];~~

~~[(12)]~~ (13) exercise the powers and perform the duties conferred on ~~[it]~~ the board by this chapter;

~~[(13)]~~ (14) provide for audits of the authority; and

~~[(14)]~~ (15) establish the following divisions within the authority:

(a) 911 Division;

(b) Radio Network Division;

(c) Interoperability Division; and

(d) Administrative Services Division~~;~~].

~~[(15)]~~ ~~establish a 911 advisory committee to the 911 Division in accordance with~~

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~~Section 63H-7a-307;~~

~~[(16) establish one or more advisory committees to the Radio Network Division in accordance with Section 63H-7a-405;]~~

~~[(17) establish one or more advisory committees to the Interoperability Division in accordance with Section 63H-7a-504;]~~

~~[(18) create, maintain and review annually a statewide, comprehensive multi-year strategic plan in consultation with state and local stakeholders, the 911 Advisory Committee created under Section 63H-7a-307, the Radio Network Advisory Committee created under Section 63H-7a-405, and the Interoperability Advisory Committee created under Section 63H-7a-504 that:]~~

~~[(a) coordinates the authority's activities and duties in the:]~~

~~[(i) 911 Division;]~~

~~[(ii) Radio Network Division;]~~

~~[(iii) Interoperability Division; and]~~

~~[(iv) Administrative Services Division; and]~~

~~[(b) includes a plan for:]~~

~~[(i) the communications network;]~~

~~[(ii) developing new systems;]~~

~~[(iii) expanding existing systems, including microwave and fiber optics based systems;]~~

~~[(iv) statewide interoperability;]~~

~~[(v) statewide coordination; and]~~

~~[(vi) FirstNet standards; and]~~

~~[(c) the board updates before July 1 of each year;]~~

~~[(19) each year, after the board submits the strategic plan described in Subsection (18) to the Legislature, issue a request for proposals if a request for proposals is necessary to carry out the strategic plan; and]~~

~~[(20) on or before November 30, 2016, and on or before each November 30 thereafter, submit the state's strategic plan to the Executive Offices and Criminal Justice Appropriations Subcommittee and the Legislative Management Committee.]~~

Section 15. Section **63H-7a-205** is amended to read:

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63H-7a-205. Executive director -- Appointment -- Powers and duties.

The executive director shall:

- (1) (a) serve at the pleasure of the board; and
- (b) act as the executive officer of the authority;
- (2) administer the [~~various acts, systems, plans~~] duties, programs, and functions

assigned to the [~~office~~] authority;

(3) recommend administrative rules and policies to the board[~~, which are within the authority granted by this title for the administration of the authority~~];

(4) execute contracts on behalf of the authority;

[~~(4)~~] (5) recommend to the board any changes in [~~the~~] statutes affecting the authority;

[~~(5)~~] (6) recommend to the board an annual administrative budget covering administration, management, and operations of the [~~public safety communications network and, upon approval of the board, direct and control the subsequent expenditures of the budget~~]; authority;

(7) with board approval, direct and control authority expenditures;

[~~(6)~~] (8) within the limitations of the budget, employ [~~staff~~] personnel, consultants, a financial officer, and legal counsel to provide professional services and advice regarding the administration of the authority; and

[~~(7)~~] (9) submit [~~an annual report, on or before November 1 of each year, to the Executive Offices and~~] and make available to the public a report before December of each year to the board, the Executive Offices and Criminal Justice Appropriations Subcommittee, and the Legislative Management Committee[~~, which shall be available to the public and shall include~~] that includes:

(a) the total aggregate surcharge collected by [~~local entities in~~] the state in the last fiscal year under [~~Sections 69-2-5 and 69-2-5.6~~] Title 69, Chapter 2, Part 4, 911 Emergency Service Charges;

(b) the amount of each disbursement from the restricted accounts[~~;~~] described in:

(i) Section 63H-7a-303;

(ii) Section 63H-7a-304; and

(iii) Section 63H-7a-403;

(c) the recipient of each disbursement, [~~or~~] the goods and services received,

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~~[describing] and a description of the project [for which money was disbursed, or goods and services provided] funded by the disbursement;~~

~~(d) [the conditions, if any, placed by a division, the authority, the executive director, or the board on] any conditions placed by the authority on the disbursements from a restricted account;~~

~~(e) the anticipated expenditures from the restricted accounts described in this chapter for the next fiscal year;~~

~~(f) the amount of any unexpended funds carried forward;~~

~~(g) the goals for implementation of the authority strategic plan and the progress report of accomplishments and updates to the plan[, and a progress report of implementation of statewide 911 emergency services, including:]; and~~

~~[(i) fund balance or balance sheet from the emergency telephone service fund of each agency that has imposed a levy under Section 69-2-5;]~~

~~[(ii) a report from each public safety answering point of annual call activity separating wireless and land-based 911 call volumes; and]~~

~~[(iii)] (h) other relevant justification for ongoing support from the restricted accounts created by Sections 63H-7a-303, 63H-7a-304, and 63H-7a-403[; and].~~

~~[(h) the anticipated expenditures from the restricted accounts.]~~

Section 16. Section **63H-7a-206** is repealed and reenacted to read:

63H-7a-206. Strategic plan.

(1) The authority shall create, maintain and review annually a statewide, comprehensive multiyear strategic plan in consultation with state and local stakeholders and the regional advisory committees created in Section 63H-7a-207 that:

(a) coordinates the authority's activities and duties in the:

(i) 911 Division;

(ii) Radio Network Division;

(iii) Interoperability Division; and

(iv) Administrative Services Division; and

(b) includes a plan for:

(i) the public safety communications network;

(ii) developing new systems;

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(iii) expanding existing systems, including microwave and fiber optics based systems;

(iv) statewide interoperability;

(v) statewide coordination; and

(vi) FirstNet standards.

(2) The executive director shall update the strategic plan described in Subsection (1) before July 1 of each year.

(3) The executive director shall, before December 1 of each year, report on the strategic plan described in Subsection (1) to:

(a) the board;

(b) the Executive Offices and Criminal Justice Appropriations Subcommittee; and

(c) the Legislative Management Committee.

(4) The authority shall consider the strategic plan described in Subsection (1) before spending funds in the restricted accounts created by this chapter.

Section 17. Section **63H-7a-207** is enacted to read:

63H-7a-207. Operations advisory committee.

(1) The board shall appoint an operations advisory committee composed of 19 members as follows:

(a) one representative each from:

(i) an association that represents fire chiefs in the state;

(ii) an association that represents police chiefs in the state;

(iii) an association that represents sheriffs in the state;

(iv) an association that represents emergency medical service personnel in the state;

and

(v) an association that represents public safety answering point professionals in the state;

(b) the commissioner of ~~Public Safety~~ public safety or the commissioner's designee;

(c) the executive director of the Department of Transportation or the executive director's designee;

(d) the chief information ~~office~~ officer of the Department of Technology Services or the chief information officer's designee;

(e) the chair of each regional advisory committee created in Section 63H-7a-208;

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(f) an individual nominated by the representatives of tribal governments elected under Section 9-9-104.5; and

(g) three individuals from the telecommunications or public safety communications industry.

(2) The operations advisory committee shall:

(a) review recommendations from the regional advisory committees described in Section 63H-7a-208; and

(b) make recommendations to the board regarding:

~~(a)~~ ~~i~~ the authority operations and policies;

~~(b)~~ ~~ii~~ the authority strategic plan; and

~~(c)~~ ~~iii~~ the operation, maintenance, and capital development of the public safety communications network.

(3) The operations advisory committee shall report to the board:

(a) at least once each year; and

(b) as often as necessary.

Section 18. Section **63H-7a-208** is enacted to read:

63H-7a-208. Regional advisory committees.

(1) There are established seven regional advisory committees composed of at most 12 members each, with one regional advisory committee each for:

(a) the region composed of Box Elder, Cache, and Rich counties;

(b) the region composed of Beaver, Garfield, Iron, Kane, and Washington counties;

(c) the region composed of Summit, Utah, and Wasatch counties;

(d) the region composed of Juab, Millard, Piute, Sanpete, Sevier, and Wayne counties;

(e) the region composed of Carbon, Emery, Grand, and San Juan counties;

(f) the region composed of Daggett, Duchesne, and Uintah counties; and

(g) the region composed of Davis, Weber, Morgan, Salt Lake, and Tooele counties.

(2) For each regional advisory committee described in Subsection (1), an association of governments representing the region served by the regional advisory committee shall appoint members to the regional advisory committee in accordance with Subsection (3).

(3) An association of governments may appoint an individual to a regional advisory committee if the individual:

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(a) is at least one of the following:

(i) a user of:

(A) the statewide public safety communications network; or

(B) a public safety radio system;

(ii) an individual with experience:

(A) in law enforcement;

(B) in fire service; or

(C) at a public safety answering point; or

(iii) an individual in a leadership position that involves public safety communication;

and

(b) is knowledgeable about the region of the state served by the regional advisory committee.

