

1 **PREPAID WIRELESS TELECOMMUNICATIONS SERVICE**
2 **AMENDMENTS**

3 2020 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Curtis S. Bramble**

6 House Sponsor: Francis D. Gibson

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies provisions related to prepaid wireless telecommunications service.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ defines terms;

14 ▶ modifies the charge imposed on a transaction for prepaid wireless
15 telecommunications service to support the Universal Public Telecommunications
16 Service Support Fund;

17 ▶ provides that the seller in a transaction for prepaid wireless telecommunications
18 service shall collect the charge and remit the revenue to the State Tax Commission;

19 ▶ allows the State Tax Commission to share certain information with the Public
20 Service Commission related to charges on prepaid wireless telecommunications
21 service remitted to the State Tax Commission; and

22 ▶ makes technical and conforming changes.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 This bill provides a special effective date.

27 **Utah Code Sections Affected:**

28 AMENDS:

- 29 [54-8b-15](#), as last amended by Laws of Utah 2017, Chapter 423
- 30 [59-1-306](#), as last amended by Laws of Utah 2019, Chapter 136
- 31 [59-1-401](#), as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 32 [59-1-402](#), as last amended by Laws of Utah 2018, Chapter 329
- 33 [59-1-403](#), as last amended by Laws of Utah 2019, Chapter 61
- 34 [59-1-1402](#), as last amended by Laws of Utah 2018, Chapter 329
- 35 [59-12-107](#), as last amended by Laws of Utah 2019, Chapter 486
- 36 [59-12-108](#), as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 37 [59-12-128](#), as last amended by Laws of Utah 2017, Chapter 430
- 38 [63H-7a-205](#), as last amended by Laws of Utah 2017, Chapter 430
- 39 [63H-7a-304](#), as last amended by Laws of Utah 2019, Chapter 509
- 40 [63H-7a-403](#), as last amended by Laws of Utah 2019, Chapter 509
- 41 [69-2-101](#), as renumbered and amended by Laws of Utah 2017, Chapter 430
- 42 [69-2-405](#), as last amended by Laws of Utah 2019, Chapter 509

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

45 Section 1. Section [54-8b-15](#) is amended to read:

46 **[54-8b-15. Universal Public Telecommunications Service Support Fund --](#)**
47 **Commission duties -- Charges -- Lifeline program.**

48 (1) For purposes of this section:

49 (a) "Broadband Internet access service" means the same as that term is defined in 47
50 C.F.R. Sec. 8.2.

51 (b) "Carrier of last resort" means:

52 (i) an incumbent telephone corporation; or

53 (ii) a telecommunications corporation that, under Section [54-8b-2.1](#):

54 (A) has a certificate of public convenience and necessity to provide local exchange
55 service; and

56 (B) has an obligation to provide public telecommunications service to any customer or
57 class of customers that requests service within the local exchange.

58 (c) "Connection" means an authorized session that uses Internet protocol or a
59 functionally equivalent technology standard to enable an end-user to initiate or receive a call
60 from the public switched network.

61 (d) "Fund" means the Universal Public Telecommunications Service Support Fund
62 established in this section.

63 (e) "Non-rate-of-return regulated" means having price flexibility under Section
64 [54-8b-2.3](#).

65 (f) "Rate-of-return regulated" means subject to regulation under Section [54-4-4](#).

66 (g) "Wholesale broadband Internet access service" means the end-user loop component
67 of Internet access provided by a rate-of-return regulated carrier of last resort that is used to
68 provide, at retail:

69 (i) combined consumer voice and broadband Internet access; or

70 (ii) stand-alone, consumer, broadband-only Internet access.

71 (2) (a) There is established an expendable special revenue fund known as the
72 "Universal Public Telecommunications Service Support Fund."

73 (b) The fund shall provide a mechanism for a qualifying carrier of last resort to obtain
74 specific, predictable, and sufficient funds to deploy and manage, for the purpose of providing
75 service to end-users, networks capable of providing:

76 (i) access lines;

77 (ii) connections; or

78 (iii) wholesale broadband Internet access service.

79 (c) The commission shall develop, by rule made in accordance with Title 63G, Chapter
80 3, Utah Administrative Rulemaking Act, and consistent with this section, policies and
81 procedures to govern the administration of the fund.

82 (3) Subject to this section, the commission shall use funds in the Universal Public

83 Telecommunications Service Support Fund to:

84 (a) fund the hearing and speech impaired program described in Section 54-8b-10;

85 (b) fund a lifeline program that covers the reasonable cost to an eligible

86 telecommunications carrier, as determined by the commission, to offer lifeline service

87 consistent with the Federal Communications Commission's lifeline program for low-income

88 consumers;

89 (c) fund, for the purpose of providing service to end-users, a rate-of-return regulated or

90 non-rate-of-return regulated carrier of last resort's deployment and management of networks

91 capable of providing:

92 (i) access lines;

93 (ii) connections; or

94 (iii) wholesale broadband Internet access service that is consistent with Federal

95 Communications Commission rules; and

96 (d) fund one-time distributions from the Universal Public Telecommunications Service

97 Support Fund for a non-rate-of-return regulated carrier of last resort's deployment and

98 management of networks capable of providing:

99 (i) access lines;

100 (ii) connections; or

101 (iii) broadband Internet access service.

102 (4) (a) A rate-of-return regulated carrier of last resort is eligible for payment from the

103 Universal Public Telecommunications Service Support Fund if:

104 (i) the rate-of-return regulated carrier of last resort provides the services described in

105 Subsections (3)(c)(i) through (iii); and

106 (ii) the rate-of-return regulated carrier of last resort's reasonable costs, as determined by

107 the commission, to provide public telecommunications service and wholesale broadband

108 Internet access service are greater than the sum of:

109 (A) the rate-of-return regulated carrier of last resort's revenue from basic residential

110 service considered affordable by the commission;

111 (B) the rate-of-return regulated carrier of last resort's regulated revenue derived from
112 providing other public telecommunications service;

113 (C) the rate-of-return regulated carrier of last resort's revenue from rates approved by
114 the Federal Communications Commission for wholesale broadband Internet access service; and

115 (D) the amount the rate-of-return regulated carrier of last resort receives from federal
116 universal service funds.

117 (b) A non-rate-of-return regulated carrier of last resort is eligible for payment from the
118 Universal Public Telecommunications Service Support Fund for reimbursement of reasonable
119 costs as determined by the commission if the non-rate-of-return regulated carrier meets criteria
120 that are:

121 (i) consistent with Subsections (2) and (3); and

122 (ii) developed by the commission by rule made in accordance with Title 63G, Chapter
123 3, Utah Administrative Rulemaking Act.

124 (5) A rate-of-return regulated carrier of last resort that qualifies for funds under this
125 section:

126 (a) is entitled to a rate of return equal to the weighted average cost of capital rate of
127 return prescribed by the Federal Communications Commission for rate-of-return regulated
128 carriers; and

129 (b) may use any depreciation method allowed by the Federal Communications
130 Commission.

131 (6) (a) The commission shall determine if a rate-of-return regulated carrier of last resort
132 is correctly applying a depreciation method described in Subsection (5)(b).

133 (b) If the commission determines under Subsection (6)(a) that a rate-of-return regulated
134 carrier of last resort is incorrectly applying a depreciation method or that the rate-of-return
135 regulated carrier of last resort is not using a depreciation method allowed by the Federal
136 Communications Commission, the commission shall issue an order that provides corrections to

137 the rate-of-return regulated carrier of last resort's method of depreciation.

138 (7) A carrier of last resort that receives funds from the Universal Public
139 Telecommunications Service Support Fund may only use the funds in accordance with this
140 section within the area for which the carrier of last resort has a carrier of last resort obligation.

141 (8) (a) [Each] Except as provided in Subsection (8)(b), each access line provider and
142 each connection provider shall contribute to the Universal Public Telecommunications Service
143 Support Fund through an explicit charge assessed by the commission on the access line
144 provider or connection provider.

145 (b) The charge described in Subsection (8)(a) does not apply to a prepaid wireless
146 telecommunications service, as defined in Section 69-2-405, that is subject to the service
147 charge described in Subsection 69-2-405(2)(b).

148 (9) The commission shall calculate the amount of each explicit charge described in
149 Subsection (8) using a method developed by the commission by rule made in accordance with
150 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

151 (a) does not discriminate against:

152 (i) any access line or connection provider; or

153 (ii) the technology used by any access line or connection provider;

154 (b) is competitively neutral; and

155 (c) is a function of an access line or connection provider's:

156 (i) annual intrastate revenue;

157 (ii) number of access lines or connections in the state; or

158 (iii) a combination of an access line or connection provider's annual intrastate revenue
159 and number of access lines or connections in the state.

160 (10) The commission shall develop the method described in Subsection (9) before
161 January 1, 2018.

162 (11) An access line or connection provider that provides mobile telecommunications
163 service shall contribute to the Universal Public Telecommunications Service Support Fund

164 only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec.
165 116 et seq.

166 (12) Nothing in this section shall be construed to enlarge or reduce the commission's
167 jurisdiction or authority, as provided in other provisions of this title.

168 (13) A person that fails to make a required contribution to the fund created by this
169 section, or that fails to comply with a commission directive concerning the person's books,
170 records, or other information required by the commission to administer this section, is subject
171 to applicable penalties.