(4) In addition to the individuals appointed under Subsection (3), each association of government shall appoint to each regional advisory committee at least one and up to two individuals that represent the telecommunications or public safety communications industry.

(5) Each regional advisory committee shall review, discuss, and make recommendations to the executive director regarding:

(a) the public safety communications network;

(b) the interoperability of emergency response systems;

(c) the trends and standards in the public safety industry and in public safety technology;

(d) the statewide strategic plan described in Section 63H-7a-206; and

(e) the development of cooperative partnerships.

(6) Each regional advisory committee shall meet:

(a) as necessary to discuss the items described in Subsection (5); and

(b) no fewer than two times in each year.

(7) Each regional advisory committee shall report to the board:

(a) before September 1 at least once each year regarding:

(i) the regional advisory committee's findings during the year; and

(ii) any recommendations from the regional advisory committee to the board; and

(b) at any board meeting at which the regional advisory committee requests an

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opportunity to report to the board.

Section 19. Section ~~{63H-7a-209}~~ 63H-7a-302 is ~~{enacted}~~ amended to read:

~~{~~ ~~63H-7a-209. Public safety network user fees.~~

~~_____~~ (1) The board may assess a service fee on a user of the public safety communications network and systems related to the public safety communications network in an amount determined in accordance with Section 63J-1-504.

~~_____~~ (2) Any service fee on a user of the public safety communications network assessed by the authority before July 1, 2017, is repealed.

~~_____~~ Section 20. Section 63H-7a-302 is amended to read:

~~†~~ **63H-7a-302. 911 Division duties and powers.**

(1) The 911 Division shall:

~~[(a) review and make recommendations to the executive director:]~~

~~[(i) regarding:]~~

~~[(A)]~~ (a) develop and report to the director minimum standards and best practices for public safety answering points in the state, including minimum technical, administrative, fiscal, network, and operational standards [for the implementation of unified statewide 911 emergency services] for public safety answering points and dispatch centers in the state;

~~[(B)]~~ (b) investigate and report to the director on emerging technology; [and]

~~[(C) expenditures from the restricted accounts created in Section 69-2-5.6 by the 911 Division on behalf of local public safety answering points in the state, with an emphasis on efficiencies and coordination in a regional manner;]~~

~~[(ii) to assure]~~ (c) monitor and coordinate the implementation of [a] the unified statewide 911 emergency services network;

~~[(iii) to establish standards of operation throughout the state; and]~~

~~[(iv) regarding]~~ (d) investigate and recommend to the director mapping systems and technology necessary to implement the unified statewide 911 emergency services network;

~~[(b)]~~ (e) prepare and submit to the executive director for approval by the board:

(i) an annual budget for the 911 Division;

(ii) an annual plan for the ~~[programs]~~ projects funded by the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303 and the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304; and

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(iii) information required by the director to contribute to the [~~comprehensive~~] strategic plan described in [~~Subsection 63H-7a-204(18)~~] Section 63H-7a-206;

~~[(c) assist local Utah public safety answering points with the implementation and coordination of the 911 Division responsibilities as approved by the executive director and the board;]~~

~~[(d) reimburse the state's Automated Geographic Reference Center in the Division of Integrated Technology of the Department of Technology Services, an amount equal to 1 cent per month levied on telecommunications service under Section 69-2-5.6 to enhance and upgrade digital mapping standards for unified statewide 911 emergency service as required by the division; and]~~

~~[(e) fulfill all other duties imposed on the 911 Division by this chapter.]~~

(f) assist public safety answering points implementing and coordinating the unified statewide 911 emergency services network; and

(g) coordinate the development of an interoperable computer aided dispatch platform:

(i) for public safety answering points; and

(ii) where needed, to assist public safety answering points with the creation or integration of the interoperable computer aided dispatch system.

(2) The 911 Division may recommend to the executive director to sell, lease, or otherwise dispose of equipment or personal property purchased, leased, or belonging to the authority that is related to funds expended from the [~~restricted account created in Sections 69-2-5.5 and 69-2-5.6~~] Computer Aided Dispatch Restricted Account created in Section 63H-7a-303 or the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304, the proceeds from which shall return to the respective restricted accounts.

(3) The 911 Division may make recommendations to the executive director [~~to own, operate, or enter into contracts~~] for the use of the funds expended from the [~~restricted account created in Section 69-2-5.5~~] Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(4) (a) The 911 Division shall review information regarding:

(i) in aggregate, the number of service subscribers by service type in a political subdivision;

(ii) network costs;

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- (iii) public safety answering point costs;
- (iv) system engineering information; and
- (v) ~~[a]~~ connectivity between public safety answering point computer aided dispatch

~~[system]~~ systems.

(b) In accordance with Subsection (4)(a) the 911 Division may request:

(i) information as described in Subsection (4)(a)(i) from the State Tax Commission;

and

(ii) information from public safety answering points related to the computer aided dispatch system.

(c) The information requested by and provided to the 911 Division under Subsection (4) is a protected record in accordance with Section 63G-2-305.

(5) The 911 Division shall recommend to the executive director, for approval by the board, rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) administer the program funded by the Unified Statewide 911 Emergency Service restricted account created in Section 63H-7a-304, including rules that establish the criteria, standards, technology, and equipment that a public safety answering point ~~[in Utah must]~~ is required to adopt in order to qualify for goods or services that are funded from the restricted account; and

(b) administer the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303, including rules that establish the criteria, standards, technology, and equipment that a public safety answering point ~~[must]~~ is required to adopt in order to qualify as a recipient of goods or services that are funded from the restricted account.

(6) The board may authorize the 911 Division to employ an outside consultant to study and advise the division on matters related to the 911 Division duties regarding the public safety communications network.

(7) This section does not expand the authority of the State Tax Commission to request additional information from a telecommunication service provider.

Section ~~{21}~~20. Section **63H-7a-303** is amended to read:

63H-7a-303. Computer Aided Dispatch Restricted Account -- Creation -- Administration -- Permitted uses.

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

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"Computer Aided Dispatch ~~{ }~~Restricted Account," consisting of:

~~[(a) proceeds from the fee imposed in Section 69-2-5.5;]~~

~~[(b)] (a) money appropriated or otherwise made available by the Legislature; and~~

~~[(c)] (b) contributions of money from federal agencies, political subdivisions of the state, persons, or corporations.~~

~~[(2) The money in this restricted account shall be used exclusively for the following statewide public purposes:]~~

(2) Subject to this Subsection (2) and appropriations by the Legislature, the authority may expend funds in the Computer Aided Dispatch Restricted Account for the following purposes:

(a) enhancing public safety as provided in this chapter; and

(b) creating a shared computer aided dispatch system including:

(i) an interoperable computer aided dispatch platform that will be selected, shared, or hosted on a statewide or regional basis;

(ii) an interoperable computer aided dispatch platform selected by a county of the first class, when:

(A) authorized through an interlocal agreement between the county's two primary public safety answering points; and

(B) the county's computer aided dispatch platform is capable of interfacing with the platform described in Subsection (2)(b)(i); and

(iii) a statewide computer aided dispatch system data sharing platform to provide interoperability of systems.

~~[(3)(a) The 911 Division shall coordinate the development of an interoperable CAD to CAD platform:]~~

~~[(i) for public safety answering points; and]~~

~~[(ii) where needed, to assist public safety answering points with the creation or integration of the interoperable computer aided dispatch system.]~~

~~[(b) The Administrative Services Division shall, in accordance with Section 63H-7a-602:]~~

~~[(i) annually report to the executive director the 911 Division's authorized disbursements from the restricted account;]~~

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~~[(ii) be responsible for the care, custody, safekeeping, collection, and accounting for disbursements; and]~~

~~[(iii) submit an annual report to the executive director, which shall include:]~~

~~[(A) the amount of each disbursement from the restricted account;]~~

~~[(B) the recipient of each disbursement and a description of the project for which money was disbursed;]~~

~~[(C) the conditions, if any, placed by the 911 Division, the board, or the Administrative Services Division on disbursements from the amount appropriated from the restricted account;]~~

~~[(D) the planned expenditures from the restricted account for the next fiscal year; and]~~

~~[(E) the amount of any unexpended funds carried forward.]~~

~~[(4)(a) The Administrative Services Division may request information from a public safety answering point as necessary to prepare the report required by this section.]~~

~~[(b) A recipient of goods or services under this section shall provide the information requested pursuant to Subsection (4)(a).]~~

~~[(5) Subject to appropriation, the Administrative Services Division, created in Section 63H-7a-601, may charge the administrative costs incurred in discharging the responsibilities imposed by this section.]~~

~~[(6) Subject to an annual legislative appropriation from the restricted account to the Administrative Services Division, the Administrative Services Division shall disburse the money in the fund, based on the authorization of the board and the 911 Division under Subsection 63H-7a-302(5).]~~

(3) Subject to an appropriation by the Legislature and approval by the board, the Administrative Services Division may expend funds from the Computer Aided Dispatch Restricted Account to cover the Administrative Services Division's administrative costs related to the Computer Aided Dispatch Restricted Account.

(4) On July 1, 2022, all funds in the Computer Aided Dispatch Restricted Account shall automatically transfer to the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

Section ~~{22}~~21. Section **63H-7a-304** is amended to read:

63H-7a-304. Unified Statewide 911 Emergency Service Account -- Creation -- Administration -- Permitted uses.

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(1) There is created a restricted account within the General Fund known as the "Unified Statewide 911 Emergency Service Account," consisting of:

- (a) proceeds from the fee imposed in Section ~~[69-2-5-6]~~ 69-2-403;
- (b) money appropriated or otherwise made available by the Legislature; and
- (c) contributions of money, property, or equipment from federal agencies, political subdivisions of the state, persons, or corporations.

~~[(2) The money in this restricted account shall be used exclusively for the statewide public]~~

(2) (a) Except as provided in Subsection (4) and subject to Subsection (3) and appropriations by the Legislature, the authority may disburse funds in the Unified Statewide 911 Emergency Service Account for the purpose of enhancing the statewide public safety communications network [related to the rapid and efficient delivery of] in order to rapidly and efficiently deliver 911 services in the state.

(b) In expending funds in the Unified Statewide 911 Emergency Service Account, the authority shall give a higher priority to an expenditure that:

- (i) best promotes statewide public safety;
- (ii) best promotes interoperability;
- (iii) impacts the largest service territory;
- (iv) impacts a densely populated area; or
- (v) impacts an underserved area.

(c) The authority shall expend funds in the Unified Statewide 911 Emergency Service Account in accordance with the authority strategic plan described in Section 63H-7a-206.

(d) The executive director shall recommend to the board expenditures for the authority to make from the Unified Statewide 911 Emergency Service Account in accordance with this Subsection (2).

(3) Subject to an ~~[annual legislative]~~ appropriation ~~[from the restricted account to the Administrative Services Division]~~ by the Legislature and approval by the board, the Administrative Services Division ~~[shall disburse the money]~~ may use funds in the ~~[fund, based on the authorization of the board and the 911 Division under Subsection 63H-7a-302(5).]~~ Unified Statewide 911 Emergency Service Account to cover the Administrative Services Division's administrative costs related to the Unified Statewide 911 Emergency Service

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Account.

(4) (a) The authority shall reimburse from the Unified Statewide 911 Emergency Service Account to the Automated Geographic Reference Center created in Section 63F-1-506 an amount equal to up to 1 cent of each unified statewide 911 emergency service charge deposited into the Unified Statewide 911 Emergency Service Account under Section ~~69-2-402~~ 69-2-403.

(b) The Automated Geographic Reference Center shall use the funds reimbursed to the Automated Geographic Reference Center under Subsection (4)(a) to:

- (i) enhance and upgrade digital mapping standards; and
- (ii) maintain a statewide geospatial database for unified statewide 911 emergency service.

Section ~~23~~ 22. Section **63H-7a-403** is amended to read:

63H-7a-403. Utah Statewide Radio System Restricted Account -- Creation -- Administration.

(1) There is created a restricted account within the General Fund known as the "Utah Statewide Radio System Restricted Account," consisting of:

- (a) money appropriated or otherwise made available by the Legislature; and
- (b) contributions of money from federal agencies, political subdivisions of the state, persons, or corporations.

~~[(2) The money in this restricted account shall be used exclusively for the statewide]~~

(2) (a) Subject to appropriations by the Legislature and subject to this Subsection (2), the authority may expend funds in the Utah Statewide Radio System Restricted Account for the purpose of acquiring, constructing, operating, maintaining, and repairing a statewide radio system public safety communications network as authorized in Section 63H-7a-202, including:

~~[(a)-a]~~ (i) public safety communications network and related facilities, real property, improvements, and equipment necessary for the acquisition, construction, and operation of services and facilities;

~~[(b)]~~ (ii) installation, implementation, and maintenance of the public safety communications network;

~~[(c)]~~ (iii) maintaining [the] and upgrading VHF and 800 MHz radio networks; and

~~[(d)]~~ (iv) an operating budget to include personnel costs not otherwise covered by

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funds from another account.

(b) For each radio network charge that is deposited into the Utah Statewide Radio System Restricted Account under Section 69-2-404, the authority shall spend, subject to an appropriation by the Legislature and this Subsection (2):

(i) on and after July 1, 2017, 18 cents of each total radio network charge to maintain the public safety communications network, including:

(A) the 800 MHz and VHF radio networks;

(B) radio console network connectivity;

(C) funding a statewide interoperability coordinator; and

(D) supplementing costs formerly offset by public safety communications network user fees assessed by the authority before July 1, 2017; and

(ii) on and after January 1, 2018, ~~20~~34 cents of each total radio network charge to acquire, construct, equip, and install property for, and to make improvements to, the 800 MHz radio system, including debt service costs.

(c) In expending funds in the Utah Statewide Radio System Restricted Account, the authority shall give a higher priority to an expenditure that:

(i) best promotes statewide public safety;

(ii) best promotes interoperability;

(iii) impacts the largest service territory;

(iv) impacts a densely populated area; or

(v) impacts an underserved area.

(d) The authority shall expend funds in the Utah Statewide Radio System Restricted Account in accordance with the authority strategic plan described in Section 63H-7a-206.

(e) The executive director shall recommend to the board expenditures for the authority to make from the Utah Statewide Radio System Restricted Account in accordance with this Subsection (2).

(3) ~~[(a)]~~ Subject to ~~[appropriation]~~ appropriations by the Legislature, the Administrative Services Division~~[-, created in Section 63H-7a-601 may charge the]~~ may expend funds in the Utah Statewide Radio System Restricted Account for administrative costs ~~[incurred in discharging the responsibilities imposed by this section]~~ that the Administrative Services Division incurs related to the Utah Statewide Radio System Restricted Account.

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~~[(b) Subject to an annual legislative appropriation from the restricted account to the Administrative Services Division, the Administrative Services Division shall disburse the money in the fund, based on the authorization of the board and the Radio Network Division under Subsection 63H-7a-402(1)(d).]~~

Section ~~{24}~~23. Section **63H-7a-404** is amended to read:

63H-7a-404. Public safety communications network -- Maintenance -- Upgrade -- Comprehensive plan -- Stakeholder meeting -- Report.

(1) The Radio Network Division shall ~~[(a) (i)]~~ administer the development, installation, implementation, and maintenance of the ~~[Utah Statewide Public Safety Communications network system]~~ public safety communications network for the authority~~;~~, for the benefit of state government entities and political subdivisions of the state that use the public safety communications network.

~~[(ii) spend up to \$1,500,000 of the one-time appropriation in fiscal year 2015-16 for a study, the scope of which shall be determined by the board based on the advice of the Radio Network Division, the 911 Division, and the executive director, to complete a detailed design and planning proposal for the upgrade and expansion of all phases of the public safety communication network, which shall include at least:]~~

~~[(A) the system design for the state backbone and the implications of local coverage;]~~

~~[(B) whether other public safety communications networks can be integrated with the state backbone;]~~

~~[(C) estimates of the full cost of completing the state backbone to specified standards, local subsystems, and the potential advantages of using a request for proposal approach to solicit private and public sector participation in the project;]~~

~~[(D) a financial analysis estimating funds necessary to cover debt service of revenue bonds issued to finance the cost of completing the statewide radio system upgrade and expansion; and]~~

~~[(E) a review of the project governance and implementation; and]~~

~~[(iii) spend the remainder of the one-time appropriation in the 2015-16 fiscal year:]~~

~~[(A) for exigent circumstances related to the public safety communications network;]~~

~~[(B) to purchase dispatch radio consoles; and]~~

~~[(C) for other needs identified within the detailed design proposal.]~~

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~~[(b) The one-time appropriation in the 2015-16 fiscal year to the Radio Network Division is non-lapsing.]~~

~~[(c) (i) When the study under Subsection (1)(a) is complete, the board shall report to the Legislative Executive Appropriations Committee, which shall study appropriate funding mechanisms for upgrade and maintenance of the statewide radio system network.]~~

~~[(ii) The division shall annually report to the executive director and the board the Radio Network Division's authorized disbursements from the restricted account.]~~

~~[(2) Current radio user fees imposed by the authority may be repealed on July 1, 2016, contingent upon an ongoing funding source being established for the construction of a new public safety communications network and the operation and maintenance of the authority.]~~

~~[(3) In accordance with Section 63H-7a-603, the Administrative Services Division is responsible for the care, custody, safekeeping, collection, and accounting for disbursements from the Utah Statewide Radio System Restricted Account and shall submit an annual report to the executive director for approval by the board.]~~

(2) In developing and maintaining the public safety communications network as described in Subsection (1), the Radio Network Division shall:

(a) maintain and upgrade existing VHF and 800 MHz radio networks;

(b) coordinate with state government entities, political subdivisions of the state, and ~~with~~ public and private providers; and

(c) contract for facilities, equipment, and services for the public safety communications network in a manner that:

(i) complies with Title 63G, Chapter 6a, Utah Procurement Code;

(ii) promotes high-quality, cost-effective services for public safety communications network users;

(iii) evaluates the costs and benefits of using existing public or private facilities, equipment, or services or developing or establishing new facilities, equipment, or services;

(iv) where economically beneficial without compromising quality or reliability of service, avoids duplicating existing private or public facilities, equipment, or services; and

(v) considers the plan developed under Subsection (3).