172 (14) Nothing in this section gives the commission the authority:

173 (a) to regulate broadband Internet access service;

174 (b) to require a carrier of last resort to provide broadband Internet access service; or

175 (c) assess a contribution in violation of the Internet Tax Freedom Act, 47 U.S.C. Sec.

176 151 note.

177 (15) (a) A facilities-based or nonfacilities-based wireless telecommunication provider
178 is eligible for distributions from the Universal Telecommunications Service Support Fund
179 under the lifeline program described in Subsection (3)(b) for providing lifeline service that is
180 consistent with the Federal Communications Commission's lifeline program for low-income
181 consumers.

182 (b) Except as provided in Subsection (15)(c), the commission may impose reasonable
183 conditions for providing a distribution to a wireless telecommunication provider under the
184 lifeline program described in Subsection (3)(b).

185 (c) The commission may not require a wireless telecommunication provider to offer
186 unlimited local calling to a lifeline customer as a condition of receiving a distribution under the
187 lifeline program described in Subsection (3)(b).

188 (16) The commission shall report to the Public Utilities, Energy, and Technology
189 Interim Committee each year before November 1 regarding:

190 (a) the contribution method described in Subsection (9);

- 191 (b) the amount of distributions from and contributions to the Universal Public
192 Telecommunications Service Support Fund during the last fiscal year;
- 193 (c) the availability of services for which Subsection (3) permits Universal Public
194 Telecommunications Service Support Fund funds to be used; and
- 195 (d) the effectiveness and efficiency of the Universal Public Telecommunications
196 Service Support Fund.

197 Section 2. Section **59-1-306** is amended to read:

198 **59-1-306. Definition -- State Tax Commission Administrative Charge Account --**
199 **Amount of administrative charge -- Deposit of revenues into the restricted account --**
200 **Interest deposited into General Fund -- Expenditure of money deposited into the**
201 **restricted account.**

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

- 204 (a) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 205 (b) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- 206 (c) Section 19-6-714;
- 207 (d) Section 19-6-805;
- 208 (e) Chapter 12, Sales and Use Tax Act, other than a tax under Chapter 12, Part 1, Tax
209 Collection, or Chapter 12, Part 18, Additional State Sales and Use Tax Act;
- 210 (f) Section 59-27-105;
- 211 (g) Section 63H-1-205; or
- 212 (h) Title 69, Chapter 2, Part 4, [~~911 Emergency~~] Prepaid Wireless Telecommunications
213 Service Charges.

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

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

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

220 (a) 1.5%; or

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

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

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

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

228 Section 3. Section **59-1-401** is amended to read:

229 **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**
230 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**
231 **interest.**

232 (1) As used in this section:

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

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

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

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

241 (B) that, at the time the commission implements the GenTax system with respect to the
242 tax, fee, or charge:

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

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

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

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

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

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

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

255 (I) this title;

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

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

258 (IV) Section 19-6-410.5;

259 (V) Section 19-6-714;

260 (VI) Section 19-6-805;

261 (VII) Section 34A-2-202;

262 (VIII) Section 40-6-14; or

263 (IX) Title 69, Chapter 2, Part 4, [~~911 Emergency~~] Prepaid Wireless

264 Telecommunications Service Charges; or

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

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

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

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

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

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

271 (E) Chapter 4, Privilege Tax.

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

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

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

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

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

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

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

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

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

286 (A) \$20; or

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

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

290 (A) \$20; or

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

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

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

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

299 (i) an amended return; or
300 (ii) a return with no tax due.

301 (3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:
302 (i) the person files a return on or before the due date for filing a return described in
303 Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due
304 date;

305 (ii) the person:
306 (A) is subject to a penalty under Subsection (2)(b); and
307 (B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the
308 due date for filing a return described in Subsection (2)(a);

309 (iii) (A) the person is subject to a penalty under Subsection (2)(b); and
310 (B) the commission estimates an amount of tax due for that person in accordance with
311 Subsection 59-1-1406(2);

312 (iv) the person:
313 (A) is mailed a notice of deficiency; and
314 (B) within a 30-day period after the day on which the notice of deficiency described in
315 Subsection (3)(a)(iv)(A) is mailed:

316 (I) does not file a petition for redetermination or a request for agency action; and
317 (II) fails to pay the tax, fee, or charge due on a return;

318 (v) (A) the commission:
319 (I) issues an order constituting final agency action resulting from a timely filed petition
320 for redetermination or a timely filed request for agency action; or
321 (II) is considered to have denied a request for reconsideration under Subsection
322 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed
323 request for agency action; and

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

326 (I) issues the order constituting final agency action described in Subsection
327 (3)(a)(v)(A)(I); or
328 (II) is considered to have denied the request for reconsideration described in
329 Subsection (3)(a)(v)(A)(II); or
330 (vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date
331 of a final judicial decision resulting from a timely filed petition for judicial review.
332 (b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:
333 (i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with
334 respect to an unactivated tax, fee, or charge:
335 (A) \$20; or
336 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or
337 (ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with
338 respect to an activated tax, fee, or charge, beginning on the activation date:
339 (A) \$20; or
340 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated
341 tax, fee, or charge due on the return is paid no later than five days after the due date for filing a
342 return described in Subsection (2)(a);
343 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the activated tax,
344 fee, or charge due on the return is paid more than five days after the due date for filing a return
345 described in Subsection (2)(a) but no later than 15 days after that due date; or
346 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the activated
347 tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a
348 return described in Subsection (2)(a).
349 (4) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or
350 quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there
351 shall be added a penalty in an amount determined by applying the interest rate provided under
352 Section 59-1-402 plus four percentage points to the amount of the underpayment for the period

353 of the underpayment.

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

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

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

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

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

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

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

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

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

378 (6) If a person does not file a return within an extension of time allowed by Section
379 59-7-505 or 59-10-516, the person:

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

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

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

383 (A) \$20; or

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

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

387 (A) \$20; or

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

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

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

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

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

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

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

405 (i) The notice of proposed penalty shall:

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

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

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

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

411 or

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

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

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

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

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

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

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

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

427 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)

428 or is a seller required to pay or collect and remit sales and use taxes under Subsection

429 59-12-107(2)(b) or (2)(c); and

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

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

433 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)

434 or is a seller required to pay or collect and remit sales and use taxes under Subsection
435 59-12-107(2)(b) or (2)(c); and

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

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

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

442 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
443 or is a seller required to pay or collect and remit sales and use taxes under Subsection
444 59-12-107(2)(b) or (2)(c); and

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

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

448 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
449 or is a seller required to pay or collect and remit sales and use taxes under Subsection
450 59-12-107(2)(b) or (2)(c); and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

484 (A) a return;

485 (B) an affidavit;

486 (C) a claim; or

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

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

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

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

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

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

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

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

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

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

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

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

506 (i) shall be imposed by the commission;

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

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

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

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

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

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

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

523 (A) be less than \$500; or

524 (B) exceed \$1,000.

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

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

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

533 (B) exceed \$5,000.

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

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

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

540 (B) exceed \$25,000.

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

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

544 (I) a return;

545 (II) an affidavit;

546 (III) a claim; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

569 (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and
570 (B) in addition to any other penalty provided by law.

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

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

574 (B) exceed \$25,000.

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

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

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

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

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

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

587 (i) fails to file the form with the commission in an electronic format approved by the
588 commission as required by Subsection 59-10-406(8);

589 (ii) fails to file the form on or before the due date provided in Subsection 59-10-406(8);

590 (iii) fails to provide accurate information on the form; or

591 (iv) fails to provide all of the information required by the Internal Revenue Service to
592 be contained on the form.

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

594 (i) \$30 per form, not to exceed \$75,000 in a calendar year, if the employer files the
595 form in accordance with Subsection 59-10-406(8), more than 14 days after the due date

596 provided in Subsection 59-10-406(8) but no later than 30 days after the due date provided in
597 Subsection 59-10-406(8);

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

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

602 (A) files the form in accordance with Subsection 59-10-406(8) after June 1; or

603 (B) fails to file the form.

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

607 Section 4. Section 59-1-402 is amended to read:

608 **59-1-402. Definitions -- Interest.**

609 (1) As used in this section:

610 (a) "Final judicial decision" means a final ruling by a court of this state or the United
611 States for which the time for any further review or proceeding has expired.

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

614 (i) invalidates a state or federal taxation statute; and

615 (ii) requires the state to provide a refund for an overpayment that was made:

616 (A) prior to the final judicial decision; or

617 (B) during the 180-day period after the final judicial decision.