(3) The Radio Network Division and the executive director shall, before January 15, 2018, meet with all public safety communications network stakeholders, including public and

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private providers in the state, to:

(a) identify the locations and functional capabilities of existing public and private communications facilities in the state; and

(b) develop a detailed, comprehensive plan for:

(i) repairing and maintaining the existing public safety communications network; and

(ii) upgrading the public safety communications network.

(4) The plan described in Subsection (3) shall include:

(a) a statewide system design;

(b) anticipated coverage maps;

(c) any public and private communications facilities that can be integrated with the public safety communications network; and

(d) a detailed cost estimate for maintaining or upgrading the public safety communications network.

(5) In addition to meeting with stakeholders under Subsection (~~42~~3), the authority shall issue a request for information for maintaining or upgrading the public safety communications network such that the authority receives all request for information responses before January 15, 2018.

Section ~~25~~24. Section **63H-7a-502** is amended to read:

63H-7a-502. Interoperability Division duties.

(1) The Interoperability Division shall:

(a) review and make recommendations to the executive director, for approval by the board, regarding:

(i) statewide interoperability coordination and FirstNet standards;

(ii) technical, administrative, fiscal, technological, network, and operational issues for the implementation of statewide interoperability, coordination, and FirstNet;

(iii) assisting [~~local~~] public agencies with the implementation and coordination of the Interoperability Division responsibilities; and

(iv) training for the public safety communications network and unified statewide 911 emergency services;

(b) review information and records regarding:

(i) aggregate information of the number of service subscribers by service type in a

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political subdivision;

- (ii) matters related to statewide interoperability coordination;
- (iii) matters related to FirstNet including advising the governor regarding FirstNet; and
- (iv) training needs;
- (c) prepare and submit to the executive director for approval by the board:
 - (i) an annual plan for the Interoperability Division; and
 - (ii) information required by the director to contribute to the comprehensive strategic

plan described in [~~Subsection~~] Section 63H-7a-204[(18)]; and

- (d) fulfill all other duties imposed on the Interoperability Division by this chapter.

(2) The Interoperability Division may:

(a) recommend to the executive director to own, operate, or enter into contracts related to statewide interoperability, FirstNet, and training;

(b) request information needed under Subsection (1)(b)(i) from:

(i) the State Tax Commission; and

(ii) public safety agencies; and

(c) employ an outside consultant to study and advise the Interoperability Division on:

(i) issues of statewide interoperability;

(ii) FirstNet; and

(iii) training[~~; and~~].

~~[(d) request the board to appoint an advisory committee in accordance with Section 63H-7a-504.]~~

(3) The information requested by and provided to the Interoperability Division under Subsection (1)(b)(i) is a protected record in accordance with Section 63G-2-305.

(4) This section does not expand the authority of the State Tax Commission to request additional information from a telecommunication service provider.

Section ~~26~~25. Section **63H-7a-601** is amended to read:

63H-7a-601. Administrative Services Division -- Creation -- Legal services.

(1) This part is known as [~~the~~] "Administrative Services Division."

(2) There is created within the authority the Administrative Services Division.

(3) The Administrative Services Division shall provide financial and human resources assistance to the authority under the direction of the board and the executive director.

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(4) At the board's request and with the board's approval, the Administrative Services Division [~~shall~~] may establish or contract for legal services for the authority.

Section ~~{27}~~26. Section **63H-7a-602** is repealed and reenacted to read:

63H-7a-602. Duties -- Administrative Services Division -- Accounting for authority disbursements.

The Administrative Services Division is responsible for the care, custody, safekeeping, collection, and accounting for disbursements made by the authority under:

(1) Section 63H-7a-303;

(2) Section 63H-7a-304; and

(3) Section 63H-7a-403.

Section ~~{28}~~27. Section **63H-7a-603** is amended to read:

63H-7a-603. Financial officer -- Duties.

(1) The executive director shall appoint a financial officer for the Administrative Services Division with the approval of the board.

(2) The financial officer shall be responsible for accounting for the authority, including:

(a) safekeeping and investment of public funds of the authority, including the funds expended from the restricted accounts created in [~~Sections 69-2-5.5, 69-2-5.6, 69-2-5.7, and 69-2-5.8~~] this chapter;

(b) the proper collection, deposit, disbursement, and management of the public funds of the authority in accordance with Title 51, Chapter 7, State Money Management Act;

(c) having authority to sign all bills payable, notes, checks, drafts, warrants, or other negotiable instruments in the absence of the executive director and the executive director's designated employee;

(d) providing to the board and the executive director a statement of the condition of the finances of the authority, at least annually and at such other times as shall be requested by the board; and

(e) performing all other duties incident to the financial officer.

~~{2}~~ (3) The financial officer shall:

(a) be bonded in an amount established by the State Money Management Council; and

(b) file written reports with the State Money Management Council pursuant to Section

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51-7-15.

Section ~~{29}~~28. Section **63H-7a-701** is repealed and reenacted to read:

Part 7. Investment of Authority Funds

63H-7a-701. Investment of authority funds.

(1) The state treasurer shall invest all money held on deposit by or on behalf of the authority.

(2) The board may provide advice to the state treasurer concerning investment of the money of the authority.

Section ~~{30}~~29. Section **63H-7a-803** is amended to read:

63H-7a-803. Relation to certain acts -- Participation in Risk Management Fund.

(1) The Utah Communications Authority is exempt from:

(a) Title 63A, Utah Administrative Services Code, except as provided in Section 63A-4-205.5;

(b) Title 63G, Chapter 4, Administrative Procedures Act; and

~~[(c) Title 63J, Chapter 1, Budgetary Procedures Act; and]~~

~~[(d)]~~ (c) Title 67, Chapter 19, Utah State Personnel Management Act.

(2) (a) The board shall adopt budgetary procedures, accounting, and personnel and human resource policies substantially similar to those from which they have been exempted in Subsection (1).

(b) The authority, the board, and the committee members are subject to Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(c) The authority is subject to Title 52, Chapter 4, Open and Public Meetings Act.

(d) The authority is subject to Title 63G, Chapter 6a, Utah Procurement Code.

(e) The authority is subject to Title 63J, Chapter 1, Budgetary Procedures Act.

(3) Subject to the requirements of Subsection 63E-1-304(2), the administration may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

Section ~~{31}~~30. Section **63I-1-269** is amended to read:

63I-1-269. Repeal dates, Title 69.

Section ~~[69-2-5.6]~~ 69-2-403, emergency services telecommunications charge to fund unified statewide 911 emergency service, is repealed July 1, 2021.

Section ~~{32}~~31. Section **63I-2-263** is amended to read:

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63I-2-263. Repeal dates, Title 63A to Title 63N.

(1) Section 63A-5-227 is repealed on January 1, 2018.

(2) Section 63H-7a-303 is repealed on July 1, 2022.

~~[(2)]~~ (3) Subsection 63N-3-109(2)(f)(i)(B) is repealed July 1, 2020.

~~[(3)]~~ (4) Section 63N-3-110 is repealed July 1, 2020.

Section ~~333~~32. Section **63J-1-602.4** is amended to read:

63J-1-602.4. List of nonlapsing funds and accounts -- Title 61 through Title 63N.

(1) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(2) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(3) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

(4) Appropriations from the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

(5) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

(6) Appropriations from the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

(7) Appropriations to the Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(8) Appropriations to the Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(9) A portion of the funds appropriated to the Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(10) Funds appropriated or collected for publishing the Office of Administrative Rules' publications, as provided in Section 63G-3-402.

(11) The Immigration Act Restricted Account created in Section 63G-12-103.

(12) Money received by the military installation development authority, as provided in Section 63H-1-504.

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(13) Appropriations from the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(14) Appropriations from the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(15) Appropriations from the Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

~~(13)~~ (16) Appropriations to the Utah Science Technology and Research Initiative created in Section 63M-2-301.

~~(14)~~ (17) Appropriations to fund the Governor's Office of Economic Development's Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

~~(15)~~ (18) The Motion Picture Incentive Account created in Section 63N-8-103.

~~(16)~~ (19) Certain money payable for commission expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

Section ~~(34)~~ 33. Section **69-2-101**, which is renumbered from Section 69-2-1 is renumbered and amended to read:

CHAPTER 2. 911 EMERGENCY SERVICE

Part 1. General Provisions

~~[69-2-1].~~ **69-2-101. Title.**

This chapter is known as ~~[the "Emergency Telephone Service Law]~~ "911 Emergency Service."

Section ~~(35)~~ 34. Section **69-2-102**, which is renumbered from Section 69-2-2 is renumbered and amended to read:

~~[69-2-2].~~ **69-2-102. Definitions.**

As used in this chapter:

(1) "911 emergency communication" means a direct 911 communication received by a public safety answering point.

~~(1)~~ (2) "911 emergency service" means a unified statewide communication system ~~[which provides citizens with rapid]~~ that provides a user with direct access to a public safety answering ~~[points]~~ point by dialing or accessing ~~["911" with the objective of reducing the response time to situations requiring law enforcement, fire, medical, rescue, and other emergency services]~~ 911.

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(3) (a) "Access line" means a circuit-switched connection, or the functional equivalent of a circuit-switched connection, from an end user to the public switched network.

(b) "Access line" includes:

(i) a local exchange service switched access line within the state;

(ii) a revenue producing radio communications access line with a billing address within the state; and

(iii) a line provided by a service, including voice over Internet protocol, to a user with an address within the state, that allows the user to receive a call that originates on the public switched network and terminate a call to the public switched network.

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

(5) "Dispatch center" means the same as that term is defined in Section 63H-7a-103.

~~[(2)]~~ (6) "Local exchange service" means the provision of public telecommunications services by a wireline common carrier to customers within a geographic area encompassing one or more local communities as described in the carrier's service territory maps, tariffs, price lists, or rate schedules filed with and approved by the Public Service Commission.

~~[(3)]~~ (7) "Local exchange service switched access line" means the transmission facility and local switching equipment used by a wireline common carrier to connect a customer location to a carrier's local exchange switching network for providing two-way interactive voice, or voice capable, services.

~~[(4)]~~ (8) "Mobile telecommunications service" ~~[is as defined in Section 54-8b-2]~~ means the same as that term is defined in 4 U.S.C. Sec. 124.

~~[(5)]~~ (9) "Public agency" means ~~[any county, city, town, special service district, or public authority located within the state which]~~ a state government entity, a political subdivision of the state, a special service district, or an entity created by interlocal agreement that provides or has authority to provide fire fighting, law enforcement, ambulance, medical, or other emergency services.

~~[(6)]~~ (10) "Public safety agency" means a functional division of a public agency which provides fire fighting, law enforcement, medical, or other emergency services.

~~[(7)]~~ (11) "Public safety answering point" means the same as that term is defined in Section 63H-7a-203.

~~[(8)]~~ (12) "Public switched ~~[telecommunications]~~ network" ~~[means the network of~~

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~~equipment, lines, and controls assembled to establish communication paths between calling and called parties in North America]~~ means the same as that term is defined in 47 C.F.R. Sec. 20.3.

~~(9)~~ (13) "Radio communications access line" means the radio equipment and assigned customer identification number used to connect a mobile or fixed radio customer in Utah to a radio communication service provider's network for two-way interactive voice, or voice capable, services.

~~(10)~~ (14) (a) "Radio communications service" means a public telecommunications service providing the capability of two-way interactive telecommunications between mobile and fixed radio customers, and between mobile or fixed radio customers and the local exchange service network customers of a wireline common carrier.

(b) "Radio communications service" ~~[providers include corporations, persons or entities offering]~~ includes:

(i) cellular telephone service~~;~~;

(ii) enhanced specialized mobile radio service~~;~~;

(iii) rural radio service~~;~~;

(iv) a radio common carrier ~~[services;]~~;

(v) a personal communications ~~[services, and any equivalent]~~ service; and

(vi) any wireless public telecommunications service equivalent to the services

described in this Subsection (14)(b), as defined in 47 CFR, parts 20, 22, 24, and 90.

~~(11)~~ (15) "Voice over Internet protocol service" ~~[is as]~~ means the same as that term is defined in Section 54-19-102.

~~(12)~~ (16) "Wireline common carrier" means a public telecommunications service provider that primarily uses metallic or nonmetallic cables and wires for connecting customers to its local exchange service networks.

Section ~~36~~35. Section **69-2-201**, which is renumbered from Section 69-2-3 is renumbered and amended to read:

Part 2. Public Safety Answering Points and Dispatch Centers

~~[69-2-3].~~ **69-2-201. Public safety answering point -- Establishment -- Administration -- Consolidation.**

~~[The governing authority of any]~~

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(1) (a) A public agency may [establish a 911 emergency service]:

(i) operate a public safety answering point to provide 911 emergency service to any part [or all] of the [territory lying within the geographical] geographic area [of such] within the public [agency and may join with the governing authority of] agency's jurisdiction;

(ii) subject to Subsection (1)(b), operate a public safety answering point with any other contiguous public agency to provide 911 emergency service to any part [or all of the territory lying within their respective] of the geographic area within the public agencies' jurisdictions[-];
or

[A county may provide 911 emergency service within other public safety agency jurisdictions only upon agreement with the governing authority of such public safety agency.]

(iii) operate a public safety answering point under an agreement with another public agency that existed before January 1, 2017, to provide 911 emergency service to any part of the geographic area within the public agencies jurisdictions.

(b) A public agency that operates a public safety answering point in connection with a contiguous public agency shall:

(i) provide for the operation of the public safety answering point by interlocal agreement between the public agencies; and

(ii) submit a copy of the interlocal agreement to the director of the Utah Communications Authority.

(2) Except as provided in Subsection (3), a public agency may not establish a dispatch center or a public safety answering point after January 1, 2017.

(3) (a) A public agency that operates a public safety answering point established before January 1, 2017, may:

(i) continue to operate the public safety answering point; or

(ii) physically consolidate the public safety answering point with another public safety answering point operated by another contiguous public agency.

(b) A county may establish a public safety answering point on or after January 1, 2017, if no public safety answering point exists in the county.

(4) A public agency may, in order to provide funding for operating a public safety answering point:

(a) seek funds from the federal or state government;

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(b) seek funds appropriated by local governmental taxing authorities to fund a public safety agency; or

(c) seek gifts, donations, or grants from a private entity.

(5) Before July 1, 2017, each dispatch center in the state shall enter into an interlocal agreement with the governing authority of a public safety answering point that serves the county where the dispatch center is located that provides for:

(a) functional consolidation of the dispatch center with the public safety answering point; and

(b) a plan for the public safety answering point to provide 911 emergency service to the geographic area served by the dispatch center.

(6) A special service district that operates a public safety answering point or a dispatch center:

(a) shall administer the public safety answering point or dispatch center in accordance with Title 17D, Chapter 1, Special Service District Act; and

(b) may raise funds, borrow money, or incur indebtedness for the purpose of maintaining the public safety answering point or the dispatch center in accordance with:

(i) Section 17D-1-105; and

(ii) Section 17D-1-103.

Section ~~37~~36. Section **69-2-202** is enacted to read:

69-2-202. Dispatch services -- Public safety answering point -- Department of Public Safety.

(1) A public safety answering point shall, before providing dispatch services to the Department of Public Safety:

(a) enter into a written agreement with the Department of Public Safety for providing dispatch services that specifies:

(i) the scope of the services that the public safety answering point will provide; and

(ii) the rate that the public safety answering point will charge the Department of Public Safety for dispatch services; and

(b) submit a copy of the agreement to:

(i) the director of the Utah Communications Authority; and

(ii) the commissioner of the Department of Public Safety.

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(2) The Department of Public Safety shall, before providing dispatch services to a public agency as a public safety answering point:

(a) enter into a written agreement with the public agency for providing dispatch services that specifies:

(i) the scope of the services that the Department of Public Safety will provide; and

(ii) the rate that the Department of Public Safety will charge the public agency for dispatch services; and

(b) submit a copy of the agreement to:

(i) the director of the Utah Communications Authority; and

(ii) the commissioner of the Department of Public Safety.

Section ~~{38}~~37. Section **69-2-203** is enacted to read:

69-2-203. Audit to assess emergency services -- County.

Before January 1, 2018, each county in the state that is not served by a single, consolidated public safety answering point shall conduct an audit to determine:

(1) how best to provide emergency services within the county; and

(2) whether the county could provide more cost efficient emergency service or improve public safety by establishing a single public safety answering point for the county.

Section ~~{39}~~38. Section **69-2-301** is enacted to read:

Part 3. Funding for 911 Emergency Service

69-2-301. Public safety answering point -- 911 emergency service account --

Permitted uses of funds.

(1) A public safety answering point shall maintain in a separate emergency telecommunications service fund any funds dispersed to the public safety answering point from the commission under Section 69-2-302, from proceeds of the 911 emergency services charge levied under Section 69-2-401.