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

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

620 (I) this title;

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

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

- 623 (IV) Section 19-6-410.5;
- 624 (V) Section 19-6-714;
- 625 (VI) Section 19-6-805;
- 626 (VII) Section 34A-2-202;
- 627 (VIII) Section 40-6-14; or
- 628 (IX) Title 69, Chapter 2, Part 4, [~~911 Emergency~~] Prepaid Wireless
- 629 Telecommunications Service Charges; or
- 630 (B) another amount that by statute is subject to interest imposed under this section.
- 631 (ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:
- 632 (A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;
- 633 (B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;
- 634 (C) Chapter 2, Property Tax Act, except for Section 59-2-1309;
- 635 (D) Chapter 3, Tax Equivalent Property Act;
- 636 (E) Chapter 4, Privilege Tax; or
- 637 (F) Chapter 13, Part 5, Interstate Agreements.
- 638 (2) Except as otherwise provided for by law, the interest rate for a calendar year for a
- 639 tax, fee, or charge administered by the commission shall be calculated based on the federal
- 640 short-term rate determined by the Secretary of the Treasury under Section 6621, Internal
- 641 Revenue Code, in effect for the preceding fourth calendar quarter.
- 642 (3) The interest rate calculation shall be as follows:
- 643 (a) except as provided in Subsection (7), in the case of an overpayment or refund,
- 644 simple interest shall be calculated at the rate of two percentage points above the federal
- 645 short-term rate; or
- 646 (b) in the case of an underpayment, deficiency, or delinquency, simple interest shall be
- 647 calculated at the rate of two percentage points above the federal short-term rate.
- 648 (4) Notwithstanding Subsection (2) or (3), the interest rate applicable to certain
- 649 installment sales for purposes of a tax under Chapter 7, Corporate Franchise and Income Taxes,

650 shall be determined in accordance with Section 453A, Internal Revenue Code, as provided in
651 Section 59-7-112.

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

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

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

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

661 (B) if the return is not filed electronically.

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

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

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

668 (B) if the return is filed electronically; or

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

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

672 (B) if the return is not filed electronically.

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

674 (A) for a time period:

675 (I) that begins on the later of:

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

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

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

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

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

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

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

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

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

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

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

699 (6) Interest on any underpayment, deficiency, or delinquency of a tax, fee, or charge
700 shall be computed from the time the original return is due, excluding any filing or payment
701 extensions, to the date the payment is received.

702 (7) Interest on a refund relating to a tax, fee, or charge may not be paid on any
703 overpayment that arises from a statute that is determined to be invalid under state or federal

704 law or declared unconstitutional under the constitution of the United States or Utah if the basis
705 for the refund is the retroactive application of a judicial decision upholding the claim of
706 unconstitutionality or the invalidation of a statute.

707 Section 5. Section **59-1-403** is amended to read:

708 **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

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

711 (i) a tax commissioner;

712 (ii) an agent, clerk, or other officer or employee of the commission; or

713 (iii) a representative, agent, clerk, or other officer or employee of any county, city, or
714 town.

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

718 (i) in accordance with judicial order;

719 (ii) on behalf of the commission in any action or proceeding under:

720 (A) this title; or

721 (B) other law under which persons are required to file returns with the commission;

722 (iii) on behalf of the commission in any action or proceeding to which the commission
723 is a party; or

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

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

729 (2) This section does not prohibit:

730 (a) a person or that person's duly authorized representative from receiving a copy of

731 any return or report filed in connection with that person's own tax;

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

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

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

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

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

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

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

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

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

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

757 (d) Notwithstanding Subsection (1), the commission shall provide to the director of the

758 Division of Environmental Response and Remediation, as defined in Section 19-6-402, as
759 requested by the director of the Division of Environmental Response and Remediation, any
760 records, returns, or other information filed with the commission under Chapter 13, Motor and
761 Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program
762 participation fee.

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

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

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

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

770 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
771 manufacturer and reported to the commission for the previous calendar year under Section
772 59-14-407; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

808 (n) (i) As used in this Subsection (3)(n):

809 (A) "GOED" means the Governor's Office of Economic Development created in
810 Section 63N-1-201.

811 (B) "Income tax information" means information gained by the commission that is

812 required to be attached to or included in a return filed with the commission under Chapter 7,
813 Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

814 (C) "Other tax information" means information gained by the commission that is
815 required to be attached to or included in a return filed with the commission except for a return
816 filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual
817 Income Tax Act.

818 (D) "Tax information" means income tax information or other tax information.

819 (ii) (A) Notwithstanding Subsection (1) and except as provided in Subsection
820 (3)(n)(ii)(B) or (C), the commission shall at the request of GOED provide to GOED all income
821 tax information.

822 (B) For purposes of a request for income tax information made under Subsection
823 (3)(n)(ii)(A), GOED may not request and the commission may not provide to GOED a person's
824 address, name, social security number, or taxpayer identification number.

825 (C) In providing income tax information to GOED, the commission shall in all
826 instances protect the privacy of a person as required by Subsection (3)(n)(ii)(B).

827 (iii) (A) Notwithstanding Subsection (1) and except as provided in Subsection
828 (3)(n)(iii)(B), the commission shall at the request of GOED provide to GOED other tax
829 information.

830 (B) Before providing other tax information to GOED, the commission shall redact or
831 remove any name, address, social security number, or taxpayer identification number.

832 (iv) GOED may provide tax information received from the commission in accordance
833 with this Subsection (3)(n) only:

834 (A) as a fiscal estimate, fiscal note information, or statistical information; and

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

837 (v) (A) A person may not request tax information from GOED under Title 63G,
838 Chapter 2, Government Records Access and Management Act, or this section, if GOED

839 received the tax information from the commission in accordance with this Subsection (3)(n).

840 (B) GOED may not provide to a person that requests tax information in accordance
841 with Subsection (3)(n)(v)(A) any tax information other than the tax information GOED
842 provides in accordance with Subsection (3)(n)(iv).

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

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

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

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

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

850 (D) a document filed with the commission; or

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

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

856 (i) requests the information; and

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

859 (q) Notwithstanding Subsection (1), the commission shall provide to the Utah
860 Communications Authority, or a division of the Utah Communications Authority, the
861 information requested by the authority under Sections [63H-7a-302](#), [63H-7a-402](#), and
862 [63H-7a-502](#).

863 (r) Notwithstanding Subsection (1), the commission shall provide to the Utah
864 Educational Savings Plan information related to a resident or nonresident individual's
865 contribution to a Utah Educational Savings Plan account as designated on the resident or

866 nonresident's individual income tax return as provided under Section 59-10-1313.

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

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

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

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

878 (u) Notwithstanding Subsection (1), the commission shall provide a report regarding
879 any access line provider that is over 90 days delinquent in payment to the commission of
880 amounts the access line provider owes under Title 69, Chapter 2, Part 4, [~~911-Emergency~~]
881 Prepaid Wireless Telecommunications Service Charges, to the board of the Utah
882 Communications Authority created in Section 63H-7a-201.

883 (v) Notwithstanding Subsection (1), the commission shall provide the Department of
884 Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the
885 previous calendar year under Section 59-24-103.5.

886 (w) Notwithstanding Subsection (1), the commission may, upon request, provide to the
887 Department of Workforce Services any information received under Chapter 10, Part 4,
888 Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

889 (x) Notwithstanding Subsection (1), the commission may provide the Public Service
890 Commission or the Division of Public Utilities information related to a seller that collects and
891 remits to the commission a charge described in Subsection 69-2-405(2), including the seller's
892 identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

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

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

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

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

900 (c) Notwithstanding Subsection (5)(a) or (b), GOED, when requesting information in
901 accordance with Subsection (3)(n)(iii), or an individual who requests information in
902 accordance with Subsection (3)(n)(v):

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

904 (ii) is not subject to:

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

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

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

908 Section 6. Section 59-1-1402 is amended to read:

909 **59-1-1402. Definitions.**

910 As used in this part:

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

912 (a) the cost of filing;

913 (b) the cost of administering a garnishment;

914 (c) the amount the commission pays to a depository institution in accordance with Part
915 17, Depository Institution Data Match System and Levy Act; or

916 (d) a cost similar to Subsections (1)(a) through (c) as determined by the commission by
917 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

- 920 (a) an account;
- 921 (b) a book;
- 922 (c) an invoice;
- 923 (d) a memorandum;
- 924 (e) a paper;
- 925 (f) a record; or
- 926 (g) an item similar to Subsections (2)(a) through (f) as determined by the commission
- 927 by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 928 (3) "Deficiency" means:
- 929 (a) the amount by which a tax, fee, or charge exceeds the difference between:
- 930 (i) the sum of:
- 931 (A) the amount shown as the tax, fee, or charge by a person on the person's return; and
- 932 (B) any amount previously assessed, or collected without assessment, as a deficiency;
- 933 and
- 934 (ii) any amount previously abated, credited, refunded, or otherwise repaid with respect
- 935 to that tax, fee, or charge; or
- 936 (b) if a person does not show an amount as a tax, fee, or charge on the person's return,
- 937 or if a person does not make a return, the amount by which the tax, fee, or charge exceeds:
- 938 (i) the amount previously assessed, or collected without assessment, as a deficiency;
- 939 and
- 940 (ii) any amount previously abated, credited, refunded, or otherwise repaid with respect
- 941 to that tax, fee, or charge.
- 942 (4) "Garnishment" means any legal or equitable procedure through which one or more
- 943 of the following are required to be withheld for payment of an amount a person owes:
- 944 (a) an asset of the person held by another person; or
- 945 (b) the earnings of the person.
- 946 (5) "Liability" means the following that a person is required to remit to the

947 commission:

948 (a) a tax, fee, or charge;

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

950 (c) an administrative cost;

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

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

953 (6) (a) Subject to Subsection (6)(b), "mathematical error" is as defined in Section
954 6213(g)(2), Internal Revenue Code.

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

956 means:

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

959 (ii) a corresponding or comparable provision of the Internal Revenue Code as
960 amended, redesignated, or reenacted.