(2) A public safety answering point may expend the money in the emergency telecommunications service fund described in Subsection (1) to pay the costs of:

(a) establishing, installing, maintaining, and operating a 911 emergency service system;

(b) receiving and processing emergency communications from the 911 system or other communications or requests for emergency services;

(c) integrating a 911 emergency service system into an established public safety

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answering point, including contracting with an access line provider or a vendor of appropriate terminal equipment as necessary to implement the 911 emergency services; or

(d) indirect costs associated with the maintaining and operating of a 911 emergency services system.

(3) A public safety answering point may expend revenue derived from the emergency telecommunications service fund described in Subsection (1) for personnel costs associated with receiving and processing communications and deploying emergency response resources.

(4) Any unexpended funds at the end of a fiscal year in a public safety answering point's emergency telecommunications service fund described in Subsection (1) do not lapse.

Section ~~40~~39. Section 69-2-302 is enacted to read:

69-2-302. Distribution of 911 emergency service charge revenue.

(1) As used in this section:

(a) "[Proportional distribution](#)" means a the amount of a public safety answering point's proportion of 911 emergency service charge revenue calculated under Subsection (3).

(b) "[Proportion of total call volume](#)" means the number of 911 emergency communications that a public safety answering point receives in a year divided by the number of total 911 emergency communications for the state for the year.

~~(b) "[Proportional distribution](#)" means a the amount of a public safety answering point's proportion of 911 emergency service charge revenue calculated under Subsection (3).~~

(2) The commission shall transmit funds collected under Section 69-2-402 each month to a public safety answering point as follows:

(a) for fiscal years 2018 and 2019 only, an amount equal to the greater of:

(i) the amount the of 911 emergency service charge revenue distributed to the public safety answering point for the same month in fiscal year 2017; or

(ii) the public safety answering point's proportional distribution for the month; and

(b) for a fiscal year after fiscal year 2019, the public safety answering point's proportional distribution for the month.

(3) A public safety answering point's proportion of 911 emergency service charge revenue is an amount equal to the total funds collected under Section 69-2-402 for the current month multiplied by the average proportion of total call volume for the public safety answering point over the three years previous to the current year.

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(4) (a) For the purpose of the calculation described in Subsection (3), the Utah Communications Authority shall determine for each year:

(i) the number of total 911 emergency communications for the state;

(ii) the number of 911 emergency communications received by each public safety answering point; and

(iii) the average per year, over the last three years before the current year, of total 911 emergency communications for the state and 911 emergency communications received by each public safety answering point in the state.

(b) The Utah Communications Authority shall report the numbers described in Subsection (4)(a) to the commission on or before January 15 of each year.

Section ~~{41}~~40. Section **69-2-303**, which is renumbered from Section 69-2-5.8 is renumbered and amended to read:

[69-2-5.8]. 69-2-303. State Tax Commission -- Redistribution of emergency service charges revenue.

(1) As used in this section:

~~[(a) "Commission" means the State Tax Commission.]~~

~~[(f)]~~ (a) "[Secondary] Alternate recipient [political subdivision] public safety answering point" means a ~~[county, city, or town]~~ public safety answering point that the commission determines should receive a redistribution.

(b) "Eligible portion of qualifying telecommunications charge revenues" means the portion of qualifying telecommunications charge revenues that:

(i) were part of an original distribution; and

(ii) the commission determines should have been transmitted:

(A) to ~~[a secondary]~~ an alternate recipient [political subdivision] public safety answering point; and

(B) during the redistribution period.

(c) "Original distribution" means that the commission:

(i) collects an amount of qualifying telecommunications charge revenues; and

(ii) transmits the amount of qualifying telecommunications charge revenues to an original recipient ~~[political subdivision]~~ public safety answering point.

(d) "Original recipient ~~[political subdivision]~~ public safety answering point" means a

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~~[county, city, or town]~~ public safety answering point to which the commission makes an original distribution.

(e) "Qualifying telecommunications charge revenues" means revenues the commission collects from a charge under~~[:]~~ Part 4, 911 Emergency Service Charges.

~~[(i) Section 69-2-5;]~~

~~[(ii) Section 69-2-5.5;]~~

~~[(iii) Section 69-2-5.6; or]~~

~~[(iv) Section 69-2-5.7.]~~

(f) "Redistribution" means that the commission:

(i) makes an original distribution of qualifying telecommunications charge revenues to an original recipient ~~[political subdivision]~~ public safety answering point;

(ii) after the commission makes the original distribution of qualifying telecommunications charge revenues to the original recipient ~~[political subdivision]~~ public safety answering point, determines that an eligible portion of qualifying telecommunications charge revenues should have been transmitted to ~~[a secondary]~~ an alternate recipient ~~[political subdivision]~~ public safety answering point as a result of:

(A) a ~~[county, city, or town]~~ public safety answering point providing written notice to the commission that qualifying telecommunications charge revenues that the commission distributed to an original recipient ~~[political subdivision]~~ public safety answering point should have been transmitted to ~~[a secondary recipient political subdivision]~~ an alternate recipient public safety answering point; or

(B) the commission finding that an extraordinary circumstance, as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, exists that requires the commission to make a redistribution without receiving the notice described in Subsection (1)(f)(ii)(A); and

(iii) in accordance with this section, transmits to the ~~[secondary]~~ alternate recipient ~~[political subdivision]~~ public safety answering point the eligible portion of qualifying telecommunications charge revenues for the redistribution period.

(g) "Redistribution determination date" means the date the commission determines that ~~[a secondary]~~ an alternate recipient ~~[political subdivision]~~ public safety answering point should have received a redistribution, regardless of the date the commission actually transmits the

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redistribution to the [~~secondary~~] alternate recipient [~~political subdivision~~] public safety answering point.

(h) "Redistribution period" means the time period:

(i) if the commission determines that an eligible portion of qualifying telecommunications charge revenues should have been transmitted to [~~a secondary~~] an alternate recipient [~~political subdivision~~] public safety answering point beginning on a date that is 90 or more days before the redistribution determination date:

(A) beginning 90 days before the redistribution determination date; and

(B) ending on the redistribution determination date; or

(ii) if the commission determines that an eligible portion of qualifying telecommunications charge revenues should have been transmitted to [~~a secondary~~] an alternate recipient [~~political subdivision~~] public safety answering point beginning on a date that is less than 90 days before the redistribution determination date:

(A) beginning on the date the eligible portion of qualifying telecommunications charge revenues should have been transmitted to the [~~secondary~~] alternate recipient [~~political subdivision~~] public safety answering point; and

(B) ending on the redistribution determination date.

(2) Subject to Subsection (3), the commission may make a redistribution to [~~a secondary~~] an alternate recipient [~~political subdivision~~] public safety answering point in an amount equal to the eligible portion of qualifying telecommunications charge revenues if:

(a) the commission provides written notice to the following within 15 days after the commission determines to make the redistribution:

(i) the original recipient [~~political subdivision~~] public safety answering point; and

(ii) the [~~secondary~~] alternate recipient [~~political subdivision~~] public safety answering point; and

(b) the commission obtains:

(i) an amended return from each person that reports a transaction that will be subject to the redistribution; or

(ii) if the commission determines that an amended return described in Subsection (2)(b)(i) is not required to make the redistribution, information:

(A) supporting the redistribution; and

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(B) supplied by a person who collects [a] qualifying telecommunications charge revenues, a [county, city, or town] public safety answering point, or the commission.

(3) The commission shall make a redistribution within 60 days after the requirements of Subsection (2) are met.

(4) This section does not limit the commission's authority to make a distribution of revenues under this chapter for a time period other than the redistribution period.

Section ~~{42}~~41. Section **69-2-401** is enacted to read:

Part 4. 911 Emergency Service Charges

69-2-401. State Tax Commission -- Administration of ~~{Emergency Service Charges}~~911 emergency service charges.

(1) The commission shall collect, enforce, and administer the charges levied under this part using the same procedures used in the administration, collection, and enforcement of state sales and use taxes under:

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

(b) Title 59, Chapter 12, Part 1, Tax Collection, except for:

(i) Section 59-12-104;

(ii) Section 59-12-104.1;

(iii) Section 59-12-104.2;

(iv) Section 59-12-104.6;

(v) Section 59-12-107.1; and

(vi) Section 59-12-123.

(2) The commission shall act on a provider that is delinquent in remitting a charge levied under this part in accordance with Title 59, Chapter 1, Part 14, Assessment, Collections, and Refunds Act.

(3) The commission may determine by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements and procedures for administering, collecting, and enforcing the charges levied under this part.

(4) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the funds that the commission collects from the charges levied under this part.

(5) The charges levied under this part are subject to Section 69-2-303.

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Section ~~{43}~~42. Section 69-2-402 is enacted to read:

69-2-402. 911 emergency ~~{services}~~service charge -- Administrative charge.

(1) As used in this section, "911 emergency ~~{services}~~service charge" means the 911 emergency ~~{services}~~service charge levied by the state under Subsection (2).

(2) (a) Subject to Subsection (6), there is imposed on each access line in the state a 911 emergency ~~{services}~~service charge of 71 cents per month.

(b) An access line is within the state for the purposes of Subsection (2)(a) if the telecommunications services provided over the access line are located within the state:

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

(ii) as determined in accordance with Section 59-12-215.

(3) (a) Subject to Subsection (6), the person that provides service to an access line shall bill and collect the 911 emergency ~~{services}~~service charge.

(b) A person that bills and collects the 911 emergency ~~{services}~~service charge shall, except for costs retained under Subsection (3)(g)(iii), remit the 911 emergency ~~{services}~~service charge to the commission:

(i) monthly on or before the last day of the month immediately following the last day of the previous month if:

(A) the person is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(B) the person is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the person is required to file a sales and use tax return with the commission quarterly under Section 59-12-107.

(c) Except as provided in Subsections (3)(d) and (e), if an access line user is not required to pay for the service, the access line provider shall collect the 911 emergency ~~{services}~~service charge from the person that is required to pay for the access line.

(d) The 911 emergency ~~{services}~~service charge is not imposed on a provider of a consumer of federal wireless lifeline service if the consumer does not pay the provider for the service.

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(e) A consumer of federal wireless lifeline service shall pay, and the provider of the service shall collect and remit, the 911 emergency {services}service charge when the consumer purchases from the provider optional services in addition to the federally funded lifeline benefit.

(f) The 911 emergency {services}service charge is not imposed on an access line provided for public pay telecommunications service.

(g) The person that bills and collects the 911 emergency {services}service charge:

(i) shall remit the 911 emergency {services}service charge along with a form prescribed by the commission;

(ii) may bill the 911 emergency {services}service charge in combination with the charges levied under Sections 69-2-403 and 69-2-404 as one line item charge for 911 emergency service; and

(iii) may retain an amount not to exceed 1.5% of the 911 emergency {services}service charge as reimbursement for the cost of billing, collecting, and remitting the 911 emergency {services}service charge.

(4) The commission shall transmit the funds the commission collects from the 911 emergency {services}service charge monthly to a public safety answering point in accordance with Section 69-2-302.

(5) An access line provider {who}that fails to comply with this section is subject to penalties and interest as provided in Sections 59-1-401 and 59-1-402.

(6) The state may impose, bill, and collect the 911 emergency {services}service charge on a mobile telecommunications service only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

Section ~~{44}~~43. Section 69-2-403, which is renumbered from Section 69-2-5.6 is renumbered and amended to read:

[69-2-5.6]. 69-2-403. Unified statewide 911 emergency service charge to fund Unified Statewide 911 Emergency Service Account -- Administrative charge.

(1) As used in this section, "unified statewide 911 emergency service charge" means the unified statewide 911 emergency service charge imposed under Subsection (2).

[(+)] (2) (a) Subject to Subsection [69-2-5(3)(g)] (6), there is imposed on each access line in the state a unified statewide 911 emergency service charge of 9 cents per month [~~on~~

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~~each local exchange service switched access line and each revenue producing radio communications access line that is subject to a 911 emergency services charge levied by a county, city, town, or metro township under Section 69-2-5].~~

(b) An access line is within the state for the purposes of Subsection (2)(a) if the telecommunications services provided over the access line are located within the state:

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

(ii) as determined in accordance with Section 59-12-215.

~~[(2)(a) A] (3) (a) The person that provides service to an access line shall bill and collect the unified statewide 911 emergency [services] service charge [imposed under this section shall be:].~~

~~[(i) subject to Subsection 69-2-5(3)(g); and]~~

~~[(ii) billed and collected by the person that provides:]~~

~~[(A) local exchange service switched access line services;]~~

~~[(B) radio communications access line services; or]~~

~~[(C) service described in Subsection 69-2-5(3)(a)(i)(C).]~~

(b) A person that [pays a charge under this section] bills and collects the unified statewide 911 emergency service charge shall pay the unified statewide 911 emergency service charge to the commission:

(i) monthly on or before the last day of the month immediately following the last day of the previous month if:

(A) the person is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(B) the person is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the person is required to file a sales and use tax return with the commission quarterly under Section 59-12-107.

~~[(c) A charge imposed under this section shall be deposited into the Unified Statewide 911 Emergency Service Account created by Section 63H-7a-304.]~~

~~[(d) If a subscriber of a service subject to a charge described in Subsection (1)]~~

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(c) If an access line user is not required to pay for the [service] access line, the access line provider [of the service] shall collect the unified statewide 911 emergency service charge from the person that is required to pay for the [service] access line.

~~[(3)] (d) The person that bills and collects the [charges levied by this section pursuant to Subsections (2)(b) and (c) may] unified statewide 911 emergency service charge:~~

(i) shall remit the unified statewide 911 emergency service charge along with a form prescribed by the commission;

~~[(a)] (ii) may bill the [charge imposed by this section] unified statewide 911 emergency service charge in combination with the [charge] charges levied under [Section 69-2-5] Sections 69-2-402 and 69-2-404 as one line item charge for 911 emergency service; and~~

~~[(b)] (iii) may retain an amount not to exceed 1.5% of the [charges] unified statewide 911 emergency service charge collected under this section as reimbursement for the cost of billing, collecting, and remitting the [levy] unified statewide 911 emergency service charge.~~

(4) The commission shall deposit any unified 911 emergency service charge remitted to the commission into the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

~~[(4) The State Tax Commission shall collect, enforce, and administer the charges imposed under Subsection (1) using the same procedures used in the administration, collection, and enforcement of the emergency services telecommunications charge to fund the Computer Aided Dispatch Restricted Account under Section 63H-7a-303.]~~

~~[(5) Notwithstanding Section 63H-7a-304, the State Tax Commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the State Tax Commission collects from a charge under this section.]~~

~~[(6) A charge under this section is subject to Section 69-2-5.8.]~~

(5) An access line provider ~~{who}~~that fails to comply with this section is subject to penalties and interest as provided in Sections 59-1-401 and 59-1-402.

(6) The state may impose, bill, and collect an emergency services telecommunications charge under this section on a mobile telecommunications service only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

(7) This section sunsets in accordance with Section 63I-1-269.

Section ~~{45}~~44. Section **69-2-404** is enacted to read:

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69-2-404. Radio network charge to fund the Utah Statewide Radio System

Restricted Account -- Administrative charge.

(1) As used in this section, "radio network charge" means the radio network charge imposed under Subsection (2).

(2) (a) Subject to Subsection (6), there is imposed on each access line in the state a radio network charge of:

(i) ~~On~~ on and after July 1, 2017, and before ~~July~~ January 1, 2018, 18 cents per month; and

(ii) on and after January 1, 2018, ~~38~~ 52 cents per month.

(b) An access line is within the state for the purposes of Subsection (2)(a) if the telecommunications services provided over the access line are located within the state:

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

(ii) as determined in accordance with Section 59-12-215.

(3) (a) The person that provides service to an access line shall bill and collect the radio network charge.

(b) A person that bills and collects the radio network charge shall pay the radio network charge to the commission:

(i) monthly on or before the last day of the month immediately following the last day of the previous month if:

(A) the person is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(B) the person is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the person is required to file a sales and use tax return with the commission quarterly under Section 59-12-107.

(c) If an access line user is not required to pay for the access line, the access line provider shall collect the radio network charge from the person that is required to pay for the access line.

(d) The person that bills and collects a radio network charge:

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(i) shall remit the radio network charge along with a form prescribed by the commission; and

(ii) may bill the radio network charge in combination with the charges levied under Sections 69-2-402 and 69-2-403 as a one line item charge for 911 emergency service.

(4) The commission shall deposit any radio network charge remitted to the commission into the Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

(5) An access line provider ~~{who}~~that fails to comply with this section is subject to penalties and interest as provided in Sections 59-1-401 and 59-1-402.

(6) The state may impose, bill, and collect the radio network charge under this section on a mobile telecommunications service only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

Section ~~{46}~~45. Section **69-2-405**, which is renumbered from Section 69-2-5.7 is renumbered and amended to read:

[~~69-2-5.7~~]. 69-2-405. Prepaid wireless 911 service charge to fund 911 emergency service -- Administrative charge.

(1) As used in this section:

(a) "Consumer" means a person who purchases prepaid wireless telecommunications service in a transaction.

(b) "Prepaid wireless 911 service charge" means the charge that is required to be collected by a seller from a consumer in the amount established under Subsection (2).

(c) (i) "Prepaid wireless telecommunications service" means a wireless telecommunications service that:

(A) is paid for in advance;

(B) is sold in predetermined units of time or dollars that decline with use in a known amount or provides unlimited use of the service for a fixed amount or time; and

(C) allows a caller to access 911 emergency service.