961 (7) (a) Except as provided in Subsection (7)(b), "tax, fee, or charge" means:

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

963 (A) this title;

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

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

966 (D) Section 19-6-410.5;

967 (E) Section 19-6-714;

968 (F) Section 19-6-805;

969 (G) Section 34A-2-202;

970 (H) Section 40-6-14; or

971 (I) Title 69, Chapter 2, Part 4, [~~911-Emergency~~] Prepaid Wireless Telecommunications

972 Service Charges; or

973 (ii) another amount that by statute is administered by the commission.

- 974 (b) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:
- 975 (i) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;
- 976 (ii) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;
- 977 (iii) Chapter 2, Property Tax Act;
- 978 (iv) Chapter 3, Tax Equivalent Property Act;
- 979 (v) Chapter 4, Privilege Tax; or
- 980 (vi) Chapter 13, Part 5, Interstate Agreements.

981 (8) "Transferee" means:

- 982 (a) a devisee;
- 983 (b) a distributee;
- 984 (c) a donee;
- 985 (d) an heir;
- 986 (e) a legatee; or
- 987 (f) a person similar to Subsections (8)(a) through (e) as determined by the commission
- 988 by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

989 Section 7. Section 59-12-107 is amended to read:

990 **59-12-107. Definitions -- Collection, remittance, and payment of tax by sellers or**
 991 **other persons -- Returns -- Reports -- Direct payment by purchaser of vehicle -- Other**
 992 **liability for collection -- Rulemaking authority -- Credits -- Treatment of bad debt --**
 993 **Penalties and interest.**

994 (1) As used in this section:

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

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

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

999 (ii) delivers tangible personal property, a service, or a product transferred electronically
1000 that is sold:

1001 (A) by a seller that does not meet one or more of the criteria described in Subsection
1002 (2)(a)(i); and

1003 (B) to a purchaser in the state.

1004 (c) "Substantial ownership interest" means an ownership interest in a business entity if
1005 that ownership interest is greater than the degree of ownership of equity interest specified in 15
1006 U.S.C. Sec. 78p, with respect to a person other than a director or an officer.

1007 (2) (a) Except as provided in Subsection (2)(f), Section 59-12-107.1, or Section
1008 59-12-123, and subject to Subsection (2)(g), each seller shall pay or collect and remit the sales
1009 and use taxes imposed by this chapter if within this state the seller:

1010 (i) has or utilizes:

1011 (A) an office;

1012 (B) a distribution house;

1013 (C) a sales house;

1014 (D) a warehouse;

1015 (E) a service enterprise; or

1016 (F) a place of business similar to Subsections (2)(a)(i)(A) through (E);

1017 (ii) maintains a stock of goods;

1018 (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the
1019 state, unless the seller's only activity in the state is:

1020 (A) advertising; or

1021 (B) solicitation by:

1022 (I) direct mail;

1023 (II) electronic mail;

1024 (III) the Internet;

1025 (IV) telecommunications service; or

1026 (V) a means similar to Subsection (2)(a)(iii)(A) or (B);

1027 (iv) regularly engages in the delivery of property in the state other than by:

- 1028 (A) common carrier; or
- 1029 (B) United States mail; or
- 1030 (v) regularly engages in an activity directly related to the leasing or servicing of
- 1031 property located within the state.
- 1032 (b) A seller is considered to be engaged in the business of selling tangible personal
- 1033 property, a product transferred electronically, or a service for use in the state, and shall pay or
- 1034 collect and remit the sales and use taxes imposed by this chapter if:
- 1035 (i) the seller holds a substantial ownership interest in, or is owned in whole or in
- 1036 substantial part by, a related seller; and
- 1037 (ii) (A) the seller sells the same or a substantially similar line of products as the related
- 1038 seller and does so under the same or a substantially similar business name; or
- 1039 (B) the place of business described in Subsection (2)(a)(i) of the related seller or an in
- 1040 state employee of the related seller is used to advertise, promote, or facilitate sales by the seller
- 1041 to a purchaser.
- 1042 (c) Subject to Section [59-12-107.6](#), each seller that does not meet one or more of the
- 1043 criteria provided for in Subsection (2)(a) or is not a seller required to pay or collect and remit
- 1044 the sales and use taxes imposed by this chapter under Subsection (2)(b) shall pay or collect and
- 1045 remit the sales and use tax imposed by this chapter if the seller:
- 1046 (i) sells tangible personal property, products transferred electronically, or services for
- 1047 storage, use, or consumption in the state; and
- 1048 (ii) in either the previous calendar year or the current calendar year:
- 1049 (A) receives gross revenue from the sale of tangible personal property, products
- 1050 transferred electronically, or services for storage, use, or consumption in the state of more than
- 1051 \$100,000; or
- 1052 (B) sells tangible personal property, products transferred electronically, or services for
- 1053 storage, use, or consumption in the state in 200 or more separate transactions.
- 1054 (d) A seller that does not meet one or more of the criteria provided for in Subsection

1055 (2)(a) or is not a seller required to pay or collect and remit sales and use taxes under Subsection
1056 (2)(b), Subsection (2)(c), or Section 59-12-107.6 may voluntarily:

1057 (i) collect a tax on a transaction described in Subsection 59-12-103(1); and

1058 (ii) remit the tax to the commission as provided in this part.

1059 (e) The collection and remittance of a tax under this chapter by a seller that is
1060 registered under the agreement may not be used as a factor in determining whether that seller is
1061 required by this Subsection (2) to:

1062 (i) pay a tax, fee, or charge under:

1063 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

1064 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

1065 (C) Section 19-6-714;

1066 (D) Section 19-6-805;

1067 (E) Title 69, Chapter 2, Part 4, [~~911-Emergency~~] Prepaid Wireless

1068 Telecommunications Service Charges; or

1069 (F) this title; or

1070 (ii) collect and remit a tax, fee, or charge under:

1071 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

1072 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

1073 (C) Section 19-6-714;

1074 (D) Section 19-6-805;

1075 (E) Title 69, Chapter 2, Part 4, [~~911-Emergency~~] Prepaid Wireless

1076 Telecommunications Service Charges; or

1077 (F) this title.

1078 (f) A person shall pay a use tax imposed by this chapter on a transaction described in
1079 Subsection 59-12-103(1) if:

1080 (i) the seller did not collect a tax imposed by this chapter on the transaction; and

1081 (ii) the person:

1082 (A) stores the tangible personal property or product transferred electronically in the
1083 state;

1084 (B) uses the tangible personal property or product transferred electronically in the state;
1085 or

1086 (C) consumes the tangible personal property or product transferred electronically in the
1087 state.

1088 (g) The ownership of property that is located at the premises of a printer's facility with
1089 which the retailer has contracted for printing and that consists of the final printed product,
1090 property that becomes a part of the final printed product, or copy from which the printed
1091 product is produced, shall not result in the retailer being considered to have or maintain an
1092 office, distribution house, sales house, warehouse, service enterprise, or other place of
1093 business, or to maintain a stock of goods, within this state.

1094 (3) (a) Except as provided in Section [59-12-107.1](#), a seller shall collect a tax under this
1095 chapter from a purchaser.

1096 (b) A seller may not collect as tax an amount, without regard to fractional parts of one
1097 cent, in excess of the tax computed at the rates prescribed by this chapter.

1098 (c) (i) Each seller shall:

1099 (A) give the purchaser a receipt for the tax collected; or

1100 (B) bill the tax as a separate item and declare the name of this state and the seller's
1101 sales and use tax license number on the invoice for the sale.

1102 (ii) The receipt or invoice is prima facie evidence that the seller has collected the tax
1103 and relieves the purchaser of the liability for reporting the tax to the commission as a
1104 consumer.

1105 (d) A seller is not required to maintain a separate account for the tax collected, but is
1106 considered to be a person charged with receipt, safekeeping, and transfer of public money.

1107 (e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the
1108 benefit of the state and for payment to the commission in the manner and at the time provided

1109 for in this chapter.

1110 (f) If any seller, during any reporting period, collects as a tax an amount in excess of
1111 the lawful state and local percentage of total taxable sales allowed under this chapter, the seller
1112 shall remit to the commission the full amount of the tax imposed under this chapter, plus any
1113 excess.

1114 (g) If the accounting methods regularly employed by the seller in the transaction of the
1115 seller's business are such that reports of sales made during a calendar month or quarterly period
1116 will impose unnecessary hardships, the commission may accept reports at intervals that, in the
1117 commission's opinion, will better suit the convenience of the taxpayer or seller and will not
1118 jeopardize collection of the tax.

1119 (h) (i) For a purchase paid with specie legal tender as defined in Section [59-1-1501.1](#),
1120 and until such time as the commission accepts specie legal tender for the payment of a tax
1121 under this chapter, if the commission requires a seller to remit a tax under this chapter in legal
1122 tender other than specie legal tender, the seller shall state on the seller's books and records and
1123 on an invoice, bill of sale, or similar document provided to the purchaser:

1124 (A) the purchase price in specie legal tender and in the legal tender the seller is
1125 required to remit to the commission;

1126 (B) subject to Subsection (3)(h)(ii), the amount of tax due under this chapter in specie
1127 legal tender and in the legal tender the seller is required to remit to the commission;

1128 (C) the tax rate under this chapter applicable to the purchase; and

1129 (D) the date of the purchase.

1130 (ii) (A) Subject to Subsection (3)(h)(ii)(B), for purposes of determining the amount of
1131 tax due under Subsection (3)(h)(i), a seller shall use the most recent London fixing price for the
1132 specie legal tender the purchaser paid.

1133 (B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1134 commission may make rules for determining the amount of tax due under Subsection (3)(h)(i)
1135 if the London fixing price is not available for a particular day.

1136 (4) (a) Except as provided in Subsections (5) through (7) and Section 59-12-108, the
1137 sales or use tax imposed by this chapter is due and payable to the commission quarterly on or
1138 before the last day of the month next succeeding each quarterly calendar period.

1139 (b) (i) Each seller shall, on or before the last day of the month next succeeding each
1140 quarterly calendar period, file with the commission a return for the preceding quarterly period.

1141 (ii) The seller shall remit with the return under Subsection (4)(b)(i) the amount of the
1142 tax required under this chapter to be collected or paid for the period covered by the return.

1143 (c) Except as provided in Subsection (5)(c), a return shall contain information and be in
1144 a form the commission prescribes by rule.

1145 (d) (i) Subject to Subsection (4)(d)(ii), the sales tax as computed in the return shall be
1146 based on the total nonexempt sales made during the period for which the return is filed,
1147 including both cash and charge sales.

1148 (ii) For a sale that includes the delivery or installation of tangible personal property at a
1149 location other than a seller's place of business described in Subsection (2)(a)(i), if the delivery
1150 or installation is separately stated on an invoice or receipt, a seller may compute the tax due on
1151 the sale for purposes of Subsection (4)(d)(i) based on the amount the seller receives for that
1152 sale during each period for which the seller receives payment for the sale.

1153 (e) (i) The use tax as computed in the return shall be based on the total amount of
1154 purchases for storage, use, or other consumption in this state made during the period for which
1155 the return is filed, including both cash and charge purchases.

1156 (ii) (A) As used in this Subsection (4)(e)(ii), "qualifying purchaser" means a purchaser
1157 that is required to remit taxes under this chapter, but is not required to remit taxes monthly in
1158 accordance with Section 59-12-108, and that converts tangible personal property into real
1159 property.

1160 (B) Subject to Subsections (4)(e)(ii)(C) and (D), a qualifying purchaser may remit the
1161 taxes due under this chapter on tangible personal property for which the qualifying purchaser
1162 claims an exemption as allowed under Subsection 59-12-104(23) or (25) based on the period in

1163 which the qualifying purchaser receives payment, in accordance with Subsection (4)(e)(ii)(C),
1164 for the conversion of the tangible personal property into real property.

1165 (C) A qualifying purchaser remitting taxes due under this chapter in accordance with
1166 Subsection (4)(e)(ii)(B) shall remit an amount equal to the total amount of tax due on the
1167 qualifying purchaser's purchase of the tangible personal property that was converted into real
1168 property multiplied by a fraction, the numerator of which is the payment received in the period
1169 for the qualifying purchaser's sale of the tangible personal property that was converted into real
1170 property and the denominator of which is the entire sales price for the qualifying purchaser's
1171 sale of the tangible personal property that was converted into real property.

1172 (D) A qualifying purchaser may remit taxes due under this chapter in accordance with
1173 this Subsection (4)(e)(ii) only if the books and records that the qualifying purchaser keeps in
1174 the qualifying purchaser's regular course of business identify by reasonable and verifiable
1175 standards that the tangible personal property was converted into real property.

1176 (f) (i) Subject to Subsection (4)(f)(ii) and in accordance with Title 63G, Chapter 3,
1177 Utah Administrative Rulemaking Act, the commission may by rule extend the time for making
1178 returns and paying the taxes.

1179 (ii) An extension under Subsection (4)(f)(i) may not be for more than 90 days.

1180 (g) The commission may require returns and payment of the tax to be made for other
1181 than quarterly periods if the commission considers it necessary in order to ensure the payment
1182 of the tax imposed by this chapter.

1183 (h) (i) The commission may require a seller that files a simplified electronic return with
1184 the commission to file an additional electronic report with the commission.

1185 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1186 commission may make rules providing:

1187 (A) the information required to be included in the additional electronic report described
1188 in Subsection (4)(h)(i); and

1189 (B) one or more due dates for filing the additional electronic report described in

1190 Subsection (4)(h)(i).

1191 (5) (a) As used in this Subsection (5) and Subsection (6)(b), "remote seller" means a
1192 seller that is:

1193 (i) registered under the agreement;

1194 (ii) described in Subsection (2)(d); and

1195 (iii) not a:

1196 (A) model 1 seller;

1197 (B) model 2 seller; or

1198 (C) model 3 seller.

1199 (b) (i) Except as provided in Subsection (5)(b)(ii), a tax a remote seller collects in
1200 accordance with Subsection (2)(d) is due and payable:

1201 (A) to the commission;

1202 (B) annually; and

1203 (C) on or before the last day of the month immediately following the last day of each
1204 calendar year.

1205 (ii) The commission may require that a tax a remote seller collects in accordance with
1206 Subsection (2)(d) be due and payable:

1207 (A) to the commission; and

1208 (B) on the last day of the month immediately following any month in which the seller
1209 accumulates a total of at least \$1,000 in agreement sales and use tax.

1210 (c) (i) If a remote seller remits a tax to the commission in accordance with Subsection
1211 (5)(b), the remote seller shall file a return:

1212 (A) with the commission;

1213 (B) with respect to the tax;

1214 (C) containing information prescribed by the commission; and

1215 (D) on a form prescribed by the commission.

1216 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1217 commission shall make rules prescribing:

1218 (A) the information required to be contained in a return described in Subsection
1219 (5)(c)(i); and

1220 (B) the form described in Subsection (5)(c)(i)(D).

1221 (d) A tax a remote seller collects in accordance with this Subsection (5) shall be
1222 calculated on the basis of the total amount of taxable transactions under Subsection
1223 59-12-103(1) the remote seller completes, including:

1224 (i) a cash transaction; and

1225 (ii) a charge transaction.

1226 (6) (a) Except as provided in Subsection (6)(b), a tax a seller that files a simplified
1227 electronic return collects in accordance with this chapter is due and payable:

1228 (i) monthly on or before the last day of the month immediately following the month for
1229 which the seller collects a tax under this chapter; and

1230 (ii) for the month for which the seller collects a tax under this chapter.

1231 (b) A tax a remote seller that files a simplified electronic return collects in accordance
1232 with this chapter is due and payable as provided in Subsection (5).

1233 (7) (a) On each vehicle sale made by other than a regular licensed vehicle dealer, the
1234 purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to
1235 titling or registration under the laws of this state.

1236 (b) The commission shall collect the tax described in Subsection (7)(a) when the
1237 vehicle is titled or registered.

1238 (8) If any sale of tangible personal property or any other taxable transaction under
1239 Subsection 59-12-103(1), is made by a wholesaler to a retailer:

1240 (a) the wholesaler is not responsible for the collection or payment of the tax imposed
1241 on the sale; and

1242 (b) the retailer is responsible for the collection or payment of the tax imposed on the
1243 sale if:

1244 (i) the retailer represents that the tangible personal property, product transferred
1245 electronically, or service is purchased by the retailer for resale; and

1246 (ii) the tangible personal property, product transferred electronically, or service is not
1247 subsequently resold.

1248 (9) If any sale of property or service subject to the tax is made to a person prepaying
1249 sales or use tax in accordance with Title 63M, Chapter 5, Resource Development Act, or to a
1250 contractor or subcontractor of that person:

1251 (a) the person to whom such payment or consideration is payable is not responsible for
1252 the collection or payment of the sales or use tax; and

1253 (b) the person prepaying the sales or use tax is responsible for the collection or
1254 payment of the sales or use tax if the person prepaying the sales or use tax represents that the
1255 amount prepaid as sales or use tax has not been fully credited against sales or use tax due and
1256 payable under the rules promulgated by the commission.

1257 (10) (a) For purposes of this Subsection (10):

1258 (i) Except as provided in Subsection (10)(a)(ii), "bad debt" means the same as that term
1259 is defined in Section 166, Internal Revenue Code.

1260 (ii) "Bad debt" does not include:

1261 (A) an amount included in the purchase price of tangible personal property, a product
1262 transferred electronically, or a service that is:

1263 (I) not a transaction described in Subsection 59-12-103(1); or

1264 (II) exempt under Section 59-12-104;

1265 (B) a financing charge;

1266 (C) interest;

1267 (D) a tax imposed under this chapter on the purchase price of tangible personal
1268 property, a product transferred electronically, or a service;

1269 (E) an uncollectible amount on tangible personal property or a product transferred
1270 electronically that:

- 1271 (I) is subject to a tax under this chapter; and
- 1272 (II) remains in the possession of a seller until the full purchase price is paid;
- 1273 (F) an expense incurred in attempting to collect any debt; or
- 1274 (G) an amount that a seller does not collect on repossessed property.
- 1275 (b) (i) To the extent an amount remitted in accordance with Subsection (4)(d) later
- 1276 becomes bad debt, a seller may deduct the bad debt from the total amount from which a tax
- 1277 under this chapter is calculated on a return.
- 1278 (ii) A qualifying purchaser, as defined in Subsection (4)(e)(ii)(A), may deduct from the
- 1279 total amount of taxes due under this chapter the amount of tax the qualifying purchaser paid on
- 1280 the qualifying purchaser's purchase of tangible personal property converted into real property to
- 1281 the extent that:
- 1282 (A) tax was remitted in accordance with Subsection (4)(e) on that tangible personal
- 1283 property converted into real property;
- 1284 (B) the qualifying purchaser's sale of that tangible personal property converted into real
- 1285 property later becomes bad debt; and
- 1286 (C) the books and records that the qualifying purchaser keeps in the qualifying
- 1287 purchaser's regular course of business identify by reasonable and verifiable standards that the
- 1288 tangible personal property was converted into real property.
- 1289 (c) A seller may file a refund claim with the commission if:
- 1290 (i) the amount of bad debt for the time period described in Subsection (10)(e) exceeds
- 1291 the amount of the seller's sales that are subject to a tax under this chapter for that same time
- 1292 period; and
- 1293 (ii) as provided in Section [59-1-1410](#).
- 1294 (d) A bad debt deduction under this section may not include interest.
- 1295 (e) A bad debt may be deducted under this Subsection (10) on a return for the time
- 1296 period during which the bad debt:
- 1297 (i) is written off as uncollectible in the seller's books and records; and

- 1298 (ii) would be eligible for a bad debt deduction:
- 1299 (A) for federal income tax purposes; and
- 1300 (B) if the seller were required to file a federal income tax return.
- 1301 (f) If a seller recovers any portion of bad debt for which the seller makes a deduction or
- 1302 claims a refund under this Subsection (10), the seller shall report and remit a tax under this
- 1303 chapter:
- 1304 (i) on the portion of the bad debt the seller recovers; and
- 1305 (ii) on a return filed for the time period for which the portion of the bad debt is
- 1306 recovered.
- 1307 (g) For purposes of reporting a recovery of a portion of bad debt under Subsection
- 1308 (10)(f), a seller shall apply amounts received on the bad debt in the following order:
- 1309 (i) in a proportional amount:
- 1310 (A) to the purchase price of the tangible personal property, product transferred
- 1311 electronically, or service; and
- 1312 (B) to the tax due under this chapter on the tangible personal property, product
- 1313 transferred electronically, or service; and
- 1314 (ii) to:
- 1315 (A) interest charges;
- 1316 (B) service charges; and
- 1317 (C) other charges.
- 1318 (h) A seller's certified service provider may make a deduction or claim a refund for bad
- 1319 debt on behalf of the seller:
- 1320 (i) in accordance with this Subsection (10); and
- 1321 (ii) if the certified service provider credits or refunds the entire amount of the bad debt
- 1322 deduction or refund to the seller.
- 1323 (i) A seller may allocate bad debt among the states that are members of the agreement
- 1324 if the seller's books and records support that allocation.

1325 (11) (a) A seller may not, with intent to evade any tax, fail to timely remit the full
1326 amount of tax required by this chapter.

1327 (b) A violation of this section is punishable as provided in Section 59-1-401.

1328 (c) Each person that fails to pay any tax to the state or any amount of tax required to be
1329 paid to the state, except amounts determined to be due by the commission under Chapter 1,
1330 Part 14, Assessment, Collections, and Refunds Act, or Section 59-12-111, within the time
1331 required by this chapter, or that fails to file any return as required by this chapter, shall pay, in
1332 addition to the tax, penalties and interest as provided in Sections 59-1-401 and 59-1-402.

1333 (d) For purposes of prosecution under this section, each quarterly tax period in which a
1334 seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the
1335 tax required to be remitted constitutes a separate offense.

1336 Section 8. Section 59-12-108 is amended to read:

1337 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**
1338 **Certain amounts allocated to local taxing jurisdictions.**

1339 (1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this
1340 chapter of \$50,000 or more for the previous calendar year shall:

1341 (i) file a return with the commission:

1342 (A) monthly on or before the last day of the month immediately following the month
1343 for which the seller collects a tax under this chapter; and

1344 (B) for the month for which the seller collects a tax under this chapter; and

1345 (ii) except as provided in Subsection (1)(b), remit with the return required by
1346 Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax,
1347 fee, or charge described in Subsection (1)(c):

1348 (A) if that seller's tax liability under this chapter for the previous calendar year is less
1349 than \$96,000, by any method permitted by the commission; or

1350 (B) if that seller's tax liability under this chapter for the previous calendar year is
1351 \$96,000 or more, by electronic funds transfer.

1352 (b) A seller shall remit electronically with the return required by Subsection (1)(a)(i)
1353 the amount the seller is required to remit to the commission for each tax, fee, or charge
1354 described in Subsection (1)(c) if that seller:

1355 (i) is required by Section 59-12-107 to file the return electronically; or

1356 (ii) (A) is required to collect and remit a tax under Section 59-12-107; and

1357 (B) files a simplified electronic return.

1358 (c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:

1359 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

1360 (ii) a fee under Section 19-6-714;

1361 (iii) a fee under Section 19-6-805;

1362 (iv) a charge under Title 69, Chapter 2, Part 4, [~~911 Emergency~~] Prepaid Wireless

1363 Telecommunications Service Charges; or

1364 (v) a tax under this chapter.

1365 (d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3,
1366 Utah Administrative Rulemaking Act, the commission shall make rules providing for a method
1367 for making same-day payments other than by electronic funds transfer if making payments by
1368 electronic funds transfer fails.

1369 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1370 commission shall establish by rule procedures and requirements for determining the amount a
1371 seller is required to remit to the commission under this Subsection (1).

1372 (2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a
1373 seller described in Subsection (4) may retain each month the amount allowed by this
1374 Subsection (2).

1375 (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
1376 each month 1.31% of any amounts the seller is required to remit to the commission:

1377 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax
1378 and a local tax imposed in accordance with the following, for the month for which the seller is

1379 filing a return in accordance with Subsection (1):
1380 (A) Subsection 59-12-103(2)(a);
1381 (B) Subsection 59-12-103(2)(b); and
1382 (C) Subsection 59-12-103(2)(d); and
1383 (ii) for an agreement sales and use tax.
1384 (c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may
1385 retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described
1386 in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in
1387 accordance with Subsection 59-12-103(2)(c).
1388 (ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount
1389 equal to the sum of:
1390 (A) 1.31% of any amounts the seller is required to remit to the commission for:
1391 (I) the state tax and the local tax imposed in accordance with Subsection
1392 59-12-103(2)(c);
1393 (II) the month for which the seller is filing a return in accordance with Subsection (1);
1394 and
1395 (III) an agreement sales and use tax; and
1396 (B) 1.31% of the difference between:
1397 (I) the amounts the seller would have been required to remit to the commission:
1398 (Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject
1399 to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(a);
1400 (Bb) for the month for which the seller is filing a return in accordance with Subsection
1401 (1); and
1402 (Cc) for an agreement sales and use tax; and
1403 (II) the amounts the seller is required to remit to the commission for:
1404 (Aa) the state tax and the local tax imposed in accordance with Subsection
1405 59-12-103(2)(c);

- 1406 (Bb) the month for which the seller is filing a return in accordance with Subsection (1);
1407 and
1408 (Cc) an agreement sales and use tax.
- 1409 (d) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
1410 each month 1% of any amounts the seller is required to remit to the commission:
- 1411 (i) for the month for which the seller is filing a return in accordance with Subsection
1412 (1); and
1413 (ii) under:
- 1414 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
1415 (B) Subsection 59-12-603(1)(a)(i)(A); or
1416 (C) Subsection 59-12-603(1)(a)(i)(B).
- 1417 (3) A state government entity that is required to remit taxes monthly in accordance
1418 with Subsection (1) may not retain any amount under Subsection (2).
- 1419 (4) A seller that has a tax liability under this chapter for the previous calendar year of
1420 less than \$50,000 may:
- 1421 (a) voluntarily meet the requirements of Subsection (1); and
1422 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the
1423 amounts allowed by Subsection (2).
- 1424 (5) Penalties for late payment shall be as provided in Section 59-1-401.
- 1425 (6) (a) Except as provided in Subsection (6)(c), for any amounts required to be remitted
1426 to the commission under this part, the commission shall each month calculate an amount equal
1427 to the difference between:
- 1428 (i) the total amount retained for that month by all sellers had the percentages listed
1429 under Subsections (2)(b) and (2)(c)(ii) been 1.5%; and
1430 (ii) the total amount retained for that month by all sellers at the percentages listed
1431 under Subsections (2)(b) and (2)(c)(ii).
- 1432 (b) The commission shall each month allocate the amount calculated under Subsection

1433 (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and use
1434 tax that the commission distributes to each county, city, and town for that month compared to
1435 the total agreement sales and use tax that the commission distributes for that month to all
1436 counties, cities, and towns.

1437 (c) The amount the commission calculates under Subsection (6)(a) may not include an
1438 amount collected from a tax that:

1439 (i) the state imposes within a county, city, or town, including the unincorporated area
1440 of a county; and

1441 (ii) is not imposed within the entire state.

1442 Section 9. Section **59-12-128** is amended to read:

1443 **59-12-128. Amnesty.**

1444 (1) As used in this section, "amnesty" means that a seller is not required to pay the
1445 following amounts that the seller would otherwise be required to pay:

1446 (a) a tax, fee, or charge under:

1447 (i) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

1448 (ii) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

1449 (iii) Section [19-6-714](#);

1450 (iv) Section [19-6-805](#);

1451 (v) Chapter 26, Multi-Channel Video or Audio Service Tax Act;

1452 (vi) Title 69, Chapter 2, Part 4, [~~911 Emergency~~] Prepaid Wireless

1453 Telecommunications Service Charges; or

1454 (vii) this chapter;

1455 (b) a penalty on a tax, fee, or charge described in Subsection (1)(a); or

1456 (c) interest on a tax, fee, or charge described in Subsection (1)(a).