(ii) "Prepaid wireless telecommunications service" does not include a wireless telecommunications service that is billed:

(A) to a customer on a recurring basis; and

(B) in a manner that includes the ~~[emergency services telecommunications {}]~~ charges ~~{}~~, described in charges levied under ~~{in}~~ Sections [~~69-2-5, 69-2-5.5, and 69-2-5.6~~]

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69-2-402, 69-2-403, and 69-2-404, for each radio communication access line assigned to the customer.

(d) "Seller" means a person that sells prepaid wireless telecommunications service to a consumer.

(e) "Transaction" means each purchase of prepaid wireless telecommunications service from a seller.

(f) "Wireless telecommunications service" means commercial mobile radio service as defined by 47 C.F.R. Sec. 20.3, as amended.

(2) There is imposed a prepaid wireless 911 service charge of [~~1.9%~~]:

~~(fi)a~~ before January 1, 2018, 2.45% of the sales price per transaction; and

~~(fi)b~~ on and after January 1, 2018, ~~3%~~ 3.4% of the sales price per transaction.

(3) (a) The prepaid wireless 911 service charge shall be collected by the seller from the consumer for each transaction occurring in this state.

(b) (i) Except as provided in Subsections (3)(b)(ii) and (iii), if a user of a service subject to a charge described in Subsection (2) is not the consumer, the seller shall collect the charge from the consumer for the service.

(ii) The charge described in Subsection (2) is not imposed on a seller or a consumer of federal wireless lifeline service if the consumer does not pay the seller for the service.

(iii) A consumer of federal wireless lifeline service shall pay, and the seller of the service shall collect and remit, the charge described in Subsection (2) when the consumer purchases from the seller optional services in addition to the federally funded lifeline benefit.

(4) The prepaid wireless 911 service charge shall be separately stated on an invoice, receipt, or similar document that is provided by the seller to the consumer.

(5) For purposes of Subsection (3), the location of a transaction is determined in accordance with Sections 59-12-211 through 59-12-215.

(6) When prepaid wireless telecommunications service is sold with one or more other products or services for a single non-itemized price, then the percentage specified in Section (2) shall apply to the entire non-itemized price.

(7) A seller may retain 3% of prepaid wireless 911 service charges that are collected by the seller from consumers as reimbursement for the cost of billing, collecting, and remitting the charge.

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(8) ~~[Prepaid wireless 911 service charges collected by a seller]~~ A person that collects a prepaid wireless 911 service charge, except as retained under Subsection (7), shall ~~[be remitted]~~ remit the prepaid wireless 911 service charge to the ~~[State Tax Commission]~~ commission at the same time ~~[as]~~ that the seller remits to the ~~[State Tax Commission]~~ commission money collected by the person under Title 59, Chapter 12, Sales and Use Tax Act.

~~[(9) The State Tax Commission:]~~

~~[(a) shall collect, enforce, and administer the charge imposed under this section using the same procedures used in the administration, collection, and enforcement of the state sales and use taxes under:]~~

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

~~[(ii) Title 59, Chapter 12, Part 1, Tax Collection, except for:]~~

~~[(A) Section 59-12-104;]~~

~~[(B) Section 59-12-104.1;]~~

~~[(C) Section 59-12-104.2;]~~

~~[(D) Section 59-12-107.1; and]~~

~~[(E) Section 59-12-123;]~~

~~[(b) may retain up to 1.5% of the prepaid wireless 911 service charge revenue collected under Subsection (9)(a) as reimbursement for administering this section;]~~

~~[(c) shall distribute the prepaid wireless 911 service charge revenue, except as retained under Subsection (9)(b), as follows:]~~

~~[(i) 80.3% of the revenue shall be distributed to each county, city, town, or metro township in the same percentages and in the same manner as the entities receive money to fund 911 emergency telecommunications services under Section 69-2-5;]~~

~~[(ii) 7.9% of the revenue shall be distributed to fund the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303;]~~

~~[(iii) 11.8% of the revenue shall be distributed to fund the unified statewide 911 emergency service as in Section 69-2-5.6; and]~~

~~[(d) may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer, collect, and enforce the charges imposed under this section.]~~

~~[(10) A charge under this section is subject to Section 69-2-5.8.]~~

(9) The commission shall distribute:

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(a) on and after July 1, 2017, and before January 1, 2018:

(i) 72.4% of the prepaid wireless 911 service charge revenue to a public safety answering point in accordance with Section 69-2-302;

(ii) 9.2% of the prepaid wireless 911 service charge revenue to the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304; and

(iii) 18.4% of the revenue to the Utah Statewide Radio System Restricted Account; and

(b) on and after January 1, 2018:

(i) ~~60.54.2%~~ 8% of the prepaid wireless 911 service charge revenue to a public safety answering point in accordance with Section 69-2-302;

(ii) ~~7.6.6%~~ 89% of the prepaid wireless 911 service charge revenue to the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304; and

(iii) ~~32.39.2%~~ 4% of the revenue to the Utah Statewide Radio System Restricted Account.

Section ~~47~~ 46. Section **69-2-501**, which is renumbered from Section 69-2-6 is renumbered and amended to read:

Part 5. Liability and Immunity

~~69-2-6~~. **69-2-501. Jurisdiction and employee immunity.**

(1) In implementing [a] 911 emergency [~~telephone~~] service, [~~the~~] any public agency and public safety [~~agencies and their employees~~] agency shall cooperate in establishing [~~the service and in its day-to-day provision~~] and providing 911 emergency service.

(2) Any employee of any public safety agency which is a participant in [a] 911 emergency [~~telephone~~] service may respond and take any action to any call whether within or without the authorized territorial jurisdiction of the public safety agency.

(3) In response to [~~emergency calls, employees of public safety agencies~~] an emergency communication, an employee of a public safety agency shall have the same immunity for any acts performed in the line of duty outside [~~their~~] the public safety agency's authorized [~~jurisdictions as they enjoy within their authorized jurisdictions~~] jurisdiction as the public safety agency employee has within the public safety agency's authorized jurisdiction.

(4) No cause of action is created by any incorrect dispatch or response by any system or any public safety agency or by reason of elapsed response time.

Section ~~48~~ 47. Section **69-2-502**, which is renumbered from Section 69-2-7 is

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renumbered and amended to read:

~~[69-2-7]~~. **69-2-502. Limitation of duties and liabilities.**

Except as provided in Section ~~[69-2-8]~~ 69-2-503, nothing contained in this chapter imposes any duties or liabilities beyond those otherwise specified by law upon any provider of local exchange service, radio communications service, voice over Internet protocol service, or terminal equipment needed to implement 911 emergency [~~telephone~~] service and the Utah statewide radio system and public safety communication network, created in Title 63H, Chapter 7a, Utah Communications Authority Act.

Section ~~{49}~~48. Section **69-2-503**, which is renumbered from Section 69-2-8 is renumbered and amended to read:

~~[69-2-8]~~. **69-2-503. Liabilities of providers.**

(1) A provider of local exchange service, radio communications service, or voice over Internet protocol service may by tariff or agreement with a customer provide for the customer's release of any claim, suit, or demand against the provider based upon a disclosure or a nondisclosure of an unlisted or nonpublished telephone number and address, and the related address, if a call for any 911 emergency [~~telephone~~] service is made from the customer's telephone.

(2) A provider of local exchange service, radio communications service, voice over Internet protocol service, or telephone terminal equipment needed to implement or enhance 911 emergency [~~telephone~~] service, and their employees and agents, are not liable for any damages in a civil action for injuries, death, or loss to person or property incurred as a result of any act or omission of the provider, employee, or agent, in connection with developing, adopting, implementing, maintaining, enhancing, or operating a 911 emergency [~~telephone~~] service, except for damages or injury intentionally caused by or resulting from gross negligence of the provider or person.

Section ~~{50}~~49. **Repealer.**

This bill repeals:

Section **63H-7a-305, 911 Division expenses -- Responsibilities.**

Section **63H-7a-306, 911 Division to report annually.**

Section **63H-7a-307, 911 Advisory Committee -- Membership -- Duties.**

Section **63H-7a-405, Radio network advisory committees.**

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Section **63H-7a-504, Interoperability advisory committees.**

Section **63H-7a-700, Title.**

Section **63H-7a-702, Bonds to be authorized by resolution -- Form -- Sale --
Negotiability -- Validity presumed.**

Section **63H-7a-703, Bonds and other obligations -- Additional powers of the
authority.**

Section **63H-7a-704, Reserve funds for debt service.**

Section **63H-7a-705, Investment of the authority funds.**

Section **63H-7a-706, Publication of notice, resolution, or other proceeding -- Period
for contesting.**

Section **69-2-4, Administration.**

Section **69-2-5, Funding for 911 emergency service -- Administrative charge.**

Section **69-2-5.5, Emergency services telecommunications charge to fund the
Computer Aided Dispatch Restricted Account -- Administrative charge.**

Section ~~{51}~~50. **Effective date.**

~~{(1)}~~ This bill takes effect on July 1, 2017.