1457 (2) (a) Except as provided in Subsections (2)(b) and (3) and subject to Subsections (4)

1458 and (5), the commission shall grant a seller amnesty if the seller:

1459 (i) obtains a license under Section [59-12-106](#); and

- 1460 (ii) is registered under the agreement.
- 1461 (b) The commission is not required to grant a seller amnesty under this section
- 1462 beginning 12 months after the date the state becomes a full member under the agreement.
- 1463 (3) A seller may not receive amnesty under this section for a tax, fee, or charge:
- 1464 (a) the seller collects;
- 1465 (b) the seller remits to the commission;
- 1466 (c) that the seller is required to remit to the commission on the seller's purchase; or
- 1467 (d) arising from a transaction that occurs within a time period that is under audit by the
- 1468 commission if:
 - 1469 (i) the seller receives notice of the commencement of the audit prior to obtaining a
 - 1470 license under Section 59-12-106; and
 - 1471 (ii) (A) the audit described in Subsection (3)(d)(i) is not complete; or
 - 1472 (B) the seller has not exhausted all administrative and judicial remedies in connection
 - 1473 with the audit described in Subsection (3)(d)(i).
- 1474 (4) (a) Except as provided in Subsection (4)(b), amnesty the commission grants to a
- 1475 seller under this section:
 - 1476 (i) applies to the time period during which the seller is not licensed under Section
 - 1477 59-12-106; and
 - 1478 (ii) remains in effect if, for a period of three years, the seller:
 - 1479 (A) remains registered under the agreement;
 - 1480 (B) collects a tax, fee, or charge on a transaction subject to a tax, fee, or charge
 - 1481 described in Subsection (1)(a); and
 - 1482 (C) remits to the commission the taxes, fees, and charges the seller collects in
 - 1483 accordance with Subsection (4)(a)(ii)(B).
 - 1484 (b) The commission may not grant a seller amnesty under this section if, with respect
 - 1485 to a tax, fee, or charge for which the seller would otherwise be granted amnesty under this
 - 1486 section, the seller commits:

1487 (i) fraud; or
1488 (ii) an intentional misrepresentation of a material fact.
1489 (5) (a) If a seller does not meet a requirement of Subsection (4)(a)(ii), the commission
1490 shall require the seller to pay the amounts described in Subsection (1) that the seller would
1491 have otherwise been required to pay.
1492 (b) Notwithstanding Section 59-1-1410, for purposes of requiring a seller to pay an
1493 amount in accordance with Subsection (5)(a), the time period for the commission to make an
1494 assessment under Section 59-1-1410 is extended for a time period beginning on the date the
1495 seller does not meet a requirement of Subsection (4)(a)(ii) and ends three years after that date.
1496 Section 10. Section 63H-7a-205 is amended to read:
1497 **63H-7a-205. Executive director -- Appointment -- Powers and duties.**
1498 The executive director shall:
1499 (1) (a) serve at the pleasure of the board; and
1500 (b) act as the executive officer of the authority;
1501 (2) administer the duties, programs, and functions assigned to the authority;
1502 (3) recommend administrative rules and policies to the board;
1503 (4) execute contracts on behalf of the authority;
1504 (5) recommend to the board any changes in statutes affecting the authority;
1505 (6) recommend to the board an annual administrative budget covering administration,
1506 management, and operations of the authority;
1507 (7) with board approval, direct and control authority expenditures;
1508 (8) within the limitations of the budget, employ personnel, consultants, a financial
1509 officer, and legal counsel to provide professional services and advice regarding the
1510 administration of the authority; and
1511 (9) submit and make available to the public a report before December of each year to
1512 the board, the Executive Offices and Criminal Justice Appropriations Subcommittee, and the
1513 Legislative Management Committee that includes:

1514 (a) the total aggregate surcharge collected by the state in the last fiscal year under Title
1515 69, Chapter 2, Part 4, [~~911-Emergency~~] Prepaid Wireless Telecommunications Service
1516 Charges;

1517 (b) the amount of each disbursement from the restricted accounts described in:

1518 (i) Section 63H-7a-303;

1519 (ii) Section 63H-7a-304; and

1520 (iii) Section 63H-7a-403;

1521 (c) the recipient of each disbursement, the goods and services received, and a
1522 description of the project funded by the disbursement;

1523 (d) any conditions placed by the authority on the disbursements from a restricted
1524 account;

1525 (e) the anticipated expenditures from the restricted accounts described in this chapter
1526 for the next fiscal year;

1527 (f) the amount of any unexpended funds carried forward;

1528 (g) the goals for implementation of the authority strategic plan and the progress report
1529 of accomplishments and updates to the plan; and

1530 (h) other relevant justification for ongoing support from the restricted accounts created
1531 by Sections 63H-7a-303, 63H-7a-304, and 63H-7a-403.

1532 Section 11. Section 63H-7a-304 is amended to read:

1533 **63H-7a-304. Unified Statewide 911 Emergency Service Account -- Creation --**
1534 **Administration -- Permitted uses.**

1535 (1) There is created a restricted account within the General Fund known as the "Unified
1536 Statewide 911 Emergency Service Account," consisting of:

1537 (a) proceeds from the fee imposed in Section 69-2-403;

1538 (b) money appropriated or otherwise made available by the Legislature; and

1539 (c) contributions of money, property, or equipment from federal agencies, political
1540 subdivisions of the state, persons, or corporations.

1541 (2) (a) Except as provided in Subsection (4) and subject to Subsection (3) and
1542 appropriations by the Legislature, the authority shall disburse funds in the Unified Statewide
1543 911 Emergency Service Account for the purpose of enhancing and maintaining the statewide
1544 public safety communications network and 911 call processing equipment in order to rapidly
1545 and efficiently deliver 911 services in the state.

1546 (b) In expending funds in the Unified Statewide 911 Emergency Service Account, the
1547 authority shall give a higher priority to an expenditure that:

- 1548 (i) best promotes statewide public safety;
- 1549 (ii) best promotes interoperability;
- 1550 (iii) impacts the largest service territory;
- 1551 (iv) impacts a densely populated area; or
- 1552 (v) impacts an underserved area.

1553 (c) The authority shall expend funds in the Unified Statewide 911 Emergency Service
1554 Account in accordance with the authority strategic plan described in Section [63H-7a-206](#).

1555 (d) The authority may not expend funds from the Unified Statewide 911 Emergency
1556 Service Account collected through the 911 emergency service charge imposed in Section
1557 [69-2-403](#) on behalf of a PSAP that chooses not to participate in the:

- 1558 (i) public safety communications network; and
- 1559 (ii) the 911 emergency service defined in Section [69-2-102](#).

1560 (e) The authority may not expend funds from the Unified Statewide 911 Emergency
1561 Service Account collected through the prepaid wireless 911 service charge revenue distributed
1562 in Subsection [69-2-405\(9\)\(b\)\(ii\)\(c\)](#) on behalf of a PSAP that chooses not to participate in the:

- 1563 (i) public safety communications network; and
- 1564 (ii) 911 emergency service defined in Section [69-2-102](#).

1565 (f) The executive director shall recommend to the board expenditures for the authority
1566 to make from the Unified Statewide 911 Emergency Service Account in accordance with this
1567 Subsection (2).

1568 (3) Subject to an appropriation by the Legislature and approval by the board, the
1569 Administrative Services Division may use funds in the Unified Statewide 911 Emergency
1570 Service Account to cover the Administrative Services Division's administrative costs related to
1571 the Unified Statewide 911 Emergency Service Account.

1572 (4) (a) The authority shall reimburse from the Unified Statewide 911 Emergency
1573 Service Account to the Automated Geographic Reference Center created in Section 63F-1-506
1574 an amount equal to up to 1 cent of each unified statewide 911 emergency service charge
1575 deposited into the Unified Statewide 911 Emergency Service Account under Section 69-2-403.

1576 (b) The Automated Geographic Reference Center shall use the funds reimbursed to the
1577 Automated Geographic Reference Center under Subsection (4)(a) to:

1578 (i) enhance and upgrade digital mapping standards; and

1579 (ii) maintain a statewide geospatial database for unified statewide 911 emergency
1580 service.

1581 (c) Subject to an appropriation by the Legislature, the authority may expend funds from
1582 the United Statewide 911 Emergency Service Account to reimburse a county for the costs, up
1583 to \$60,000, of each audit described in Section 69-2-203.

1584 Section 12. Section 63H-7a-403 is amended to read:

1585 **63H-7a-403. Utah Statewide Radio System Restricted Account -- Creation --**
1586 **Administration.**

1587 (1) There is created a restricted account within the General Fund known as the "Utah
1588 Statewide Radio System Restricted Account," consisting of:

1589 (a) money appropriated or otherwise made available by the Legislature; and

1590 (b) contributions of money from federal agencies, political subdivisions of the state,
1591 persons, or corporations.

1592 (2) (a) Subject to appropriations by the Legislature and subject to this Subsection (2),
1593 the authority may expend funds in the Utah Statewide Radio System Restricted Account for the
1594 purpose of acquiring, constructing, operating, maintaining, and repairing a statewide radio

1595 system public safety communications network as authorized in Section 63H-7a-202, including:

1596 (i) public safety communications network and related facilities, real property,
1597 improvements, and equipment necessary for the acquisition, construction, and operation of
1598 services and facilities;

1599 (ii) installation, implementation, and maintenance of the public safety communications
1600 network;

1601 (iii) maintaining and upgrading VHF and 800 MHz radio networks; and

1602 (iv) an operating budget to include personnel costs not otherwise covered by funds
1603 from another account.

1604 (b) For each radio network charge that is deposited into the Utah Statewide Radio
1605 System Restricted Account under Section 69-2-404, the authority shall spend, subject to an
1606 appropriation by the Legislature and this Subsection (2):

1607 (i) on and after July 1, 2017, 18 cents of each total radio network charge to maintain
1608 the public safety communications network, including:

1609 (A) the 800 MHz and VHF radio networks;

1610 (B) radio console network connectivity;

1611 (C) funding a statewide interoperability coordinator; and

1612 (D) supplementing costs formerly offset by public safety communications network user
1613 fees assessed by the authority before July 1, 2017; and

1614 (ii) on and after January 1, 2018, 34 cents of each total radio network charge to acquire,
1615 construct, equip, and install property for, and to make improvements to, the 800 MHz radio
1616 system, including debt service costs.

1617 (c) In expending funds in the Utah Statewide Radio System Restricted Account, the
1618 authority shall give a higher priority to an expenditure that:

1619 (i) best promotes statewide public safety;

1620 (ii) best promotes interoperability;

1621 (iii) impacts the largest service territory;

1622 (iv) impacts a densely populated area; or

1623 (v) impacts an underserved area.

1624 (d) The authority shall expend funds in the Utah Statewide Radio System Restricted
1625 Account in accordance with the authority strategic plan described in Section 63H-7a-206.

1626 (e) The authority may not expend funds from the Utah Statewide Radio System
1627 Restricted Account collected through the radio network charge imposed in Section 69-2-404 on
1628 behalf of a public agency or PSAP if the public agency or PSAP chooses not to participate in
1629 the:

1630 (i) public safety communications network; and

1631 (ii) radio communications service defined in Section 69-2-102.

1632 (f) The authority may not expend funds from the Utah Statewide Radio System
1633 Restricted Account collected through the prepaid wireless 911 service charge revenue
1634 distributed in Subsection 69-2-405(9)(~~b~~)(iii)(c) on behalf of a public agency or PSAP if the
1635 public agency or PSAP chooses not to participate in the:

1636 (i) public safety communications network; and

1637 (ii) radio communications service defined in Section 69-2-102.

1638 (g) The executive director shall recommend to the board expenditures for the authority
1639 to make from the Utah Statewide Radio System Restricted Account in accordance with this
1640 Subsection (2).

1641 (3) Subject to appropriations by the Legislature, the Administrative Services Division
1642 may expend funds in the Utah Statewide Radio System Restricted Account for administrative
1643 costs that the Administrative Services Division incurs related to the Utah Statewide Radio
1644 System Restricted Account.

1645 Section 13. Section 69-2-101 is amended to read:

1646 **CHAPTER 2. EMERGENCY SERVICE AND PREPAID WIRELESS**

1647 **TELECOMMUNICATIONS SERVICE**

1648 **69-2-101. Title.**

1649 This chapter is known as "[911] Emergency Service and Prepaid Wireless
1650 Telecommunications Service."

1651 Section 14. Section **69-2-405** is amended to read:

1652 **Part 4. Prepaid Wireless Telecommunications Service Charges**

1653 **69-2-405. Service charges -- Collection and distribution of revenue.**

1654 (1) As used in this section:

1655 (a) "Consumer" means a person who purchases prepaid wireless telecommunications
1656 service in a transaction.

1657 (b) "Prepaid wireless 911 service charge" means the charge that is required to be
1658 collected by a seller from a consumer in the amount established under Subsection (2).

1659 (c) (i) "Prepaid wireless telecommunications service" means a wireless
1660 telecommunications service that:

1661 (A) is paid for in advance;

1662 (B) is sold in predetermined units of time or dollars that decline with use in a known
1663 amount or provides unlimited use of the service for a fixed amount or time; and

1664 (C) allows a caller to access 911 emergency service.

1665 (ii) "Prepaid wireless telecommunications service" does not include a wireless
1666 telecommunications service that is billed:

1667 (A) to a customer on a recurring basis; and

1668 (B) in a manner that includes the charges levied under Sections [69-2-402](#), [69-2-403](#),
1669 and [69-2-404](#), for each radio communication access line assigned to the customer.

1670 (d) "Seller" means a person that sells prepaid wireless telecommunications service to a
1671 consumer.

1672 (e) "Transaction" means each purchase of prepaid wireless telecommunications service
1673 from a seller.

1674 (f) "Wireless telecommunications service" means commercial mobile radio service as
1675 defined by 47 C.F.R. Sec. 20.3, as amended.

1676 ~~[(2) There is imposed a prepaid wireless 911 service charge of:]~~
1677 ~~[(a) before January 1, 2018, 2.45% of the sales price per transaction;]~~
1678 ~~[(b) on January 1, 2018, and until June 30, 2019, 3.30% of the sales price per~~
1679 ~~transaction; and]~~
1680 (2) There is imposed:
1681 ~~[(c)]~~ (a) [beginning July 1, 2019;] a prepaid wireless 911 service charge of 3.7% of the
1682 sales price per transaction[-]; and
1683 (b) a prepaid wireless telecommunications service charge of 1.2% of the sales price per
1684 transaction.
1685 (3) (a) ~~[The prepaid wireless 911 service charge]~~ Each charge described in Subsection
1686 (2) shall be collected by the seller from the consumer for each transaction occurring in this
1687 state.
1688 (b) (i) Except as provided in Subsections (3)(b)(ii) and (iii), if a user of a service
1689 subject to a charge described in Subsection (2) is not the consumer, the seller shall collect the
1690 charge from the consumer for the service.
1691 (ii) ~~[The]~~ A charge described in Subsection (2) is not imposed on a seller or a
1692 consumer of federal wireless lifeline service if the consumer does not pay the seller for the
1693 service.
1694 (iii) A consumer of federal wireless lifeline service shall pay, and the seller of the
1695 service shall collect and remit, ~~[the]~~ each charge described in Subsection (2) when the
1696 consumer purchases from the seller optional services in addition to the federally funded lifeline
1697 benefit.
1698 (4) ~~[The prepaid wireless 911 service charge]~~ Each charge described in Subsection (2)
1699 shall be separately stated on an invoice, receipt, or similar document that is provided by the
1700 seller to the consumer.
1701 (5) For purposes of Subsection (3), the location of a transaction is determined in
1702 accordance with Sections [59-12-211](#) through [59-12-215](#).

1703 (6) When prepaid wireless telecommunications service is sold with one or more other
1704 products or services for a single non-itemized price, then the percentage specified in
1705 Subsection (2) shall apply to the entire non-itemized price.

1706 (7) A seller may retain 3% of ~~[-prepaid wireless 911 service charges]~~ the charges
1707 described in Subsection (2) that are collected by the seller from consumers as reimbursement
1708 for the cost of billing, collecting, and remitting the charge.

1709 (8) A person that collects a ~~[-prepaid wireless 911 service charge]~~ charge described in
1710 Subsection (2), except as retained under Subsection (7), shall remit ~~[-the prepaid wireless 911~~
1711 ~~service]~~ each charge to the commission at the same time that the seller remits to the
1712 commission money collected by the person under Title 59, Chapter 12, Sales and Use Tax Act.

1713 (9) The commission shall distribute revenues collected under this section as follows:

1714 ~~[(a) for revenues collected under this section for a filing period ending on or before~~
1715 ~~June 30, 2019:]~~

1716 ~~[(i) 53.8% of the prepaid wireless 911 service charge revenue to a public safety~~
1717 ~~answering point in accordance with Section 69-2-302;]~~

1718 ~~[(ii) 6.8% of the prepaid wireless 911 service charge revenue to the Unified Statewide~~
1719 ~~911 Emergency Service Account created in Section 63H-7a-304; and]~~

1720 ~~[(iii) 39.4% of the prepaid wireless 911 service charge revenue to the Utah Statewide~~
1721 ~~Radio System Restricted Account created in Section 63H-7a-403; and]~~

1722 ~~[(b) for revenues collected under this section for a filing period beginning July 1,~~
1723 ~~2019:]~~

1724 ~~[(i)]~~ (a) 47.97% of the prepaid wireless 911 service charge revenue to a public safety
1725 answering point in accordance with Section 69-2-302;

1726 ~~[(ii)]~~ (b) 16.89% of the prepaid wireless 911 service charge revenue to the Unified
1727 Statewide 911 Emergency Service Account created in Section 63H-7a-304; ~~[and]~~

1728 ~~[(iii)]~~ (c) 35.14% of the prepaid wireless 911 service charge revenue to the Utah
1729 Statewide Radio System Restricted Account created in Section 63H-7a-403~~[-];~~ and

- 1730 (d) 100% of the prepaid wireless telecommunications service charge revenue to the
- 1731 Universal Public Telecommunications Service Support Fund created in Section [54-8b-15](#).
- 1732 Section 15. **Effective date.**
- 1733 This bill takes effect on January 1, 2021.